

The Honorable Kevin Kiley
Subcommittee Chair
U.S. House of Representatives
445 Rayburn House Office Building
Washington, DC 20515

The Honorable Suzanne Bonamici
Subcommittee Ranking Member
U.S. House of Representatives
2231 Rayburn House Office Building
Washington, DC 20515

Re: February 10, 2026 Hearing Before the Subcommittee on Early Childhood, Elementary, and Secondary Education

Dear Chair Kiley, Ranking Member Bonamici, and Members of the Subcommittee on Early Childhood, Elementary, and Secondary Education:

The National Women’s Law Center, along with the undersigned 14 civil rights organizations, submit this letter to reaffirm that the U.S. Supreme Court’s holding in *Mahmoud v. Taylor* is limited in scope and should not be weaponized against students, families, and public schools as a cudgel against inclusive learning. As organizations committed to ensuring the safety and wellbeing of all students, we recognize that inclusive learning environments require constructive engagement between students, families, educators, and school staff. Attempts to insert ideological priorities into public education—including misapplying *Mahmoud v. Taylor* to other contexts beyond the scope of its holding—will only erode trust between the various stakeholders that is foundational to student success and achievement. It is crucial that this Subcommittee instead focus the federal government’s attention on promoting safe and inclusive learning opportunities for all students and protecting the right of every student to learn free from a hostile educational environment.

While some groups attempt to extract broad impact from the U.S. Supreme Court’s decision in *Mahmoud v. Taylor*, the ruling and its impact are quite limited. In its simplest terms, the Court held that a group of Montgomery County Public School parents were entitled to opt their elementary school-aged children out of classroom instruction presenting certain viewpoints regarding LGBTQI+ topics in a manner the Court deemed coercive, thereby burdening their parents’ free exercise of religion.¹ **However, central to the Court’s reasoning was a key limiting principle: the proposition that Free Exercise Clause challenges are fact intensive.**² The Court did *not* create a constitutional right for parents to dictate school curriculum or insert their religious views into classroom instruction or other school policies, such as those addressing access to school activities or facilities. Instead, the Court evaluated specific facts such as the compulsory presentation of the books, the students’ younger age, and the school district’s instructions to educators on how they should navigate lessons related to the LGBTQI+-themed books.³

Accordingly, multiple federal appellate courts have since declined to extend *Mahmoud* beyond its fact-specific context. In August 2025, the U.S. Court of Appeals for the Sixth Circuit rejected an argument by parents that a school district’s trans-inclusive bathroom policy was similarly burdensome to their religious freedoms as in *Mahmoud*.⁴ In January 2026, the U.S. Court of Appeals for the Ninth Circuit

¹ *Mahmoud v. Taylor*, 145 S. Ct. 2332, 2363–64 (2025).

² *Id.* at 2353.

³ *Id.* at 2353, 2355–56.

⁴ *Doe No. 1 v. Bethel Loc. Sch. Dist. Bd. of Educ.*, No. 23-3740, 2025 WL 2453836, *7, n.3 (6th Cir. 2025).

likewise rejected that a group of parents could use *Mahmoud* to challenge a law prohibiting affirmative disclosure of students' gender identities to their parents without their consent.⁵ Both agreed that bathroom access and forced outing policies are neither instructional nor compulsory, but “general, operational polic[ies]” that did not present the same burden on religious exercise as the books at issue in *Mahmoud*.⁶ Both circuit courts said *Mahmoud* is “a narrow decision” that “focuses on” “curricular requirements.”⁷ As a result, they recognized that *Mahmoud* was limited to its specific context and does not stand for the broad proposition that schools are required to permit parental opt outs of any and all school policies that happen to conflict with a parent’s religious beliefs.⁸

Furthermore, inclusive instruction and learning environments are not at odds with free religious exercise and the two coexist despite cynical efforts to pit them against each other.⁹ The efforts to stir up tension between the two also misrepresents what parents actually expect out of public education. Since the *Mahmoud* decision, data from the Montgomery County School District indicates that only 43 families—that’s 0.03% of the district’s 160,000 students—requested opt outs in the first month of the school year.¹⁰ This reflects the broader trend that parents and the American people are generally against censorship and attacks on inclusive school policies that make students feel unwelcome in the classroom. A 2023 national poll shows that 62% of K-12 parents say they oppose lawmakers implementing book bans or restricting what subjects teachers and students discuss in the classroom.¹¹ The same poll also shows that three-quarters of K-12 parents say they trust their child’s teacher to make decisions about curriculum, with strong majorities across party lines, including 84% of Democrats, 67% of Republicans, and 74% of independents.¹² Additional polling shows that an overwhelming majority of Americans surveyed—98%—consider initiatives that make students feel welcome at school to be important.¹³ Moreover, with 56% of K-12 parents saying their local community has seen recent teacher shortages,¹⁴ it

⁵ *Mirabelli v. Bonta*, No. 25-8056, 2026 WL 44874 *3 (9th Cir. 2026).

⁶ *Doe*, 2025 WL 2453836 at 7, n.3; *Mirabelli*, 2026 WL 44874 at *3. In recognizing *Mahmoud*’s limited holding, both courts underscored the absence of compulsory requirements, which has been a key feature of school policies the Supreme Court has historically deemed burdensome to religious exercise. *Doe 1* (the trans-inclusive bathroom policy did not impose a burden “of the [] same character” as the curricular requirement in *Mahmoud*, “which required elementary school students to attend classes where certain LGBTQ+-inclusive storybooks . . . were taught,” because the bathroom policy “was neither compulsory nor instructional” and “did not require students to use the communal restrooms”); *Mirabelli* (the policy prohibiting forced outing of students “appl[ies] only when a *student* makes the voluntary decision to share their gender nonconformity with the school,” thus it does not “impose a similar . . . burden[] on free exercise as the policies in *Mahmoud*”). (emphasis in original).

⁷ *Mirabelli*, 2026 WL 44874 at *3 (citing *Doe No. 1 v. Bethel*, No. 23-3740, 2025 WL 2453836 at *7 n.3).

⁸ *Id.*

⁹ Multiple faith groups submitted amicus briefs before the Supreme Court rendered its decision in *Mahmoud* that rejected the notion that respecting religious exercise and inclusivity in the classroom—specifically, exposure to LGBTQI+ characters in books—were in tension and emphasized that inclusivity indeed aligns with religious values. See, e.g., Brief of Muslim Organizations as Amici Curiae in Support of Respondents, *Mahmoud v. Taylor*, 145 S. Ct. 2332 (2025); Brief of Montgomery County Faith Leaders as Amici Curiae in Support of Respondents, *Mahmoud v. Taylor*, 145 S. Ct. 2332 (2025).

¹⁰ Erin Reed, *Only 0.03% Opt Out of LGBTQ+ Education in Maryland After SCOTUS Gives Them a Right To*, ERIN IN THE MORNING (Oct. 6, 2025), <https://www.erininthemorning.com/p/only-003-opt-out-of-lgbtq-education>.

¹¹ Ipsos, *Poll: Americans trust teachers* (June 2, 2023), <https://www.ipsos.com/en-us/americans-trust-teachers-some-still-want-parents-be-primary-voices-whats-taught>

¹² *Id.*

¹³ PDK Poll, *The 57th Annual PDK Poll*, <https://pdkpoll.org/2025-poll-results/> (last visited Feb. 8, 2025).

¹⁴ Ipsos, *supra* note 12.

is crucial that lawmakers cease politicized attacks on school spaces and instead focus on supporting educators and investing in student success.

This Subcommittee's priority must be strengthening educational opportunities and safety for all students, and we are prepared to work alongside this Subcommittee to uplift policies that will ensure this result. However, weaponizing the Supreme Court's holding in *Mahmoud v. Taylor* to elevate the ideological interests of a vocal minority needlessly pits students, families, educators, and school staff against each other and distracts from this goal by making schools less safe while making it harder for educators to do their jobs. If you have questions about the substance of this letter, please reach out to Brian Dittmeier (bdittmeier@nwlc.org) or Hunter Iannucci (hiannucci@nwlc.org).

Signed by,
National Women's Law Center

Joined by:

AFT
American Atheists
American Humanist Association
Clearinghouse on Women's Issues
Family Equality
Feminist Majority
Freedom From Religion Foundation
GLSEN
Human Rights Campaign
IDRA
Interfaith Alliance
Jewish Council for Public Affairs
National Center for Youth Law
Southeast Asia Resource Action Center (SEARAC)