Parental Rights

By Beth Parlato, Senior Legal Counsel, and Neeraja Deshpande, Policy Analyst

Highlight

For over a century, the United States Supreme Court has recognized that parents, not the government, hold primary responsibility for raising their children, including their education, religious upbringing, and medical care. As schools and public institutions attempt to override parental authority and make decisions for children on intimate matters, that basic principle is being tested in the highest courts. Recent rulings have largely sided with parents, reaffirming that a child entering a classroom or clinic doesn't hand the State a parent's role.

Introduction

Long before today's battles over classroom instruction, parental notification, religious freedom, and medical decision-making, the Supreme Court recognized the liberty of parents to direct the upbringing of their children. Beginning with *Meyer v. Nebraska* in 1923 and *Pierce v. Society of Sisters* in 1925, the Court made clear that government authority over children has constitutional limits.

Those early cases established a foundation the Court has repeatedly reaffirmed: Children do not belong to the state. Moreover, parents have protected interests in directing their children's education, care, custody, and religious upbringing. And when medical decisions are involved, the law has traditionally presumed that parents, not government officials, will act in their children's best interests and have full authority over those decisions.

Despite this more than century-long precedent, public institutions today, in thrall of extremist ideologies, are challenging parents' basic rights to make decisions for their children. Taxpayer-funded K-12 schools around the country, for instance, have adopted policies that withhold information about children from their parents—including on hot-button issues of gender identity and social transition, which can have long-term medical ramifications for children. These abuses have led to parents finding themselves in court, asking judges to uphold what our legal and constitutional system is built on: the basic idea that the State does not replace the parent

simply because their child enters a classroom, a doctor's office, or a government institution.

A Constitutional Right More Than a Century Old

The constitutional doctrine of parental rights traces back to *Meyer v. Nebraska* (1923), in which the Supreme Court struck down a Nebraska law restricting foreign-language instruction to young children. In doing so, the Court recognized that the liberty protected by the Fourteenth Amendment encompasses not only the rights of teachers, but also the rights and responsibilities of parents concerning their children's education.

Just two years later, the Court went further. In *Pierce v. Society of Sisters* (1925), Oregon attempted to require all children to attend public schools. The Supreme Court unanimously rejected that effort, recognizing the "liberty of parents to direct the upbringing and education of children under their control," opining that "the child is not the mere creature of the State." The government may establish reasonable educational requirements and enact laws protecting children from parental abuse and neglect, but its authority is not unlimited. The vast majority of parents, who are not abusive or neglectful, retain a constitutionally protected sphere of authority over the upbringing of their children.

The Supreme Court continued to develop that principle in the decades that followed. In *Parham v. J.R.* (1979), a case involving parents seeking mental-health treatment for their minor children, the Court recognized that parents generally possess what children lack in "maturity, experience, and capacity for judgment required for making life's difficult decisions." The Constitution therefore contains an important presumption: Parents act in their children's best interests, whether or not government officials believe they might make a different decision.

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Two decades later, in *Troxel v. Granville* (2000), the Court again emphasized the constitutional significance of parental authority. Striking down the application of an extraordinarily broad Washington visitation statute, the Court described the interest of parents in the "care, custody, and control of their children" as "perhaps the oldest of the fundamental liberty interests recognized by this Court."

Indeed, all of these court cases, taken together, establish the rightful role of parents to raise their children, limiting the State's extension into children's lives only to matters of true abuse.

A New Generation of Parental-Rights Cases

For decades, parental-rights litigation largely involved family law disputes over custody and visitation. But new conflicts have emerged as public institutions increasingly encounter issues involving sexuality, gender identity, religious belief, parental notification, and medical interventions for minors. Those

disputes have returned parental rights to the center of constitutional litigation.

The Supreme Court's 2025 decision in *Mahmoud v. Taylor* marked an important development. The case arose after the Montgomery County, Maryland, school system introduced books featuring LGBTQ themes into its elementary-school curriculum and subsequently eliminated the ability of parents to receive notice or opt their children out of instruction involving those materials. Parents from several religious traditions challenged the policy, arguing that it interfered with their ability to direct the religious upbringing of their children.

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The Supreme Court agreed that the parents were entitled to preliminary injunctive relief. The Court emphasized that the First Amendment protects the practice of educating children in accordance with one's religious beliefs and expressly grounded that protection in the Court's longstanding parental-rights precedents. The right to direct a child's religious upbringing, the Court explained, extends beyond what parents teach within the walls of their own homes.

Mahmoud is significant because it connects the Court's century-old parental-rights jurisprudence to a distinctly modern dispute, explicitly establishing that parents do not surrender their constitutional rights at the school door simply because they choose public education.

Medical Decisions and *United States v. Skrmetti*

The Supreme Court's 2025 decision in *United States v. Skrmetti* addressed another issue involving children, parents, and the State: whether the Constitution requires States to permit medicalization of minors who are struggling with gender dysphoria.

The controversy began when the state of Tennessee enacted a law to prohibit healthcare providers from administering puberty blockers or cross-sex hormones to minors for the purpose of treating gender dysphoria or enabling a minor to identify or live as a sex different from his or her biological sex. The law continued to permit the same drugs to be used to treat other medical conditions.

The challenge reached the Supreme Court under the Equal Protection Clause, which generally prohibits a State from treating similarly situated individuals differently. The plaintiffs argued that Tennessee's law discriminated on the basis of sex and therefore should be subject to heightened constitutional scrutiny. Independent Women's Law Center filed an amicus brief defending the law, arguing that Tennessee had not drawn a discriminatory line between boys and girls. Instead, the law distinguished between medical treatments based on their purpose: treatment of a medical condition versus alteration of a healthy child's sex characteristics.

In June 2025, the Supreme Court upheld Tennessee's law. The Court held that the

law classified minors based on age and medical use, not on a basis requiring heightened constitutional scrutiny, and therefore was subject to rational-basis review. This is the most deferential level of constitutional scrutiny, and a law is generally upheld so long as it is rationally related to a legitimate government interest.

Skrmetti is important to the parental-rights discussion precisely because of what the Court did and did not decide. The Court did not hold that parents lack the right to direct the medical care of their children. Nor did it decide the scope of the constitutional right of parents to make medical decisions on behalf of their children. Instead, the Court rejected the argument that the Equal Protection Clause requires States to enable medical courses of action that have a proven, harmful impact on children and can lead to lifelong medical harm.

This distinction is key. Parents have a fundamental role in directing the care and upbringing of their children, including the ability to make medical decisions on their behalf. But the fundamental right of parents to direct their children's medical care does not give parents an unfettered right to obtain treatments that a State has lawfully restricted to protect children from harm.

When Government Overrides Parental Medical Authority

In *Hudacko v. Regents of the University of California*, a father is asking the U.S. Supreme Court to review what happens when government medical professionals disregard a parent's legally protected authority over a child's medical treatment.

A family-court order required Ted Hudacko's written consent before his minor child could undergo any "gender identity-related surgery." And yet, according to Hudacko's petition, doctors at the publicly funded University of California, San Francisco nevertheless surgically implanted a puberty-blocking device in his child without his consent. Hudacko sued, alleging that government doctors violated his constitutional parental rights. The Ninth Circuit held that the doctors were entitled to qualified immunity, a legal doctrine that generally shields government officials from personal liability. Hudacko has asked the Supreme Court to review that decision. Independent Women's Law Center filed an amicus brief urging the Supreme Court to hear the case and reaffirm that government officials cannot override a parent's constitutional authority over the care and medical treatment of his child.

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Parham specifically recognized the central role parents play when medical decisions must be made for minors, who are too young to understand what they are doing. If those rights cannot be vindicated when government actors disregard them, their practical protection becomes considerably weaker. *Hudacko*, then, will decide a fundamental question about parental authority: Can government officials—without ever facing accountability—disregard a parent's legal

authority over significant and irreversible medical decisions for his or her child?

When Schools Keep Parents in the Dark

Some of the most consequential parental-rights battles are now taking place in public schools, where policies across the country have allowed school officials to withhold information from parents about a child's gender identity or social transition.

The question of whether or not a school can facilitate a social transition for a child at school—allowing the student to change his or her name, pronouns, and dress—without informing the child's parents is at the core of this debate, and has generated litigation across the country. In *Foote v. Ludlow School Committee*, parents challenged a Massachusetts school policy that allowed school officials to facilitate a student's social transition without parental notification or consent. The First Circuit rejected the parents' constitutional claims, concluding, among other things, that social transition at school did not constitute medical treatment.

This is a flawed argument. As scholars at the Manhattan Institute scholars Ilya Shapiro, Leor Sapir, and John Ketcham argue, "social transition is not a neutral act but an active psychological intervention." While social transition technically has no physical consequences, it cements a child's "gender identity" in his or her head, and essentially fast-tracks the child to full medicalization, which becomes more psychologically palatable and perhaps even feels inescapable for a child who has gotten used to "identifying" a certain way.

Independent Women's Law Center filed an amicus brief urging the Supreme Court to hear *Foote*. IWLC argued that decisions involving a child's gender dysphoria and social transition belong to parents, not school officials, and that schools should not be permitted to make those decisions in secret or against parents' express instructions. As IWLC emphasized, *Parham* established that simply because a parent's decision is not agreeable to a child's immediate and definitionally immature desires does not transfer the parent's decision-making authority to the State.

In 2026, the Supreme Court weighed in. In *Mirabelli v. Bonta*, parents challenged California policies requiring school employees to use a student's preferred name and pronouns while prohibiting disclosure of the student's gender identity to parents without the child's consent. The Supreme Court concluded that the parents were likely to succeed on their claims under both the Free Exercise and Due Process Clauses.

Relying on more than a century of parental-rights precedent, the Court reaffirmed that parents, not the State, have primary authority over the upbringing and education of their children. As the Court put it, policies that keep parents in the

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dark "cut out the primary protectors of children's best interests: their parents."

Mirabelli, together with *Mahmoud*, signals an important development in the Court's parental-rights jurisprudence. Public schools have substantial authority to educate children, but, importantly, that authority does not transform schools into substitutes for parents, or give government officials the right to exclude parents from significant decisions regarding their own children.

Conclusion

The underlying constitutional principle is clear: Children are not creatures of the State, and government authority does not erase the rights and responsibilities of parents.

The Constitution does not give government officials equal authority with parents over the lives of their children. For more than a century, the Supreme Court has recognized that parents have the primary right and responsibility to direct their children's upbringing, education, care, and medical decisions. A school cannot become the parent. A government official cannot simply substitute his or her judgment for that of a fit mother or father. And the State cannot keep parents in the dark about significant decisions affecting their own children while still expecting parents to bear responsibility for their health and well-being.

What You Can Do!

1 Get Informed

Learn more about parental rights; visit:

- U.S. Department of Education Reminds Schools of Their Obligation to Comply with Parental Rights Law
- Parental Rights | Scotus Blog
- Independent Women's Law Center Backs Free Speech Win As Sixth Circuit Overturns Pronoun Mandate At School
- Parents Rights | IW Features

2 Talk to Your Friends

Help your friends and family understand these important issues. Tell them about what's going on and encourage them to join you in getting involved.

3 Become a Leader in the Community

Get a group together each month to talk about a political/policy issue (it will be fun!). Write a letter to the editor. Show up at local government meetings and make your opinions known. Go to rallies. Better yet, organize rallies! A few motivated people can change the world.

4 Remain Engaged Politically

Too many good citizens see election time as the only time they need to pay attention to politics. We need everyone to pay attention and hold elected officials accountable. Let your Representatives know your opinions. After all, they are supposed to work for you!

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