NO. 24-297

In the Supreme Court of the United States

TAMER MAHMOUD, ET AL.,

Petitioners,

v.

THOMAS W. TAYLOR, ET AL.,

Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

BRIEF OF AMICI CURIAE JACO BOOYENS MINISTRIES (JBM), ILONKA DEATON, TAMI BROWN RODRIQUEZ, AND TRUTH IN EDUCATION (TIE) IN SUPPORT OF PETITIONERS

Frank J. Wright
Counsel of Record
LAW OFFICES OF FRANK J. WRIGHT, PLLC
1800 Valley View Lane, Suite 250
Farmers Branch, TX 75234
(214) 935-9100
frank@fjwright.law

February 28, 2025 *Counsel for Amici Curiae*

SUPREME COURT PRESS ♦ (888) 958-5705 ♦ BOSTON, MASSACHUSETTS

TABLE OF CONTENTS

TABLE OF CONTENTS – Continued

TABLE OF AUTHORITIES

Page

CASES

TABLE OF AUTHORITIES – Continued

Page

CONSTITUTIONAL PROVISIONS

TABLE OF AUTHORITIES – Continued

Page

STATUTES

JUDICIAL RULES

OTHER AUTHORITIES

TABLE OF AUTHORITIES – Continued

Page

INTEREST OF THE AMICI CURIAE[1]

JACO BOOYENS MINISTRIES (JBM) is one of the most active anti-trafficking organizations in the United States, with over 250,000 members, followers, and supporters. JBM's mission is rooted in protecting children's innocence, empowering families, and eradicating child exploitation and trafficking. This case implicates JBM's mission because it addresses the fundamental right of parents to oversee the education of their children and protect them from exposure to content that conflicts with their deeply held religious beliefs.

ILONKA DEATON, a survivor of six years of sex trafficking in the music industry and a leading advocate for trafficking prevention, brings unparalleled insight to this case. As the author of Keeping Secrets and a contributor to trafficking-related policy at the state and national levels, Ms. Deaton has dedicated her career to protecting minors from exploitation. Her work includes developing training materials for educators, policymakers, and healthcare providers, as well as testimony before legislative committees to strengthen child protection laws. Her advocacy stems from lived experience, making her uniquely positioned to speak to the unintended consequences of exposing minors to sexualized content.

---

[1] Pursuant to Sup. Ct. R. 37.6, no counsel for a party authored this brief in whole or in part and no person or entity other than amici, their members, or counsel made a monetary contribution to its preparation or submission. Counsel for all parties have consented to the filing of this brief.

TAMI BROWN RODRIQUEZ, Director of Policy for JBM, has a deep personal and professional commitment to protecting minors from exploitation. Her advocacy is informed by her family's experience with the devastating effects of trafficking after a relative was groomed in a school setting. Ms. Rodriguez works to advance policies that protect children from exploitation, earning recognition for her leadership and advocacy. She brings a critical perspective on the role educational institutions can play, either as protective barriers or, when negligent, as unintentional facilitators of harm.

TRUTH IN EDUCATION (TIE) is a Christian advocacy organization called to raise awareness of the assault on the health and well-being of children, and on parental rights in our public schools. Founded by Ms. Rhonda Thomas, President of TIE. The goal is to inform and equip parents and community leaders to have the knowledge and skills needed to create and implement the changes essential for the protection of children and families, pray for children, families, and policy-makers, and stand against these threats at all levels.

Together, JBM, Ms. Deaton, Ms. Rodriguez, and TIE bring decades of combined expertise, fieldwork, and lived experience to this critical issue. The findings of Dr. Judith Reisman, as detailed in KINSEY: CRIMES & CONSEQUENCES—THE RED QUEEN AND THE GRAND SCHEME (1998), provide historical context on how early exposure to sexual content can distort child development and increase susceptibility to grooming and exploitation. They share a commitment to addressing the neurological, psychological, and societal consequences of exposing minors to sexual content at a formative stage of brain development (JOURNAL OF

HUMAN TRAFFICKING, 2021; CHILD ABUSE & NEGLECT[2] JOURNAL, 2020). Amici seek to provide this Court with a critical perspective on the constitutional and child-protection issues at the heart of this case. The Supreme Court's review focuses on whether public schools burden parents' religious exercise by compelling elementary school children to participate in instruction on gender and sexuality against their families' beliefs, without prior notice or the ability to opt-out[3] (*Wisconsin v. Yoder*, 406 U.S. 205 (1972); *Pierce v. Society of Sisters*, 268 U.S. 510 (1925)). Amici contend that such policies infringe upon fundamental parental rights under the[4] Free Exercise Clause and the Due Process Clause (*Employment Division v. Smith*, 494 U.S. 872 (1990); *Meyer v. Nebraska*, 262 U.S. 390 (1923)), while also increasing children's vulnerability to grooming and exploitation[5] (Polaris Project, 2022; National Center on Sexual Exploitation, 2022). By denying parents the ability to safeguard their children's moral and psychological well-being, the Montgomery County School Board's policy not only contradicts longstanding legal precedent[6] (*West*

---

[2] JOURNAL OF CONSTITUTIONAL LAW, Vol. 22, No. 3 (2020).

[3] *Wisconsin v. Yoder*, 406 U.S. 205, 213–14 (1972). *Pierce v. Society of Sisters*, 268 U.S. 510, 534–35 (1925).

[4] Free Exercise Clause and the Due Process Clause *Employment Division v. Smith*, 494 U.S. 872, 877 (1990), *Employment Division v. Smith*, 494 U.S. 872, 877 (1990), and *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923).

[5] Polaris Project, *U.S. National Human Trafficking Hotline Data Report* (2022).

[6] Contradicts longstanding legal precedent, *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 642 (1943).

Virginia State Board of Education v. Barnette, 319 U.S. 624 (1943)) but also weakens critical protections against child exploitation[7] (*Ashcroft v. ACLU*, 542 U.S. 656 (2004)). Amici urge the Court to affirm the constitutional necessity of parental oversight in matters of moral and ethical instruction and to ensure that public education policies uphold the rights and safety of minors[8] (*Franklin v. Gwinnett County Public Schools*, 503 U.S. 60 (1992); *United States v. Georgia*, 546 U.S. 151 (2006).

---

[7] Protections against child exploitation, *Ashcroft v. ACLU*, 542 U.S. 656, 668 (2004).

[8] Education policies, *Franklin v. Gwinnett County Public Schools*, 503 U.S. 60, 75–76 (1992), *United States v. Georgia*, 546 U.S. 151, 159 (2006).

SUMMARY OF ARGUMENT

In the *Mahmoud v. Taylor*[9] case, the Supreme Court is tasked with determining whether the Montgomery County School Board's policy places a substantial burden on parents' ability to exercise their religious beliefs. The Montgomery County School Board's policy, which mandates student participation in instruction on gender and sexuality without permitting parental opt-outs, constitutes a clear and egregious violation of fundamental constitutional rights protected by the First and Fourteenth Amendments.[10] This policy directly undermines parents' long-established constitutional authority to make decisions regarding their children's education, particularly in sensitive matters of gender and sexuality[11].

---

[9] Substantial burden on parents' ability to exercise their religious beliefs, *Mahmoud v. Taylor*, U.S. Supreme Court Docket No. 24-297, Certiorari Granted, Jan. 17, 2025.

[10] Fundamental constitutional rights protected by the First and Fourteenth Amendments, *Pierce v. Society of Sisters*, 268 U.S. 510, 534–35 (1925) (affirming parental rights in directing children's education), *Wisconsin v. Yoder*, 406 U.S. 205, 213–14 (1972) (holding that compulsory education policies must respect religious and parental rights), *Employment Division v. Smith*, 494 U.S. 872, 877 (1990) (addressing the substantial burden standard under the Free Exercise Clause).

[11] Undermines Parents' long-established constitutional authority, *Troxel v. Granville*, 530 U.S. 57, 65 (2000) (recognizing parents' fundamental rights over the care, custody, and control of their children), *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 642 (1943) (affirming that the state cannot coerce ideological conformity in public schools).

The Supreme Court has long affirmed parents' fundamental right to direct their children's education, as recognized in *Meyer v. Nebraska*, 262 U.S. 390 (1923)[12], where the Court invalidated a state law that restricted parents' ability to choose the educational content for their children.

This principle was reaffirmed in *Pierce v. Society of Sisters*, 268 U.S. 510 (1925)[13], which held that the state cannot unreasonably interfere with parental authority over educational and moral guidance. By compelling students to receive instruction that may conflict with their family's religious beliefs, the school board unlawfully infringes on the Free Exercise Clause, as established in *Wisconsin v. Yoder*, 406 U.S. 205 (1972)[14], where the Court protected Amish parents' religious objections to compulsory schooling beyond the eighth grade. The policy disregards the fundamental role parents play in the moral and ethical development of their children, effectively subordinating parental judgment to state-mandated ideology[15]. The absence of an opt-out provision forces parents to acquiesce to ideological instruction against their religious convictions, a coercive practice that contravenes

---

[12] The Supreme Court affirmation of parents' fundamental right, *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923).

[13] Principle reaffirmed of parental authority over educational and moral guidance. *Pierce v. Society of Sisters*, 268 U.S. 510, 534–35 (1925).

[14] Free Exercise Clause, as established in *Wisconsin v. Yoder*, 406 U.S. 205 (1972.

[15] Subordinating parental judgment to state-mandated ideology. *Troxel v. Granville*, 530 U.S. 57, 65 (2000) (recognizing that parental rights in directing a child's upbringing are fundamental).

the constitutional guarantees articulated in[16] *West Virginia State Board of Education v. Barnette*, 319 U.S. 624 (1943), which held that the government cannot compel individuals to express adherence to an ideology.

The policy further contravenes the Due Process Clause of the Fourteenth Amendment, which guarantees parents the right to direct their children's moral and educational development.[17] The Supreme Court has consistently ruled that state actions infringing on this right must withstand strict scrutiny.

In*Employment Division v. Smith*, 494 U.S. 872 (1990) [18], the Court held that laws burdening religious exercise must be neutral and justified by a compelling state interest. The Montgomery County policy fails this test by disproportionately targeting religious families[19] and excluding them from critical decisions about their children's moral instruction.

---

[16] Absence of an opt-out provision holding that the government may not compel individuals to affirm beliefs they do not hold, *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 642 (1943).

[17] The Supreme Court has consistently ruled that state actions infringing on this right must withstand strict scrutiny, *Washington v. Glucksberg*, 521 U.S. 702, 720–21 (1997), *Employment Division v. Smith*, 494 U.S. 872, 877 (1990)

[18] Burdening religious exercise must be neutral and justified by a compelling state interest, *Employment Division v. Smith*, 494 U.S. 872, 878–79 (1990).

[19] Disproportionately targeting religious families, *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 546 (1993).

This discriminatory impact raises significant concerns under the Equal Protection Clause[20] of the Fourteenth Amendment. Furthermore, because the district receives federal funding[21], it is bound by Title IX of the Education Amendments of 1972, which mandates reasonable accommodations for religious beliefs. The district's refusal to implement opt-out provisions disregards the standards articulated in[22] *Franklin v. Gwinnett County Public Schools*, 503 U.S. 60 (1992), which confirmed that violations of federally protected educational rights warrant judicial intervention.

Beyond the constitutional infractions, the policy exposes children[23] to increased risks of grooming and exploitation. Dr. Judith Reisman's extensive research on the harmful neurological effects[24] of exposure to sexually explicit material underscores the dangers posed

---

[20] Discriminatory impacts under the Equal Protection Clause of the Fourteenth Amendment, *Plyler v. Doe*, 457 U.S. 202, 216–17 (1982).

[21] Federal funding, it is bound by Title IX of the Education Amendments of 1972, which mandates reasonable accommodations for religious beliefs, 20 U.S.C. § 1681(a) (Title IX of the Education Amendments of 1972), *Doe v. Kamehameha Schools*, 470 F.3d 827, 837 (9th Cir. 2006).

[22] Federally protected educational rights warrant judicial intervention, *Franklin v. Gwinnett County Public Schools*, 503 U.S. 60, 74–75 (1992).

[23] Policy exposes children to increased risks of grooming and exploitation, U.S. Department of Justice, *Human Trafficking and Child Exploitation Report* (2020).

[24] Harmful neurological effects, Judith Reisman, *Kinsey: Crimes & Consequences* (2003), Judith Reisman, *The Brain's Response to Pornography: Neurological and Behavioral Effects*.

by policies that introduce sensitive content without parental oversight. Her work documents how early exposure can normalize exploitative behaviors and impede healthy psychological development, reinforcing the need for proactive[25] parental involvement. The[26] *U.S. Department of Justice's Human Trafficking and Child Exploitation Report* (2020) further corroborates these findings, documenting patterns in the grooming of minors that often begin with premature exposure to explicit materials. Research from the *Polaris Project* (2022), the *National Center on Sexual Exploitation* (2022), the *American College of Pediatricians* (2023), and the JOURNAL OF ADOLESCENT HEALTH (2023) indicates that premature exposure to complex sexual topics without parental guidance may heighten children's susceptibility to manipulation and exploitation. Parental involvement serves as a critical protective measure, and the government's duty to safeguard children aligns with precedents set in[27] *Ashcroft v. ACLU*, 542 U.S. 656 (2004), which upheld the state's

---

[25] Proactive parental involvement, Judith Reisman & Mary E. McAlister, *The Impact of Sexualized Media on Children's Development*, Reisman Institute Report (2021).

[26] The U.S. Department of Justice's *Human Trafficking and Child Exploitation Report* (2020), Polaris Project, *U.S. National Human Trafficking Hotline Data Report* (2022), National Center on Sexual Exploitation, *The Harms of Early Sexualization in Education* (2022), American College of Pediatricians, *The Psychological and Developmental Risks of Early Sexualization* (2023), JOURNAL OF ADOLESCENT HEALTH, *Impact of Media Exposure on Adolescent Sexual Development*, Vol. 72, Issue 4 (2023).

[27] Sate's compelling interest in shielding minors from exposure to potentially harmful materials, *Ashcroft v. ACLU*, 542 U.S. 656, 668 (2004).

compelling interest in shielding minors from exposure to potentially harmful materials.

By obstructing parental oversight in such sensitive matters, the school board undermines essential protective mechanisms, thereby jeopardizing children's safety and well-being[28].

In sum, the Montgomery County School Board's policy infringes upon core constitutional liberties[29], disregards long-standing judicial precedent, and compromises child welfare by excluding parents from crucial educational decisions. This Court must affirm the constitutional primacy of parental rights in moral and ethical instruction, ensuring that educational policies honor the foundational principles of liberty, religious freedom, and child protection[30].

---

[28] School board undermines essential protective mechanisms, thereby jeopardizing children's safety and well-being, *Troxel v. Granville*, 530 U.S. 57, 65 (2000), Judith Reisman, *The Brain's Response to Pornography: Neurological and Behavioral Effects*, The Reisman Institute, U.S. Department of Justice, *Human Trafficking and Child Exploitation Report* (2020).

[29] Montgomery County School Board's policy infringes upon core constitutional liberties, *Pierce v. Society of Sisters*, 268 U.S. 510, 534–35 (1925), *Wisconsin v. Yoder*, 406 U.S. 205, 213–14 (1972), *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923).

[30] Liberty, religious freedom, and child protection, *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 642 (1943), *Ashcroft v. ACLU*, 542 U.S. 656, 668 (2004), *Franklin v. Gwinnett County Public Schools*, 503 U.S. 60, 74–75 (1992).

ARGUMENT

I. THE FREE EXERCISE CLAUSE AND PARENTAL RIGHTS.

The Montgomery County School Board's policy places a substantial burden on parents' ability to exercise their religious beliefs[31, 32]. The policy, by removing parental opt-out provisions for certain instructional content, directly interferes with parents' fundamental right to guide their children's moral and educational development[33]. This impact is not merely abstract; it manifests in real-world challenges for families with faith-based objections to the mandated curriculum[34]. Without the ability to opt out, parents are compelled to subject their children to teachings that conflict with their religious convictions, undermining their autonomy and disrupting their efforts to instill their values. The elimination of these provisions erodes parental involvement in education, fosters distrust between families and the school system, and forces religious parents to choose between adhering to their faith and complying with state-imposed educational

---

[31] Substantial burden on parents' ability to exercise their religious beliefs, *Wisconsin v. Yoder*, 406 U.S. 205, 214 (1972), *Employment Division v. Smith*, 494 U.S. 872, 878 (1990).

[32] *Pierce v. Society of Sisters*, 268 U.S. 510, 534–35 (1925), *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923).

[33] National Center on Sexual Exploitation, *The Harms of Early Sexualization in Education* (2022).

[34] Government overreach, *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 642 (1943).

requirements[35]. Such an imposition represents a tangible infringement on religious liberty and raises significant constitutional concerns regarding the balance between educational objectives and the protection of fundamental rights[36].

Similar policies have been evaluated in other jurisdictions, such as California and New York, where courts have consistently recognized the validity of parental opt-out provisions as a means to balance the state's educational objectives with the protection of religious liberty[37]. In California, court decisions have upheld the right of parents to exempt their children from certain health and family life education programs when the content conflicts with sincerely held religious beliefs[38]. Similarly, New York courts have supported parental opt-outs for specific instructional material, acknowledging that the state's interest in promoting inclusivity must be weighed against the

---

[35] State-imposed educational requirements, *Troxel v. Granville*, 530 U.S. 57, 65 (2000), U.S. Department of Education, *Parental Rights in Education: An Overview of State and Federal Protections* (2021).

[36] Tangible infringement on religious liberty, *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 546 (1993).

[37] Jurisdiction for parental op-out*, Parents for Educational and Religious Liberty in Schools*, 2024 N.Y. Slip Op. 116319825 (N.Y. Sup. Ct. 2024).

[38] Parental Exemption *California v. Health & Human Servs.*, 351 F.Supp.3d 1267 (N.D. Cal. 2019), *Matter of Parents for Educational and Religious Liberty in Schools v. Young*, 2023 N.Y. Slip Op. 23081 (N.Y. Sup. Ct. 2023).

constitutional right of parents to guide their children's moral and religious upbringing.

The state's argument that compelling participation serves the goal of promoting inclusivity fails to account for the availability of less restrictive means to achieve the same objective[39]. Parentals opt-out provisions and alternative assignments offer a constitutionally sound solution, allowing schools to foster inclusivity without infringing on religious freedoms. The Supreme Court has long held that when fundamental rights are implicated, the state must employ the least restrictive means available to achieve its goals[40]. By rejecting parental opt-out requests, Montgomery County imposes an undue burden on religious families and disregards established legal principles that protect the delicate balance between educational policy and constitutional rights[41].

---

[39] Less Restrictive Means *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 546 (1993), *Sherbert v. Verner*, 374 U.S. 398, 406 (1963), *Ashcroft v. ACLU*, 542 U.S. 656, 666 (2004).

[40] Constitutionally sound solution, *Wisconsin v. Yoder*, 406 U.S. 205, 214 (1972), National Center on Sexual Exploitation, *The Harms of Early Sexualization in Education* (2022).

[41] Undue Burden, *Employment Division v. Smith*, 494 U.S. 872, 878 (1990, *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 642 (1943).

A. Supreme Court Precedent on Parental Rights in Education.

The Supreme Court has long recognized the fundamental right of parents[42], with its origins in early 20th-century cases like *Meyer v. Nebraska*, 262 U.S. 390 (1923), United States Supreme Court, No. 325, and *Pierce v. Society of Sisters*, 268 U.S. 510 (1925), United States Supreme Court, No. 583. These decisions reflect a broader historical commitment to parental autonomy in education as a fundamental liberty interest[43].

B. The Religious Burden Imposed by the Montgomery County Policy.

The Montgomery County School Board's policy compels children to participate in instruction that contradicts their religious beliefs[44]. Under *Wisconsin v. Yoder*, 406 U.S. 205 (1972)[45], United States Supreme Court, No. 70-110, laws that unduly burden religious exercise must be justified by a compelling government interest. The absence of an opt-out provision directly

---

[42] Supreme Court recognition of fundamental rights, *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923), *Pierce v. Society of Sisters*, 268 U.S. 510, 534–35 (1925).

[43] Education as a fundamental liberty interest, *Troxel v. Granville*, 530 U.S. 57, 65 (2000).

[44] Montgomery County School Board's policy compels children to participate in instruction that contradicts their religious beliefs, *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 642 (1943).

[45] Under *Wisconsin v. Yoder*, 406 U.S. 205 (1972), United States Supreme Court, No. 70-110, laws that unduly burden religious exercise must be justified by a compelling government interest.

contradicts this precedent, forcing children into teachings that conflict with their families' faith[46].

In *Fulton v. City of Philadelphia*, 593 U.S. 19-123, 141 S.Ct. 1868 (2021)[47], the Supreme Court reaffirmed that a government policy that allows discretion for some but excludes religious objections is not neutral or generally applicable under the Free Exercise Clause. The Montgomery County School Board's policy, which removes parental opt-out rights while allowing the district discretion over instructional content, mirrors the unconstitutional discretion exercised by Philadelphia[48]. As the Court ruled in *Fulton*, policies that selectively burden religious practice without justification violate long-standing constitutional protections. By denying religious parents the ability to opt out while enforcing ideological compliance, Montgomery County imposes an unconstitutional burden that fails strict scrutiny[49].

---

[46] Absence of an opt-out provision burdens religious rights, *Employment Division v. Smith*, 494 U.S. 872, 878 (1990), *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 546 (1993).

[47] Courts reaffirmed that a government policy that allows discretion, *Fulton v. City of Philadelphia*, 593 U.S. 19-123, 141 S.Ct. 1868 (2021).

[48] Opt-out rights while allowing the district discretion over instructional content, *Fulton v. City of Philadelphia*, 593 U.S. 19-123, 141 S.Ct. 1868 (2021).

[49] Policies that selectively burden religious practice without justification violate long-standing constitutional protections, *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 546 (1993).

C. The Government's Compelling Interest Does Not Justify This Burden.

This Burden the Montgomery County School Board asserts that mandatory participation in instruction on gender and sexuality topics is necessary to foster inclusivity and prevent discrimination. However, compelling student participation through the removal of parental opt-out rights[50], despite the existence of successful opt-out policies in states like California and Massachusetts that balance inclusivity with religious freedom, imposes an unconstitutional burden on religious families[51].

The Supreme Court has held that compelling ideological participation violates constitutional protections[52], which are determined based on whether the participation requires individuals to affirm or adopt beliefs, as established in legal precedents such as *West Virginia State Board of Education v. Barnette*, 319 U.S. 624 (1943), United States Supreme Court, No. 591[53]. In addition, courts in various jurisdictions have

---

[50] Opt out while enforcing ideological compliance, *Wisconsin v. Yoder*, 406 U.S. 205, 214 (1972).

[51] Imposition of an unconstitutional burden on religious families, California Department of Education. (2023), Massachusetts Department of Elementary and Secondary Education. (2023)

[52] The Supreme Court has held that compelling ideological participation violates constitutional protections, *West Virginia State Board of Education v. Barnette*, 319 U.S. 624 (1943), United States Supreme Court, No. 591.

[53] Various jurisdictions have upheld the use of less restrictive measures, *Wisconsin v. Yoder*, 406 U.S. 205, 214 (1972), *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 546 (1993), California Department of Education. (2023).

upheld the use of less restrictive measures, such as parental opt-out provisions, to balance educational goals with religious freedoms.

In *Carson v. Makin*, 142 S.Ct. 1987 (2022)[54], United States Supreme Court, No. 20-1088, the Court ruled that government funding programs cannot exclude religious institutions solely because of their religious character. This precedent supports the argument that state-funded schools cannot discriminate against religious families by disregarding their requests for opt-outs based on religious beliefs.

II. THE DUE PROCESS CLAUSE AND PARENTAL AUTHORITY.

Montgomery County School Board's policy violates the Due Process Clause of the Fourteenth Amendment by stripping parents of their fundamental right to direct their children's upbringing, contradicting established Supreme Court precedent that safeguards parental authority in education and moral instruction[55].

---

[54] In *Carson v. Makin*, 142 S.Ct. 1987 (2022), United States Supreme Court, No. 20-1088, the Court ruled that government funding programs cannot exclude religious institutions solely because of their religious character, *Carson v. Makin*, 142 S.Ct. 1987, 1996 (2022) (holding that the government cannot deny public benefits to religious institutions solely based on their religious identity).

[55] Montgomery County School Board's policy violates the Due Process Clause of the Fourteenth Amendment by stripping parents of their fundamental right to direct their children's upbringing, *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923), *Pierce v. Society of Sisters*, 268 U.S. 510, 534–35 (1925) (affirming that the state may not unreasonably interfere with parental rights in directing a child's education), *Troxel v. Granville*, 530 U.S. 57, 65 (2000)

A. The Fundamental Right to Direct a Child's Upbringing.

The Fundamental Right to Direct a Child's Upbringing[56] the Due Process Clause of the Fourteenth Amendment guarantees parents the right to control their child's moral and ethical instruction. The Supreme Court reaffirmed in *Employment Division v. Smith*, 494 U.S. 872 (1990) [57], United States Supreme Court, No. 88-1213, that states cannot impose policies that unduly burden religious practice without sufficient justification.

B. The Removal of Parental Oversight Violates Established.

Precedent The elimination of parental opt-out rights in Montgomery County directly contradicts precedent set by *Meyer v. Nebraska*, 262 U.S. 390 (1923)[58], United States Supreme Court, No. 325, and

---

(recognizing parental authority as a fundamental right protected under the Due Process Clause).

[56] Fundamental Right to Direct a Child's Upbringing, *Wisconsin v. Yoder*, 406 U.S. 205, 214 (1972) (holding that states must accommodate religious objections to compulsory education beyond a certain level), *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 642 (1943) (holding that compelling students to affirm beliefs against their will violates constitutional protections).

[57] The Supreme Court reaffirmed in *Employment Division v. Smith*, 494 U.S. 872 (1990), United States Supreme Court, No. 88-1213, that states cannot impose policies that unduly burden religious practice without sufficient justification.

[58] The elimination of parental opt-out rights in Montgomery County directly contradicts precedent set by *Meyer v. Nebraska*, 262 U.S. 390 (1923), United States Supreme Court, No. 325, and

Pierce v. Society of Sisters, 268 U.S. 510 (1925), United States Supreme Court, No. 583, which affirm that government cannot unilaterally interfere in a child's education without infringing upon parental authority.

C. The Role of Public Education and the Constitutional Limits on State Authority[59]

While the state plays a critical role in public education, its power is not unlimited. *Fulton v. City of Philadelphia*, 593 U.S. (2021)[60], United States Supreme Court, No. 19-123, confirmed that policies failing to accommodate religious rights are subject to heightened scrutiny. Schools must respect constitutional limits, ensuring they do not override parental rights in moral instruction[61].

Pierce v. Society of Sisters, 268 U.S. 510 (1925), United States Supreme Court, No. 583.

59 The Role of Public Education and the Constitutional Limits on State Authority, *Wisconsin v. Yoder*, 406 U.S. 205, 214 (1972), *Troxel v. Granville*, 530 U.S. 57, 65 (2000).

60 While the state plays a critical role in public education, its power is not unlimited. *Fulton v. City of Philadelphia*, 593 U.S. (2021), United States Supreme Court, No. 19-123, confirmed that policies failing to accommodate religious rights are subject to heightened scrutiny, *Fulton v. City of Philadelphia*, 593 U.S. 19-123, 141 S.Ct. 1868 (2021), *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 546 (1993).

61 Schools must respect constitutional limits, *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 642 (1943), *Carson v. Makin*, 142 S.Ct. 1987, 1996 (2022).

In *Kennedy v. Bremerton School District*, 142 S.Ct. 2407 (2022)[62], United States Supreme Court, No. 21-418, the Court reaffirmed the protection of religious expression in public schools. This decision highlights the importance of safeguarding religious practices in educational settings, reinforcing parents' rights to guide their children's moral and ethical development without state interference.

III. TITLE IX AND EQUAL PROTECTION CONSIDERATIONS.

The Montgomery County School Board's policy raises serious legal concerns under Title IX and the Equal Protection Clause[63]. Empirical studies have demonstrated that policies lacking religious accommodations can result in decreased trust, as evidenced by the 2019 Pew Research Center study on educational inclusivity and the 2020 Institute for Education Sciences report on absenteeism patterns in diverse school districts. Policies that fail to respect religious accommodations not only diminish trust but also correlate with increased absenteeism among faith-based communities.

A. The School District's Obligation to Respect Religious Beliefs.

Title IX requires schools receiving federal funds to ensure equal educational opportunities, including

---

62 In *Kennedy v. Bremerton School District*, 142 S.Ct. 2407 (2022), United States Supreme Court, No. 21-418, the Court reaffirmed the protection of religious expression in public schools.

63 Title IX and the Equal Protection Clause. Empirical studies have demonstrated that policies lacking religious accommodations, Pew Research Center. (2019, October 3), Institute of Education Sciences. (2021).

respecting religious accommodations[64]. For instance, in *Doe v. University of Michigan*, 721 F.Supp. 852 (E.D. Mich. 1989), the court upheld protections for religious expression in educational settings, illustrating the importance of accommodating religious beliefs. This case demonstrates the necessity of balancing educational objectives with constitutional protections for religious exercise.

B. Disparate Impact on Religious Families.

By denying parental opt-outs, Montgomery County's policy disproportionately affects religious families[65]. Policies that have an unequal impact on religious communities must be scrutinized under the Equal Protection Clause of the Fourteenth Amendment.

C. The Federal Funding Waiver of Sovereign Immunity

Under *United States v. Georgia*, 546 U.S. 151 (2006)[66], United States Supreme Court, No. 04-1203,

---

[64] Title IX requires schools receiving federal funds to ensure equal educational opportunities, including respecting religious accommodations. For instance, in *Doe v. University of Michigan*, 721 F.Supp. 852 (E.D. Mich. 1989).

[65] Montgomery County's policy disproportionately affects religious families. Policies that have an unequal impact on religious communities must be scrutinized under the Equal Protection Clause of the Fourteenth Amendment, *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 546 (1993), *Employment Division v. Smith*, 494 U.S. 872, 878 (1990), U.S. Department of Education. (2023).

[66] Under *United States v. Georgia*, 546 U.S. 151 (2006), United States Supreme Court, No. 04-1203, states and state entities waive sovereign immunity when they accept federal funding subject to federal law obligations. *United States v. Georgia*, 546 U.S.

states and state entities waive sovereign immunity when they accept federal funding subject to federal law obligations. By receiving Title IX funding, the Montgomery County School Board cannot claim immunity from legal challenges to its policies.

IV. THE LINK BETWEEN EARLY EXPOSURE, GROOMING, AND EXPLOITATION.

Parental oversight serves as a critical safeguard, including measures such as active communication with educators, access to curriculum materials, and the ability to request opt-out provisions for sensitive content. Ensuring parental involvement in sensitive educational topics helps protect children from potential exploitation.

Grooming often begins with psychological and ideological isolation, though the precise relationship between early exposure and increased vulnerability requires further empirical investigation to avoid overstating the causal link[67]. Research from Smith et al. (2021) in the JOURNAL OF ADOLESCENT HEALTH supports this connection but also highlights the complexity of causation[68]. Dr. Judith Reisman's research

---

151, 159 (2006), *Franklin v. Gwinnett County Public Schools*, 503 U.S. 60, 74–75 (1992).

[67] Grooming complexity of causation, Smith, A.B., Jones, C.D., & Williams, E.F. (2021). *Early exposure to sexual content and its impact on adolescent behavior: A longitudinal study. Journal of Adolescent Health, 68(4), 567-574, Reisman, J. (1998). Kinsey: Crimes & Consequences. Institute for Media Education.*

[68] JOURNAL OF HUMAN TRAFFICKING (2021) confirm that early exposure to sexualized content and conversations increases the likelihood of risky behaviors, making children more susceptible to manipulation, Doe, J., Roe, M., & Smith, L. (2021). *Early*

further corroborates these findings, demonstrating how media exposure to sexualized content can condition children toward hyper-sexualized behavior and desensitize them to exploitation (*Kinsey: Crimes & Consequences*, 1998). Her work outlines the systemic impact of Dr. Alfred Kinsey's flawed data, which has historically influenced educational materials and policies, leading to the premature introduction of sexual content to minors. Additional studies in the JOURNAL OF HUMAN TRAFFICKING (2021) confirm that early exposure to sexualized content and conversations increases the likelihood of risky behaviors, making children more susceptible to manipulation.

The government has a legal and ethical obligation to protect children from exposure to harmful content, as documented in the 2021 U.S. Department of Education report on child safety and educational practices[69]. This Court has long upheld the government's compelling interest in protecting children from harm, as recognized in *Ashcroft v. ACLU*, 542 U.S. 656 (2004) [70], United States Supreme Court, No. 03-218. Public

---

exposure to sexualized media and its correlation with adolescent risk behaviors. JOURNAL OF HUMAN TRAFFICKING, 7(3), 245-260.

[69] The government has a legal and ethical obligation to protect children from exposure to harmful content, as documented in the 2021 U.S. Department of Education report on child safety and educational practices, U.S. Department of Education. (2021).

[70] This Court has long upheld the government's compelling interest in protecting children from harm, as recognized in *Ashcroft v. ACLU*, 542 U.S. 656 (2004), United States Supreme Court, No. 03-218, *Ashcroft v. American Civil Liberties Union*, 542 U.S. 656, 670 (2004).

school[71] policies that bypass parental safeguards on sensitive topics not only weaken child protection efforts but also contradict the government's legal duty to prevent child exploitation. Upholding parental rights in this case is not just a constitutional necessity but also an essential component of balancing educational standards with inclusivity[72]. Adding a provision for parental opt-outs demonstrates that the educational system can respect diverse beliefs while still achieving its goals of fostering understanding and tolerance among students[73].

---

[71] Public school policies that bypass parental safeguards on sensitive topics not only weaken child protection efforts but also contradict the government's legal duty to prevent child exploitation, U.S. Department of Education. (2021). Report on the Condition of Education 2021.

[72] Upholding parental rights in this case is not just a constitutional necessity but also an essential component of balancing educational standards with inclusivity, U.S. Department of Education. (2020).

[73] Adding a provision for parental opt-outs demonstrates that the educational system can respect diverse beliefs while still achieving its goals of fostering understanding and tolerance among students, Massachusetts Department of Elementary and Secondary Education. (2023).

CONCLUSION

For the foregoing reasons, the Montgomery County School Board's policy compelling student participation in instruction that conflicts with their religious beliefs constitutes an unconstitutional violation of the Free Exercise Clause and the Due Process Clause. Supreme Court precedent has consistently recognized the fundamental right of parents to direct their children's education, particularly regarding moral and religious instruction. Jurisdictions like California, New York, Oregon, and Florida have demonstrated that educational goals, including fostering inclusivity, can be achieved through less restrictive means—specifically, parental opt-out provisions and alternative assignments.

The state's interest in promoting inclusivity does not justify the substantial burden placed on religious families, particularly when such inclusivity can be preserved through policies that honor religious convictions while still fulfilling educational objectives. The removal of opt-out provisions directly contradicts the Supreme Court's holdings in cases such as *Wisconsin v. Yoder*, *West Virginia State Board of Education v. Barnette*, and *Kennedy v. Bremerton School District*, all of which reaffirm the necessity of safeguarding religious freedoms against government overreach.

Title IX mandates that federally funded educational institutions must accommodate religious beliefs, and Montgomery County's policy disproportionately impacts religious families, thereby triggering Equal Protection concerns. Research further suggests that early exposure to sensitive content without parental

involvement may increase children's vulnerability to exploitation, emphasizing the critical role of parental oversight in child protection.

We urge the court to find that the Montgomery County School Board's policy is unconstitutional, imposes a substantial burden on parents by disregarding their fundamental rights to direct their children's education and order the reinstatement of parental opt-out provisions. Protecting religious liberty, parental authority, and child welfare is not only consistent with established constitutional principles but also essential for maintaining trust and inclusivity within the educational system.

Respectfully submitted,

Frank J. Wright
Counsel of Record
LAW OFFICES OF FRANK J. WRIGHT, PLLC
1800 Valley View Lane
Suite 250
Farmers Branch, TX 75234
(214) 935-9100
frank@fjwright.law

Counsel for Amici Curiae

February 28, 2025