

Mahmoud v. Taylor (2025)

Parents' right to opt-out of curricular materials that undermine religious beliefs



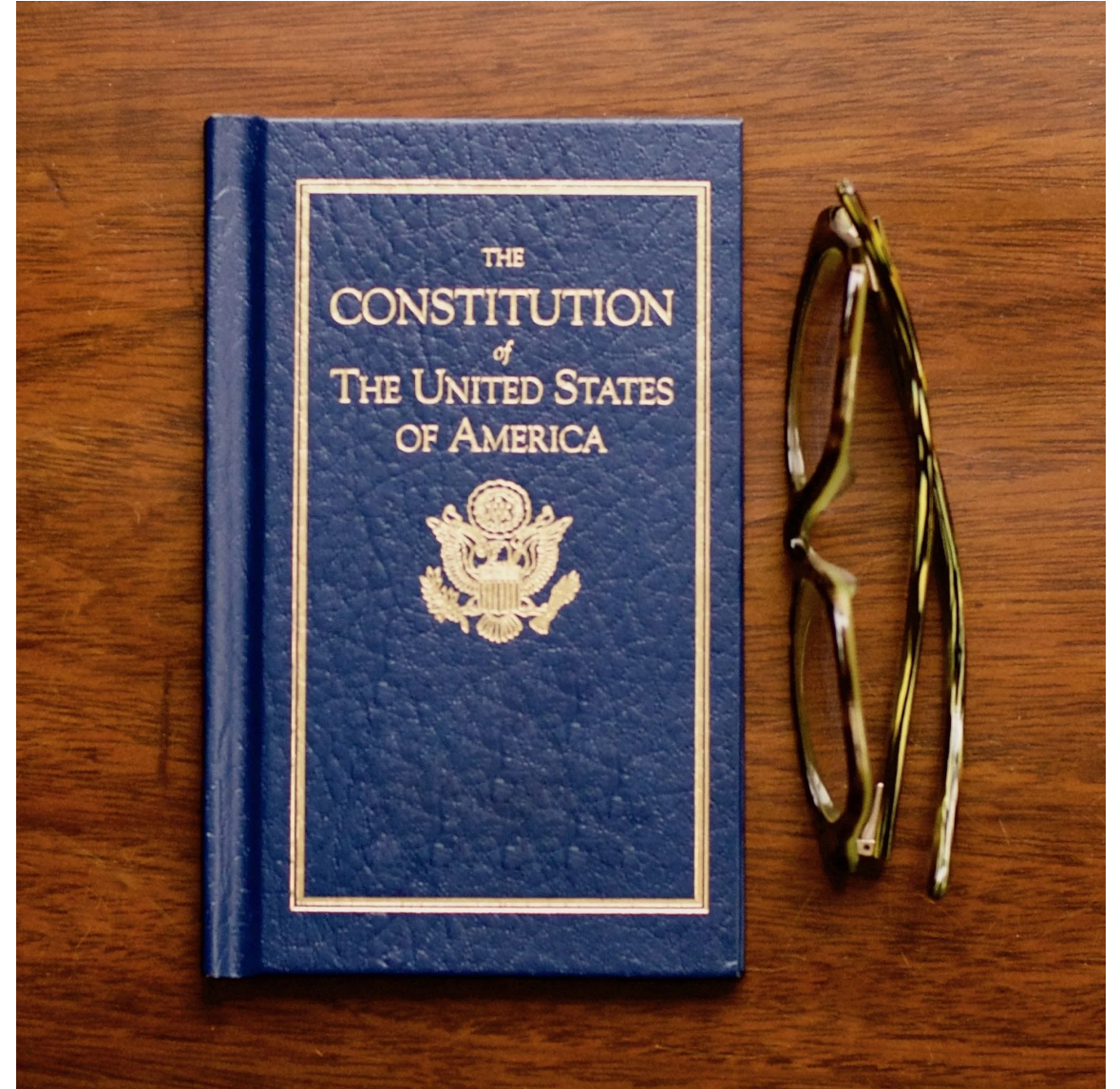
The First Amendment to the U.S. Constitution:

Congress shall make no law respecting an establishment of religion, **or prohibiting the free exercise thereof**; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

The Fourteenth Amendment to the U.S. Constitution:

Section 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. **No state shall** make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State **deprive any person of life, liberty, or property, without due process of law**; nor deny to any person within its jurisdiction the equal protection of the laws.



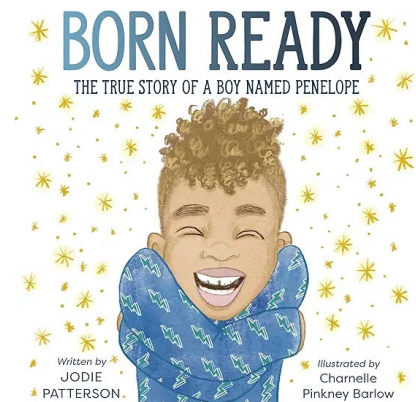
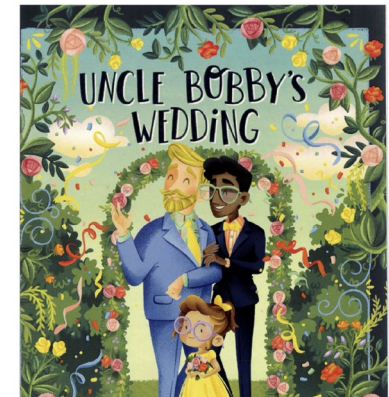
Mahmoud v. Taylor, 606 U.S. ___, 145 S.Ct. 2332 (June 27, 2025)

At the center: parents' religious objections to readings from "LGBTQ+-inclusive" storybooks to their elementary school-age children. The district originally allowed opt-out but quickly changed its policy.

Parents from diverse religious backgrounds sued the Montgomery County, Maryland Public Schools over the school district's refusal to allow opt-outs from lessons where these stories were presented.

They asserted a Free Exercise, Free Speech (1A) and Due Process (14A) right to notice and the opportunity to opt out "of classroom instruction on such sensitive religious and ideological issues."

Parents asked a federal court to issue an injunction to require the district to provide such notice and an opt-out option. The district court denied their motion and the parents filed an interlocutory appeal. The Court of Appeals for the 4th Circuit affirmed.



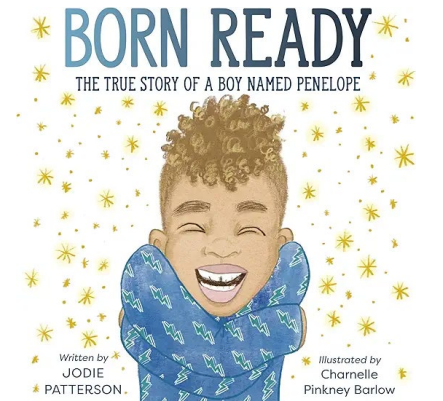
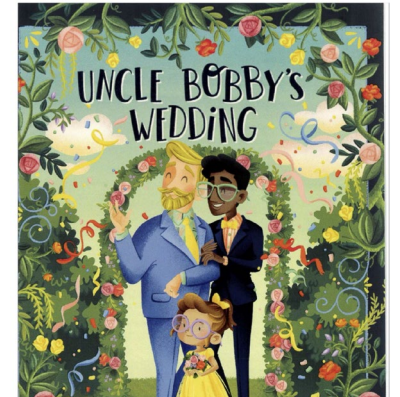
Mahmoud v. Taylor, 606 U.S. ___, 145 S.Ct. 2332 (June 27, 2025)

The parents maintained that the district's inclusion of the books was **designed to promote and instill certain beliefs, not merely to expose** students to LGBTQ+ people to encourage tolerance and respect, but to promote a certain mindset contrary to their religion-based teachings at home.

The district's classroom guide provided to teachers suggested:

- If a student says two men cannot get married, suggested response: "When people are adults they can get married. Two men who love each other can decide they want to get married."
- If a student says a character "can't be a boy if he was born a girl," suggested response: "That comment is hurtful."
- If a student asks "[w]hat's transgender?", suggested response: "When we're born, people make a guess about our gender and label us 'boy' or 'girl' based on our body parts. Sometimes they're right and sometimes they're wrong."
- "Disrupt the either/or thinking."

Copyright 2025 © National School Attorneys Association



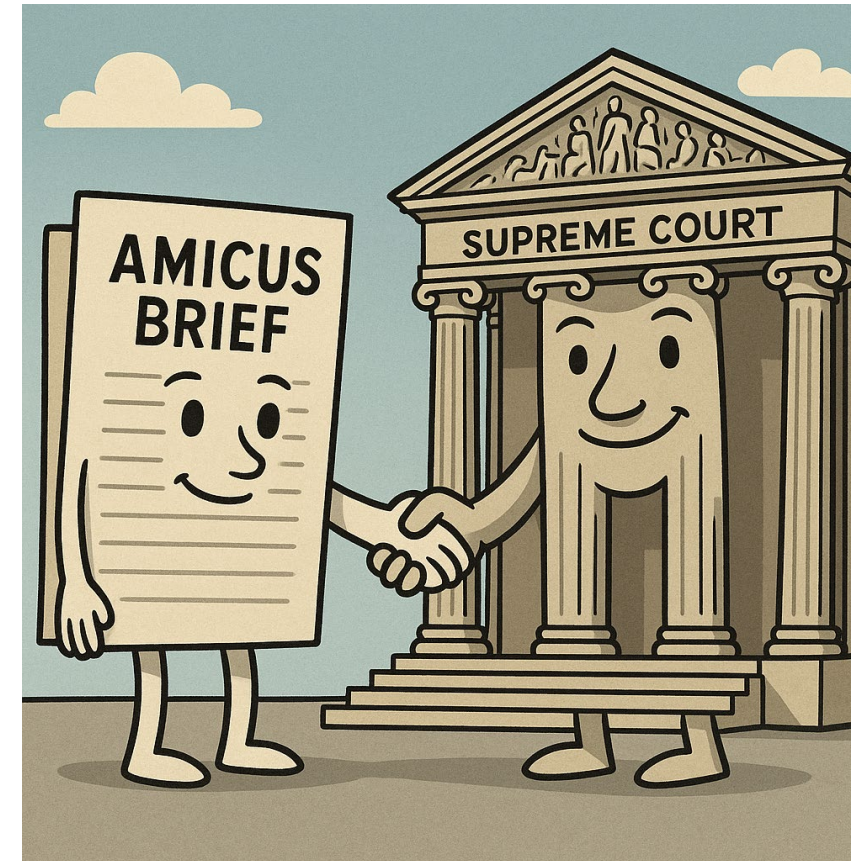
AASA-NSAA Amicus Brief

NSAA, AASA and other educational organizations filed an amicus briefs asserting:

Courts have consistently and properly recognized that States have broad discretion to control conduct and curriculum in their public schools.

- States that have provided notice and opt out rights for parents typically balance honoring parents' opt out rights and allowing teachers, schools, and school boards to use their professional judgment for student instruction.
- Mandating notice and opt out rights without demonstrating coercive effect risks drastically increasing burden on schools.

Lowering the standard for parents to establish a Free Exercise claim could have widespread and undesirable consequences for schools.



Mahmoud v. Taylor, 606 U.S. ___, 145 S.Ct. 2332 (June 27, 2025)

The Court issued a 6-3 ruling. Justice Samuel Alito authored the opinion of the Court:

“A government burdens the religious exercise of parents when it requires them to submit their children to instruction that poses ‘a very real threat of undermining’ the religious beliefs and practices that the parents wish to instill.”

When a district’s curricular choices substantially interfere with parents’ religious upbringing of their children, the district owes parents a duty of reasonable accommodation – an opt-out, in this case -- which cannot be denied absent a compelling justification that wasn’t shown here.

The school district in this case must notify the parents in advance whenever one of the books or any similar book was going to be used.



Mahmoud v. Taylor, 606 U.S. ___, 145 S.Ct. 2332 (June 27, 2025)

Justice Sonia Sotomayor, joined by Justices Kagan and Jackson, filed a vigorous dissenting opinion citing the NSAA-AASA brief.

“As one group of *amici* representing over 10,000 school district leaders and advocates ...attests, however, **‘it would be an extreme and overly broad burden to force all school districts in the country’ to provide the extensive notification regime that the majority’s test would require.** Such a regime, amici warn, would force school administrators and teachers ‘to divert their already limited resources and time to ensure full compliance’ with these new ‘parental notification rights.’”

“Managing opt outs will impose even greater administrative burdens. At present, the vast majority of States that allow parents to opt students out of instruction limit that right to a specific course or single curricular unit, rather than permitting opt outs for certain themes or particular materials. That approach ensures that opt outs can be ‘administered centrally’ in a way that ‘reduce[s] the burden on teachers and principals’ and ‘minimizes interruption o[f] classroom instruction for other students.’”





What you should know:

- The Court did not limit what curricular materials a school district can choose to include, what messages it chooses to convey, or what events it chooses to have.

AND

- State law still dictates when notice/opt-outs are required from curricular materials in many situations.

BUT

- *Mahmoud v. Taylor* broadened the circumstances under which parents will be able to show a burden on religious beliefs under the Constitution.
- Schools are likely to face more requests for notice and/or opt-out of curricular materials based on religion.
- Schools should consult their attorneys about reviewing/developing policies and protocols on:
 - parents claiming a religious burden
 - interactive process to determine reasonable solution
 - how the school will notify parents and arrange for other lessons