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From: **MASC** <[aandronico@masc.org](mailto:aandronico@masc.org)>

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Subject: SCOTUS Decision – Considerations for District Policy

Massachusetts Association of School Committees



SCOTUS Decision in Mahmoud v. Taylor: Considerations for District Policy

### **SCOTUS Decision in Mahmoud v. Taylor: Considerations for District Policy**

Recently, in *Mahmoud v. Taylor*, 606 U.S. \_\_ (June 27, 2025), a 6-3 majority of the Supreme Court held that parents were entitled to opt their children out of LGBTQ-supportive books used in the Montgomery County (MD) Public Schools language arts curriculum based upon their religious based objections and the Constitution's Free Exercise Clause. The opinion written by Justice Alito, provided in part: "A government burdens the religious exercise of parents when it requires them to submit their children to instruction that poses 'a very real threat of undermining' the religious beliefs and practices that the parents wish to instill."

This case has been viewed as an attack on the LGBTQ+ community and a direct challenge to the fundamental responsibilities of local school committees and their districts. MASC will be examining to what extent this decision requires revisions to our current policy recommendations. Crafting an appropriate policy that will protect districts, and avoid unwelcomed results when applied, is challenging given that these cases are so fact specific and the latest decision provides minimal guidance.

MASC does not currently recommend adopting a policy which requires an automatic universal "opt out" provision. There are multiple concerns around such a policy including how to approach the logistical issues of notice and when notice to parents/guardians is required. It is imperative that the district not set itself up for failure by establishing policy which is too burdensome and surrenders its curriculum responsibilities. In the short term, if your district is confronted with a parental challenge to curriculum, based upon the Free Exercise Clause of the Constitution, you should:

- Identify and confirm the specific basis of the objection and/or request for exemption in writing.
- Consult with the principal, the curriculum director and the classroom teacher in order to thoroughly examine the interplay between the objection/exemption request, the actual curriculum, the curriculum objectives and the logistics of permitting an opt out or alternative approach.
- Prepare alternative assignment(s) if it is determined that an opt out or other alternative is appropriate,
- Develop a substantively well documented rationale if it is determined that an opt out or another alternative is inappropriate and will not be offered.
- Be sure to consult legal counsel before formally responding to any request This area is fraught with too many opportunities for missteps that will be specific to your particular circumstances. Your district

counsel is in the best position to protect you from the potential serious consequences associated with a Constitutional violation.

MASC will be working with its Federal and state partners and agencies as well as members of MASC's Council of School Attorneys. Please do not hesitate to reach out to us with any questions or concerns.

**Patrick Francomano**  
**MASC General Counsel**