Religious Freedom in Public Schools

CASE BRIEFS

UTAH 3Rs PROJECT

Rights. Responsibility. Respect.

The Most Significant Religious Liberty Case of 2025
Mahmoud v. Taylor: The 3Rs Perspective

Introduction

Mahmoud v. Taylor marked 2025's most significant development in religious liberty law with its landmark decision addressing parents' rights to direct their children's religious upbringing in public schools. The Utah 3Rs Project has long advocated for these parental rights and seeks to apply its framework for religious pluralism to this recent landmark decision.

Background

The case featured a conflict in Maryland between the Montgomery County Board of Education and a group of parents of diverse religious backgrounds. The parents objected to the mandatory use of storybooks that covered topics including supporting LGBTQ+ people and open views on gender and sexuality in elementary lessons. These storybooks were designed to "disrupt" students' thinking on the given topics and were accompanied by teacher instruction.[1] While the board of education originally professed a commitment to making "reasonable accommodations" for students' religious beliefs and practices by offering prior notification and opt-out options, it ultimately withdrew such accommodations in March 2023, citing concerns that opt-outs would be disruptive and would signal disapproval of LGBTQ+ students.[2]

The case was decided against the backdrop of a broader shift in First Amendment jurisprudence. Over recent years, the U.S. Supreme Court has expanded the scope of the Free Exercise Clause across cases including *Trinity Lutheran v. Comer* (2017), *Espinoza v. Montana* (2020), and *Kennedy v. Bremerton School District* (2022).[3] *Mahmoud* follows suit in a new domain: participation in public school curriculum.

[1] *Mahmoud v. Taylor*, No. 24-297, slip op. at 3-4 (U.S. June 27, 2025).

[2] *Mahmoud v. Taylor*, slip op. at 3.

[3] *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 582 U.S. 449 (2017); *Espinoza v. Montana Department of Revenue*, 591 U.S. 464 (2020); *Kennedy v. Bremerton School District*, 597 U.S. 507 (2022).

A group of parents, led by Tamer Mahmoud and Enas Barakat—Muslims who believe gender is divinely created as male and female—filed suit against Superintendent Thomas Taylor, arguing that the no-opt-out policy violated their rights under the Free Exercise Clause. The Supreme Court heard the case in January 2025 and agreed with the parents.

Constitutional Principles at Play

Free Exercise

The primary question in this case was whether the no-opt-out policy violated the constitutional rights of the parents and students to free exercise of religion. The Court ruled in the affirmative, relying on a principle of free exercise that has developed in U.S. Supreme Court jurisprudence and has been a foundational principle of the 3Rs approach: the rights of parents to direct the religious upbringing of their children. Justice Alito acknowledged that the Court had "long recognized the rights of parents to direct 'the religious upbringing' of their children" and that this right is not confined to the home.[4] The majority rejected the notion that enrolling a child in public school requires parents to surrender this right, and warned that holding otherwise would endorse a "chilling vision of the power of the state to strip away the critical right of parents to guide the religious development of their children."[5] The Court ruled that parents and students must be allowed to opt out of such curriculum because of this right.

The Court relied heavily on the case *Wisconsin v. Yoder* (1972). In *Yoder*, the Court affirmed that the Wisconsin mandate for public school attendance until age sixteen violated the rights of Amish parents to direct their children's religious upbringing. The parents argued that the high school environment was "worldly," in conflict with their beliefs, and tended to "develop values they reject."[6] The Court found that the values and programs of high school were "in sharp conflict with the fundamental mode of life mandated by the Amish religion," and concluded that the parents' free exercise rights outweighed the state's interest in the additional years of schooling.[7]

Strict Scrutiny

Wisconsin v. Yoder and now *Mahmoud v. Taylor* are both considered exceptions to the general rule that neutral and generally applicable laws are constitutional. Under this general standard, both the attendance policy in *Yoder* and the controversial lessons in *Mahmoud* would be considered constitutional; however, the Court found that both cases presented circumstances that required further consideration, and it then applied strict scrutiny. The majority rationalized that the burden imposed upon the parents was of the "exact same" character as the burden in *Yoder*—that is, a policy that substantially interfered with parents' ability to direct the religious upbringing of their children—and thus strict scrutiny would need to be applied.[8]

Strict scrutiny is the highest level of judicial review that a court uses to evaluate whether a government, law, policy, or action is constitutional. For the government policy to pass strict scrutiny, it must satisfy two requirements: have a "compelling governmental interest" and pursue such interest by the "least restrictive means."[9]

[4] *Mahmoud v. Taylor*, slip op. at 18.

[5] *Mahmoud v. Taylor*, slip op. at 31.

[6] *Wisconsin v. Yoder*, 406 U.S. 205, 212 (1972).

[7] *Wisconsin v. Yoder*, 406 U.S. 205, 217.

[8] *Mahmoud v. Taylor*, slip op. at 37.

[9] *Mahmoud v. Taylor*, slip op. at 37.

Justice Alito's majority opinion explained that the school board's policy did not satisfy strict scrutiny. On the question of a compelling interest, the school board asserted that its no-opt-out policy was necessary to maintain a "safe and inclusive learning environment"; however, the majority found this unconvincing, noting that the district had already demonstrated opt-outs were feasible by requiring options for them in the "family life and human sexuality" unit of teaching and "noncurricular" activities.[10] On the question of least restrictive means, the majority pointed to those existing opt-out accommodations as ready-made less restrictive alternatives, concluding that "it is both insulting and legally unsound to tell parents that they must abstain from public education in order to raise their children in their religious faiths, when alternatives can be prohibitively expensive, and they already contribute to financing the public schools."[11]

Dissent

In Justice Sotomayor's dissenting opinion, she argued that the circumstances of the case did not trigger strict scrutiny, saying the books and lessons "merely exposed" students to "the 'message' that LGBTQ people exist" and taught them to treat others with kindness.[12] She asserted that exposure to beliefs contrary to your own "does not amount to prohibiting the free exercise of religion."[13] Lastly, she expressed concerns that the majority's ruling "constitutionalizes a parental veto power over curricular choices long left to the democratic process and local administrators."[14]

Utah 3Rs Project Perspective

Introduction

Mahmoud v. Taylor directly deals with core principles of the Utah 3Rs Project. The 3Rs approach—Rights, Responsibility, and Respect—drawn from the religion clauses of the First Amendment, the Williamsburg Charter of 1988, and developed through the work of Charles Haynes, offers a constructive path through this case.

Rights

James Madison described the rights of all to religious liberty in his *Memorial and Remonstrance Against Religious Assessments,* writing, "The religion then of every man must be left to the conviction and conscience of every man; and it is the right of every man to exercise it as these may dictate. This right is in its nature an unalienable right."[15] James Madison is often referred to as the "Father of the Constitution" because of his central role in drafting both the Constitution and Bill of Rights; his major contributions to the Constitution demonstrate how his views on the vital role of religious liberty, as seen above in the *Memorial and Remonstrance,* are embodied in the religion clauses in the First Amendment.

[10] *Mahmoud v. Taylor*, slip op. at 37–38.

[11] *Mahmoud v. Taylor*, slip op. at 34.

[12] *Mahmoud v. Taylor*, Sotomayor, J., dissenting, slip op. at 1.

[13] *Mahmoud v. Taylor*, Sotomayor, J., dissenting, slip op. at 1.

[14] *Mahmoud v. Taylor*, Sotomayor, J., dissenting, slip op. at 28.

[15] James Madison, *Memorial and Remonstrance against Religious Assessments* (ca. June 20, 1785), in *The Papers of James Madison*, vol. 8, 10 March 1784–28 March 1786, ed. Robert A. Rutland and William M. E. Rachal (Chicago: University of Chicago Press, 1973), 299.

Religious liberty belongs to all people and is of the highest importance, and the rights of parents to guide their children's religious upbringing have developed as a major part of religious liberty protections in the First Amendment. Charles Haynes and Oliver "Buzz" Thomas' *Finding Common Ground* has described the right of parents to direct their children's religious upbringing and has served as a foundational work for the Utah 3Rs Project. The Supreme Court's recognition of this right aligns with the principles that the Utah 3Rs Project has supported for years.

At the same time, the rights of LGBTQ+ students to be supported and included in their educational environment are no less real. As seen above, the 3Rs approach recognizes the rights of all people, regardless of whether they are religious or not. *Mahmoud* does not hold one group's rights above the rest; it holds that public schools must find a way to honor the rights of all. Such is the objective of the pluralism framework that the Utah 3Rs Project advocates for—a framework that protects the rights of all people, even amidst conflicting beliefs.

Responsibility

The Williamsburg Charter of 1988 marks the anniversary of the *Virginia Statute for Religious Freedom* of 1786, and brought together a coalition of religious leaders to reaffirm its principles. It teaches that "rights are best guarded and responsibilities best exercised when each person and group guards for all others those rights they wish guarded for themselves."[16] In *Mahmoud,* this principle applies in several ways. The Montgomery Board of Education bears a responsibility to religious minority families to make reasonable accommodations for sincerely held beliefs, just as it would for any other protected class. The fact that the school board had offered such accommodations and then withdrew them without sufficient justification reflects a failure of that responsibility.

But responsibility also rests with the broader community. Charles Haynes, in *Finding Common Ground*, reminds us that public schools serve students of all backgrounds and must model how "They must be places where religion and religious conviction are treated with fairness and respect. Public schools uphold the First Amendment when they protect the religious liberty rights of students of all faiths or none."[17] A school that treats one family's deepest convictions as irrelevant to the educational environment fails that responsibility—as does a community that uses parental opt-out rights as a mechanism to exclude or stigmatize LGBTQ+ students and their families. The school board worried that such would result from honoring opt-outs, and though these concerns do not warrant removing the opt-out option, a great responsibility falls upon the community to use opt-out opportunities while acknowledging and protecting the rights of others.

Respectfully Engaging in Civil Dialogue

The last of the three Rs—respectfully engaging in civil dialogue—is a meaningful call to action. Freedom of religion and the free expression of conscience naturally lead to differences in belief and perspective, challenging us to navigate those differences with respect and a commitment to living together peacefully. Learning how to disagree with respect and engage in civil dialogue is vital to success in a democracy where all people have the right to free exercise of their conscience in the public square. *The Williamsburg Charter* explains this best, saying, "the Religious Liberty provisions are not 'articles of faith' concerned with the substance of particular doctrines or of policy issues. They are 'articles of peace' concerned with the constitutional constraints and the shared prior understanding within which the American people can engage their differences in a civil manner."[18]

[16] *The Williamsburg Charter: A National Celebration and Reaffirmation of the First Amendment Religious Liberty Clauses* (Washington, DC: Williamsburg Charter Foundation, 1988), sec. III.

[17] Charles C. Haynes and Oliver Thomas, *Finding Common Ground: A Guide to Religious Liberty in Public Schools* (Nashville: First Amendment Center, 2007), 12.

[18] Williamsburg Charter Foundation, "The Williamsburg Charter," sec. II.

Critics of *Mahmoud* have portrayed it in the media as a zero-sum victory of religious conservatives over the LGBTQ+ community; the 3Rs approach sees this as a case that instead prioritizes fundamental rights for all, not only religious conservatives. The Utah 3Rs Project promotes the academic study, not a devotional approach to religion in a public school setting, and "seeks to inform students about religious beliefs without seeking to conform students to any particular belief."[19] Perhaps one of the best representations of how this ruling supports the First Amendment rights of all can be seen in the fact that the parents who filed suit came from diverse religions. The Supreme Court's remedy of including opt-out options, instead of eradicating the curriculum altogether, is key to understanding how this ruling does not target minorities like the LGBTQ+ community. Instead of shaping the curriculum, the Supreme Court offers opportunities for all to exercise their rights through religious accommodations.

The 3Rs perspective does not suggest that there is no place for LGBTQ+-inclusive literature in public schools, but it suggests that the way in which such books are used is extremely important—just like how the way in which religion is taught is extremely important as well. Teaching students that LGBTQ+ people exist and are part of their community does not infringe upon religious liberty and, in fact, fosters civic preparedness. However, mandating instruction that is designed to "disrupt" students' thinking on gender and sexuality with no access to accommodation is not an ideal way to implement such topics. Because of *Mahmoud,* parents now have increased access to exercise their right to direct the religious development of their children by opting out of curriculum that conflicts with their sincerely held religious convictions.

This Constitutional provision does not ensure peace, it ensures a level playing field; in fact, court decisions are incapable of ensuring peace, though just decisions certainly promote it. The deepest levels of peace can only come from the ways in which people interact, and respectfully engaging in civil dialogue offers a standard for how to interact while prioritizing peace amidst controversy. Moving forward from this case, the entire community in Maryland—and everywhere this case is applied—now has the responsibility to respectfully engage in civil dialogue to work towards a better community for everyone.

Conclusion

Mahmoud v. Taylor reflects a development in an area that the 3Rs project has long advocated for: the rights of parents to direct their children's religious upbringing, but it does not have to develop these rights at the expense of other equally important rights. The Utah 3Rs Project insists that there is a way to honor the equally important rights of both the religious students and parents and of LGBTQ+ students and their families. That way is found in the 3Rs—Rights, Responsibility, and Respect. The Supreme Court's ruling settles the legal question of allowing opt-out options for religious students, but it cannot settle the finer details of how a diverse public school and community lives together afterward. Working towards a higher peace will require daily efforts from parents, educators, and students, and the Utah 3Rs Project offers a model to assist through conflicts like this one while honoring foundational constitutional principles.

[19] Utah 3Rs Project, "Educational Approaches," utah3rs.org, accessed July 7, 2026, https://www.utah3rs.org/educators/educational-approaches/.

Bibliography

Haynes, Charles C., and Oliver Thomas. Finding Common Ground: A Guide to Religious Liberty in Public Schools. Nashville: First Amendment Center, 2007.

Madison, James. Memorial and Remonstrance against Religious Assessments. Ca. June 20, 1785. In The Papers of James Madison. Vol. 8, 10 March 1784–28 March 1786. Edited by Robert A. Rutland and William M. E. Rachal. Chicago: University of Chicago Press, 1973.

Mahmoud v. Taylor. No. 24-297. U.S. Supreme Court. June 27, 2025.

Utah 3Rs Project. "Educational Approaches." Accessed July 7, 2026. https://www.utah3rs.org/educators/educational-approaches/.

The Williamsburg Charter: A National Celebration and Reaffirmation of the First Amendment Religious Liberty Clauses. Washington, DC: Williamsburg Charter Foundation, 1988.

Wisconsin v. Yoder. 406 U.S. 205. U.S. Supreme Court. 1972.

Written by Colby Peña
Constitutional & Religious Policy Fellow

Edited by Eleesha Tucker
Executive Director