



## Defending Education Vice President, Sarah Parshall Perry, Gives Remarks at House Committee on Education and Workforce Hearing on “Protecting the Primacy of Parental Religious Liberty Rights: A Post-Mahmoud Analysis”

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Chairman Kiley, Ranking Member Bonamici, and distinguished Members of the subcommittee: Good morning. My name is Sarah Parshall Perry and I am Vice President and Senior Legal Fellow at Defending Education. As a legal scholar, a policy analyst, and mother, the issue we’re here today to discuss is near to my heart, and I commend the Committee for holding a hearing on such an important topic.

*Mahmoud v. Taylor* wasn’t simply an extraordinary case because of its well-reasoned holding and sound, originalist jurisprudence; it was extraordinary insofar as the Petitioner’s challenges were necessary in the first place. That their years-long effort to opt their children out of questionable material pursuant to their free exercise rights required the Supreme Court’s deliberation is a grave condemnation of the state of American education writ large.

Rather than orienting public classrooms toward the urgent task of reversing the nation’s flagging NAEP scores – which indicate only 27% of high school seniors are numerate, and only 35% are literate – most schools seem content to educate instead for activism, social justice, revisionist history, and queer propaganda.

Consider a few examples:

1. Massachusetts: In Lexington Public Schools, Kindergarten students are subjected to DEI curriculum that includes instruction on changing one’s body to fit one’s gender identity
2. Vermont: In South Burlington elementary school, the curriculum directs students to become “active anti-racists” with resources from ‘Reading is Resistance’ and ‘Woke Kindergarten’.
3. California: Los Angeles Unified School District promotes a “Queer All School Year” calendar to provide teachers and students with new LGBTQ resources every month, like “reading the rainbow” – a guide to literacy through a queer lens, and a gender triangle education guide.
4. Wisconsin: Wauwatosa public schools have instituted a sex ed curriculum that teaches children as young as FIVE about gender identity, while eliminating the words “men” and “women” from the kindergarten lexicon.
5. Washington: Seattle Public Schools instructs teachers to hide a school student’s gender identity from that student’s parents, making SPS one of the more than 1,200 school districts we’ve identified with similar policies of deception. SPS also refuses to honor parental opt-out requests from queer-themed curriculum, even post-Mahmoud, and has solicited supplies for a community

health locker project for transitioning students that include Chest binders, Nipple guards & Tuck-friendly underwear.

Our organization has tracked THOUSANDS of incidents like these. They evidence the astonishing misconception under which many American schools seem to be operating: That the child is the “mere creature of the state.” The Supreme Court, however, held precisely the opposite more than 100 years ago in *Pierce v. Society of Sisters*, when it struck down Oregon’s compulsory public education law.

Twenty years later, it reinforced *Pierce* in *Prince v. Massachusetts*, holding that “the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can[not] supply [or] hinder.”

Yet again, in *Wisconsin v. Yoder*, the Court hewed closely to its body of case law on parental rights, determining that a parent’s interest in the free exercise of religion outweighed the State’s interests in compelling school attendance beyond eighth grade.

*Mahmoud* was the capstone in the Court’s parental rights and religious liberty canon, reinforcing the pre-political, natural, and ancient right of a parent to direct their child’s upbringing.

But the statist notion that children belong to all of us, and that schools, not parents, know best, is both intractable & persistent. Despite *Mahmoud*’s unequivocal edict, the battle for parental primacy is only just beginning.

Thank you – I look forward to your questions.

Sarah Parshall Perry

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