



INTERNAL ADVISORY: Protecting Inclusive Education While Accommodating Religious Beliefs After *Mahmoud v. Taylor* (September 2025)

This advisory is intended as a guide for Primary Contact Staff and chapter leaders as elementary and secondary school districts respond to the U.S. Supreme Court's decision in *Mahmoud v. Taylor*. The court decision involves a parent's constitutional right to opt their student out of curriculum that conflicts with the family's sincerely-held religious beliefs.

We anticipate issues arising with: school board policies that go further than necessary at the expense of inclusive education; bargaining over policy changes that alter or impact educator duties; consulting where curricular changes are contemplated; and ensuring individual teachers are not pulled into conflicts between districts and parents seeking to opt out of curriculum.

Case Background:

In *Mahmoud v. Taylor*, a Maryland school district adopted a curriculum that featured LGBTQ+ characters and/or themes. Initially, the district allowed parents to opt out of this curriculum, but it stopped that practice after finding the process had become unmanageable and undermined the district's educational objectives of teaching inclusion, equity, and respect. Parents who believed such instruction infringed on their religious beliefs then sued the district, alleging that the district violated their First Amendment right to freely exercise religion.

After the parents lost in the lower courts, the U.S. Supreme Court accepted the case to answer the following question: "Do public schools burden parents' religious exercise when they compel elementary school children to participate in instruction on gender and sexuality against their parents' religious convictions and without notice or opportunity to opt out?"

In June 2025, the Supreme Court overturned the lower courts' decisions and granted the plaintiffs' request for a preliminary injunction, thus requiring the district to provide the plaintiffs with advance notice of and the option to excuse their children from the instruction. Specifically, the Court held:

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.

The Court majority indicated that the instruction presented "normative" lessons about LGBTQ+ issues to highly impressionable elementary students, which directly conflicted with plaintiffs' sincerely-held religious beliefs. The Court did not, however, create a clear rule for how the right to free exercise of religion applies to public school instruction. The Court held that the question of whether instruction substantially interferes with the religious development of a child "will depend on the specific religious beliefs and practices asserted, as well as the specific nature of the educational requirement or curricular feature at issue. Educational requirements targeted toward very young children, for example, may be analyzed differently from educational requirements for high school students."

Legal FAQs:

1. How does this case impact existing state law?



INTERNAL ADVISORY: Protecting Inclusive Education While Accommodating Religious Beliefs After *Mahmoud v. Taylor* (September 2025)

The decision does not change state law. Public schools in California must still provide a welcoming and inclusive education for all students.¹ This includes, but is not limited to, compliance with affirmative inclusive education requirements such as the FAIR Education Act,² the California Healthy Youth Act,³ and Ethnic Studies requirements.⁴ California law mandates that instructional materials “accurately portray the cultural and racial diversity of our society” including the role and contributions of LGBTQ+ people,⁵ and ensures the continued use of adopted curriculum even when containing inclusive and diverse perspectives.⁶

California’s antidiscrimination laws, including protections on the basis of gender, gender identity, gender expression, and sexual orientation, also remain in effect.

The California Department of Education issued [guidance](https://www.cde.ca.gov/re/lr/mt/) on the decision (<https://www.cde.ca.gov/re/lr/mt/>) noting, “*Mahmoud* does not invalidate or preempt California’s strong protections for LGBTQ+ youth from discrimination, harassment, and bullying.”

2. Are schools required to provide religious opt-outs? If so, how should that process work?

Schools have always had a duty to provide reasonable religious accommodations to students. Now, the Supreme Court has declared that parents must be allowed to opt out of instruction that poses a “very real threat of undermining” their sincerely-held religious beliefs and practices and that substantially interferes with the religious development of their children. This is distinguishable from merely conflicting with a parent’s personal, political or ideological belief. The *Mahmoud* decision does *not* grant parents a right to opt their children out of instruction that might conflict with their personal, political or ideological beliefs/preferences. The decision is based on a parent’s First Amendment right to exercise their *religion*.

Any notices informing parents of their right to religious opt-outs or associated forms must be content-neutral, and they should not single out LGBTQ+-related content or otherwise stigmatize LGBTQ+ identities. If schools elect to notify parents about their general practices of providing inclusive curriculum, they should do so holistically and not single out LGBTQ+-related content.

California parents already have access to instructional materials. Under Education Code sections 49063 and 49091.14, “*The curriculum, including titles, descriptions, and instructional aims of every course offered by a public school, shall be compiled at least once annually in a prospectus. Each schoolsite shall make its prospectus available for review upon request. When requested, the prospectus shall be reproduced and made available. School officials may charge for the prospectus an amount not to exceed the cost of duplication.*” In addition, Education Code section 49091.10(a) states that “*all primary supplemental instructional materials and assessments, including textbooks, teacher’s manuals, films, audio and video recordings, and software shall be compiled and stored by the classroom instructor and made available promptly for inspection by a parent or guardian in a reasonable timeframe or in accordance with procedures*

¹ See, e.g., Educ. Code §§ 200-202, 220.

² Educ. Code § 51204.5; see also Educ. Code § 60040.

³ Educ. Code §§ 51930-39.

⁴ Educ. Code § 51225.3(a)(1)(G).

⁵ Educ. Code § 60040.

⁶ Educ. Code § 51501.



INTERNAL ADVISORY: Protecting Inclusive Education While Accommodating Religious Beliefs After *Mahmoud v. Taylor* (September 2025)

determined by the governing board of the school district.” Depending on the district, other processes may exist for parents to regularly access their child’s curricular content. Districts that already make curricular content available to parents, via these Education Code provisions and/or other policies and procedures, have no additional duty to provide notice to parents about the specific curriculum being taught in classrooms because of *Mahmoud*.

Appropriate opt-out processes will require parents to take affirmative steps to exercise their right to religious opt-outs, such as notifying the school in writing of their “specific” religious objection, the bases for that objection, and the particular instruction that they seek to opt their children out of. School districts should train administrators on how to handle such requests. This task should be performed by administrators, both to ensure consistency in the district’s handling of opt-out requests and to prevent teachers from being put in the middle of potential disagreements with families.

For procedural purposes, in response to opt-out requests for legitimate, sincerely-held religious beliefs, some attention should be given to the question of a student’s access to an alternative assignment. While the CDE acknowledges in its guidance that *Mahmoud* is silent on the subject of “whether educational services must be provided to students whose parents opt out of selected activities, classes or material,” consistent with opt-out processes for comprehensive sexual education and HIV prevention education under Education Code section 51938(a), districts should provide an alternative classroom, library, or space on campus during the period of the instructional unit and give alternative assignments. It is important to note that the manner in which alternative assignments are determined may have bargaining implications.

Related strategies and bargaining advice are set forth further below.

3. What types of “instruction” does this decision impact?

Mahmoud focused specifically on the use of books for normative, pedagogical “instruction.” The decision does not require any censorship of books on the shelf in the classroom or in the library, including LGBTQ+-inclusive books or books containing potentially religiously objectionable topics. Censorship of materials in school libraries and classrooms based on LGBTQ+ content is still prohibited by California Education Code section 202(e).

Additionally, nothing about this decision impacts students’ long-standing rights to be themselves at school, to talk about LGBTQ+-related issues, or to form LGBTQ+- themed student clubs on the same terms as other extracurricular student clubs.

4. Does this new right to religious opt-out accommodations only apply to LGBTQ+-related content?

No. While *Mahmoud* involved LGBTQ+-related storybooks, the Court’s decision is not limited to LGBTQ+-inclusive content. Therefore, schools should craft general religious accommodation opt-out processes that do not focus solely on LGBTQ+ content.



INTERNAL ADVISORY: Protecting Inclusive Education While Accommodating Religious Beliefs After *Mahmoud v. Taylor* (September 2025)

5. Should schools segregate LGBTQ+-related content and then just provide opt-out for that unit?

No. Schools should not “silo” LGBTQ+ content within the curriculum, and they should not segregate LGBTQ+-related content to try to make opt-outs administratively easier. Studies show that inclusive education not only boosts academic outcomes but also helps to build empathy and greater connection among all students. Segregating this information so it is no longer part of ongoing discussion across the whole curriculum (in history, reading, literature, art, etc.) detracts from the benefits of inclusive education. In addition, a silo-ing approach would not necessarily serve the intended goal of accommodating religious objections, since the logic of *Mahmoud* also permits opting out of other, non-LGBTQ+ content that parents believe “substantially interferes with the religious development” of their children.

Strategies for Chapters:

New school board policies

Chapters will likely see school boards proposing new policies in reaction to *Mahmoud*. Many of these might go further than is necessary, and thus unnecessarily infringe on inclusive education or even contravene the state law discussed above. Chapters should bring their voice to school boards that are considering adoption of such policies. Given that the decision was released in June 2025, chapters should immediately begin reviewing school board agendas for board policy changes, going back to July 2025 and moving forward, particularly in the areas of controversial issues, sexual health opt-outs, parental notification, availability of curriculum to parents, and religious accommodation.

Components of an appropriate opt-out policy generally should include:

- Information about how parents can submit a written request to opt their child out of particular instruction for bona fide religious reasons.
- Written form for parents to complete and submit to an administrator to request a religious opt-out, in which the parent(s) must identify: the specific curriculum that they seek to opt their student out of; the nature of the religious beliefs, customs, and/or practices that they claim would be undermined by the educational material; and how the specific curriculum would substantially interfere with those specific religious beliefs, customs and/or practices.
- Administrators have responsibility for reviewing and approving religious opt-out requests.
- Training for administrators on handling opt-out requests, including situations when there is an objective basis to doubt the sincerity of the alleged religious objection. For example, as with religious exemption requests for vaccine mandates, it might be appropriate for a religious exemption requestor to submit a note from a religious official or another person who has personal knowledge of the sincerity of their religious belief and its place in the requestor’s life.
- When administrators approve opt-out requests, administrators take responsibility for identifying alternative assignments and supervising students who leave class.

Bargaining over policies that impact duties and/or effects

Districts should be put on notice of the chapter’s desire to bargain over any change in policies in response to *Mahmoud*. Whether such a policy requires decisional bargaining over the policy itself or effects bargaining



INTERNAL ADVISORY: Protecting Inclusive Education While Accommodating Religious Beliefs After *Mahmoud v. Taylor* (September 2025)

will depend on the specific changes proposed. A template demand to bargain letter is attached to this advisory.

In the event a district has already updated board policies in response to *Mahmoud*, chapters should immediately review the policies and assess whether it should have required bargaining prior to implementation, paying special attention to areas that are potential mandatory subjects of bargaining and fall within scope of representation. While opt-out policies might include processes by which parents may access basic curriculum information, such policies should not be preemptively onerous and/or create additional work for bargaining unit members.

In assessing new board policies in response to *Mahmoud*, policies should also be read for compliance with the current collective bargaining agreement. In addition to articles relating to workload and duties, chapters should review savings clauses, management rights provisions, and the duration article, which may also provide useful information for how the parties are to proceed in response to court decisions impacting current terms and conditions under the collective bargaining agreement.

For those districts who have not yet updated policies in response to *Mahmoud*, it is important that chapters get ahead of implementation of such policies by discussing with district administration early on their planned response to *Mahmoud*, advocating for policy updates consistent with the information and advice given here, and where necessary, demanding to bargain prior to implementation.

In certain places, districts may challenge a chapter's right to bargain the content and/or effects of updated board policies in response to *Mahmoud*. Mandatory subjects include wages, hours, and working conditions, and many additional issues that the Public Employment Relations Board (PERB) has decided over the years are mandatory subjects. Even where an issue is within a management right, if it has an impact or effect on a mandatory subject, the district has a duty to bargain in good faith before implementation. As noted above, in preparing your demand to bargain and response to potential board policy changes, it is critical to review the specific provisions of your collective bargaining agreement and their related impact to the policy change.

It is important to remember, as part of challenging overreaching board policy changes in response to *Mahmoud*, the power of organizing and political pressure in supporting chapter bargaining positions and advocacy for inclusive education consistent with California law. When engaging in decisional and/or effects bargaining over *Mahmoud*, chapters should consider how their response can complement and fold into overarching chapter bargaining, political, organizing, and fight back campaigns for the schools our educators, staff, and students deserve. The C4OB Organizing to Win Advisory is a valuable resource in formulating your organizing and campaign strategy.

Consulting over curricular changes

The Educational Employment Relations Act (EERA) gives exclusive representatives of certificated employees the right to consult "on the definition of educational objectives, the determination of the content of courses and curriculum, and the selection of textbooks." Some districts may be considering changes to their curriculum with respect to LGBTQ+ content. If your district is doing so, you should invoke the right to consult over such changes, and advocate for districts to maintain inclusive and non-discriminatory materials and



INTERNAL ADVISORY: Protecting Inclusive Education While Accommodating Religious Beliefs After *Mahmoud v. Taylor* (September 2025)

coursework, as required by state law, while still allowing for religious accommodations to those families with sincere religious objections.

Avoid having teachers directly involved in processing religious opt-out requests

When a family seeks to opt out of LGBTQ+ content, or otherwise have their religion accommodated, those requests should be handled by administrators. Not only are teachers not as equipped to make those opt-out decisions, which need to be made consistently and could lead to liability for the district, but the potential for conflict with families is high. Avoiding such conflict between educators and parents helps ensure that a safe, supportive, and effective learning environment can be maintained.

Sample opt-opt process

Consistent with the above advice, here is a sample process that ensures teachers are not directly involved in processing religious opt-out requests and avoids having educators participate in a preemptively onerous and unnecessary inventory of their instructional materials and books:

- Step 1: Consistent with updated board policy in response to *Mahmoud*, parent initiates opt-out process and describes in writing the specific instruction/instructional content that poses a “very real threat of undermining” their sincerely-held religious beliefs and practices, and how so. Form is received by central district office (e.g., student services or a similar department).
- Step 2: District notifies school site principal where student is enrolled. Principal conducts preliminary review of the request. If principal has objective reason to doubt the sincerity of the alleged religious objection, and/or otherwise needs further information, the principal may request additional information from parent.
- Step 3: Principal notifies teacher that request has been received, that they need to schedule a meeting with the teacher to discuss the request, and that no discipline will result from such meeting. Principal holds meeting with child’s teacher regarding parent opt-out request. Conversation between principal and teacher determines whether or not the teacher uses instructional materials and/or content which the parent has asserted poses a “very real threat of undermining” their sincerely-held religious beliefs and practices. Following meeting, principal informs district office of determination.
- Step 4: Based on information communicated by principal, district informs parent as follows: Either yes, student will be opted out during those portions of instruction that conflict with their sincerely-held religious beliefs and practices, or no, they will not. If yes, notice will state that the student will be opted out from the applicable instructional material beginning immediately and provided an alternative assignment.

Regarding alternative assignments, for purposes of bargaining, chapters should engage in discussions around potential alternative assignments and avoid alternative assignments that create increases in educator workload, including moving the student during the period they are exempt from their teacher’s classroom to another educator’s classroom.



INTERNAL ADVISORY: Protecting Inclusive Education While Accommodating Religious Beliefs After *Mahmoud v. Taylor* (September 2025)

Final note on legal conflicts with districts

There are several legal actions a chapter could potentially pursue if a district goes beyond what is necessary under *Mahmoud* to provide a religious opt-out to a family.

For example, a chapter and/or members could file a Uniform Complaint and appeal to the California Department of Education if a district fails to follow state law on inclusive curriculum or any other related provision of the Education Code. A chapter should file an unfair practice charge at PERB if the district fails to meet and confer or engage in effects bargaining over a change in policy. A chapter may also pursue a grievance if the district's action violates an existing collective bargaining agreement. Because these are complex and evolving issues, Primary Contact Staff should work with the CTA Legal Department when considering any such potential legal action.

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Please contact your C4OB Bargaining Specialist or the Legal Department with any questions regarding this advisory.



INTERNAL ADVISORY: Protecting Inclusive Education While Accommodating Religious Beliefs After *Mahmoud v. Taylor* (September 2025)

Template Demand to Bargain Letter as a Result of the Mahmoud v. Taylor SCOTUS Decision

[Union Name]
[Union Address]
[City, State ZIP]

To:
[Appropriate Administrator's Name]
[Administrator's Title]
[School District]
[District Address]
[City, State Zip]

Subject: Demand to Bargain Over Changes to District Board Policy and/or District Procedures, and/or Impacts of Those Changes, as a Result of the Mahmoud v. Taylor SCOTUS decision

Dear [Administrator's Name],

On behalf of [Union Name], I am writing to formally demand to bargain and/or consult on any proposed changes, as well as any impacts or effects that may result, prior to implementation, of any proposed changes, in Board policy and district procedures in response to the U.S. Supreme Court decision in Mahmoud v. Taylor.

Sincerely,

[Name of PCS Representative/Chapter President/Bargaining Chair]