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 COALITION FOR RESPONSIBLE HOME EDUCATION AS *AMICUS CURIAE* IN SUPPORT OF RESPONDENTS

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INTERESTS OF *AMICUS CURIAE*[1]

The Coalition for Responsible Home Education ("CRHE") is a nonprofit organization founded and run by people who were homeschooled. It exists to advocate for the safety and wellbeing of homeschooled students by educating the public about all facets of homeschooling—both good and bad; promoting child-centered, evidence-based homeschooling practices; and advocating for crucial changes to law and policy to protect homeschooled students from abuse and neglect. It is CRHE's mission that homeschooling only ever be used to lovingly prepare a child for an open future.

Amicus represents individuals who were educationally neglected as children due to their parents' religious beliefs. These individuals represent a variety of religious upbringings but are united by the common experience that their parents sincerely believed that their religious observance required denying their children instruction on key subjects—including mathematics, science, social studies, and even reading. The educational neglect has caused long-lasting harm, hamstringing the individuals' efforts to pursue their dreams and become economically self-sufficient.

Amicus has a strong interest in this case. Petitioners ask this Court to significantly expand *Wisconsin* v. *Yoder*, 406 U.S. 205 (1972), by holding that "parents have the right to opt their children out of public school instruction that would 'substantially interfere with

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[1] No counsel for a party authored any portion of this brief, and no person or entity other than *amicus* or its counsel made any monetary contribution to its preparation or submission.

their religious development'" as determined solely by the parents' judgment. Pet'r Br. 2 (citing *Yoder*). But *Yoder* was not so broad. Instead, the *Yoder* Court carefully weighed whether granting Amish parents a religious exemption from a compulsory-education requirement would "impair the physical or mental health of the child, or result in an inability to be self-supporting or to discharge the duties and responsibilities of citizenship, or in any other way materially detract from the welfare of society." 406 U.S. at 234. The *Yoder* exemption was granted because the Amish parents carried the "difficult burden" of establishing that their children would not be harmed. *Id.* at 235.

Assessing whether a child would be harmed if an educational requirement is set aside is a critical part of the Free Exercise analysis—yet it is stunningly absent from Petitioners' and the United States' briefs. *Amicus* writes to correct this misinterpretation of *Yoder* and to share the lived experiences of those who have experienced firsthand the realities of the legal regime that Petitioners seek—one where parents have carte blanche to deny their children the education they need to become independent and economically self-sufficient adults in the name of religious exercise.

INTRODUCTION AND SUMMARY OF ARGUMENT

Over fifty years ago, *Wisconsin* v. *Yoder*, 406 U.S. 205 (1972), set a high bar for a parent's claim that compulsory-education requirements violate the right to freely exercise one's religion. While the splintered decision led to four opinions among seven justices—

neither Justice Powell nor Justice Rehnquist participated—every single justice affirmed that whatever the Free Exercise Clause requires, it does ***not*** stop children from receiving an education that will prepare them for independence and self-sufficiency, even if their parents have religious objections to that education.

Petitioners ignore that fact and expansively misconstrue *Yoder*. Their principal argument is that *Yoder* empowers a parent to withdraw their child from educational requirements as long as the parent has made a "religious judgment" that the instructional content "substantially interfere[s]" with their child's religious development. Pet'r Br. 33-34. If accepted, Petitioners' proffered rule would throw open the doors to Free Exercise claims about all manner of educational requirements. And because their rule nowhere addresses children's need for an education that will prepare them for an open future, Petitioners would leave children vulnerable to educational neglect in the name of religious freedom.

Amicus recognizes that this case involves a handful of storybooks. Certainly, omitting those particular books from a child's curriculum would not result in educational neglect nor would it hamstring a child's development into a self-sufficient adult. But religious beliefs about what children should learn are highly varied. *Amicus* represents individuals whose parents sincerely believed as a matter of religious conviction that their children should not receive instruction on critical subjects, such as mathematics or science. Some parents believed that their daughters should not receive

more than a middle-school education, because preparing women for a life outside of homemaking is offensive to God. Others believed that none of their children should receive an education beyond the tenets of their faith, because the second coming of Jesus Christ and Armageddon were imminent.

While Petitioners enticingly propose an expansion of *Yoder* in the context of a religious exemption that would reach no more than a handful of books, their proffered rule would give carte blanche to all parents, no matter their religious belief, to withdraw their children from any educational requirement as long as, in the parents' "religious judgment," the instruction substantially interfered "with [the] children's religious formation and their parents' own religious exercise of guiding that development." Pet'r Br. 2, 34. The result would be to gut compulsory-education requirements and lead to an ever-expanding pool of adults struggling to attain economic independence and self-sufficiency.

The Court should reject Petitioners' invitation to reimagine *Yoder*. Its analysis should instead be guided by two key pillars that undergird the *Yoder* decision:

First, the Free Exercise analysis requires courts to assess whether the sought-for exemption from a compulsory-education requirement will harm the child. Because the Free Exercise Clause in no way requires the State to step aside and allow children to go without the education they need to become independent adults and fully engaged members of the community, any analysis that does not expressly include a full assessment of how the child will be affected—including

whether the child will be stymied in the pursuit of his or her individual hopes and dreams—is necessarily incomplete.

Second, parents seeking a religious exemption from compulsory-education requirements must do more than affirm through declarations (as they did here) that the educational requirement at issue is contrary to their "religious judgment." The parents must support their claim with (1) evidence that the instruction objectively burdens their religious observance and (2) evidence that the child will not be harmed if the exemption is granted. Producing evidence beyond the parents' say-so is a critical level of protection adopted by the *Yoder* Court because in the context of exemptions from compulsory education, the Free Exercise right can have uniquely harmful second- and third-order effects on another individual—the child.

Requiring such an evidentiary showing does not put Free Exercise claims on a lesser pedestal than other constitutional rights—the *Yoder* decision reflects the pre-*Smith* regime of heightened protections under the Free Exercise Clause. Far from requiring these evidentiary showings as a slight to the religious exercise right, *Yoder* enshrined these requirements because it is rare in our constitutional order for the exercise of one individual's constitutional right to have such a profound, and potentially harmful, impact on another person. In the unique context of religious exemptions from compulsory-education requirements, *Yoder* laid out a path that both respects the free-exercise rights of parents *and* preserves the rights of the child, who deserves protection from the harms that would ensue if religious exemptions from compulsory-

education requirements were available at parental election without safeguards.

Those harms are not theoretical. As Petitioners, concede, "'[i]n these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education.'" Pet'r Br. 45 (quoting *Brown* v. *Board of Educ.*, 347 U.S. 483, 493 (1954)). To provide insight into *Yoder*'s insistence that the child's educational needs be part and parcel of the free-exercise analysis, *amicus* provides lived-experience accounts from individuals who were denied an adequate education because of their parents' religious beliefs.

While *Yoder* has long required an evidentiary showing that the child will not be harmed, States have not consistently enforced that obligation. Indeed, as just one example, Virginia has enacted a statute, Va. Code Ann. 22.1-254(B)(1), that embraces the very rule Petitioners propose here—a no-strings-attached religious exemption from compulsory education. If the Court wishes to see the outcome of Petitioners' proposed rule, it need look no further than the accounts provided below of the children, now adults, who were educationally neglected under the Virginia religious-exemption statute and other, similarly negligent, State laws. *Amicus* provides these stories to urge the Court to take this opportunity to reiterate *Yoder*'s clear holding—that the First Amendment does not require religious exemptions from compulsory-education requirements until and unless the parent has established that the child will not be harmed.

The Court should affirm the judgment below.

ARGUMENT

I. PETITIONERS' EXPANSIVE CONSTRUCTION OF *WISCONSIN V. YODER* IS WRONG

According to Petitioners, *Yoder* "held that subjecting high schoolers to an educational environment that incidentally conflicted with their [parents'] religious beliefs justified parents withdrawing them from public school entirely" based on nothing more than a statement by the parents that, in their "religious judgment," exposure to the instruction at issue would "interfere with the [child's] religious development." Pet'r Br. 21-22, 34 (quotation marks and brackets omitted). Petitioners are mistaken.

A. Petitioners' Rule is Contrary to *Yoder*'s Requirement that the Child Not be Harmed

Petitioners' proffered rule contradicts *Yoder*'s insistence that parental free-exercise rights not trump the educational rights of children.

Far from allowing a limitless free-exercise right to deny children access to an education, *Yoder* affirmed "the State's duty to protect children from ignorance," 406 U.S. at 222, and made clear that the Amish parents could not prevail if the sought-for religious exemption would "jeopardize the health or safety of the child," or intellectually stunt the child rendering him or her a "social burden[]," *id*. at 233-234. The *Yoder* Court also emphasized that children must receive an education that prepares them to become "self-reliant

and self-sufficient participants in society," and enables them to participate "effectively and intelligently in our open political system." *Id*. at 221.

In fact, for over a century this Court has held that the State has a "paramount responsibility" to act to ensure that children are being educated. *Yoder*, 406 U.S. at 213 (citing *Pierce* v. *Society of Sisters*, 268 U.S. 510, 534 (1925)). While Petitioners cite *Meyer* v. *Nebraska*, 262 U.S. 390 (1923), and *Pierce* in support of their rule, neither decision remotely suggests that parents have a free-wheeling right to avoid compulsory-education requirements for their children. In *Meyer*, the Court struck down a law restricting instruction in modern foreign language; the case did not address parents withdrawing their children from educational requirements at all. 262 U.S. at 397. And *Pierce* addressed the constitutionality of a statute that required all students to attend public, rather than private, schools; the claim was brought by private schools that faced financial ruin should they lose their students. 268 U.S. at 530-31.

In addition, *Meyer* and *Pierce* affirmed that the state can compel school attendance,[2] reasonably regulate all schools,[3] require that children be instructed in English,[4] conduct inspections of schools,[5] put in place

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[2] *Meyer*, 262 U.S. at 402
[3] *Pierce*, 268 U.S. at 534.
[4] *Meyer*, 262 U.S. at 402.
[5] *Pierce*, 268 U.S. at 534.

minimum teacher qualifications,[6] mandate that certain subjects be taught,[7] establish mandatory testing,[8] and forbid the instruction of that "which is manifestly inimical to the public welfare."[9] See also Carmen Green, *Educational Empowerment: A Child's Right to Attend Public School*, 103 Geo. L.J. 1089, 1126-28 (2015). As the *Yoder* Court explained, "[t]here is no doubt as to the Power of a State, having a high responsibility for education of its citizens, to impose reasonable regulations for the control and duration of basic education." 406 U.S. at 213.

The State may, therefore, act to protect children's access to education. This remains true even when parents have religious motivations for seeking to exempt their children from educational requirements. *Yoder* re-affirmed this power when it made clear that "activities of individuals, even when religiously based, are often subject to regulation by the States in the exercise of their undoubted power to promote the health, safety, and general welfare * * * ." 406 U.S. at 220 (citing *Prince* v. *Massachusetts*, 321 U.S. 158 (1944) (other citations omitted)); see also *id.* at 233-34 ("To be sure, the power of the parent, even when linked to a free exercise claim, may be subject to limitation under *Prince* if it appears that parental decisions will jeopardize the health or safety of the child, or have a potential for significant social burdens."); *id.* at 237-38 (White, J., Brennan, J., Stewart J., concurring) ("This would be a very different case" had the Amish parents

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[6] *Id.*
[7] *Meyer*, 262 U.S. at 402; *Pierce*, 268 U.S. at 534.
[8] *Pierce*, 268 U.S. at 534.
[9] *Id.*

claimed "that their religion forbade their children from attending any school" or "from complying * * * with the educational standards set by the State," potentially leaving their children "intellectually stultified").

The religious-exemption inquiry is also not limited to assessing whether the educational requirement at issue is important for children in general. The protection goes further, to ensuring that the individual child is not deprived of the education *that* child needs to attain his or her hopes and dreams. Thus, the showing that a child will not be harmed by the religious exemption requires an individualized assessment of the child at issue.

It is black-letter law that the child is a rights-bearing individual. See, *e.g.*, *West Virginia State Board of Education* v. *Barnette*, 319 U.S. 624, 637 (1943) ("That [boards of education] are educating the young for citizenship is reason for scrupulous protection of Constitutional freedoms of the individual, if we are not to strangle the free mind at its source * * * ."); *Prince*, 321 U.S. at 165 (recognizing the "rights of children to exercise their religion"); *Tinker* v. *Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 511 (1969) ("Students * * * are 'persons' under our Constitution. They are possessed of fundamental rights which the State must respect * * * .").

The *Yoder* majority thus found it relevant that the case raised no issue of a parent "preventing their minor children from attending high school despite [the child's] expressed desires to the contrary." 406 U.S. at 231. In fact, the only record evidence regarding the

children's desires was one child's testimony, and she shared her parents' religious conviction. *Id.* at 231 & n.21; see also *id.* at 237 (Stewart, J., concurring) ("there is no suggestion whatever in the record that the religious beliefs of the children here concerned differ in any way from those of their parents").

This is also why four justices—a majority of the seven justices considering the case—made clear that children's hopes and dreams for their own futures matter in the free-exercise analysis.

Justice White wrote that the "State has a legitimate interest not only in seeking to develop the latent talents of its children but also in seeking to prepare them for the life style that they may later choose, or at least to provide them with an option other than the life they have led in the past." *Id.* at 240 (White, J., Brennan, J., Stewart, J., concurring). He explained that some Amish children "may wish to become nuclear physicists, ballet dancers, computer programmers, or historians, and for these occupations, formal training will be necessary." *Id.*

Justice Douglas, for his part, worried that several of the children in question had not testified and that there was no evidence they wanted a religious exemption from compulsory education. 406 U.S. at 241-43 (Douglas, J., dissenting). "On this important and vital matter of education, I think the children should be entitled to be heard," he said. *Id.* at 244. He explained that "children themselves have constitutionally protectible interests." *Id.* at 243. Because the "inevitable effect" of granting the "religious exemption" at hand would be to "impose the parents' notions of religious

duty upon their children," "[w]here the child is mature enough to express potentially conflicting desires, it would be an invasion of the child's rights" for the Court to ignore those desires. *Id.* at 242. After all, Justice Douglas stated, "the education of the child is a matter on which the child will often have decided views." *Id.* at 244. "He may want to become a pianist or an astronaut or oceanographer," but will not realize those dreams if his educational desires are not an essential part of the constitutional analysis. *Id.*; see also *id.* at 245 ("It is the student's judgment, not his parents', that is essential if we are to give full meaning to what we have said about the Bill of Rights and of the right of students to be masters of their own destiny.").

In sum, *Yoder* teaches that a parent's claim for a religious exemption must satisfy this test: If the exemption is granted, will the child in question be harmed in his or her development into a competent and self-sufficient adult? Petitioners ignore this critical feature of *Yoder*. Under Petitioners' rule, the only issue is whether a parent has made a "religious judgment" that the child should not receive the instruction at issue. Pet'r Br. 34. That rule makes the child's welfare, needs, goals, and ambitions completely irrelevant. *Yoder* does not permit such a rule; nor should this Court.

B. Petitioners' Rule is Contrary to *Yoder*'s Evidentiary Requirements

Yoder sets a high bar for a parent's Free Exercise claim challenging a compulsory-education requirement. In addition to mandating that the child not be harmed by the religious exemption, *Yoder* establishes

that the parent seeking the exemption must satisfy a "difficult" evidentiary showing. 406 U.S. at 235.

This evidentiary requirement does not disrespect the importance of the free-exercise right. *Yoder* was decided almost twenty years prior to *Smith*, and applied *Sherbert*'s strict scrutiny to free-exercise claims. See *Fulton* v. *City of Phil., Pa.*, 593 U.S. 522, 556-57 (2021) (Alito, J., concurring). The *Yoder* Court required this evidentiary showing because, in this particular context, the parents' free-exercise right could uniquely harm the rights of the child, and the Constitution nowhere sanctions harm to third parties in the name of religious freedom. Just as the right to free speech does not permit "falsely shouting fire in a theatre and causing a panic," the Free Exercise Clause does not reach religious exercise that injures another individual. *Schenck* v. *United States*, 249 U.S. 47, 52 (1919).

Yoder's evidentiary requirements are at least twofold. First, the party seeking the exemption from a compulsory-education requirement must present evidence establishing, as an "objective" matter, that the educational requirement burdens their religious exercise, or, in *Yoder*'s words, would present the "very real threat of undermining" the parents' "religious practice." 406 U.S. at 218. Second, the party must carry "the even more difficult burden" of presenting evidence establishing that the child will not be harmed if the compulsory-education requirement is lifted, typically by showing that the requirement will be satisfied in other ways. *Id*. at 235.

These evidentiary showings are not easily met, as the courts of appeals have recognized. See, *e.g.*, *Parker* v. *Hurley*, 514 F.3d 87, 100 (1st Cir. 2008); *Mozert* v. *Hawkins Cnty. Bd. of Educ.*, 827 F.2d 1058, 1067 (6th Cir. 1987); *Combs* v. *Homer-Ctr. Sch. Dist.*, 540 F.3d 231, 250 (3d Cir. 2008) (per curiam).

But the Amish parents in *Yoder* satisfied both. They presented testimony from "scholars on religion and education," that showed the Amish held the "fundamental belief that salvation requires life in a church community separate and apart from the world and worldly influence," and had strictly adhered to that tenet by living as a "religious sect" separate from secular American society for 200 years. 406 U.S. at 209-11, 235. They showed that modern "high school education beyond the eighth grade is contrary to Amish beliefs" and "interposes a serious barrier to the integration of the Amish child into the Amish religious community," and that compliance with the law could cause "great psychological harm to Amish children" and "the destruction of the Old Order Amish church community." *Id.* at 211-212.

The scholars further demonstrated that the Amish alternative education "system of learning-by-doing was an 'ideal system' of education" to prepare "Amish children for life as adults in the Amish community," and would not harm "the physical or mental health of the child or result in an inability to be self-supporting." *Id.* at 223, 234. Of importance, the Amish also sought to exempt their children from only two years of schooling; they already fully complied with the compulsory-education requirements for grades one through eight. *Id.* at 234; see also *id.* at 240-241 (three

justices joining the majority opinion because "[t]he statutory minimum school attendance set by the State is, after all, only 16" and "the State's valid interest in education has already been largely satisfied by the eight years the children have already spent in school").

The Amish parents established their Free Exercise claim only because of this "convincing showing." *Id.* at 235-36. Their evidence demonstrated that the law "gravely endanger[ed] if not destroy[ed] the free exercise of [the parents'] religious beliefs," *id.* at 219, and satisfied their "difficult burden of demonstrating the adequacy of their alternative mode of continuing informal vocational education in terms of precisely those overall interests that the State advances in support of its program of compulsory high school education." *Id.* at 235.

Yet according to Petitioners, educational requirements infringe a parent's free exercise whenever the parent has merely made a "religious judgment" that the content "substantially interfere[s]" with their child's religious development. Pet'r Br. 34. The Court should reject Petitioners' reading of *Yoder* because it completely ignores both of *Yoder*'s core evidentiary requirements.

First, under Petitioners' rule, any compulsory-education requirement would unconstitutionally infringe a parent's free-exercise right so long as the parent declared that it did. Their rule violates *Yoder*'s first requirement that Petitioners, and all others making similar claims, present evidence showing that the educational content poses an "objective danger to the free exercise of [their] religion." 406 U.S. at 218.

Second, Petitioners' rule ignores *Yoder*'s requirement that parents demonstrate the "adequacy of the[] alternative" system of education that the parents will provide consistent with their religious beliefs. *Id.* at 235. Under Petitioners' rule, the child's educational needs are irrelevant. It is, however, undeniable that *Yoder* would not have been decided as it was if the "record" had not "strongly indicate[d] that accommodating the religious objections of the Amish by forgoing one, or at most two, additional years of compulsory education will not impair the physical or mental health of the child, or result in an inability to be self-supporting or to discharge the duties and responsibilities of citizenship, or in any other way materially detract from the welfare of society." *Id.* at 234.

II. PETITIONERS' RULE LEADS TO THE HARM *YODER* FORBIDS

While *Yoder* has long prohibited educational neglect in the name of religious liberty, States have not always taken seriously their responsibility to ensure that no child is harmed when parents object to educational requirements.

Amicus highlights scenarios where educational neglect under the guise of parents' free-exercise rights has been allowed to flourish: homeschooling.

Homeschooling in the United States has been severely deregulated over the past thirty years, thanks principally to powerful lobbying groups. See Green, 103 Geo. L.J. at 1098-1102. As a result, only 21 states

require homeschooled students to ever take an assessment to establish educational progress. See CRHE, *State By State*, https://tinyurl.com/yc2ra35v.

Multiple states expressly allow homeschooling parents to avoid instruction of any topic the parents find antithetical to their religious beliefs. See, *e.g.*, Mo. Rev. Stat. 167.031(2) ("Nothing in this section shall require a private, parochial, parish or home school * * * to include in its curriculum any concept, topic, or practice in conflict with the school's religious doctrines * * * ."); Wyo. Stat. Ann. 21-4-101(a)(vi) ("These curriculum requirements do not require any private school or home-based educational program to include in its curriculum any concept, topic or practice in conflict with its religious doctrines * * * .").

Perhaps most concerning is Virginia's religious-exemption statute. Va. Code Ann. 22.1-254(B). Passed shortly after *Yoder*, the statute provides that "[a]ny pupil who, together with his parents, by reason of bona fide religious training or belief is conscientiously opposed to attendance at school" is excused entirely from attendance. *Id*. In practice, parents write a letter to the school board when their child is young to announce their intention of homeschooling under the religious exemption.[10] The requirement that the parents educate the child is then removed; the parent could decline to teach the child to read, and it is entirely legal.

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[10] For parents who do not opt to take the religious exemption, Virginia has a separate homeschooling statute that has provisions in place to ensure that children are being educated. See CRHE, *Virginia*, https://tinyurl.com/mvme2a7v.

And despite the statute's reference to the pupil's conscientious objections and religious beliefs, the State does not have a practice of inquiring whether mature minors share their parents' objection to attending school. See Green, 103 Geo. L.J. at 1090 n.3 & 1113. The Virginia religious-exemption statute, perhaps better than any other provision in the country, encapsulates entirely the legal rule that Petitioners push here.

Amicus has documented individual accounts of harm to homeschooled children, and offers these accounts to provide insight into why, consistent with *Yoder*, potential harm to the child must remain an essential part of the free-exercise analysis.

A. Religiously Motivated Educational Neglect

Sometimes homeschooled students receive little education and leave their homes wholly unprepared for life as self-sufficient adults because their parents choose, for religious reasons, to exempt their children from educational requirements.

SB's experience provides an example.[11] His parents were Jehovah's Witnesses who believed "Armageddon would happen in the near future, and that subjects like mathematics, science, and language arts would be unnecessary." SB's Story.[12] Because of this,

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[11] *Amicus* uses initials to protect the identities of the homeschooled alumni who shared their stories.

[12] All individual accounts of homeschool alumni are available online. See CRHE, *Stories for Mahmoud v. Taylor*, https://ti-

his education primarily consisted of "taking walks outside and 'reflecting on God's creation,'" and his parents refused to give him "instruction in any subject" during the "four years [he] was supposed to have attended high school." *Id.* When SB left home as an adult, he "had to learn how the world worked entirely by [himself] with the education and emotional intelligence of a twelve year old." *Id.*

BB's experience was similar. At age 14, her parents decided she "did not need further education" because under their "extreme interpretation of the Christian faith," they believed "Jesus Christ would be returning to earth any day to rule the world and that it was unnecessary to educate their children." BB1's Story. Rather than educate BB, her parents "transitioned" her to "doing domestic labor in the home." *Id.* As an adult, BB's lack of education "severely delayed [her] ability to get jobs," start a family, and "participate in the American dream." *Id.*

MB was homeschooled under Virginia's religious-exemption statute, and her parents believed that "marathon prayer sessions and studying the Greek words in Bible verses constituted a complete education." MB's Story. Because of their beliefs, they denied MB any education other than "basic reading and math." *Id.* She attests that children with such a limited education cannot "live on their own." *Id.*

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nyurl.com/yc5kj7p6. Although the individual accounts are too numerous for all to be included here, *amicus* encourages the Court to review the accounts for a complete picture of the educational neglect that may occur if religious exemptions to compulsory-education requirements are dispensed without guardrails.

Similar stories of religiously motivated educational neglect abound among homeschool alumni. See, *e.g.*, LP's Story ("I was refused any education in science" "because my parents believed that all science, regardless of discipline" "was inappropriate"); JC's Story ("I was told growing up that I only needed to learn to read so I could read the Bible. Therefore, I did not receive much by way of English education beyond learning the fundamentals of reading."); AM's Story ("Since my parents believed that God ordained me to work in ministry in the future, they did not teach me basic subjects once I reached the high school level."); CR's Story ("[t]he fact my siblings did not learn to read was ok with my parents because they believed that, as long as we all knew the Bible, that we would be fine").

On top of that, some homeschooling parents deny their daughters an adequate education because of their religious belief that women should not work outside the home.

ET's parents, for example, believed that "girls should not receive an education beyond what was necessary to run a household," because the "Bible said [her] job was to have children and care for a home." ET's Story. Her parents kept her "out of sight in a closet until [she] was 4" because her mother "claimed she was too busy trying to homeschool [her] five older siblings," and then "refused to give [ET] instruction in any subjects beyond 2nd grade." *Id.* Now an adult, ET believes her homeschooling was merely "abuse and neglect [] without any oversight whatsoever." *Id.*

Similarly, KD's parents believed it was "ungodly for women to be educated beyond the 3Rs (reading,

writing, and arithmetic)," and terminated even those rudimentary lessons at age 15. KD's Story. This deprivation prevented KD from "becoming a self-sufficient adult." *Id*.

And NT was homeschooled by her mother who only had a "6th grade education." NT's Story. When NT sought help from her father, he "ridiculed [her] struggles and beat [her] with a leather belt." *Id*. When she reached age 12, NT was forced to care for her infant sibling, and, after that, her parents determined she had received "enough education for a girl." *Id*.

Again, the homeschooling community is full of similar stories. See also DE's Story (describing "striking" "gender divide in our education"); RD's Story ("My father explained that Jesus does not want women knowing any more math and science than they need to be keepers at home and told me that I was exclusively going to concentrate on learning childcare, cooking, and cleaning."); AD's Story ("Because of my parents' religious beliefs, moreover, gender dictated my schooling."); BB2's Story ("my mother's neglect toward my education was motivated by her religion—specifically her beliefs about gender roles"); AMC's Story ("[My parents] believed that I, as a young woman, was meant to be a 'helpmeet' for a man, first my father and then my future husband" so "they told me that math beyond a certain level was pointless" and I instead learned "'business math,' which mainly involved doing basic calculations related to cooking and keeping a household"); SC's Story ("My parents favored my brother's education over my own, and deliberately deprived me of education in core subjects * * * ."); MS's Story (describing how she did not "learn[] any math

past basic algebra" and "was refused education in higher level science classes" because "it was evil for women to have a career"); KP's Story (my parents "told me that it's far more critical for girls to learn how to manage a home than Algebra and that God teaches that too much knowledge is not good for a female's brain because they need to focus on children"); HW's Story (describing how she was "kept home to do chores and cook meals" while her brother went to school).

There is no doubt that the *Yoder* Court envisioned the possibility of this kind of educational neglect when it insisted that harm to the child must be a central part of the free-exercise analysis. The rule Petitioners offer is an unchecked religious exemption that freely allows, and leads to, the kind of educational neglect just described. It cannot be squared with *Yoder*.

B. Ignoring The Child's Educational Goals

A majority of the justices deciding *Yoder* affirmed that the child's desire for education is relevant to the free-exercise analysis because a religious exemption for the *parent* should not limit the *child's* ambitions "to become [a] nuclear physicist[], ballet dancer[], computer programmer[], or historian[]." 406 U.S. at 240 (White, J., concurring).

The justices' concern was well-founded. CRHE has collected stories of homeschooled adults who were harmed when their parents denied their requests to

attend public school or to otherwise obtain the foundational education necessary to pursue their desired careers.

HV's parents, for example, believed "the Bible alone should be used as the source of instruction for all subjects." HV's Story. They refused any education in reading comprehension other than "memoriz[ing] entire chapters of the Bible," refused any history education other than the "book of Genesis," and provided almost no math instruction. *Id*. After eighth grade, HV's parents stopped providing any education at all. *Id*. When she "begged" them to allow her to attend public school, her parents "refused." *Id*. Now an adult, HV suffers from mental health conditions her psychologists link to her educational neglect. *Id*.

JM was homeschooled under Virginia's religious-exemption statute. JM's Story. She surpassed her "mother's educating abilities when [she] was 12," after which she was "literally handed a book and told to 'learn it'" for subjects such as "math, science and languages." *Id*. JM desperately desired an education, and "begged [her] parents for years to let [her] go to a public or private school," but her parents "repeatedly rejected" her requests. *Id*. JM now lives "with the consequences resulting from an incomplete education." *Id*.; see also Green, 103 Geo. L.J. at 1113 (describing Josh Powell, who also was homeschooled under Virginia's religious-exemption statute, begging to attend school).

MS dreamed of becoming an attorney, but was homeschooled by parents who believed that "girls do not need a basic education," and her parents severely restricted her math and science education. MS's Story.

MS believes that educational neglect prevented her from attending college, and, as a result, she "never became the attorney that [she] wanted to become." *Id.*; see also SW's Story ("My begging for a basic education only grew more desperate in junior high and high school, but the older I got, the more adamant my mother was about keeping me at home.").

The *Yoder* Court was not presented with deprivations like those HV, JM, MS, and SW endured, as the only Amish child to testify in *Yoder* did not object to the Amish alternative education. 406 U.S. at 231 & n.21. Nevertheless, the justices were clear: Children have educational rights, and their desire for an education that will prepare them for a particular future must be part of the analysis. Under Petitioners' rule, however, the child's right to an education is irrelevant.

C. Denying Education Due to Insincere Claims of Religious Belief

The *Yoder* Court required parents to present evidence that the compulsory-education requirement at issue presented an "objective danger" to their free-exercise rights. 406 U.S. at 218. That requirement has proved well-founded as well. While many parents elect to homeschool their children based on sincerely held religious beliefs, the reality is that some parents cite religious reasons when their actual purpose is to isolate the child or put the child to work.

Although LZ's father "was not even religious," he used "Virginia's religious exemption statute," to remove LZ and his "eight younger siblings from school * * * not because of any genuine religious conviction,

but because [he] wanted total control without governmental interference." LZ's Story. Rather than obtaining an education, LZ was "forced to do chores or work with [his] father on construction sites." *Id.* He left home at age 17, "with nothing—no guidance, no support, not even the faintest clue how to survive in the world," and "[e]mployers took advantage of [him] * * * because they knew [he] was desperate and easy to manipulate." *Id.* As a result, LZ "faced poverty, mental health struggles, and lasting trauma." *Id.*

Other parents remove their children from school to force them to care for or educate younger siblings, a circumstance known as "parentification." SS's experience provides an example. Instead of receiving a homeschool education, she was forced to take on "the responsibility of acting as a parent to [her] siblings," because her "parents had too many kids to take care of on their own" and "because they believed that the primary purpose girls and women serve is to run households." SS's Story. SS's parents refused her education in "all subjects except scripture, early Mormon history, end of times preparation, and homemaking," and, by age 17, she "lacked a basic education in science and, especially, math, where [her] knowledge did not extend beyond arithmetic." *Id.* As SS attests, "Parentification ultimately robbed me of an education altogether." *Id.*

Still other parents elect to homeschool to keep their children out of sight of the teachers, coaches, other students, and other parents that their children would encounter in school. See BS's Story ("Being homeschooled ensured my parents could keep any unwanted eyes off of us, specifically mandated reporters

of any kind."); CRHE, *Homeschooling's Invisible Children*, https://tinyurl.com/mjmesjmv (describing hundreds of cases where abusive caregivers used homeschooling as a façade to hide abuse).

It is undoubtedly situations like those LZ and SS suffered that led the *Yoder* Court to impose high evidentiary burdens on the Amish parents to establish, as an objective matter, that compulsory attendance at public school prevented them from practicing their religion. In contrast, Petitioners' rule makes a parent's subjective belief the central, if not only, requirement for a religious exemption, and would thus freely permit outcomes such as those LZ and SS suffered.

* * *

If this Court would like insight into the world Petitioners' rule would create, it need look no further than the experiences of homeschooled students under Virginia's religious-exemption statute. That statute gives parents the same carte blanche: the ability to exempt their children from compulsory-education requirements based on nothing more than the parent's say-so and without any assurance that the child will receive an adequate education. As noted above, LZ, JM, and MB were removed from public school under that provision. Each suffered harm as a result. LZ was "denied a basic education," and used to "watch with tears in my eyes as the school bus picked up my neighbors each morning." LZ's Story. "More than a few" of his siblings "have required public assistance just to survive." *Id.* JM experienced "two periods" where his education "failed to progress"—as a result, he "lost over two years of critical instructional time." JM's Story. His

sister "is at least 3 years behind peers of the same age." *Id*. MB's parents "neglected" to teach her or her siblings "anything further in basic subjects like reading, math, science, and social studies" and did not even "order any books at the beginning of the [school] year." MB's Story.

In LZ's words, he and his siblings "endured a stolen childhood, a stolen future—isolated, abused, and denied an education—all in the name of parental rights and religious freedom." LZ's Story. The Court should reject Petitioners' construction of *Yoder*, and embrace the protections for children that the *Yoder* Court rightfully enshrined in First Amendment jurisprudence.

CONCLUSION

This Court should affirm the judgment below.

Respectfully Submitted,

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