LEGAL UPDATE

Legal Services Division

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UNITED STATES SUPREME COURT DECISION — FREE EXERCISE CLAUSE AND LGBTQ+-INCLUSIVE CURRICULUM

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Mahmoud v. Taylor
Decided June 27, 2025
No. 24-297
www.supremecourt.gov/opinions/24pdf/24-297_4f14.pdf

Factual and Procedural Background. The Mongomery County Board of Education (board) adopted a policy requiring Montgomery County Public Schools (MCPS) to introduce into the curriculum LGBTQ+-inclusive books. Pursuant to the policy adopted by the board, MCPS incorporated the LGBTQ+-inclusive books into the curriculum in the 2022-2023 school year. Shortly thereafter, parents began contacting the board about the books and asking that their children be excused from classroom instruction related to the books. Initially, the board notified parents when the books would be used in the classroom and permitted children to be excused from such instruction. In March 2023, however, the board issued a statement declaring "[s]tudents and families may not choose to opt out of engaging" with the books and "teachers will not send home letters to inform families when [the books] are read in the future." The petitioners filed a lawsuit seeking a preliminary and permanent injunction "prohibiting the [board] from forcing [their] children and other students—over the objection of their parents—to read, listen to, or discuss" the books. The district court denied the relief requested by the petitioners. The United States Court of Appeals for the Fourth Circuit affirmed. The petitioners asked the United States Supreme Court (Court) to review the Fourth Circuit's decision, and the Court granted the petition for a writ of certiorari.

Issue. Whether the Court should grant a preliminary injunction because the board's incorporation of LGBTQ+-inclusive books into the curriculum—combined with the board's decision to withhold opt-outs—unconstitutionally burdens the petitioners' right to free exercise of religion under the First Amendment.

Holding. The Court held the board's incorporation of LGBTQ+-inclusive books into the curriculum—combined with the board's decision to withhold opt-outs—"places an unconstitutional burden on the [petitioners'] rights to the free exercise of their religion." Accordingly, the petitioners have shown they are likely to succeed in their free exercise claims and are entitled to a preliminary injunction pending the completion of the lawsuit.

Analysis. To obtain a preliminary injunction, the petitioners are required to show that (1) they are likely to succeed on the merits, (2) they are likely to suffer irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in their favor, and (4) an injunction would be in the public interest. *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

The Court held the petitioners were likely to succeed on the merits of their claim. The Court analogized the facts in this case with the facts in *Wisconsin v. Yoder*, 406 U.S. 205 (1986). *Yoder* concerned Wisconsin's compulsory education law as it related to members of Wisconsin's Amish community who refused to send their children to public school after the children completed eighth grade. The *Yoder* Court found that the compulsory education law violated the parents' free exercise of religion rights because high school education would "expos[e] Amish children to worldly influences in terms of attitudes, goals, and values contrary to [their] beliefs" and would "substantially interfer[e] with the religious development of the Amish child." The Court stated that, similar to the compulsory education law in *Yoder*, the books in this case impose upon children a set of values and beliefs that are hostile to the parents' specific viewpoints and present the same kind of objective danger to the free exercise of religion the Court identified in *Yoder*. Therefore, the board's actions substantially interfere with the religious development of the petitioners' children and impose the kind of burden on religious exercise that prior cases have held to be unacceptable. Such a burden is not constitutionally permitted as neither MCPS nor the board could demonstrate that the board's actions were narrowly tailored to achieve compelling interests.

The Court held that the petitioners had shown they were likely to suffer irreparable harm because the loss of their First Amendment freedoms, even for minimal periods of time, constitutes an irreparable injury. In addition, the Court held "in light of the strong showing made by the [petitioners] here, and the lack of a compelling interest supporting the [board's] policies, an injunction is both equitable and in the public interest." Until all appellate review in this case is completed, the Court ordered the board to "notify [petitioners] in advance whenever one of the books in question or any other similar book is to be used in any way and to allow [the petitioners] to have their children excused from that instruction."

Concurrence. Justice Thomas, in his concurring opinion, emphasized the importance of the Court's opinion for schools across the country and argued there were additional reasons why the board's policy could not survive constitutional scrutiny, including the lack of historical support for LGBTQ+-inclusive instruction and the ban of parental opt-outs, and additional reasons why the board's arguments were not sufficient.

Dissent. Justice Sotomayor, in a dissenting opinion joined by Justices Kagan and Jackson, characterized the board's policy requiring incorporation of LGBTQ+-inclusive books into the curriculum as leading to "mere exposure" to objectionable ideas on the part of the petitioners' children, and "this Court has made clear that mere exposure to objectionable ideas does not give rise to a free exercise claim." *Kennedy v. Bremerton School Dist.*, 597 U.S. 507, 539 (2022). Justice Sotomayor argued the majority opinion misinterpreted *Yoder*, stating the issue in *Yoder* was not that the compulsory education law "exposed children to material that would incidentally undermine their religious beliefs, but that it compelled Amish parents to do what their religion forbade—send their children away rather than integrate them into the Amish community at home." Justice Sotomayor asserted the majority opinion will damage America's public education system by either placing an administrative burden on schools that attempt to provide notice and opt-out opportunities for "every book, presentation, or field trip where students may encounter materials that conflict with their parents' religious beliefs," or incentivizing schools to "strip their curricula of content that risks generating religious objections." Justice Sotomayor asserted that the majority opinion "will hand a subset of parents a veto power over countless curricular and administrative decisions."

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