

No. 24-803

IN THE
Supreme Court of the United States

MICHAEL QUINN SULLIVAN,
Petitioner,

v.

TEXAS ETHICS COMMISSION,
Respondent.

**On Petition for a Writ of Certiorari to the
Texas Court of Appeals, Third District**

**BRIEF OF TEXAS HOME SCHOOL COALITION
AS *AMICUS CURIAE*
IN SUPPORT OF PETITIONER**

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INTEREST OF *AMICUS CURIAE**

Texas Home School Coalition is a nonprofit organization committed to preserving the fundamental right of parents to raise and educate their children. The Coalition encourages, equips, and advocates for families in their home education journey. In addition to educational opportunities and homeschooling resources, the Coalition provides its members with legal assistance and legislative advocacy.

The Coalition was founded in 1986 to address and defend against a flood of prosecutions brought against Texas homeschoolers—“based upon nothing other than the fact that a child was being schooled at home.” *Tex. Educ. Agency v. Leeper*, 893 S.W.2d 432, 437 (Tex. 1994). The impetus for these prosecutions: the Texas Education Agency’s arbitrary reinterpretation of a sixty-year-old statute to prohibit homeschooling.

The trial court ruled for the homeschoolers in 1987, and the Texas Supreme Court affirmed—ensuring homeschooling remained lawful throughout Texas. *Leeper*, 893 S.W.3d at 443–44.

The Coalition has spent the intervening forty years advocating for Texas homeschoolers and defending parents’ fundamental right to raise and educate their children. Its pathbreaking legislative victories include: (1) ensuring drivers’ education can be taught

* Pursuant to Supreme Court Rule 37.6, *amicus* represents that this brief wasn’t authored in whole or in part by any party or counsel for any party. No person or party other than *amicus* or its counsel made a monetary contribution to the preparation or submission of this brief. *Amicus* timely notified counsel for all parties of its intention to file this brief as required by Supreme Court Rule 37.2.

at home; (2) guaranteeing homeschoolers access to the PSAT, the National Merit Scholarship Qualifying Test, and AP tests; (3) permitting homeschool families to participate in University Interscholastic League extracurricular programs (including sports, chess, music, and debate) through their local public school; and (4) prohibiting Texas colleges and universities from discriminating against homeschoolers in admissions.

These victories have facilitated homeschooling's explosive growth in Texas. Today, there are hundreds of thousands of Texas families that homeschool. And they are supported and served by thousands of local homeschool groups.

Achieving these remarkable results has required the Coalition to regularly engage with legislators and other elected officials to ensure its members have a voice in the democratic process. The Coalition also encourages its members and local homeschool groups to be politically involved and politically active. In particular, the Coalition provides guidance and instruction on engaging in the legislative process, both as an educational activity for the students and a means of preserving homeschool families' own freedoms. For example, the Coalition's "Capitol Days" program creates an opportunity for homeschool families to tour the capitol, visit with legislators in their offices, and learn how laws are made. THSC, *2025 Capitol Days*, https://t.ly/0_poX.

The Coalition thus has a strong interest in promoting and protecting the fundamental principles enshrined in the First Amendment.

Because the *Leeper* decision ultimately rested on a question of statutory interpretation, homeschooling

in Texas remains subject to legislative and administrative regulation and restriction. So one of the Coalition's most pressing legislative priorities is an amendment to the Texas Constitution protecting parents' fundamental right to direct their children's education. THSC, *Defending Freedom in the 2025 Texas Legislature*, <https://t.ly/sNpr6>; see also Tex. S.J. Res. 12, 89th Leg., R.S. (2025), <https://t.ly/Pg1QJ>.

The Coalition submits this brief to explain how the decision below—and the Texas Ethics Commission's enforcement of Chapter 305 of the Texas Government Code—chills core political speech. Absent this Court's intervention, the Coalition's ability to continue advancing opportunities and equality for homeschoolers and protecting the rights of parents to raise their children will be stifled.

INTRODUCTION

Over the past forty years, Texas Home School Coalition has been phenomenally successful in advocating for its members—Texas’s homeschool families—and empowering them to advocate for themselves. It has helped block legislation that would’ve hurt homeschoolers (or even ended homeschooling altogether) and advanced legislation that protected and promoted their interests. It accomplished this through core political speech—trekking to Austin and talking to legislators and agency officials.

But the decision below—blessing the Texas Ethics Commission’s enforcement of Texas’s lobbyist registration law—threatens to stop that progress in its tracks.

The Coalition was founded in 1986, in the face of over 150 pending criminal prosecutions against Texas homeschool families—all “based upon nothing other than the fact that a child was being schooled at home.” *Tex. Educ. Agency v. Leeper*, 893 S.W.2d 432, 437 (Tex. 1994). By the beginning of 1987, eighty of these cases had proceeded to trial.

The impetus for these prosecutions? A 1981 decision by a Texas Education Agency staff attorney to interpret a then-sixty-year-old statute to prohibit homeschooling in Texas. The next year, the agency’s assistant general counsel agreed—and just like that, a practice that had been lawful since the enactment of Texas’s 1915 compulsory attendance law became a criminal offense. *Leeper*, 893 S.W.2d at 435–37.

After the legislature failed to act, the homeschoolers were forced to seek judicial relief. But the wheels of justice turn slowly. The case was pending in the

trial court for nearly two years—and wasn't finally resolved by the Texas Supreme Court for a decade.

Fortunately, the courts got it right—the agency was “wrong,” and the homeschoolers were “clearly correct.” *Leeper*, 893 S.W.2d at 443–44. But lessons were learned. If homeschoolers wanted to maintain their way of life and protect their rights, they would need to be politically aware, politically involved, and politically engaged.

By any measure, the past forty years have been a resounding success for the Coalition, its members, and the Texas homeschooling movement more broadly. The decision below now places all those hard-won victories in peril.

Texas's lobbyist registration law, Chapter 305 of the Texas Government Code, arguably requires anyone who speaks with legislators as part of his job to register with the State, submit burdensome disclosures, and pay a licensing fee—even if he doesn't receive additional payment for talking to legislators. Someone who spends \$970 in a single quarter to communicate with legislators could also trigger the law. Failure to comply risks incurring fines or serving up to a year in jail.

Until recently, nobody thought that the Constitution would permit the law to be enforced against non-lobbyists—or based on a non-lobbyist's mass emails to legislators. Pet. 13. But the Texas Ethics Commission's sudden interest in enforcing the law against Michael Quinn Sullivan, simply for engaging in political speech, imposes a real threat that the law may be used against virtually anyone—and political dissidents in particular.

The court of appeals' decision blessing the Ethics Commission's novel enforcement chills organizations like Texas Home School Coalition and its members from engaging in the democratic process. The only way to avoid potential criminal prosecution with any certainty requires registering as a lobbyist, making the required disclosures, and paying the licensing fee—all to engage in core political speech. This new interpretation of Chapter 305 threatens to undermine the Coalition's mission and leaves it, its members, and thousands of local homeschool groups vulnerable to losing hard-won victories because they're forced to abandon the political process.

This Court's decisions reaffirm that political speech "is central to the meaning and purpose of the First Amendment," *Citizens United v. FEC*, 558 U.S. 310, 329 (2010), which means that the court of appeals' decision cannot stand. The Court should grant the petition, reverse the decision below, and restore the right to engage in political speech as guaranteed by the Constitution.

STATEMENT

I. TEXAS OUTLAWS HOMESCHOOLING AND PROSECUTES FAMILIES WHO DON'T ENROLL IN STATE-APPROVED SCHOOLS.

In 1915, Texas enacted a compulsory school attendance law, which—for the first time—required families to send their school-age children to public school or face criminal penalties. See 34th Leg., R.S., ch. 49, § 9, 1915 Tex. Gen. Laws 92, 93, 96–97. But the law exempted several categories of children, including any "child in attendance upon a private or parochial school or who is being properly instructed by a

private tutor.” *Id.* at 93. Homeschoolers fell neatly within that exemption.

Eight years later, in 1923, the Texas legislature amended the law to remove the reference to private tutors. 38th Leg., R.S., ch. 121, § 2, 1923 Tex. Gen. Laws 255, 255. But homeschoolers were still considered to fall within the exemption so long as they met basic education goals consistent with a typical private-school education. See *Leeper*, 893 S.W.2d at 435. Although Texas’s attendance law changed in structure over time, its core provisions remained the same—and so too did homeschooling’s lawful status in Texas. *Ibid.* Indeed, since before the law’s enactment in 1915, “the State never attempted to prohibit or even restrict home schooling, or to allege a violation of the compulsory attendance law based solely on a child’s being taught at home.” *Ibid.*

That all changed in 1981. That year, a staff attorney at the Texas Education Agency asserted—for the first time in Texas history—that homeschooling might be illegal because it wasn’t listed among the expressly enumerated exemptions (“private or parochial school”) in the compulsory attendance law. *Leeper*, 893 S.W.2d at 435. The following year, the agency’s assistant general counsel took a firmer position, opining that “a person may not teach their children at home simply by calling their home a private school.” *Id.* at 436. In his view, if “educational programs conducted in a home environment [were] to be allowed as exemption to the compulsory attendance law, action of the Legislature [would] be required.” *Ibid.*

In the years that followed, “a number of bills were introduced,” but the legislature ultimately “took no

action.” *Leeper*, 893 S.W.2d at 436. In the face of that inaction, the agency doubled down on its stance that homeschooling was illegal in Texas. *Id.* at 435–36. In 1985, the agency published its official interpretation that “educating a child at home is * * * not an acceptable substitute.” *Id.* at 436. And it instructed school districts to “file charges against the parent” if the child was being homeschooled. *Ibid.*

II. TEXAS HOME SCHOOL COALITION IS FORMED TO DEFEND AND ADVOCATE FOR HOME-SCHOOL FAMILIES’ RIGHTS.

Unsurprisingly, school districts began prosecuting homeschooling parents—resulting in roughly 150 criminal prosecutions in just four years. *Leeper*, 893 S.W.2d at 437. Aggressive prosecutions of homeschool families left them with little choice but to seek legal recourse, jumpstarting a culture of political engagement. In March 1985, homeschool families filed a class action lawsuit against the Texas Education Agency and every school district in Texas. THSC, *History of Texas Home Education*, <https://t.ly/KEMiE>. The homeschool families sought a declaration that the agency “had misinterpreted the private school exemption” and an injunction against the enforcement of the compulsory attendance law for violating their rights under the U.S. Constitution. *Leeper*, 893 S.W.2d at 438.

In 1986, the Coalition was founded. THSC, *THSC History*, <https://t.ly/TBz4r>. Witnessing the prosecutions, various anti-homeschool laws being introduced in the legislature, and the lack of political representation for homeschool families, the Coalition’s founders realized that a statewide political organization was needed to fight for the rights of Texas homeschool

families. *Ibid.* The Coalition was thus born—to unify, represent, and amplify the voices of Texas homeschool families against the regulation of homeschooling in Texas. *Ibid.* The Coalition’s leadership dove right in, touring the State, speaking to homeschool families, rallying local homeschool group leaders, and coordinating a response to the State’s newfound aggression against homeschool families.

A few months later, the Texas Board of Education held a hearing to consider a proposal that would require all private schools—including home schools—to meet fire and safety codes, offer a state-sanctioned curriculum, and give annual achievement tests. THSC, *Texas Home School History – Austin T.E.A. Party Rally*, YouTube (June 9, 2015), <https://t.ly/TDd52>. To the Board’s surprise, approximately 6,000 homeschooling supporters showed up in protest. See THSC, *Keeping Texas Families Free – History of Home Schooling in Texas*, YouTube (May 12, 2015), <https://t.ly/m08dN>. As a result of this exercise of newfound political energy, Texas homeschoolers were able to deter homeschool regulations. *Ibid.* Rather than adopt the proposed requirements, the Board issued a resolution that called on the legislature to take action and *recommended* that school districts follow the proposed requirements “pending legislative action.” *Leeper*, 893 S.W.2d at 438.

Meanwhile, the *Leeper* case wound its way through the courts. Both the district court and the court of appeals ruled in the homeschool families’ favor. See *Leeper*, 893 S.W.2d at 439–40. In 1994, the Texas Supreme Court affirmed, holding that homeschooling fell within the private-school exemption to Texas’s compulsory public school attendance law,

provided that a given home school was “bona fide,” used “written materials,” and used a “curriculum designed to meet basic education goals of reading, spelling, grammar, mathematics and a study of good citizenship.” *Id.* at 439, 443–44. The *Leeper* decision put an end to the decade-long fight for the right to homeschool in Texas.

III. TEXAS HOME SCHOOL COALITION CONTINUES TO FIGHT FOR THE RIGHTS OF HOME-SCHOOL FAMILIES ACROSS THE STATE.

But that was just the beginning. Also in 1994, U.S. Representative George Miller proposed an amendment to a bill reauthorizing the federal Elementary and Secondary Education Act that would’ve required state education agencies to “certify that each full time teacher in schools under the jurisdiction of the agency is certified to teach in the subject area to which he or she is assigned.” H.R. 6 § 2124(e), 103d Cong. (as reported Feb. 16, 1994). That requirement would have effectively outlawed homeschooling nationwide, as no parent would have had—or would have been able to obtain—state certification to teach every subject matter within their homeschool curricula.

Texas Home School Coalition led the charge to organize grassroots lobbying efforts, and homeschoolers nationwide heeded the call. More than one million phone calls flooded the Capitol, shutting down the Capitol’s switchboard and leading to a 424-1 vote to remove Miller’s amendment from the bill. See THSC, *Keeping Texas Families Free – History of Home Schooling in Texas*, YouTube (May 12, 2015), <https://t.ly/m08dN>; H. Amend. No. 103-439 to H.R. 6

(Feb. 24, 1994). Legislators were “inundated with telephone calls, faxes and letters from proponents of home schooling,” to the point that one Representative said the House agreed to strike Miller’s amendment “to spare every member of Congress a second week of phone calls.” Associated Press, *Home Schooling Wins Emphatic Assurance from the House*, N.Y. Times (Feb. 25, 1994), <https://t.ly/LNBdk>.

Homeschoolers worked together to defeat the provision, but there was still work to do back in Texas. In 1997, state legislators attempted to repeal legislation that allowed parents to teach their children how to drive. Tex. H.B. 1255, 75th Leg., R.S. (1997). The Coalition again led the fight, as homeschool families and local homeschool group leaders engaged in the democratic process—such as by testifying at legislative committee hearings. THSC, *Texas Homeschool Drivers Ed Options* (Dec. 1, 2017), <https://t.ly/5yPr2>. Their efforts helped defend the right to a homeschool education both in the home and in the car.

In 2007, the Coalition helped pass House Bill 1844, which amended section 29.916 of the Texas Education Code to allow homeschool students to take the PSAT, the National Merit Scholarship Qualifying Test, and AP tests at their local public schools. See Tex. H.B. 1844, 80th Leg., R.S., 2007 Tex. Gen. Laws 4091, 4091; Tex. House Research Org., Bill Analysis, Tex. H.B. 1844, 80th Leg., R.S. (2007), <https://t.ly/pXIQs>.

More recently, the Coalition succeeded in supporting House Bill 547, which gave homeschool families equal access to public school extracurricular activities in the district in which they live and pay taxes. Since before 1915, homeschoolers had not had access to

activities sponsored by the University Interscholastic League, a publicly funded organization that governs most of the extracurricular activities in Texas public schools. THSC, *UIL Assistance*, <https://t.ly/xJ3xB>. Texas Home School Coalition and homeschool families fought for decades to obtain equal access to these taxpayer-funded activities until the Texas Legislature passed HB 547 in 2021. *Ibid.* Then in 2023, the Legislature expanded funding and protections for homeschool students' participation. *Ibid.*

The Coalition's efforts extended beyond protections for homeschooling itself to protections for equal treatment in college admissions. In 2015, the Coalition helped pass Senate Bill 1543, which prevented Texas public universities, colleges, and trade schools from discriminating against homeschoolers in the admissions process. THSC, *13 Homeschool Graduate College Admissions Problems (resolved by THSC)* (Aug. 11, 2017), <https://t.ly/MGe37>; Tex. S.B. 1543, 84th Leg., R.S., 2015 Tex. Gen. Laws 4046, 4046.

The Coalition's most pressing legislative priorities now include (1) passing an amendment to the Texas Constitution protecting parents' fundamental right to direct their children's education; (2) securing equal treatment for homeschoolers in financial aid eligibility and class rankings; and (3) expanding equal access to University Interscholastic League activities. THSC, *Defending Freedom in the 2025 Texas Legislature*, <https://t.ly/sNpr6>.

ARGUMENT

I. THE LOWER COURT’S INTERPRETATION OF TEXAS’S LOBBYIST REGISTRATION LAW HINDERS TEXAS HOME SCHOOL COALITION’S MISSION.

The lower court’s interpretation of Texas’s lobbyist registration law impedes Texas Home School Coalition’s mission to protect the rights of the home-schooling community by chilling its and its members’ political speech.

Chapter 305 of the Texas Government Code, as interpreted by the court of appeals, imposes burdensome requirements for broad swaths of people who wish to “communicate directly with a member of the legislative or executive branch to influence legislation or administrative action.” Tex. Gov’t Code § 305.003(a)(2). Anyone who spends a fraction of their job communicating with legislators must register as a lobbyist with the State, submit burdensome disclosures, and pay a licensing fee. Tex. Gov’t Code § 305.005. And even those whose jobs have nothing to do with communicating with legislators are still subject to the law’s requirements if they spend \$970 or more to contact their government representatives. Tex. Gov’t Code § 305.003(a)(1); 1 Tex. Admin. Code §§ 18.31(a), 34.41.

Violating Chapter 305 is of no small consequence. Failing to comply could mean massive fines, a year of jailtime, or both. Tex. Gov’t Code §§ 305.031–.032; Tex. Penal Code § 12.21. So there’s a lot on the line for someone who even arguably meets the statute’s conditions for needing to register as a lobbyist—regardless of whether the person is actually a lobbyist or is engaging in typical lobbying activities.

Given the law’s broad reach and the homeschooling community’s interest in democratic participation, there’s a significant risk that members of Texas Home School Coalition—or the homeschooling community in general—are forced to satisfy Chapter 305’s strict licensing requirements before engaging in political speech. Likewise, there’s a high risk that many would choose to *not* engage in political speech at all to avoid paying fees, disclosing troves of information, and registering as a lobbyist with the State. Simply put, Chapter 305 threatens to impede Texas Home School Coalition’s mission by chilling its members from speaking freely with government representatives on topics of concern to the homeschooling community.

II. CHAPTER 305 UNCONSTITUTIONALLY INFRINGES ON TEXAS HOME SCHOOL COALITION’S FIRST AMENDMENT RIGHTS.

The First Amendment’s promise of free speech is “the lifeblood of a self-governing people.” *McCutcheon v. FEC*, 572 U.S. 185, 228 (2014) (Thomas, J., concurring); see also *Garrison v. Louisiana*, 379 U.S. 64, 74–75 (1964) (“speech concerning public affairs is more than self-expression; it is the essence of self-government”). It “guarantee[s] our capacity for democratic self-government” by ensuring that the People can actively participate in the process of lawmaking in meaningful ways. *Va. State Bd. of Pharmacy v. Va. Citizens Consumer Council, Inc.*, 425 U.S. 748, 765 n.19 (1976).

Given political speech’s centrality to the democratic process, it’s no surprise that “speech on public issues occupies the highest rung of the hierarchy of First Amendment values, and is entitled to special

protection.” *Connick v. Myers*, 461 U.S. 138, 145 (1983) (internal quotation marks omitted).

It’s this protection that has allowed the Coalition to pursue and secure vital political successes and ensure homeschooling remains a legal and viable option for families. As explained above, the Coalition has actively and consistently exercised its First Amendment rights to secure legal protections for families across Texas. That those rights are subject to legislative and administrative regulation and restriction only sharpens the Coalition’s need to consistently engage lawmakers and ensure their interests are represented in the legislative and administrative processes.

Yet Chapter 305 and the decision below jeopardize that right. By upholding a broad reading of Chapter 305, the court of appeals overlooked basic First Amendment principles. It also created uncertainty and legal risk for the Coalition and other groups that, out of necessity, must consistently engage lawmakers to make their voices heard.

The court of appeals upheld Chapter 305 in large part by relying on a purportedly valid interest in gathering “information from those who for hire attempt to influence legislation or who collect or spend funds for that purpose.” Pet. App. 11a–12a (quoting *United States v. Harriss*, 347 U.S. 612, 625 (1954)). But the court of appeals gave short shrift to how that interest supports burdening those *other* than full-time, professional lobbyists. Pet. App. 17a–18a.

Indeed, Chapter 305 covers—or at minimum, comes dangerously close to covering—a whole host of activities far removed from prototypical professional lobbying, including activities in which the Coalition

and its members would otherwise engage to further their interests.

The inevitable result of the court of appeals putting its imprimatur on the Ethics Commission's capacious enforcement of Chapter 305 is chilling the core political speech of the Coalition and its members. Consider two activities in which the Coalition and its members regularly have engaged.

First, homeschool groups across the nation—including the thousands of local homeschool groups in Texas—regularly take group field trips to state capitols to engage lawmakers about legislation that could impact homeschooling. As part of those efforts, those groups often bake pies or other desserts to give to legislative offices.

Second, the Coalition hosts three “Capitol Day” events each legislative session where hundreds of homeschoolers and their group leaders come to the capitol to learn about the legislative process. During those events, the Coalition gives students and leaders a piece of active legislation about which to engage lawmakers. See THSC, *2025 Capitol Days*, https://t.ly/0_poX. These events are not only an important opportunity for homeschool communities to engage with legislators on important issues, but also invaluable learning opportunities for students. See THSC, *10 Reasons to Attend THSC Capitol Days* (Jan. 20, 2017), <https://t.ly/WMpVK>.

But now, the Coalition must warn its members and local homeschool group leaders that they might need to register as lobbyists, make the burdensome disclosures, and pay a \$150 licensing fee before going on these trips to speak with their elected

representatives—or risk civil penalties and criminal prosecution. See Tex. Gov’t Code § 305.005.

Recall that Chapter 305 requires registration if a person spends more than \$970 or “receives” more than \$1,930 “from another person” “to communicate directly” with a legislator “to influence legislation.” Tex. Gov’t Code § 305.003(a); 1 Tex. Admin. Code § 18.31(a). “Another person” includes any “organization” or other “group of persons who are voluntarily acting in concert.” Tex. Gov’t Code § 305.002(8). And “communicat[ing] directly” to “influence legislation” includes “establishing goodwill” with legislators. Tex. Gov’t Code § 305.002(2-a).

So although no ordinary citizen would think of these field trips as professional lobbying, the group leaders (and potentially anyone else on the trip) are now at the mercy of the Ethics Commission: Are they sure the cost of the trip didn’t exceed \$970? See Tex. Gov’t Code § 305.003(a)(1) (excluding only “*the person’s own* travel, food, or lodging expenses”) (emphasis added). Can they prove it to the Commission’s satisfaction? And, perhaps more importantly—is it worth the risk to find out?

But even fastidiously tracking one’s spending might not be enough to avoid Ethics Commission scrutiny. That’s because a person’s salary can count toward Chapter 305’s \$970 threshold if he communicates with legislators “as part of his regular employment”—“whether or not the person receives any compensation for the communication in addition to the salary for that regular employment.” Tex. Gov’t Code § 305.003(b). As the decision below demonstrates, a group leader who draws even a marginal

salary for her work as a homeschool leader could be putting herself in the Commission’s crosshairs by leading one of these trips. See Pet. App. 17a–19a (explaining the exceptions and exemptions an employee could try to prove).

And the risk of enforcement is sufficient to chill the Coalition and its members—even if they might ultimately be able to prove they didn’t need to register. That these leaders are now forced to ask themselves whether engaging in core political speech is worth the candle—either register as a lobbyist or risk civil and criminal penalties—is precisely why this Court’s intervention is necessary. See *McCutcheon*, 572 U.S. at 203; see also *Citizens United*, 558 U.S. at 324 (warning against laws that “potentially subject[] the speaker to criminal sanctions” without sufficient guidance).

Those looming concerns are exactly why this Court repeatedly has recognized “disclosure requirement[s]” violate the First Amendment by “creat[ing] an unnecessary risk of chilling” protected conduct. *Ams. for Prosperity Found. v. Bonta*, 594 U.S. 595, 616 (2021) (invalidating law requiring charities to disclose major donors); see also *Shelton v. Tucker*, 364 U.S. 479, 480, 490 (1960) (invalidating law requiring public school teachers to disclose organizational affiliations); *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449, 466 (1958) (invalidating compelled disclosure of organization’s membership).

And the chilling effect here isn’t some hypothetical risk. The Coalition regularly consults with and advises local homeschool group leaders about best practices. These leaders commonly seek guidance

about the limits on their ability to participate in the legislative process—an instinct that’s deeply baked into the culture of the Texas homeschool community after the events leading up to the *Leeper* decision.

Several local group leaders have told the Coalition that their concerns about triggering Chapter 305 are so great that they’ve drafted their bylaws to prohibit taking positions on legislation or engaging in the legislative process altogether—not because they don’t have anything to say, but because they fear any foot fault might draw reprisal from the Ethics Commission.

The danger of unnecessarily chilling protected conduct is at its zenith in this case, which involves legislative advocacy—core First Amendment conduct at the heart of democratic government. See *Meyer v. Grant*, 486 U.S. 414, 428 (1988) (legislative restriction on “discussion of political policy generally or advocacy of the passage or defeat of legislation” is “wholly at odds with the guarantees of the First Amendment”).

The selective nature of the Texas Election Commission’s enforcement in this case only serves to magnify Chapter 305’s chilling effect. Michael Quinn Sullivan became the target of a novel enforcement of Chapter 305 based on the complaints of two legislators who were upset with how Mr. Sullivan had ranked their votes. Enforcing an overbroad statute because the government doesn’t like a speaker’s speech is anathema to the First Amendment—the whole purpose of doing so is to send a message, and chill disfavored speech. See *Lozman v. Riviera Beach*, 585 U.S. 87, 90 (2018) (“the First Amendment prohibits government officials from retaliating against

individuals for engaging in protected speech”); cf. *United States v. Alvarez*, 567 U.S. 709, 723 (2012) (plurality) (“The mere potential for the exercise of that power casts a chill, a chill the First Amendment cannot permit if free speech, thought, and discourse are to remain a foundation of our freedom.”).

* * *

Fewer than four decades ago, homeschooling was illegal in Texas. Fortunately—and thanks to the Coalition’s relentless advocacy—we’ve come a long way since then. But forcing the Coalition, its members, and local homeschool group leaders to face the horns of a dilemma just to engage in core political speech risks hastening the return of the not-so-distant past. If the First Amendment means anything, it means that citizens should be able to communicate directly with their elected representatives without either registering as lobbyists (and paying licensing fees) or risking an Ethics Commission enforcement action.

Left standing, the uncertainty created by the decision below as to the scope of Chapter 305 will impede the Coalition’s mission to advocate for laws and policies necessary to the survival, growth, and prosperity of homeschooling in Texas.

The Court should intervene, reverse the decision below, and restore the First Amendment’s protections to their proper scope.

CONCLUSION

Texas Home School Coalition respectfully asks the Court to grant the petition for a writ of certiorari.

Respectfully submitted.

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