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A New Lawsuit on School Gender Lessons

The Supreme Court required an opt out, a California family says.

By The Editorial Board

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Religious parents were relieved last year when the Supreme Court ruled they can opt their children out of gender storybooks at public elementary schools. While that 6-3 decision, *Mahmoud v. Taylor*, involved a Maryland district, it was based in the First Amendment, so its logic is supposed to apply everywhere, including California.

Yet Justin and Rose Taylor allege in a federal lawsuit that Sunnyvale School District, near San Jose, is denying them the same ability to opt out. The Taylors, members of the Church of Jesus Christ of Latter-Day Saints, have religious objections to material that their two elementary-age children might encounter.

According to the complaint filed last month, a county “teaching guide” says health and science lessons should “explicitly teach about gender identity

and sexual orientation.” A sample fourth-grade history lesson on “Two Spirit and Non-Traditional Families” says students will explore how these identities “disrupt traditional definitions of the family.” Even math teachers are encouraged to “use problems that relate to marriage equality, gender-neutral bathrooms, and LGBTQ+ rights.”

The guide also links to a list of books, including some at issue in *Mahmoud*, such as “Born Ready” about a “boy named Penelope.” Yet the First Amendment guarantees “free exercise” of religion, and the High Court said this was violated when the Maryland district withheld opt outs for “LGBTQ+-inclusive” storybooks. Last year the Taylors asked to excuse their children from instruction using “‘LGBTQ+-inclusive’ storybooks or similar materials.”

In their telling, Sunnyvale at first suggested it could accommodate them, before refusing. According to the complaint, officials wrote that the *Mahmoud* ruling “addressed a specific set of facts in another state” and “does not override California’s statutory requirements governing instructional content.” Well, state law doesn’t override the Constitution.

Sunnyvale lets families skip other things, including “comprehensive sexual health education and HIV/AIDS prevention education.” After *Mahmoud*, however, the district board passed a resolution pledging to “ensure that inclusive curriculum—including LGBTQIA representation” would remain “integral to the District’s equity and inclusion efforts.”

Sunnyvale hasn’t answered the lawsuit yet and didn’t reply to a request for comment. But *Mahmoud* is binding precedent that lower courts must enforce. “These books impose upon children a set of values and beliefs that are ‘hostile’ to their parents’ religious belief,” Justice Samuel Alito wrote. This clash of values is a good argument for school choice. Religious parents who don’t have that, though, at least can turn to the First Amendment.



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