No. 25-1189

In the Supreme Court of the United States

ROCKLIN UNIFIED SCHOOL DISTRICT,
Petitioner,

v.

PUBLIC EMPLOYMENT RELATIONS BOARD;
ROCKLIN TEACHERS PROFESSIONAL ASSOCIATION,
Respondents.

On Petition for Writ of Certiorari to the Court of Appeal of California, Third Appellate District

BRIEF OF *AMICI CURIAE* ADVANCING AMERICAN FREEDOM; AMERICAN ENCORE; AMERICAN VALUES; AMERICANS FOR FAIR TREATMENT; AMERICA'S WOMEN; CENTER FOR URBAN RENEWAL AND EDUCATION (CURE); CONCERNED WOMEN FOR AMERICA; DEFENDING EDUCATION; DEFENSE OF FREEDOM INSTITUTE; EAGLE FORUM; FAMILY COUNCIL IN ARKANSAS; FAMILY INSTITUTE OF CONNECTICUT ACTION; FRONTIERS OF FREEDOM; INDEPENDENT WOMEN'S LAW CENTER; ET AL. IN SUPPORT OF PETITIONER

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QUESTIONS PRESENTED

1. Whether a state labor board's ruling invalidating a school district policy requiring parental notification when a student seeks to socially transition their gender violates parents' Fourteenth Amendment right to direct the upbringing and care of their children.

2. Whether California's system of permitting a state labor board to adjudicate disputes affecting constitutional rights, subject only to discretionary and highly deferential judicial review, satisfies procedural due process.

3. Whether a state labor board exceeds its jurisdiction by assessing the legality of a school board policy requiring that parents be notified when a student attempts to socially transition their gender.

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STATEMENT OF INTEREST OF *AMICI CURIAE*

Advancing American Freedom (AAF) is a nonprofit organization that promotes and defends policies that elevate traditional American values, including freedom from arbitrary power.[1] AAF "will continue to serve as a beacon for conservative ideas, a reminder to all branches of government of their responsibilities to the nation,"[2] and believes American prosperity depends on ordered liberty and self-government.[3] AAF files this brief on behalf of its 26,055 members in the Ninth Circuit including 12,373 in the state of California.

Amici American Encore; American Values; Americans For Fair Treatment; America's Women; Center for Urban Renewal and Education (CURE); Concerned Women for America; Defending Education; Defense of Freedom Institute; Eagle Forum; Family Council in Arkansas; Family Institute of Connecticut Action; Frontiers of Freedom; Independent Women's

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[1] All parties received timely notice of the filing of this amicus brief. No counsel for a party authored this brief in whole or in part. No person other than Amicus Curiae and its counsel made any monetary contribution intended to fund the preparation or submission of this brief.

[2] Edwin J. Feulner, Jr., Conservatives Stalk the House: The Story of the Republican Study Committee, 212 (Green Hill Publishers, Inc. 1983).

[3] Independence Index: Measuring Life, Liberty and the Pursuit of Happiness, Advancing American Freedom available at https://advancingamericanfreedom.com/aaff-independence-index/.

Law Center; James Dobson Family Institute; JCCWatch.org; Louisiana Family Forum; Maryland Family Institute; Men and Women for a Representative Democracy in America, Inc.; Moms for Liberty; National Association of Parents, Inc. dba ParentsUSA; New York State Conservative Party; North Carolina Values Coalition; Rio Grande Foundation; The Family Foundation of Virginia; The Justice Foundation; The Wagner Center; Wisconsin Family Action, Inc.; Women for Democracy in America, Inc.; Yankee Institute; Tim Jones, Former Speaker, Missouri House, Founder, Leadership for America Institute; Jenny Beth Martin, Honorary Chairman, Tea Party Patriots Action believe that the fundamental right of parents to direct the upbringing of their children is essential to liberty and is deeply rooted in American tradition and practice.

INTRODUCTION AND SUMMARY OF THE ARGUMENT

"The most basic question is not what is best but who shall decide what is best," wrote economist Thomas Sowell.[4] In this case, a California teachers' union insisted, and the state Public Employment Relations Board (PERB) agreed, that it should decide, substituting its opinion for a School District's policy that would ensure that parents be notified if their child expressed interest in social gender transition.

[4] Thomas Sowell, *Knowledge and Decisions* 79 (1970).

In this case, the Rocklin Unified School District ("the District") proposed revisions to its Administrative Regulations (AR) 5020 and 5145.3. Petition for Certiorari at 3. The District's revision to AR 5020 would assure that parents enjoy a "right to be notified promptly if their child requests to be identified by a different gender; requests to use a different name or pronouns; or requests access to bathrooms and changing facilities that do not align with their biological sex." *Id.*

Despite the fact that the Parental Notification Policy did not meet the requirements to trigger mandatory bargaining, the local teachers' union, the Rocklin Teachers Professional Association ("the Union"), filed an Unfair Practice Charge with PERB, complaining that the District had not bargained with it before adopting its policy, a policy designed to protect the rights of parents and children. *Id.* at 3-4.

PERB administrative law judges (ALJ) are selected "because of their favorable views of unions." *Id.* at 7. It is thus unsurprising that the ALJ in this case ruled for the Union; a decision that both the California appellate and supreme courts declined to review. *Id.* at 6.

If PERB's decision is allowed to stand, it and unions, not courts, would exercise final authority on fundamental constitutional questions in California.

This case is one of many relating to parental rights, schools, and gender ideology that have arisen around the country in at least nine of the thirteen federal

circuits. Both children and parents suffer serious harm when parents are prevented from making, or even knowing about, important decisions regarding their children's mental health. As discussed below, in some cases challenging schools' parental exclusion policies, children have even attempted suicide after being exposed to transgender ideology at school without their parents' knowledge or consent. This widespread problem deserves a final decision from this Court ensuring that schools must respect parental authority.

The Court has explained that "[t]he fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the State to standardize its children by forcing them to accept instruction . . . The child is not the mere creature of the State." *Pierce v. Society of Sisters*, 268 U.S. 510, 535 (1925). The Court's longstanding and oft-reiterated parental rights precedent make indisputably clear that "the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children." *Troxel v. Granville*, 500 U.S. 57, 66 (2000).

The Court recently held that the religious rights of parents are violated when schools condition public education on parents' "willingness to surrender" their religious views. *Mahmoud v. Taylor*, 606 U.S. 522, 561 (2025). More recently, in another case out of California, this Court upheld a district court's injunction of a policy that "cut out the primary

protectors of children's best interests: their parents." *Mirabelli v. Bonta*, 146 S. Ct. 797, 802 (2026) (citing *Granville*, 530 U.S. at 68-69 (plurality opinion)). The fundamental right to raise one's children consistent with one's beliefs belongs to all parents. Neither a teachers' union nor PERB, a government agency, can prevent a school from ensuring the constitutional rights of parents are upheld. The Court should grant certiorari here and clarify that teachers' unions and state employment boards cannot conspire to undermine school policies that codify constitutional protections for parental rights.

ARGUMENT

I. The Prevalence of Similar Cases Across the Federal Circuits Warrants this Court's Intervention.

The harm inflicted by school-led secret social transitions is real and widespread. One database suggested that over 1,200 school districts responsible for more than 12,300,000 children had adopted secret social transition policies.[5] Advancing American Freedom has filed amicus briefs in nine of the thirteen Federal Circuits hearing challenges to similar gender policies. The Supreme Court ought to clarify the law regarding parental rights.

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[5] List of School District-Gender Nonconforming Student Policies, Defending Education (updated May 4, 2025) https://defendinged.org/investigations/list-of-school-district-transgender-gender-nonconforming-student-policies/.

In the First Circuit, a Massachusetts middle-school facilitated the social transition of an eleven-year-old girl, spurning her mother's requests that school officials not discuss gender identity with her daughter.[6] Instead, the school counselor texted and messaged the eleven-year-old via online chat to encourage weekly meetings "to discuss any gender-related concerns."[7]

In the Second Circuit, school officials assured a mother that no unusual circumstances were to blame for her daughter's falling grades and distraction from her schoolwork.[8] Even after the mother learned of the school's social transition campaign and moved her daughter to at-home instruction, school officials continued to speak with the girl about gender issues.[9]

In the Third Circuit, a freshman girl diagnosed with Attention-Deficit Hyperactivity Disorder and "high functioning autism" struggled with anxiety stemming from the "the childhood trauma of the death

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[6] Brief of Advancing American Freedom et al. as amici curiae, *Foote v. Ludlow School committee*, No. 24-77 (1st Cir. Aug. 21, 2025) available at https://advancingamericanfreedom.com/aaf-urges-supreme-court-to-hear-parental-rights-case/.

[7] *Id.* at 5.

[8] Brief of Advancing American Freedom et al. as amici curiae at 4-5, *Vitsaxaki v. Skaneateles Central Sch. Dist.*, No. 25-0952 (2nd Cir. June 17, 2025) available at https://advancingamericanfreedom.com/aaf-leads-amicus-coalition-defending-the-rights-of-parents-and-children-against-gender-indoctrination/.

[9] *Id.* at 5.

of her mother."[10] Yet, after the girl asked the school counselor to help her socially transition at school, the school took steps to ensure that her father would not be informed, including using the girl's legal name for announcements over the school intercom lest her siblings should find out about her social transition and inform their father.[11]

In the Sixth Circuit, a school district "equate[d] harassment with the 'intentional use of pronouns inconsistent with a student's gender identity.'"[12]

In the Seventh Circuit, a school district that requires written parental authorization to administer over-the-counter medication such as aspirin instituted a policy directing staff to facilitate social transitions without notifying parents or seeking their consent.[13]

In the Eighth Circuit, the Linn-Mar School Board adopted a policy that directed teachers to effectuate

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[10] Brief of Advancing American Freedom et al. as amici curiae at 3-4, *Heaps v. Delaware Valley Regional High Sch. Bd. of Ed.*, No. 24-3278 (3d Cir. July 8, 2025) available at https://advancingamericanfreedom.com/aaf-fights-for-parental-rights-in-new-jersey/.

[11] *Id.* at 4.

[12] Brief of Advancing American Freedom et al. as amici curiae at 3-4, *Parents Defending Ed. v. Olentangy Local Sch. Dist. Bd. of Ed.*, No. 23-3630 (6th Cir. Dec. 19, 2024) available at https://advancingamericanfreedom.com/parents-v-olentangy/.

[13] Brief of Advancing American Freedom et al. as amici curiae at 5, *Parents Protecting Our Children v. Eau Claire Area Sch. Dist.*, No. 23-1280 (July 8, 2024) available at https://advancingamericanfreedom.com/parents-protecting-our-children-v-eau-claire-area-school-district/.

children's gender transitions while keeping parents in the dark.[14]

In the Ninth Circuit, in *Mirabelli v. Bonta*, a certified class including parents and teachers challenged a California School District's policy that prohibited teachers and school staff "from informing parents about a child's unusual gender expression, unless the child consents."[15] Though the Poe family's daughter had been presenting as a boy at school for months, "The Poe parents did not learn of their child's deteriorated mental health until after she attempted suicide."[16] The lives of real children are at risk, and parents are being sidelined from helping.

In the Tenth Circuit, without seeking consent from parents, two sixth graders were invited to after-school meetings that discussed gender identity.[17] One tragically attempted suicide and identified her

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[14] Brief of Advancing American Freedom et al. as amici curiae at 7, *Parents Defending Education v. Linn-Mar Community School District*, No. 22-2927 (8thth Cir. Nov. 10, 2022) available at https://advancingamericanfreedom.com/aaf-takes-stand-for-parents/.

[15] Brief of Advancing American Freedom et al. as amici curiae at 2, *Mirabelli v. Bonta*, 146 S. Ct. 797 (2026) available at https://advancingamericanfreedom.com/aaf-files-amicus-brief-standing-for-parental-rights/.

[16] *Id.*

[17] Brief of Advancing American Freedom et al. as amici curiae at 4-5, *Lee v. Poudre*, No. 25-89 (10th Cir. Aug. 22, 2025) available at https://advancingamericanfreedom.com/aaf-fights-back-against-radical-gender-ideologists/.

attendance at the "Gender and Sexualities Alliance" club meeting as the source of her suicidal ideation.[18]

In the Eleventh Circuit, a Florida School District's policy for gender transitions of students in the seventh grade and above "openly encourage[d] children to deceive their parents" about their social gender transition "by hiding the name and pronouns that they [were] using at school."[19] The policy prohibited teachers and school staff from informing parents about their children's social gender transition unless they were required to do so by law or the child consented.[20]

Parents around the country will continue to face such threats to their fundamental rights so long as this Court has not reiterated what it has already made clear: that parents have a fundamental right protected by the Fourteenth Amendment to direct the upbringing of their children.

II. Parental Rights Are Deeply Rooted in Our Nation's History and Tradition.

This Court has explained that "[o]ur Nation's history, legal traditions, and practices . . . provide the crucial 'guideposts for responsible [judicial] decision-

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[18] *Id.* at 5.

[19] Brief of Advancing American Freedom et al. as amici curiae at 8-9, *Parents Defending Ed. v. Linn-Mar Comm. Sch. Dist.*, No. 22-2927 (8th Cir. Nov. 10, 2022) available at https://advancingamericanfreedom.com/aaf-amicus-brief-in-parents-defending-education-v-linn-mar-community-school-district/.

[20] *Id.* at 8.

making.'" *Washington v. Glucksberg*, 521 U.S. 702, 721 (1997). Parental rights have been recognized throughout American history and even earlier as among the most fundamental of rights.

A. Parental rights in education are a part of the Western tradition.

Parental rights are, according to Lord Kames, the leading British jurist on the eve of the American Revolution who was sympathetic to American concerns, the "corner-stone of society."[21] Scottish Enlightenment thinker David Fordyce, whose books were part of Harvard's curriculum during the colonial period,[22] wrote that the "weak and ignorant State of Children, seems plainly to invest their Parents with such Authority and Power as is necessary to their Support, Protection, and Education."[23] The natural law theorist Samuel von Pufendorf, whose works were bought for the use of the Continental Congress,[24] observed that "nature has implanted in parents a tender affection for their offspring, so that no one can

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[21] Henry Kames, *Sketches of the History of Man Considerably enlarged by the last additions and corrections of the author* at 80 (James A. Harris ed., Liberty Fund 2007) (1788).

[22] Daniel N. Robinson, *The Scottish Enlightenment and the American Founding* 90 The Monist 170, 174 (2007).

[23] David Fordyce, *The Elements of Moral Philosophy* at 8 (Thomas Kennedy ed., Liberty Fund 2003) (1754).

[24] "Report on Books for Congress, [23 January] 1783," *Founders Online,* National Archives, https://founders.archives.gov/documents/Madison/01-06-02-0031.

be willing readily to neglect that office."[25] Lord Kames described the parent-child relationship as "one of the strongest that can exist among individuals."[26]

These writers understood providing an education to be both a chief parental right and duty. Sir William Blackstone described education as "the last duty of parents toward their children."[27] Education, however, did not just mean teaching arithmetic or literacy. At the time of the founding, the end of education was private and civic virtue.[28] Christian Thomasius, whose books James Madison ordered for the Continental Congress,[29] wrote that parental authority entails

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[25] Samuel von Pufendorf, *Two Books of the Elements of Universal Jurisprudence* at 380 (Thomas Behme ed., The Liberty Fund 2009) (1660).

[26] Henry Kames, *Principles of Equity* at 15-16 (Michael Lobban ed., The Liberty Fund 2014) (1760).

[27] William Blackstone, Vol. 1 *Commentaries on the Laws of England* 283 (George Sharswood ed., Lippincott Company 1893) (1753) (available online through the Liberty Fund at https://oll-resources.s3.us-east-2.amazonaws.com/oll3/store/titles/2140/Blackstone_1387-01_EBk_v6.0.pdf).

[28] Benjamin Rush, *Essays, literary, moral & philosophical* at 8 (1798) in *Evans Early American Imprint Collection*, https://name.umdl.umich.edu/N25938.0001.001. University of Michigan Library Digital Collections. Accessed June 17, 2025. ("I beg leave to remark, that the only foundation for a useful education in a republic is to be laid in Religion. Without this there can be no virtue, and without virtue there can be no liberty, and liberty is the object and life of all republican governments.").

[29] "Report on Books for Congress, [23 January] 1783," *Founders Online,* National Archives, https://founders.archives.gov/documents/Madison/01-06-02-0031.

"leading the child from first infancy to the maturity of body and mind," a responsibility that "contains two parts, namely, nourishment, which pertains to the infant's body, and learning, which pertains to his mind."[30]

According to the legal theorists of the time, the right of parents to directly oversee the education of their children could be delegated, but it could never be destroyed even by those with whom parents entrusted their children. Gershom Carmichael wrote that it is "an indissolubly integral part of parental power."[31] Pufendorf wrote that, although parents may entrust their children's education to others, it is a duty that "the Parent reserve to himself the Oversight of the Person deputed."[32] This recognition of parental authority continued into the nation's infancy.

B. Parental rights in education were ubiquitous in the early Republic.

Parental rights in education were also broadly recognized in America's founding era. James Wilson, a signer of both the Declaration of Independence and the Constitution and later a Justice of this Court

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[30] Christian Thomasius, *Institutes of Divine Jurisprudence. With Selections from Foundations of the Law of Nature and Nations* 466-67 (Thomas Ahnert ed., Liberty Fund 2011) (1688).

[31] Gershom Carmichael, *The Writings of Gershom Carmichael* at 134-35 (emphasis added) (James Moore ed., Liberty Fund 2002) (1724).

[32] Pufendorf, *supra* note 25, at 183-84 (emphasis added).

appointed by President Washington,[33] contrasted, in his 1791 lectures on law, ancient and modern modes of education to illustrate the American view of parental rights. Spurning the example of the Spartans where "the care and education of children were taken entirely out of the hands of their parents," Wilson commended American law which recognized that "to parental affection the care of education may, in most instances, be safely intrusted."[34]

Benjamin Rush, like Wilson, also a signer of the Declaration of Independence, was one of the foremost advocates for public schooling. In 1786, Rush published a pamphlet setting out a plan for public schools in which teachers were to inculcate morality, but only in "a strict conformity to . . . the inclinations of their parents."[35]

Samuel Harrison Smith, a newspaper publisher and friend of Thomas Jefferson, was one of the few opponents of parental rights in the founding era. In a pamphlet he authored for the American Philosophical

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[33] *James Wilson* in *Biographical Directory of the United States Congress*, https://bioguide.congress.gov/search/bio/W000591.

[34] James Wilson, *Collected Works of James Wilson* 908-910 (Kermit L. Hall & Mark David Hall ed., Liberty Fund 2007) (1791) (Emphasis added).

[35] Benjamin Rush, *A plan for the establishment of public schools and the diffusion of knowledge in Pennsylvania; to which are added thoughts upon the mode of education, proper in a republic: Addressed to the legislature and citizens of the state* at 18 (1786) in *Evans Early American Imprint Collection* https://name.umdl.umich.edu/N15652.0001.001 University of Michigan Library Digital Collections (last visited May 15, 2026).

Society he argued that "[e]rror is never more dangerous than in the mouth of a parent."[36] The solution, according to Smith, was the complete removal of parental oversight: when "education [is] remote from parental influence, the errors of the father cease to be entailed upon the child."[37]

However, Jefferson rejected his friend's theory of education. In the margins of his 1817 draft plan for public schooling in Virginia, Jefferson wrestled with parental rights and influence in education.[38] Ultimately, he concluded that "it is better to tolerate the rare instance of a parent refusing to let his child be educated, than to *shock the common feelings* & ideas by the forcible asportation & education of the infant against the will of the father."[39]

This respect for parental rights, including in education, continued through the Reconstruction era and the ratification of the Fourteenth Amendment.

C. The Antebellum Period and Reconstruction reaffirmed parental rights in education.

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[36] Samuel Harrison Smith, *Remarks on education: illustrating the close connection between virtue and wisdom. To which is annexed, a system of liberal education* at 64 (1797).
[37] *Id.*
[38] Thomas Jefferson, Bill for Establishing Elementary Schools, (Sept. 9, 1817) available at https://founders.archives.gov/documents/Jefferson/03-12-02-0007 ("A question of some doubt might be raised on the latter part of this section, as to the rights & duties of society towards it's members infant & adult. is it a right or a duty in society to take care of their infant members, in opposition to the will of the parent? how far does this right & duty extend?").
[39] *Id.*

Parental control over the inculcation of virtue in children who attended public schools was reaffirmed throughout the antebellum period, even as changes in American society over questions of race and religion put strains on the tradition. James Kent, first professor of law at Columbia University, teaching from 1826 to 1830, turned his series of lectures into the widely popular *Commentaries on American Law*.[40] Kent started with antiquity and remarked that some ancient states had refused to trust education to parents.[41] Such an idea in America was "totally inadmissible."[42] Because nature bound parents to "maintain and educate their children, the law has given them a right to such authority."[43] This was "the true foundation of parental power."[44]

Justice Joseph Story agreed. In his *Commentaries on Equity Jurisprudence*, Justice Story quoted the case of *Jenkins v. Pye*, 37 U.S. 241, 254 (1838): "the presumption ought to be, in the absence of all proof tending to a contrary conclusion, that the advancement of the interest of the child was the object

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[40] John M. Gould, Preface to James Kent, Commentaries on American Law, at v (Little, Brown & Co. 14th ed. 1896) (stating that "the masterpiece of Chancellor Kent has now become so interwoven with judicial decisions that these commentaries upon our frame of government and system of laws will doubtless continue to rank as the first of American legal classics so long as the present order shall prevail").

[41] James Kent, *Commentaries on American Law* 233 (Oliver Wendell Holmes ed., Twelfth Edition 1873).

[42] *Id.*

[43] *Id.* at 252.

[44] *Id.*

in view."[45] The "natural and reasonable presumption in all transactions of this kind is, that a benefit was intended the child, because in the discharge of a moral and parental duty."[46] Anything else would be "a principle at war with all filial as well as parental duty and affection."[47]

The horrors of American slavery became the catalyst for enshrining into the Constitution parental rights to oversee the moral upbringing of one's children. Slave narratives following the Civil War were replete with the tearing apart of children from their parents' oversight.[48] Freed former slaves organized "Colored Conventions" throughout the antebellum period and through the Civil War, in which they petitioned for laws and amendments to protect their rights as citizens. One of the petitioned grievances was a lack of state protection for the parental rights of black people. The 1851 Colored Convention of Ohio lamented that black Americans had "no parental or filial rights; but husband and wife, parent and child, may be torn from each other."[49]

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[45] 1 Joseph Story, *Commentaries on Equity Jurisprudence* 328 (Charles C. Little & James Brown) (4th ed. 1846) (1836) (internal quotation marks omitted).
[46] *Id.*
[47] *Id.*
[48] Luray Buckner, *A Right Defined by a Duty: The Original Understanding of Parental Rights*, 37 Notre Dame J.L. Ethics & Pub. Pol'y 493, 501 (2023).
[49] Convention of the Colored Freemen of Ohio (1852 : Cincinnati, OH) 275, 285 *Proceedings of the Convention, of the Colored Freemen of Ohio, Held in Cincinnati, January 14, 15, 16, 17 and*

Other conventions recognized parental rights and education were intertwined, writing that they, when slaves, were "denied the control of their children" who were "debarred an education."[50] Abolitionist and anti-slavery Republicans regularly intertwined the denial to educate and oversee one's own children as one of the badges of slavery.[51]

The Congressional debates on the Thirteenth and Fourteenth Amendments make clear that one purpose of the amendments was to protect the fundamental right of parents to oversee the upbringing of their children. Senator James Harlan said that a consequence of slavery was "the abolition practically of the parental relation, robbing the offspring of the care and attention of his parents."[52] Senator Charles Sumner, a political leader of the abolitionist movement (who was famously caned nearly to death on the Senate floor after attacking slavery), decried slavery's destruction "of all rights, even . . . the sacred right of

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19, 1852, (Colored Conventions Project Digital Records) https://omeka.coloredconventions.org/items/show/250 (last visited Jan. 20, 2026).

[50] Convention of the Colored Men of Ohio (1858: Cincinnati, OH) 333, 333 *Proceedings of a Convention of the Colored Men of Ohio, Held in the City of Cincinnati, on the 23d, 24th, 25th and 26th days of November, 1858*, (Colored Conventions Project Digital Records) https://omeka.coloredconventions.org/items/show/254 (last visited Jan. 20, 2026).

[51] Joseph K. Griffith II, *Is the Right of Parents to Direct Their Children's Education "Deeply Rooted" in Our "History and Tradition"?* 28 TEX. REV. L. & POLS. 795. 803-04 (2024).

[52] Cong. Globe, 38th Cong., 1st Sess., 1439 (1864) (Statement of Senator Harlan).

family; so that the relation of husband and wife was impossible and no parent could claim his own child."[53]

When speaking in support of the Thirteenth Amendment, Senator Henry Wilson, author of the bills which outlawed slavery in Washington, D.C., said, "the sacred rights of human nature, the hallowed family relations of husband and wife, parent and child, will be protected by the guardian spirit of that law which makes sacred alike the proud homes and lowly cabins of freedom."[54]

During the drafting of the Fourteenth Amendment in the 39th Congress, the Joint Committee on Reconstruction inquired into whether certain fundamental rights were being respected in the occupied South. The Joint Committee asked whether Southern whites objected to "the legal establishment of the domestic relations among the blacks, such as the relation of husband and wife, of parent and child, and the securing by law to the negro the rights of those relations?"[55] Likewise, Representative Thomas Dawes Eliot spoke of the need to protect the right of "husband, wife, and parent."[56]

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[53] Cong. Globe, 38th Cong., 1st Sess., 1479 (1864) (statement of Senate Sumner).
[54] Cong. Globe, 38th Cong., 1st Sess., 1324 (1864) (Statement of Senator Wilson).
[55] Joint Comm. on Reconstruction, Report of the Joint Committee on Reconstruction, H.R. Rep. No. 30, 39th Cong., 1st Sess. (1866) at 171.
[56] Cong. Globe, 39th Cong., 1st Sess. 2773 (1866) (Statement of Representative Eliot).

Few if any fundamental rights not enumerated in the Constitution are more deeply rooted in American history and tradition than parental rights.

III. Parental Rights are Essential to Liberty and Justice.

This Court's precedent demonstrates that parental rights are not only deeply rooted in American history and tradition but are also "'implicit in the concept of ordered liberty' such that 'neither liberty nor justice would exist if they were sacrificed.'" *Glucksberg*, 521 U.S. at 702 (quoting *Palko v. Connecticut*, 302 U.S. 319, 325 (1937)).

In *Meyer v. Nebraska*, this Court explained that "Without doubt," the Fourteenth Amendment protects "the right of the individual to . . . marry, establish a home and bring up children." 262 U.S. 390, 399 (1923). The parental right to educate one's children is among those essential to liberty, and "[t]he fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the State to standardize its children." *Pierce*, 268 U.S. at 535. Considering its long-established parental rights precedent, this Court in 2000 reiterated that "it cannot now be doubted that the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children." *Troxel*, 500 U.S. at 66.

The Court has also been clear about the content of that right. Parents "have the right, coupled with the

high duty, to recognize and prepare [the child] for additional obligations." *Id*. The state may not enter "the private realm of family life" because "the custody, care, and nurture of the child reside[s] first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder." *Prince v. Commonwealth of Massachusetts*, 321 U.S. 158, 166 (1944).

The Court's parental rights doctrine has developed in cases many of which are brought by religious parents seeking to ensure that their children's education does not undermine their religious values. Recently, in *Mahmoud*, 606 U.S. at 547, the Court explained that the right of religious parents is "not merely a right to teach religion in the confines of one's own home," but "extends to the choices that parents wish to make for their children outside the home." The religious liberty right of parents exists, though, not in exclusion, but in addition, to the rights of all parents.[57]

For example, in *Wisconsin v. Yoder*, the Court recognized "the fundamental interest of parents, as contrasted with that of the State, to guide the religious future *and education* of their children," noting that the "history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children." 406 U.S. 205, 232

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[57] J. Marc Wheat, *Religious Liberty is Essential to American Freedom. So Are Parental Rights*, Real Clear Religion (May 6, 2025) https://www.realclearreligion.org/articles/2025/05/06/religious_liberty_is_essential_to_american_freedom_so_are_parental_rights_1108436.html.

(1972) (emphasis added). Thus, the rights of parents generally, and of religious parents specifically, exist together and do not detract from one another.

"The child is not the mere creature of the state," *Pierce,* 268 U.S. at 535, and parents, not school officials, have the right and responsibility "to direct the education and upbringing" of their children. *Glucksberg*, 521 U.S. at 720. School officials may not conceal from parents some of the most sensitive matters a family may face, except in the most extreme circumstances. The Court's consistent and clear recognition of parental rights demands on the part of public educators a high regard for the will of parents. PERB's decision in favor of the union's attempt to squash the District's parental notification policy is inconsistent with parents' fundamental rights.

In this case, where a public school district attempted and was prevented from protecting parental rights, the Court has the opportunity to clarify that the parental right to direct the upbringing of one's children extends to all parents.

CONCLUSION

The Court should grant the petition for certiorari.

Respectfully submitted,

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