

No. 24-297

IN THE
Supreme Court of the United States

TAMER MAHMOUD, ET AL.,
Petitioners,

v.

THOMAS W. TAYLOR, ET AL.,
Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE FOURTH CIRCUIT

**BRIEF FOR *AMICUS CURIAE* INTERFAITH
ALLIANCE IN SUPPORT OF THE
RESPONDENTS**

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This brief is filed on behalf of the Interfaith Alliance in support of Respondents.¹

INTEREST OF AMICUS CURIAE

Interfaith Alliance is a national interfaith organization dedicated to protecting the integrity of both religion and democracy in America. Interfaith Alliance was founded in 1994 by a broad coalition of mainstream religious leaders who wanted to challenge the outsized impact of religious extremists in our country. For more than thirty years, Interfaith Alliance has advocated at all levels of government for an equitable and just America where the freedoms of belief and religious practice are protected, and where all persons are treated with dignity and have the opportunity to thrive.

Amicus has a strong interest in protecting our Nation's fundamental commitment to these values against misuse of the language of religious freedom to limit the rights of any person, including free exercise rights.

¹ No party or counsel for a party authored this brief in whole or in part, and no person other than *amicus curiae*, their members, or their counsel made a monetary contribution to its preparation or submission.

SUMMARY OF ARGUMENT

The opt-out rule advocated by Petitioners would be an extreme departure from settled Free Exercise precedent and would create a constitutional right to freedom from exposure in public school to any persons, ideas, or practices that offend one's religious beliefs. Adoption of such an opt-out rule is unwarranted because nothing in the Storybook English Language Arts instructional curriculum burdens the free exercise of religion under any test that this Court has previously applied. An opt-out rule also would be unworkable because permitting parents to exempt their children from participating in school curricula every time a potentially offensive character, belief, or practice is referenced in the classroom would open a Pandora's box, mandating widespread exemptions based on the newly granted constitutional right. Furthermore, an opt-out rule would transform one's private interest in avoiding exposure to any beliefs or practices that offend one's religious beliefs into a constitutionally protected right, requiring the government to accommodate any who seek to avoid exposure to offensive beliefs. Such a rule would not only fail to protect the right to free exercise of religion in the public sphere, it would ultimately impede that right, especially for those who hold unpopular or minority religious views.

ARGUMENT

I. Petitioners Advocate for the Novel Right to Be Free From Exposure in the Public Sphere to Any Persons, Ideas, or Practices That Do Not Align With Their Religious Beliefs.

Free religious exercise is a foundational right, guaranteed in the U.S. Constitution. U.S. CONST. amend I. That is why public school students and their parents have the right in certain circumstances to opt out of compelled participation in activities that burden their sincerely held religious beliefs. *Wisconsin v. Yoder*, 406 U.S. 205, 234–37 (1972) (preventing the State from compelling Amish children to attend high school based on “convincing showing” of sincere religious beliefs and the adequacy of alternative education). But there is no constitutionally protected right to freedom from exposure to persons, ideas, or practices that offend an individual’s religious beliefs, so long as government action does not coerce the individual to act or refrain from acting in a way that is contrary to those beliefs. *See, e.g., Bowen v. Roy*, 476 U.S. 693, 699 (1986).

Concomitantly, tolerance towards diverse points of view is also a deeply held American value. THE FEDERALIST NO. 10 (James Madison) (arguing that a diverse republic is the best way to protect against the “violence of faction” and tyranny). In the Fourteenth Amendment context, this Court observed that although “individuals can be as prejudiced and intolerant as they like . . . those actions have no footing in the Federal Constitution.” *Garner v. State of La.*, 368 U.S. 157, 177–78 (1961) (Douglas, J.

concurring) (finding that disturbing-the-peace convictions violated due process rights of defendants who sat at “white lunch counters”). In First Amendment cases, this Court has recognized that the Constitution cannot be wielded as a right to avoid encountering beliefs or practices that differ from one’s own, no matter how sincere or deeply held. On the contrary, the First Amendment mandates that “laws must . . . permit the widest toleration of conflicting viewpoints consistent with a society of free men.” *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 644 (1943) (Black, J., and Douglas, J., concurring). The First Amendment thus serves as a “shield” protecting people of different “types of life, character, opinion, and belief.” *Cantwell v. Connecticut*, 310 U.S. 296, 310 (1940).

Here, Petitioners contend that the Free Exercise Clause requires the Montgomery County Public Schools (“MCPS”) to provide notice and an opportunity to opt out of classroom instruction when storybooks representing lesbian, gay, bisexual, transgender, and queer/questioning (“LGBTQ”) characters, families and historical figures (the “Storybooks”) are read or discussed in elementary school English Language Arts classes. Opening Br. 21–23. But forcing a public school to implement an opt-out process under these non-coercive circumstances—which would be difficult to differentiate from other classroom scenarios in which exposure to religiously incompatible ideas or practices could also occur—would grant Petitioners the novel right to freedom from exposure to persons, ideas, or practices that offend them. There is a reason such a right does not exist: as Justice Jackson anticipated,

“[i]f we are to eliminate everything that is objectionable to any [religious group] or inconsistent with any of their doctrines, we will leave public education in shreds.” *McCullum v. Bd. of Educ.*, 333 U.S. 203, 235 (1948) (Jackson, J. concurring).

A. The Challenged Curriculum Does Not Burden the Practice of Any Religion.

The Free Exercise Clause provides that governments “shall make no law . . . prohibiting the free exercise” of religion. U.S. CONST. amend I. It protects individuals from both direct and indirect coercion of religion. *See, e.g., Thomas v. Rev. Bd. of Ind. Emp. Sec. Div.*, 450 U.S. 707, 717–18 (1981). The government, therefore, may not directly compel affirmation or punish expression of religious beliefs, or decline to safeguard individuals whose religious practices entail performance of or abstention from physical acts. *Emp. Div. v. Smith*, 494 U.S. 872, 877 (1990). Nor can it indirectly treat religious adherents unequally, “impose special disabilities on the basis of religious status,” or “deny[] a generally available benefit” solely because of religion. *Trinity Lutheran Church of Colum., Inc. v. Comer*, 582 U.S. 449, 458, 461 (2017); *Espinoza v. Mont. Dep’t of Revenue*, 591 U.S. 464, 474–75 (2020). Although the Free Exercise Clause protects against a broad range of government actions, it cannot compel the government to act in accordance with a particular religious view. *See Bowen*, 476 U.S. at 699 (“Never to our knowledge has the Court interpreted the First Amendment to require the Government *itself* to behave in ways that the individual believes will further his or her spiritual development or that of his or her family.”).

To prevail on a Free Exercise claim, a plaintiff bears the burden of “demonstrat[ing] an infringement of his rights under the Free Exercise . . . Clause[.]” *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 524 (2022). It is “necessary” for a plaintiff to show “the coercive effect” of the practice at issue. *Sch. Dist. of Abington Twp., Pa. v. Schempp*, 374 U.S. 203, 223 (1963). “[I]ncidental effects of government programs, which may make it more difficult to practice certain religions, but which have no tendency to coerce individuals into acting contrary to their religious beliefs,” do not offend the Free Exercise clause. *Lyng v. Northw. Indian Cemetery Protective Ass’n*, 485 U.S. 439, 450–51 (1988).

Applying this Court’s precedent, courts of appeal have uniformly held that mere exposure in public school curricula to viewpoints or facts that offend the religious beliefs of parents or students does not establish the necessary “coercive effect,” and thus is not a cognizable burden on Free Exercise rights. *Parker v. Hurley*, 514 F.3d 87, 105 (1st Cir. 2008) (“[T]he mere fact that a child is exposed on occasion in public school to a concept offensive to a parent’s religious belief does not inhibit the parent from instructing the child differently.”); *Leebaert v. Harrington*, 332 F.3d 134, 144–45 (2d Cir. 2003) (exposure to mandatory health curriculum that conflicts with beliefs insufficient to establish free exercise burden); *Mozert v. Hawkins Cnty. Bd. of Educ.*, 827 F.2d 1058, 1067 (6th Cir. 1987) (“exposure to some ideas [parents] find offensive” is insufficient to establish a free exercise burden); *Fleischfresser v. Dirs. of Sch. Dist. 200*, 15 F.3d 680, 690 (7th Cir. 1994) (free exercise of religion not substantially burdened by

exposure to materials that are opposed to parents' religious beliefs); *Cal. Parents for the Equalization of Educ. Materials v. Torlakson*, 973 F.3d 1010, 1019–20 (9th Cir. 2020) (exposure to material offensive to religious beliefs does not establish interference with exercise of religion sufficient for a Free Exercise claim).

Here, Petitioners object to the Storybooks because some of them include LGBTQ characters. But it is also important to acknowledge what the Storybooks are not: they are not instructional materials for teaching sex education or varieties of gender or sexual identity. They are not hostile toward any religion, nor do they dictate that any religion must accept any type of person, idea or practice. As the Fourth Circuit declared, “simply hearing about other views does not necessarily exert pressure to believe or act differently than one’s religious faith requires.” Pet.App.35a. The First Amendment cannot give any citizen the right to veto a program that does not prohibit the free exercise of religion. *Lyng*, 485 U.S. at 452.

1. The Challenged Curriculum Is an Elementary School English Language Arts Program, Not a Course in Sex Education or Gender Ideology for Children.

Petitioners characterize the challenged curriculum as “sex education,” Opening Br. 1–2, but the Storybooks are narratively and thematically consistent with books that have historically been appropriate for children. The mere inclusion of LGBTQ characters and storylines does not transform

those books into sex education. The Storybooks primarily feature stories of characters embarking on journeys, examining their feelings, and finding their voices. *See* Pet.App.254a-482a. These include stories about a family attending a Pride parade, a child meeting her uncle’s same-sex fiancé, a prince falling in love with a knight as they work as a team to fight a dragon in a mythical kingdom, a shy girl making a valentine for her crush, and a transgender boy expressing his gender identity to his family. *See* Pet.App.254a–482a. The Storybooks utilize engaging narratives to help students learn sentence structure, word choice, and style, and allow students to develop empathy and respect for others. *See* Pet.App.605a.

Moreover, the Storybooks were selected through a rigorous process that included parental input. Pet.App.601a. To ensure that the materials were “age/grade appropriate[],” and “support[ed] [] student achievement toward MCPS curriculum standards,” a committee of reading and instructional specialists selected the books over the course of multiple rounds of evaluations. J.A.22. Parents had an opportunity to review and provide feedback on the Storybooks, and their feedback was considered before any of the Storybooks were approved. J.A.23.

Inclusive materials such as the Storybooks are especially important for a community, like MCPS, that serves students with varying religions, cultures, and familial compositions. Indeed, some of the Storybooks depict religious and cultural diversity alongside their LGBTQ inclusive representations. *See* Pet.App.309a–389a. MCPS’s policy seeks to ensure that materials are “relevant to and reflective of the

multicultural society and global community” in which these students live. Pet.App.600a–601a. Educational materials that reflect a diversity of students within the community enable children to achieve better learning outcomes and make them better prepared to thrive personally, academically, and professionally.² Furthermore, the exclusion of diverse characters and perspectives is itself harmful and counter to the views and beliefs of inclusive religious organizations.³

2. There Is No Evidence that Any of the Storybooks Were Used in a Manner Hostile to Any Religion, or that Burdened the Practice of Any Religion.

Invoking *Yoder*, Petitioners claim that exposure to the Storybooks is compelled instruction and “actively hostile” to their religious beliefs and, therefore, warrants the same outcome. Opening Br. 28, 34. Specifically, Petitioners claim that the school curriculum forces their children to be exposed to differing viewpoints that confuse them, undermine their parents’ religion, and otherwise “encourage” them to “dismiss parental and religious guidance” of religious beliefs, all of which, they claim, burden the

² See Mary E. Kite, PhD & Patricia Clark, PhD, *The Benefits of Diversity Education*, AM. PSYCH. ASS’N (Sept. 8, 2022), <https://www.apa.org/ed/precollege/psychology-teacher-network/introductory-psychology/benefits-of-diversity> (surveying studies on the benefits of diversity on education).

³ See Anti-Censorship, INTERFAITH ALLIANCE, <https://www.interfaithalliance.org/issues/anti-censorship> (“Our nation’s public schools . . . are building blocks for an inclusive, participatory democracy, where exposure to new ideas allows students to flourish and grow.”).

Petitioners' right to raise their children in accordance with their religious faith. Pet.App.533a (Decl. of Mahmoud-Barakat, Parent Pet'rs); Pet.App.541a (Decl. of Romans, Parent Pet'rs); Pet.App.544a (Decl. of Persaks, Parent Pet'rs).

But none of this is sufficient to show, as required, that the challenged action "affirmatively compel[ed] them . . . to perform acts undeniably at odds with fundamental tenets of their religious beliefs." *Yoder*, 406 U.S. at 209, 212, 218. As the Fourth Circuit correctly concluded, Petitioners were unable to "show anything" about "how the Board's decision [] affects what they teach their own children" or requires parents or children to affirm views contrary to their religious beliefs or disavow views on these matters. Pet.App.34a. Nor could Petitioners meet their burden with the current factual record, which is devoid of evidence of hostility toward any religious belief or practice.

Although Petitioners argue that use of the Storybooks will inevitably invite teachers to indoctrinate Petitioners' children into believing that it is acceptable to be LGBTQ, irrespective of their religious beliefs, the Storybook training materials emphasize not reeducation, but tolerance: "If a child does not agree with or understand another student's gender identity or expression or their sexuality [sic] identity, they do not have to change how they feel about it. However, they do not get to make fun of, harass, harm, or ignore other students whose gender identity or expression or sexuality [sic] identity they don't understand or support." Pet.App.638a. This is part of "learning how to live in a pluralistic society"

which requires “open discourse towards the end of a tolerant citizenry.” *See Lee v. Weisman*, 505 U.S. 577, 590 (1992). It is also necessary for public schools to meet their obligation to ensure a safe learning environment for all students, including LGBTQ students.⁴

In fact, the record, and Petitioners’ own briefing, demonstrates that MCPS is attuned to, and respectful of, the diversity of religions in the community it serves, and the Storybooks are reflective of MCPS’s commitment to creating a school environment and curriculum that represents and is welcoming to *all* students. Pet.App.598a; Opening Br. 6. MCPS allows for student absences on religious holidays, ensures that students are not penalized for missed assignments, and guarantees that students are not ineligible for the perfect attendance award due to such absences. Pet.App.602a. MCPS does not schedule classes on Eid al-Fitr and Eid al-Adha—two Islamic holidays significant to many MCPS students—and recognizes dozens of religious “days of commemoration” on which principals are advised not to schedule tests or other major events. Pet.App.602a. MCPS has consistently demonstrated leadership in

⁴ MD. CODE ANN., EDUC. §7–424.1 (West 2018); Regulation JHF-RA, Montgomery County Public Schools (rev. Jun. 26, 2018), <https://ww2.montgomeryschoolsmd.org/departments/policy/pdf/jhfra.pdf> (“[A]cademic achievement and social growth occur when students and staff feel safe. . . . This regulation provides procedures that address the prohibition of bullying in schools by implementing prevention, early intervention, remedial activities, and specific consequences as needed . . .”).

promoting religious inclusion, even when other school districts have failed to do the same.⁵

Montgomery County is the most religiously diverse county in the nation.⁶ MCPS has long acknowledged this, and has approved Guidelines for Respecting Religious Diversity (“Guidelines”) to ensure that MCPS schools have a reference point in complying with applicable MCPS regulations, and state and federal law. Pet.App.212a. The Guidelines demonstrate a commitment to “making feasible and reasonable accommodations for [religious] beliefs,” addressing the “deep and long-standing commitment both to the protection of religious liberty and to the separation of church and state,” and “seek[ing] to promote respect and appreciation for the religions, beliefs, and customs of our diverse student

⁵ See, e.g., Helen Ehrlich, *Fairfax Declines to Add Four Jewish, Muslim and Hindu Holidays To Calendar*, THE WASH. POST (Mar. 19, 2021), https://www.washingtonpost.com/local/education/fairfax-school-calendar-religious-holidays/2021/03/19/4ac6ad06-87f8-11eb-bfdf-4d36dab83a6d_story.html; Eric Aasen, Jeff Cohen, & Matthew Long-Middleton, *Farmington School Board Reverses Controversial Decision to Remove Jewish Holidays From Calendar*, CONN. PUB. RADIO (Dec. 6, 2022, 7:59 AM), <https://www.ctpublic.org/news/2022-12-06/farmington-school-board-reverses-controversial-decision-to-remove-jewish-holidays-from-school-calendar>; Megan Menchaca, ‘A Step Backward’: Muslim Advocacy Group Calls for HISD to Add Eid Back as Holiday in 2026, THE HOUS. CHRON. (Feb. 18, 2025, 4:28 PM), <https://www.houstonchronicle.com/news/houston-texas/education/hisd/article/houston-isd-eid-school-holiday-20173429.php>.

⁶ Ginny Bixby, *Report: Montgomery County is Most Religiously Diverse in the Nation*, BETHESDA MAG. (Sept. 30, 2024, 3:22 PM), <https://bethesdamagazine.com/2024/09/30/report-montgomery-county-is-most-religiously-diverse-in-the-nation/>.

population.” Pet.App.210a–213a. Thus, far from hostility, the record shows a demonstrated commitment by MCPS to ensuring that students can practice their religious beliefs without interference.

II. The Opt-Out Rule Advocated by Petitioners Would Lead to a Slippery Slope Enabling Students to Opt Out of Any Curricular Instruction That Differs From, but Does Not Burden, Their Own Sincerely Held Beliefs.

The opt-out rule advocated by Petitioners would inevitably lead to an untenably complicated system of alternative, individualized curricula. This concern extends beyond English Language Arts curricula like the one at issue here. If granted, the broad right to opt out of exposure to any objectionable people, ideas, and practices, could in turn allow parents to opt their children out of science classes that teach a scientific understanding of evolution. Or history classes that explain a worldview they find somehow incompatible with their religion’s historical understanding. Or art classes that discuss the influence of religion on classical artwork. What will result is not one unified public-school curriculum with “cohesion among a heterogeneous democratic people,” but a patchwork of fragmented lesson plans custom curated to every parent’s personal beliefs. *McCollum v. Bd. of Ed.*, 333 U.S. 203, 216 (1948) (Frankfurter, J., concurring). This is patently infeasible, and would incentivize public schools to prospectively ban any subject matter that might conceivably offend any religious sensibilities, including education related to religious literacy, regardless of the actual coercive

effect of such curricula on the religious beliefs or practices of students.

A. There Are No Clear, Durable, and Principled Distinctions Between the Storybooks and Other Curricula That Expose Students to People, Ideas, and Practices That Differ From Their Own Religious Beliefs.

Granting parents a free exercise right to opt their children out of exposure to books with LGBTQ characters like those at issue here will inevitably lead to a system that allows parents to opt their children out of any material that exposes them to ideas or practices that offend religious beliefs—a standard that, as demonstrated below, would be impossible for teachers and schools to predict and implement. There are few, if any, clear, durable, and principled substantive distinctions between the Storybooks and other ideas and practices that may be objectionable or offensive to the religious beliefs of some parents or students, including, for example, curricula related to religious literacy, religious history, or evolution. In theory, the rule urged by Petitioners would allow students to opt out of even the mere mention of a religious text, figure, tradition, or belief that contradicts the student’s own religious or atheistic beliefs.

Petitioners attempt to create a distinction by arguing that the Storybooks constitute “instruction related to family life and human sexuality” and thus should be placed under the umbrella of sex education. Opening Br. 1. However, as explained *supra* Section I.A.1, the Storybooks are intended for use in English

Language Arts classes, not sex education classes, and use of the Storybooks “involves no instruction on sexual orientation or gender identity.” Resp. Opp. To Cert. at 6. Indeed, the Storybooks only tangentially imply the sexual orientation of certain characters by depicting varying familial and communal relationships that exist in American society. They do not require students to subscribe to or condone such relationships.

The study of religion is an important part of public-school curricula. Public school K-12 students across the country learn about religions through an academic, non-devotional lens.⁷ Current religious studies curricula reflect educators’ broad recognition of religion’s formative influence on culture and society. Moreover, books that touch on religious ideas are embedded in core history, social studies, and English classes. *Id.* at 9. Given the wide variety of religious faiths in this country, including atheism, agnosticism, and other nonreligious beliefs, students are inevitably exposed to religious beliefs and practices that are different from, and even contrary to, their own. Just like the Storybooks, the study of religions and religious texts in public schools exposes students to different conceptions of the family and community. And just like MCPS’s adoption of the Storybooks, schools teach texts about different religions and religious beliefs to enhance awareness,

⁷ American Academy of Religion (“AAR”), *Guidelines For Teaching About Religion in K-12 Public Schools in the United States*, 4 (2010), <https://aarweb.org/common/Uploaded%20files/Publications%20and%20News/Guides%20and%20Best%20Practices/AARK-12CurriculumGuidelinesPDF.pdf>.

not to command acceptance. *Id.* at 7. No principled basis exists to allow students to opt out of the Storybooks, but not other curricula that expose children to differing religious beliefs.

**B. The Opt-Out Rule Advocated by
Petitioners Would Unduly Burden
the State’s Compelling Interest in
Administering Public Education.**

Public schools have a compelling interest in “promoting cohesion among a heterogeneous democratic people,” *McCullum*, 333 U.S. at 216 (Frankfurter, J., concurring), and “in avoiding disruption in the classroom.” *Mozert*, 827 F.2d at 1071 (Kennedy, J., concurring). Allowing students to opt out of exposure to ideas that they claim to be offensive to their religious beliefs would foster disruption and be incompatible with public schools’ compelling interest in promoting cohesion.

Importantly, the opt-out rule advocated by Petitioners is different from actual sex education opt-outs, because the exclusion of any mention of real people or characters who are LGBTQ or who otherwise offend a sincerely held religious belief would inevitably result in opt-outs throughout the entire curriculum. At the time of the complaint, thirty-two of the forty-four jurisdictions with classes on human sexuality allowed for student opt-outs. Pet.App.170a–171a. Sex education opt-outs are predictable: teachers can create one lesson plan for students who will participate in the class and another lesson plan for those students who are exempt. In contrast, the opt-out rule sought by Petitioners is anything but predictable: teachers would be required

to attempt to predict, based on material across the curriculum and potentially dozens of different faiths, what lessons parents may find offensive and devise alternative lesson plans to accommodate each of those objections. It also would create logistical hurdles as schools would be forced to scramble to find space for opt-out students and to hire the additional staff necessary to monitor and instruct these students. Such a result would be infeasible for many school districts that are already strapped for space, staff, and other resources.

III. *Amicus* Believes That the Free Exercise of Religion Is Enhanced, and Not Diminished, by Exposure to Persons, Ideas and Practices That Are Different From Those Taught by One’s Religion.

As an interfaith organization, *amicus* believes that public schools should be places where all students feel welcome, regardless of their religious or nonreligious beliefs. *Amicus* believes that society benefits when individuals of various faith backgrounds can expect representation and tolerance. Free exercise of all faiths requires that schools remain welcoming to students of all backgrounds, and provide exposure to different people and ideas. Even if some consider such material “offensive,” exposure “is part of learning how to live in a pluralistic society.” *Lee*, 505 U.S. at 590.

Fundamentally, allowing students to opt out of exposure to different people and ideas diminishes the opportunity students have to be exposed to diverse perspectives and the resulting societal and individual benefits. Religious diversity within social networks

fosters greater interreligious acceptance. *See* David E. Campbell & Robert D. Putnam, *America's Grace: How a Tolerant Nation Bridges Its Religious Divides*, 126 POL. SCI. Q. 611, 620–26 (Winter 2011–2012). And nowhere is the importance of developing tolerance of diverse viewpoints more important than public school. Rather than foster exposure to religious diversity, Petitioners ask this court to create an unworkable system of curricular opt-outs to entrench these divisive rifts.

MCPS added the Storybooks to the curriculum to foster “a positive learning environment that embraces all unique and individual differences,” J.A.2, is “fully inclusive . . . for all students,” and supports students’ “ability to empathize, connect, and collaborate with diverse peers and encourage respect for all.” Pet.App.603a. MCPS therefore sought to ensure that students can “[s]elect[] from a range of diverse texts to understand and appreciate multiple perspectives.” Pet.App.599a. *Amicus* agrees with this educational goal. *Amicus* understands that exposure to a diversity of ideas and people develops tolerance and that this tolerance benefits, among others, students of differing faiths and their families who may face discrimination and bigotry in society.

Amicus believes that “[r]epresentation in the curriculum creates and normalizes a fully inclusive environment for all students” and “supports a student’s ability to empathize, connect, and collaborate with diverse peers and encourages respect for all.” Pet.App.603a. The benefits of such an inclusive learning environment are borne out by research demonstrating that children experience

better educational outcomes when they are exposed to instructional materials that reflect a range of ideas and experiences.⁸

This Court has also long recognized the educational benefits of diversity, including preparing students for lives and careers in a globally connected world. In *Keyishian v. Board of Regents*, the Court noted that “[t]he classroom is peculiarly the ‘marketplace of ideas,’” and that “[t]he Nation’s future depends upon leaders trained through wide exposure to that robust exchange of ideas.” 385 U.S. 589, 603 (1967). Decades later, Justice O’Connor restated the “educational benefits that diversity is designed to produce,” including cross-racial understanding, helping to break down racial stereotypes, and enabling students to better understand persons of different races. *Grutter v. Bollinger*, 539 U.S. 306, 330 (2003). And in 2016, this Court again echoed the

⁸ John Shindler et al., *The School Climate-Student Achievement Connection: If We Want Achievement Gains, We Need to Begin by Improving the Climate*, 1.1 J. OF SCH. ADMIN. RSCH. & DEV. 9, at 9 (Summer 2016), <https://files.eric.ed.gov/fulltext/EJ1158154.pdf> (“[T]he results of this study suggest that [school] climate and student achievement were highly related. In fact, the quality of the climate appears to be the single most predictive factor in any school’s capacity to promote student achievement.”); *see also* Risa Rahmawati et al., *Teachers’ Strategies: Can It Prevent Bullying to Early Childhoods in Preschool Education?*, 3.4 J. CORNER OF EDUC., LINGUISTICS & LITERATURE 368, 375 (May 2024), available at <https://journal.jcopublishing.com/index.php/jcell/article/view/287/232>; LINDZ AMER, RAINBOW PARENTING 42–46 (2023); Shandra S. Forrest-Bank & David R. Dupper, *A Qualitative Study Of Coping With Religious Minority Status in Public Schools*, 61 CHILD. & YOUTH SERVS. REV. 261 (2016).

benefits of a diverse education, including preparing students for “an increasingly diverse workforce and society, and cultivating leaders with legitimacy in the eyes of the citizenry.” *Fisher v. Univ. of Tex. at Austin*, 579 U.S. 365, 367 (2016) (cleaned up).

Amicus is committed to fostering a tolerant democracy that recognizes and attempts to balance the religious freedoms of all, consistent with the First Amendment’s prohibition on Congressional “establishment of religion.” U.S. CONST. amend I. This balance requires not only that the government express no preference for a particular religion, but also that the religious beliefs of some not be used as an excuse to justify discrimination against the religious beliefs of others.⁹ Many claim that their religious freedom provides legal protection for all manifestations of religious beliefs, regardless of the impact on the rights and liberties of others who do not share the same beliefs.¹⁰ This is misguided.

The right to religious freedom is unalienable—but it is not unlimited. The First Congress contemplated such limits when drafting the First Amendment. See *City of Boerne v. Flores*, 521 U.S.

⁹ *McCreary Cnty. Ky. v. ACLU of Ky.*, 545 U.S. 844, 875–76 (2005) (“[T]he government may not favor one religion over another, or religion over irreligion . . .”); see also NCJW, *Religious Freedom* (2025), <https://www.ncjw.org/work/religious-freedom/>.

¹⁰ John Corrigan & Amanda Tyler, *Religious Intolerance and Structural Bigotry in the U.S.* in MOVING TOWARD ANTIBIGOTRY: COLLECTED ESSAYS FROM THE CENTER FOR ANTIRACIST RESEARCH’S ANTIBIGOTRY CONVENING, at 172 (May 2022), <https://www.bu.edu/antiracism-center/files/2022/06/Moving-Towards-Antibigotry.pdf>.

507, 541 (1997) (Scalia, J., concurring). As Justice Scalia noted, “that legislatures sometimes (though not always) found it ‘appropriate’ . . . to accommodate religious practices does not establish that accommodation was understood to be constitutionally *mandated* by the Free Exercise Clause.” *Id.*; see also Vincent Phillip Muñoz, *The Original Meaning of the Free Exercise Clause: The Evidence from the First Congress*, 31 HARV. J. L. & PUB. POL’Y 1083, 1109–10 (Summer 2008) (reviewing evidence on the question of religious exemptions from militia service to conclude that the evidence “strongly suggest[s] that the First Congress did not understand the Free Exercise Clause to include a right to religious exemptions from generally applicable laws”). Rather, individual religious expression must be balanced against the values of a democratic society and the beliefs and rights of others when they come into conflict. Ruling for Petitioners here would disrupt this careful balance.

Should this Court recognize a right for individuals to be free from exposure to people, beliefs, and practices that offend them, intolerance of others in the public sphere would effectively be granted the status of a constitutional right, and the religious freedom of others—particular those with unpopular or minority religious viewpoints—would be curtailed.

CONCLUSION

For the reasons argued above, the judgment of the court of appeals should be affirmed.

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