



July 18, 2025

VIA CM/ECF

Christopher M. Wolpert, Clerk
U.S. Court of Appeals for the Tenth Circuit
Byron White U.S. Courthouse
1823 Stout Street
Denver, CO 80257

Re: *John and Jane Doe v. Philip Weiser, et al.*, No. 25-1037
(Oral argument scheduled September 9, 2025)

Dear Mr. Wolpert:

I write to advise the Court of *Mahmoud v. Taylor*, 2025 WL 1773627 (2025). While *Mahmoud* involved parents’ rights under the Free Exercise Clause, its logic supports reversal here.

First, *Mahmoud* reaffirms the Does’ fundamental right to direct the upbringing of their children. *Mahmoud* approvingly cited *Pierce v. Society of Sisters*, 2025 WL 1773627, at *13, which recognized parents’ rights under the Due Process Clause long before the Free Exercise Clause was incorporated against the states, 268 U.S. 510 (1925). As the Court in *Mahmoud* observed, parents have the right to make significant “choices . . . for their children outside the home.” 2025 WL 1773627, at *13. This includes the choice of whether to socially transition a child at school.

Second, *Mahmoud* clarifies that parents’ rights are not “shed at the schoolhouse gate,” *id.* at *13, even though some parents have the means to send their children to private school or homeschool them. Indeed, parents’ rights “would be an empty promise if [they] did not follow . . . children into the public school[s].” *Id.* at

*14. Accordingly, Appellees’ assertion that the constitution places “almost no limits on the type of rules that” schools may enact, Comm’r Resp. Br. at 28, is dead wrong.

Third, *Mahmoud* also refutes Appellees’ argument that only *coercive* state action violates parents’ rights. *See, e.g.*, District Resp. Br. at 35–37. Instead, the constitution guards against even “subtle forms of interference” with parents’ decisional authority. 2025 WL 1773627, at *14–15. Thus, the state infringes parents’ rights when, as here, it transfers that authority away from parents on matters of major importance.

Fourth, *Mahmoud* confirms that the Does have standing based on future injury. As *Mahmoud* noted, “[t]he State exerts great authority and coercive power through public schools because of . . . students’ emulation of teachers as role models and [their] susceptibility to peer pressure.” *Id.* at *17 (internal quotations omitted). When, as here, children are subject to pressures to identify as transgender at school, that fact contributes to the creation of a realistic danger that they will do so.

Respectfully submitted,

/s/*Joshua W. Dixon*

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cc: Counsel of Record (via CM/ECF)