

No. 25-840

In the Supreme Court of the United States

INTERNATIONAL PARTNERS FOR
ETHICAL CARE, INC., et al.,

Petitioners,

v.

BOB FERGUSON,
Governor of Washington, et al.,

Respondents.

**ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

**BRIEF OF *AMICUS CURIAE*
DEFENDING EDUCATION
IN SUPPORT OF PETITIONERS**

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INTEREST OF *AMICUS CURIAE**

Defending Education is a national, nonprofit, grassroots association. Its members include many parents with school-aged children. DE uses advocacy, disclosure, and litigation to combat the increasing politicization and indoctrination of America's youth.

The bond between parent and child is “the most universal relation in nature.” 1 Blackstone’s Commentaries 298 (Cooley ed., 1st ed. 1871). Accordingly, the common law “recognized that natural bonds of affection lead parents to act in the best interests of their children.” *Parham v. J.R.*, 442 U.S. 584, 602 (1979). In turn, as parents are bound to care for their children and guarantee their well-being, “the law has given them a right to such authority.” 2 James Kent, *Commentaries on American Law* 252 (Holmes ed., 12th ed. 1873). And the Constitution enshrines that right in the Fourteenth Amendment. Indeed, “the interest of parents in the care, custody, and control of their children” is “perhaps the oldest of the fundamental liberty interests recognized by this Court.” *Troxel v. Granville*, 530 U.S. 57, 65 (2000).

DE exists to defend that right. It has a significant interest in thwarting policies (like Washington’s here) that take responsibility for critical decisions about a child’s mental and physical well-being away from par-

* Per Rule 37.6, no counsel for a party authored this brief in whole or in part, and no person other than *Amicus Curiae*, its members, or its counsel made a monetary contribution to its preparation or submission.

ents and give it to state bureaucrats. The Ninth Circuit held that Petitioners—parents who hold traditional views on sex and gender and whose parenting choices are now chilled by Washington’s gender transition laws for runaway children—lack standing to bring a lawsuit in defense of their parental rights under the First and Fourteenth Amendments. But well-established precedent confirms that, when state authorities enact policies whose chief purpose is to displace parental authority, parents have standing to challenge those policies.

SUMMARY OF ARGUMENT

In 2023, the State of Washington’s legislature amended its laws governing runaway children and youth shelters. *See* Pet-Br.5-8. The amended laws, in short, encourage gender-confused children to run away from home to seek so-called “gender-affirming treatment.” Wash. Rev. Code §13.32A.082(2)(d). When children *do* run away from home, the State will hide them from their parents and refer them for controversial medical care designed to confirm their non-biological gender identities. *Id.* §13.32A.082(1)(b)(i), (2)(c), (2)(d). In other words, Washington has sent a message to parents who hold traditional views on sex and gender and want to raise their children consistent with that belief: Be quiet, or we will decide your child’s future without you.

Though Washington’s parental exclusion laws are shocking, the State is—sadly—not alone. According to Defending Education’s research, thousands of school districts and many states have adopted policies that

empower government bureaucrats to transition children from one gender to another. See *List of School District Transgender – Gender Nonconforming Student Policies*, DE (updated June 29, 2026), bit.ly/4lxd9gL; *Shield Laws for Reproductive and Gender-Affirming Health Care: A State Law Guide*, UCLA (archived Sept. 10, 2026), perma.cc/TSZ9-9CDS. Worse, they do so secretly and often in direct contravention of parents’ wishes, bucking the historical consensus that parents are in the best position to make such decisions.

Washington’s laws plainly violate the Constitution. Parents, not the State, have the right to “make decisions concerning” their children’s upbringing and care. *Troxel*, 530 U.S. at 66. That right was well-established at the founding and when the Fourteenth Amendment was ratified. And it encompasses both the right to make decisions about a child’s medical care (including whether to “affirm” a child’s so-called gender identity) and, perhaps more obviously, the right not to have the State hide one’s child simply because it disagrees with a parent’s views on a contentious political issue. Washington’s laws—which conceal critical information about a child’s whereabouts and condition, deny parents input on a child’s medical care, and delay the return of runaway children—make it impossible for parents to effectively exercise those rights.

But according to the Ninth Circuit, Petitioners have no standing to challenge Washington’s laws because it is not certain that the State will *actually* hide

their children and *actually* give them “gender-affirming treatment” without the parents’ permission. *See* Pet.App.14a-25a.

That’s wrong. Petitioners have standing for at least three reasons. First, they have standing because Washington’s new laws are designed to displace the authority of parents just like them—*i.e.*, parents who hold traditional views on sex and gender. And when a plaintiff is “the object” of a law, they have standing to challenge that law even if it does not regulate them “directly.” *Diamond Alternative Energy v. EPA*, 606 U.S. 100, 112, 114-15 (2025). Second, Petitioners have alleged *current* injury because Washington’s statutory scheme, which incentivizes children to run away from home if their parents do not affirm their non-biological gender identity, chills their speech and compels them to alter their parenting practices. Third, Plaintiffs face a substantial risk of *future* injury in the event any of their children do run away from home and are referred for so-called gender-affirming treatments without their consent. Petitioners need not wait until it is too late—*after* the State has taken their children—before they are allowed to sue.

“In this country,” the “doctrine of judicial review protect[s] individuals who cannot obtain” relief through the political process. *Mahmoud v. Taylor*, 606 U.S. 522, 563 (2025). When jurisdictions like Washington intrude upon parents’ right to make important decisions about their children’s upbringing and medical care, those parents have “every right to file a suit to protect that right.” *Id.*

ARGUMENT

I. Washington’s laws violate parental rights protected by the Fourteenth Amendment.

Washington’s laws, at their core, represent “an attempt by a political majority” to curtail or eliminate the decisionmaking authority of “parents whose beliefs about gender differ from” the State’s views. Pet-Br.1. But “long-established precedent” confirms that parents have “primary authority” with respect to their children’s mental and physical wellbeing. *Mirabelli v. Bonta*, 607 U.S. 492, 497 (2026).

A. The Constitution protects certain “fundamental,” even if unenumerated, “rights and liberty interests.” *Washington v. Glucksberg*, 521 U.S. 702, 720 (1997). To warrant such protection, a right must be “objectively, deeply rooted in this Nation’s history and tradition.” *Dobbs v. Jackson Women’s Health Org.*, 597 U.S. 215, 239 (2022).

Though this Court has often been “reluctant’ to recognize rights that are not mentioned in the Constitution,” *id.*, one right that it has never been reluctant to acknowledge is the “fundamental right of parents to make decisions concerning the care, custody, and control of their children,” *Troxel*, 530 U.S. at 66. In fact, the parental right “is perhaps the oldest of the fundamental liberty interests recognized by this Court.” *Id.* at 65. That right has deep roots in the common law and the western legal tradition. *See, e.g., Parham*, 442 U.S. at 602 (“Our jurisprudence historically has reflected Western civilization concepts of the family as a unit with broad parental authority over minor children.”); Thomas Aquinas, *Summa Theologica* II-

II, q.10, a.12, bit.ly/471Azr2 (“[I]t would be contrary to natural justice” if “anything [were] done to [a child] against its parents’ wish.”); John Locke, *Second Treatise of Government*, Ch.VI, §71, bit.ly/4oJsH3N (“[P]arents in societies ... retain a power over their children.”).

Indeed, “history clearly shows” that the “founding generation” understood “parents to have *complete* authority over their minor children.” *Brown v. Entertainment Merchants Ass’n*, 564 U.S. 786, 834 (2011) (Thomas, J., dissenting) (emphasis added). “The law at the time” of the founding vested parents with authority “on all manner of activities that required judgment and reason.” *Id.* at 832, 834. Parents were broadly “responsible for maintaining, protecting, and educating their children.” *Id.* at 832. Young people, for example, required parental consent to marry or serve in the military. *Id.* at 833-34. Especially relevant here, parents in the founding generation could seek damages from those who “enticed [a child] away from” them. *Jones v. Tevis*, 14 Ky. 25, 25 (Ky. 1823); *see also*, e.g., *Kirkpatrick v. Lockhart*, 4 S.C.L. 276 (S.C. 1809).

Parental rights remained strong at the time of the Fourteenth Amendment’s adoption. In fact, Congress enacted the Fourteenth Amendment in part to secure “well-established [parental] rights” for newly freed slaves. *See* Buckner, *A Right Defined by a Duty: The Original Understanding of Parental Rights*, 37 Notre Dame J.L. Ethics & Pub. Pol’y 493, 500-02 (2023). The Reconstruction Amendments were meant to eliminate the “badges and incidents of slavery,” *United States*

v. Leahy, 152 F.4th 1356, 1385 (11th Cir. 2025) (Rosenbaum, J., concurring), and “it is doubtless true” that slavery undermined or eradicated “the parental relation” for enslaved families, *Alma Society v. Mellon*, 601 F.2d 1225, 1238 (2d Cir. 1979). “The Fourteenth Amendment was intended to restore” the “parental” and “familial rights that were guaranteed common law liberties” but were withheld from slaves “after emancipation.” *Buckner*, *supra*, at 502 (cleaned up).

In short, the “enduring American tradition” is that “parents” have the “primary role” in “the upbringing of their children.” *Wisconsin v. Yoder*, 406 U.S. 205, 232 (1972). Parental rights are “essential to the orderly pursuit of happiness by free men.” *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923). And this Court’s “extensive precedent” confirms that those rights are protected by the Fourteenth Amendment. *Troxel*, 530 U.S. at 66.

B. That right, as this Court reaffirmed just months ago, “includes the right not to be shut out of participation in decisions regarding their children’s mental health.” *Mirabelli*, 607 U.S. at 497. “[P]rimary authority” over such matters resides in “parents—not the State.” *Id.*

This Court’s caselaw guarantees parents the right to make decisions about their children’s “need for medical care or treatment.” *Parham*, 442 U.S. at 603. For good reason: “Parents can and *must* make those judgments” because “[m]ost children, even in adolescence, simply are not able to make sound judgments concerning” their medical condition. *Id.* (emphasis added). “Children, by definition, are not assumed to

have the capacity to take care of themselves.” *Schall v. Martin*, 467 U.S. 253, 265 (1984). Indeed, founding-era law vested parents with authority over “all” questions “that required judgment and reason.” *Brown*, 564 U.S. at 834 (Thomas, J., dissenting). And “[a]lthough much has changed in this country since the Revolution,” one thing that has *not* changed is the principle “that parents have the authority” to direct their children’s “medical” treatment. *Id.* at 836-37.

The decision whether to affirm a child’s biological sex or non-biological gender identity, and seek medical care consistent with that decision, strikes at the core of that authority. “Gender dysphoria is a condition that has an important bearing on a child’s mental health.” *Mirabelli*, 607 U.S. at 497. When state authorities treat that condition (and certainly when they “facilitate” a “child’s gender transition”) without consulting parents, they “violate” the parents’ right “to direct the upbringing ... of their children.” *Id.*

Especially so because decisions about sex and gender implicate “fundamental values and religious beliefs.” *Arnold v. BOE of Escambia County*, 880 F.2d 305, 312 (11th Cir. 1989). Parents’ constitutional rights “presumptively includ[e] counseling [their children] on” those “important” matters. *H.L. v. Matheson*, 450 U.S. 398, 410 (1981). And when parents have “sincere religious beliefs about sex and gender,” they are entitled “to raise their children in accordance with those beliefs.” *Mirabelli*, 607 U.S. at 496; *see also Mahmoud*, 606 U.S. at 559 (parents have the “right” to “guide the religious development of their children”).

The “unconsented facilitation of a child’s gender transition” intrudes on a parent’s religious exercise even *more* than other state actions this Court has deemed impermissible, like the use of sexually charged books in public school classrooms. *Mirabelli*, 607 U.S. at 496. That’s why Petitioners here allege violations not only of their parental rights under the Fourteenth Amendment, but also their free exercise rights under the First Amendment. *See* Pet-Br.18.

In addition to the right to make decisions about a child’s healthcare and religious development, the Fourteenth Amendment protects a parent’s physical custody of their child. Unsurprisingly, courts at the time of the Fourteenth Amendment’s ratification “recognized the right of the parent to live with their child.” *Henry v. Sheriff of Tuscaloosa County*, 180 F.4th 1294, 1311 (11th Cir. 2026) (en banc). The state cannot strip a parent of that right simply because it disagrees with the parent’s views on controversial and politically charged issues like gender identity. *See Parham*, 442 U.S. at 603-04. A state’s power to “remove ... children from the custody of their parents” and seize control of their “maintenance,” in other words, is a matter “of extreme delicacy,” Story, *Commentaries on Equity Jurisprudence* §1342 (Randall ed., 3d English ed. 1920), and courts must start from “the traditional presumption that the parents will act in the best interests of their child,” *Henry v. Sheriff of Tuscaloosa County*, 135 F.4th 1271, 1317 (11th Cir. 2025) (cleaned up).

C. Washington’s laws, which keep parents in the dark and exclude them from decisionmaking when a

runaway child’s “gender identity” is involved, fly in the face of these well-established principles.

To start, Washington deprives parents of critical information about their children, including their whereabouts and their condition. In most situations, Washington law ensures that parents are promptly notified if their runaway child arrives at a youth shelter. *See* Wash. Rev. Code §13.32A.082(1)(b)(i). Parents are informed of their child’s location and are given “a description of the youth’s physical and emotional condition” and “the circumstances surrounding the youth’s contact with the shelter.” *Id.* But if the child claims to be seeking “gender-affirming treatment,” then parents get *none* of that information and the shelter “must instead notify” Washington’s Department of Children, Youth and Family Services. *Id.* §13.32A.082(1)(b)(i), (2)(c)(ii), (d); *see also* Pet-Br.12-13 & n.9.

Concealing this information is *itself* a violation of parental rights. It is impossible for parents to direct the “care, custody, and control of their children” when the government deliberately withholds critical information from them. *Troxel*, 530 U.S. at 65.

But even if parents somehow learn their child’s location and condition, Washington’s laws take away *any* input or control those parents have regarding their child’s “gender identity.” Without seeking parental consent, and even if a child’s parents expressly disagree, the State can refer a child for “gender-affirming” medical services. Pet-Br.9-10; *see* Wash. Rev. Code §13.32A.082(3)(b)(i). Parents, in other words, are “shut out of participation in decisions regarding

their children’s mental health.” *Mirabelli*, 607 U.S. at 497. And the children are deprived of the right to have “important medical decisions ... made by their parents rather than the state.” *Wallis v. Spencer*, 202 F.3d 1126, 1141 (9th Cir. 2000).

Finally, Washington’s laws significantly delay parents from being reunited with their children. In fact, there is *no* statutory deadline for reunification. The State need only, at a time seemingly of its own choosing, “[o]ffer services designed to resolve the [parent-child] conflict and accomplish a reunification of the family.” Wash. Rev. Code §13.32A.082(3)(b)(ii); *see also* Pet-Br.14-15. Indeed, as one state senator who sponsored the challenged laws explained, keeping children separated from parents until they receive “gender-affirming care” is the *purpose* of Washington’s statutory scheme. Pet-Br.10. At least one judge on the Ninth Circuit agreed: Washington’s laws are “designed to ... prevent parents from reuniting with their child ... unless they ‘affirm’ the child’s gender identification.” Pet.App.53a (Tung, J., dissenting).

Thus, in addition to limiting (or eliminating) parental input when a child professes confusion about their gender identity, Washington’s laws also “remov[e]” a child “from the home” either “permanently or temporarily.” *Kottmyer v. Maas*, 436 F.3d 684, 691 (6th Cir. 2006). And it is impossible for parents to direct the “custody and control of [their] child” when the State prevents them from even contacting their child in the first place. *Id.*

The Fourteenth Amendment demands more. At the very least, it means that—absent an actual “finding of neglect or abuse” (which Washington’s laws do not require)—parents should “retain a substantial, if not the dominant, role” in decisions regarding their children’s mental health and medical care. *Parham*, 442 U.S. at 604. That remains true even if a parent’s decision regarding their child’s gender identity “is not agreeable to [the] child,” and even if that decision “involves risks.” *Id.* at 603. After all, nearly *all* childcare decisions involve some risk. *See id.* (“The same characterizations can be made for a tonsillectomy, appendectomy, or other medical procedure.”). But that “does not automatically transfer the power to make that decision from the parents to some agency or officer of the state.” *Id.*

In short, Washington “not only fail[s] to presume” that parents will “act in the best interest of their children, [it] assume[s] the exact opposite.” *Doe v. Heck*, 327 F.3d 492, 521 (7th Cir. 2003). And in doing so, it inflicts the very harm that the Fourteenth Amendment’s guarantee of parental rights is meant to avoid: “Pitting the parents and child” against each other “as adversaries.” *Parham*, 442 U.S. at 610.

II. Parents have standing to challenge laws that displace their role as the primary authority in their children’s lives.

Given the “long-established precedent” that parents “have primary authority with respect to ‘the upbringing and education of children,’” it is unsurprising that federal courts regularly hold that parents have standing to challenge policies that strip them of that

authority. *Mirabelli*, 607 U.S. at 497; *see, e.g., Deanda v. Becerra*, 96 F.4th 750, 755-60 (5th Cir. 2024). That includes this Court, which just six months ago concluded that parents in California had standing to challenge school policies that threatened to facilitate their children’s gender transition without their knowledge or consent. *See Mirabelli*, 607 U.S. at 498.

The Ninth Circuit’s decision here, however, denied Petitioners similar recourse to vindicate their constitutional rights. That was wrong, for at least three reasons.

A. First, Petitioners have standing because Washington’s laws are designed to target parents just like them. Petitioners, in other words, “are the objects of the challenged” laws. *Mirabelli*, 607 U.S. at 498; *see* Pet-Br.21-37. And when “a plaintiff is the object of a government regulation,” there is “little question that the regulation causes injury to the plaintiff and that invalidating the regulation would redress the plaintiff’s injuries.” *Diamond Alternative Energy*, 606 U.S. at 114 (cleaned up).

Indeed, this case is remarkably close to *Mirabelli*, in which this Court held that a class comprising parents “who object[ed] to” policies that allowed California schools to facilitate students’ gender transitions without parental knowledge or consent, or who sought “a religious exemption” from those policies, likely had standing precisely because those parents were the “objects of the challenged exclusion policies.” 607 U.S. at 494-95, 498. To show standing, the parents were *not* required to make “any individualized showing”

that their child had already been subjected to the policies, that their “child was likely to exhibit gender dysphoria,” or that school authorities “would *choose* to” facilitate their child’s transition if the child *did* exhibit dysphoria. *City of Huntington Beach v. Newsom*, 2026 WL 1785110, *2 (9th Cir. June 18, 2026) (discussing *Mirabelli*); *see also Doe v. Pine Richland School District*, 2026 WL 1103489, *3 (3d Cir. Apr. 23, 2026) (same). It was enough that the “objecting parent[s] [were] the target of” the state’s “effort” to displace their constitutionally protected parental decisionmaking authority. *Huntington Beach*, 2026 WL 1785110 at *3; *see* Pet-Br.26-27.

B. Aside from being the object of Washington’s laws, Petitioners have standing because they have alleged a *current* and *ongoing* injury insofar as the laws compel Petitioners to alter their parenting practices. The laws promise to hide gender-confused children from their parents and refer them for so-called gender-affirming treatments, *see supra* I.C, and that promise makes it “attractive” for “children suffering from gender dysphoria” to run away from home if their parents refuse to affirm their non-biological gender identities. *See* Pet.App.56a (Tung, J., dissenting). To prevent that outcome, Petitioners must adjust their speech and parenting practices—*right now*—to avoid affirming their children’s biological sex in a manner that causes them to run away. *See* Pet-Br.43-46.

Petitioners explain, for example that they must avoid using biological pronouns, avoid discouraging their children from certain medical treatments, and

avoid disciplining their children for “fear it will cause a rift that others will exploit to encourage [their children] to run away.” *Id.* at 45. Under Washington’s statutory scheme, then, Petitioners’ “right” to direct and “consent to [their] minor children’s medical care” has already “disappear[ed].” *Deanda*, 96 F.4th at 756-57. Petitioners “cannot raise their children as they see fit because of” the challenged laws. Pet.App.43-44a (Vandyke, J., dissenting).

The Ninth Circuit dismissed these injuries as supposedly self-inflicted. *See* Pet.App.14a-19a. But that misunderstands both the facts of this case and pre-enforcement standing doctrine. As Judge Vandyke observed, “[t]he very existence” of Washington’s statutory scheme chills Petitioners’ parenting practices because it promises to hide children from non-gender-affirming parents. *Id.* at 44a. Petitioners’ “fear” that their children might run away and be transitioned behind their back “is not ‘speculative.’” *Parents Protecting Our Children v. Eau Claire Area School District*, 145 S. Ct. 14, 14 (2024) (Alito, J., dissenting from the denial of certiorari). They are “merely taking the [State] at its word.” *Id.* And the resulting “objectively reasonable chill” on the exercise of their First and Fourteenth Amendment rights is “an injury in fact sufficient to give rise to Article III standing.” *First Choice Women’s Resource Centers v. Davenport*, 608 U.S. 174, 191 (2026).

C. Petitioners also face a “substantial risk” of *future* injury. *SBA List v. Driehaus*, 573 U.S. 149, 158 (2014). Beyond the existing chill on their parenting practices, Washington’s laws make it more likely that

Petitioners' children actually *will* run away and that the State will facilitate the children's gender transition without Petitioners' knowledge or consent. *See* Pet-Br.50, 52-53. And plaintiffs have standing when a defendant's actions "increas[e] the risk of future harm," even if that harm might have occurred "absent the defendant's actions." *Pisciotta v. Old Nat'l Bancorp*, 499 F.3d 629, 634 & n.3-4 (7th Cir. 2007) (collecting cases).

The Ninth Circuit insisted that Petitioners "provide concrete details" or specify exactly "when" the State might use its new laws to hide their children from them. Pet.App.22a (cleaned up). But that places an impossible (and not constitutionally required) burden on Petitioners. To establish pre-enforcement standing, Petitioners need not show that an injury is "certainly impending," only that "there is a substantial risk that the harm will occur." *SBA List*, 573 U.S. at 158 (cleaned up); *see also In re Supervalu, Inc.*, 870 F.3d 763, 769 n.3 (8th Cir. 2017) ("The Supreme Court has at least twice indicated that both the 'certainly impending' and 'substantial risk' standards are applicable in future injury cases."). And even if Petitioners were required to show a certainly impending injury, they would not need to predict how that injury will unfold at the level of granular detail that the Ninth Circuit seemingly expects.

At bottom, the Ninth Circuit's demand that Petitioners explain precisely when, where, and how the State will take their children from them amounts to a requirement that Petitioners wait until the law is

used against them before they can sue. But Petitioners “need not first expose [themselves] to actual” harm “to be entitled to challenge the statute.” *Babbitt v. United Farm Workers Nat’l Union*, 442 U.S. 289, 302 (1979) (cleaned up). “[R]equiring” actual harm “would run afoul of the Supreme Court’s admonition” and “put the challenger to the choice between abandoning his rights or risking” injury. *Vitagliano v. County of Westchester*, 71 F.4th 130, 139 (2d Cir. 2023) (cleaned up). And the danger of waiting to vindicate their rights is especially great here, where Petitioners may have *no* way to locate, contact, or retrieve their children—or persuade them not to pursue what Petitioners believe to be harmful medical treatments—once the children run away and the State effectively denies Petitioners access to them.

D. Establishing standing is especially easy in this case because Petitioners raise claims under the First Amendment. *See* Pet-Br.18. “[T]he First Amendment context creates unique interests that lead [courts] to apply the standing requirements somewhat more leniently.” *Peck v. McCann*, 43 F.4th 1116, 1129 (10th Cir. 2022); *see also Reno v. ACLU*, 521 U.S. 844, 871-72 (1997). Society has a special “interest” in permitting challenges to laws that chill speech or religious practice because the “mere threat” that those statutes will be enforced pressures people to self-censor, even if the law is never actually enforced. *Ward v. Utah*, 321 F.3d 1263, 1266-67 (10th Cir. 2003).

Recognizing those unique interests, “the Supreme Court has dispensed with rigid standing require-

ments” in the First Amendment pre-enforcement context. *California Pro-Life Council v. Getman*, 328 F.3d 1088, 1094 (9th Cir. 2003). Instead, courts apply standing requirements in First Amendment cases with an eye towards “facilitating pre-enforcement suits.” *Scott v. Allen*, 153 F.4th 1088, 1095 (10th Cir. 2025). That is doubly true when, as here, the case involves speech and religious beliefs on matters of sex and gender. This Court and others have repeatedly found standing in such cases because “sexual orientation and gender identity” are “matters of profound value and concern to the public.” *Janus v. AFSCME*, 585 U.S. 878, 913-14 (2018) (cleaned up). “Such speech occupies the highest rung of the hierarchy of First Amendment values and merits special protection.” *Id.* (cleaned up); *see also, e.g., Chiles v. Salazar*, 607 U.S. 627, 637 & n.* (2026); *Defending Education v. Olen tangy Local School District BOE*, 158 F.4th 732, 741-42 (6th Cir. 2025) (en banc); *Christian Healthcare Centers v. Nessel*, 117 F.4th 826, 843-47 (6th Cir. 2024); *Tingley v. Ferguson*, 47 F.4th 1055, 1066-69 (9th Cir. 2022); *303 Creative v. Elenis*, 6 F.4th 1160, 1171-76 (10th Cir. 2021).

This Court’s decision in *Mahmoud* is on point. There, parents challenged a school policy that placed “LGBTQ+” content into the classroom with no “opt outs” for religious families. 606 U.S. at 528-29. That policy, this Court concluded, “burden[ed] the religious exercise of parents” who objected to the content. *Id.* at 529. And this Court held that the parents had standing to challenge the policy even though their complaint lacked “allegations describing how the books ‘are actually being used in classrooms.’” *Id.* at 559.

“[W]hen a deprivation of *First Amendment rights* is at stake,” the Court explained, “a plaintiff need not wait for the damage to occur before filing suit.” *Id.* at 559-560 (emphasis added).

Here too, Petitioners’ standing arguments are on solid ground—even if they cannot predict with complete accuracy when and how Washington will enforce its family-separating policies against them—because they allege a deprivation of their First Amendment rights. Petitioners “assert a free exercise claim” and a speech claim and “have sincere religious beliefs about sex and gender.” *Mirabelli*, 607 U.S. at 496. Washington’s laws “violate those beliefs” because they provide for, among other things, the “unconsented facilitation of a child’s gender transition.” *Id.* But Petitioners’ beliefs deserve the “highest” level of “protection” under the First Amendment. *Janus*, 585 U.S. at 914.

* * *

Parental exclusion policies take issues that are “fundamental to a child’s identity, personhood, and mental and emotional well-being” and place them solely in the hands of the government. *Ricard v. USD 475 Geary County*, 2022 WL 1471372, *8 (D. Kan. May 9, 2022). They bulldoze “the traditional presumption that a fit parent will act in the best interest of his or her child” and “fai[l] to provide any protection for [parents’] fundamental constitutional right to make decisions concerning the rearing of” their children. *Troxel*, 530 U.S. at 69-70. They significantly harm children and parents, drive a wedge between families, and violate the First and Fourteenth Amendments. Parents plainly have standing to challenge such policies.

CONCLUSION

This Court should reverse the decision below.

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