

Parents' Rights and the Power to Opt Out: Implications of the Supreme Court's Decision in *Mahmoud v. Taylor*

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In June of 2025, in the case of *Mahmoud v. Taylor*, the U.S. Supreme Court concluded that parents' rights were likely violated when Montgomery County Public Schools (MCPS) failed to provide them with notice and the opportunity to opt out of a curriculum they believed interfered with the religious upbringing of their children. While we still don't know how this expanded right will play out in schools, both the opinion itself and MCPS's recent experiences suggest that *Mahmoud* may not cause such drastic changes in practice.

The heart of the *Mahmoud* case involved parents requesting to pull their elementary children out of lessons using LGBTQ+ inclusive materials. The district had adopted 13 books featuring LGBTQ+ characters for pre-K through fifth grade after a curricular audit revealed a lack of representation in the existing ELA curriculum. The books were available for teachers to use in their lessons and for students to read in the classrooms. While teachers were not required to use the books, the district also provided guidance to help them navigate potential discussions with students about gender and sexuality.

Several families, from a variety of religious faiths, asked the district to allow their children to opt out of lessons using the LGBTQ+ books. The district initially allowed families to opt out but abruptly reversed course. The families then brought a lawsuit, alleging that the district's no-opt-out policy violated their First Amendment free exercise rights to direct the religious upbringing of their children.

The Supreme Court ultimately agreed with the parents. In a 6-3 decision written by Justice Alito, the Court concluded that the district likely violated parents' rights to direct the religious upbringing of their children when it failed to provide notice and an opportunity to

opt out of the LGBTQ+ inclusive curriculum.

What *Mahmoud* Didn't Do

Importantly, the decision in *Mahmoud* is very clear that it does not address whether schools should or shouldn't adopt LGBTQ+ inclusive curricula. Districts still have broad discretion, consistent with state law and other legal requirements, to make curricular decisions. *Mahmoud* is solely about the ability of families to opt out of that instruction.

Similarly, *Mahmoud* does not recognize a universal right for anyone to opt out at any time. The right belongs to parents, not necessarily students, so it doesn't give students carte blanche to avoid instruction. In addition, the right recognized in *Mahmoud* is limited and subject to a fact-specific inquiry. Parents likely need to be precise about which aspects of the curriculum they want to remove their children from and why.

Finally, the decision in *Mahmoud*, beyond recognizing the right to opt out, doesn't provide any instruction on exactly how to accommodate this new right. The opinion did not specify when and how to provide notice, what to do with students who opt out, or whether students who opt out require alternative lessons.

So, What Did *Mahmoud* Do?

Mahmoud recognizes that, in certain circumstances, schools are required under the First Amendment to allow parents to opt their children out of particular aspects of the curriculum. According to the Court, opt-outs are constitutionally required when instruction "poses a very real threat of undermining the religious beliefs and practices that the parents wish to instill" (*Mahmoud v. Taylor*, 2025, p. 528). Before *Mahmoud*, most courts only

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stepped in when they thought the instruction crossed the line from exposure to coercion. *Mahmoud* essentially lowers that bar and replaces the exposure/coercion test.

The Court is clear that the "threat of undermining" standard relies on a careful analysis of (1) the specific religious beliefs and practices, (2) the nature of the educational requirement, (3) the age and maturity of the students, (4) the content of the material, and (5) whether the content is presented in a neutral manner or in a manner that is hostile towards religion.

As applied to MCPS's LGBTQ+ inclusive curriculum, the Court interpreted the books as promoting ideas about the rightness or wrongness of specific beliefs. The Court also concluded that the books were presented to young, impressionable children in a non-neutral way that was hostile towards the families' religious beliefs. The Court cited language in the district's guidance that encouraged teachers to affirmatively endorse certain views about gender and sexuality.

These considerations, that the content and delivery were prescriptive rather than descriptive, were critical to the Court's conclusion. This suggests that, to justify an opt-out, the curriculum has to make a value judgment, and students have to be pressured in some way to accept that value judgment. However, if the curriculum or instruction is neutral and doesn't take sides or make normative judgments about right or wrong, the argument for an opt-out is much weaker. For example, if the MCPS teaching guide had instructed teachers to acknowledge the reality of different identities and conflicting views without promoting one over another, a court may have come to a different conclusion about whether an opt-out is required.

What Does This *Actually* Mean for Schools?

While it remains to be seen where the lines drawn in *Mahmoud* will ultimately be placed, educators and school leaders can glean some important lessons from this case as they seek to respect parental rights alongside other important educational goals. For example:

Continue to Pursue Representation. Nothing in the *Mahmoud* decision affects schools' ability to continue efforts to make their curriculum more representative of the students and communities they serve.

Transparency. An important aspect of the *Mahmoud* opinion is not just that it required MCPS to provide opt-outs, but that it required parents to be notified of when the challenged books would be used. While it's currently unclear if schools must anticipate which materials would be challenged and proactively communicate with families, the *Mahmoud* opinion emphasizes the importance of transparency about what is included in the curriculum and how and why curricular decisions are made.

Adopt Processes and Procedures for Requesting and Implementing Opt Outs. Schools should adopt formal policies on when and how parents can request opt-outs, as well as policies on where students go when they opt out and whether alternative learning activities will be provided.

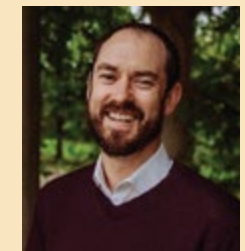
Community Relationships. Finally, *Mahmoud* highlights the importance and value of building and cultivating strong relationships with families and communities. When those relationships are based on mutual respect, communication, and understanding, many issues can be resolved without resort to legal mechanisms.

This may be one of the reasons why *Mahmoud* does not seem to be having a substantial impact on MCPS, at least so far. After implementing the Supreme Court's order requiring notice and opt-outs, MCPS received opt-out requests from only 43 families between June and September, representing approximately 60 of the nearly 160,000 students in the district (Modan, 2025).

Ultimately, while the *Mahmoud* decision may indicate a looming sea change in favor of parental rights in education, and there are many unanswered questions, it is yet to be seen how big a splash the opinion will make in practice. *Mahmoud* does not prevent schools from teaching an inclusive curriculum, but it does require them to be intentional about how they communicate, deliver, and document their curricular decisions. When districts communicate proactively, cultivate trust with families, and make their curricular choices transparent and grounded in their educational purpose, the lessons of *Mahmoud* may shape schools far more than the limited opt-out right it creates.

References

- Mahmoud v. Taylor*, 606 U.S. 522 (2025).
Modan, N. (2025, Oct. 7). Maryland district gets few opt-out requests after Supreme Court mandate. *K-12 Dive*. <https://www.k12dive.com/news/maryland-district-montgomery-county-opt-out-requests-form-religious-beliefs/802272/>



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