

No. 25-259

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IN THE  
**Supreme Court of the United States**

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JANUARY LITTLEJOHN and JEFFREY LITTLEJOHN,  
*Petitioners,*

*v.*

SCHOOL BOARD OF LEON COUNTY, FLORIDA; et al.,  
*Respondents.*

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ON PETITION FOR A WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

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**SUPPLEMENTAL BRIEF OF PETITIONER**

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March 3, 2026

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**SUPPLEMENTAL BRIEF**

Yesterday, the Court decided *Mirabelli v. Bonta*, holding that parental-exclusion policies “likely violate parents’ rights to direct the upbringing and education of their children.” 2026 WL 575049, at \*3 (U.S. Mar. 2). Petitioners write to express their view on how *Mirabelli* affects their petition, which challenges the same kind of policy on the same ground and is currently scheduled for Friday’s conference.

After *Mirabelli*, this Court should at least GVR the decision below. Like the parents in *Mirabelli*, the Littlejohns challenged a public school’s parental-exclusion policy as a violation of their fundamental parental rights. But while this Court held that these policies “likely” violate due process, the Eleventh Circuit held that the Littlejohns’ complaint failed to even state a claim—a *lower* threshold than “likely.”

The Eleventh Circuit’s distinction between “executive” and “legislative” deprivations of fundamental rights should not deter a GVR. Many of the same considerations that led the Eleventh Circuit to treat this conduct as “executive” were also present in *Mirabelli*, including post-complaint changes to the challenged policy and parents whose children actually had the policy applied to them. *Compare* 2026 WL 575049, at \*1, *with* Pet.App.18-20a. The three-Justice concurrence also supports the Littlejohns’ contention that, when it comes to fundamental rights, *Glucksberg* is the “test” that limits substantive due process; plaintiffs need not also satisfy an impossible shocks-the-conscience overlay. *Compare* 2026 WL 575049, at \*3,

*with* Pet.22-23. In all events, the Eleventh Circuit is best positioned to consider the effect or non-effect of *Mirabelli* on its own decision, after a GVR.

With or without a GVR, this petition remains worthy of certiorari. As the Littlejohns explain, the shocks-the-conscience test has bedeviled and split the circuits. That question is cleanly presented and dispositive here, especially if this Court does not GVR after *Mirabelli*. Many parents cannot benefit from *Mirabelli* unless this Court removes the artificial barrier of the shocks-the-conscience test.

#### **CONCLUSION**

The petition for a writ of certiorari should be granted.

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