No. 25-840

In the
Supreme Court of the United States

INTERNATIONAL PARTNERS FOR ETHICAL CARE, INC., *ET AL.*,

Petitioners,

v.

BOB FERGUSON, GOVERNOR OF WASHINGTON, *ET AL.*,

Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

BRIEF OF *AMICI CURIAE* PARENTAL RIGHTS FOUNDATION AND THE WAGNER CENTER IN SUPPORT OF PETITIONERS

February 13, 2026

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QUESTION PRESENTED

Whether parents have standing to challenge a law or policy that deliberately displaces their decision-making role as to "gender transitions" of their children, and in so doing creates present and likely future impediments to their ability to parent their children as they deem best for them.

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STATEMENT OF IDENTITY AND INTEREST OF *AMICI CURIAE*

Pursuant to Supreme Court Rule 37, *Amici Curiae*, *Parental Rights Foundation* and the *Wagner Center* submit this brief.[1]

The *Parental Rights Foundation* (PRF) is a national, nonprofit, nonpartisan advocacy organization with supporters in all fifty states. The PRF is concerned about the erosion of the legal protection of loving and fit parents to raise, nurture, and educate their children without undue state interference. The PRF is committed to protecting children by preserving the liberty of their parents. It advances this mission by educating public officials and the broader public about the urgent need to reverse intrusive state policies that have, in many cases, caused more harm than benefit to children. The PRF also works to strengthen fundamental parental rights at all levels of government.

Housed on the campus of Spring Arbor University, the Wagner Center serves as a national academic voice for freedom of thought, conscience, and religion.

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[1] Pursuant to Rule 37(2), *Amici curiae* gave 10-days' notice of its intent to file this brief to all counsel. *Amici Curiae* further state that no counsel for any party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person or entity, other than *Amici curiae*, its members or its counsel, made a monetary contribution to the preparation or submission of this brief.

Most importantly for this case, the Wagner Center works to preserve the freedom of parents to direct and control the upbringing of their children and is a leading academic voice in this area.

Amici Curiae hold a significant interest in the preservation of parental rights. *Amici Curiae* have special knowledge, helpful to this Court in this case, about the inalienable fundamental nature of a parent's right to direct and control the upbringing of their children as it relates to Article III standing.

SUMMARY OF THE ARGUMENT

This Court should grant the Petition for Certiorari because whether parents have standing to challenge a state's action that encourages or assists a child's gender transition without parental knowledge or consent is a question of great and growing national importance.

The constitutional liberty at issue here, by its very nature, is exercised in the present, is relational rather than episodic, and is gravely and immediately impaired when a state deliberately supplants the rightful citizen decisionmaker. Indeed, the unalienable parental right to direct the upbringing of one's children is among the oldest and most fundamental of these liberties. Your *Amici Curiae*, therefore, address the nature of the parental liberty that the challenged policies intentionally displace; the gravity, immediacy, and constitutional importance of that liberty underscore why this case warrants this Court's review.

ARGUMENT

STATE POLICIES THAT DELIBERATELY DISPLACE PARENTAL DECISION-MAKING IMMEDIATELY IMPLICATE ONE OF THE CONSTITUTION'S MOST FUNDAMENTAL LIBERTY INTERESTS

As outlined in the Petition, this Court should grant the Petition for a Writ of Certiorari because the question presented is of great and growing national importance.

A. Context

This case arises from a challenge by parents and child-advocacy organizations to recent amendments of Washington law that authorize state officials and licensed shelters to bypass fit parents when their child seeks or receives "gender-affirming treatment" (e.g. after running away to do so). In 2023, the State of Washington amended the State's Family Reconciliation Act to permit shelters to withhold notice from parents and instead notify the Department of Children, Youth, and Families whenever a runaway child seeks "protected health care services," including gender-affirming treatment. See Wash. Rev. Code § 13.32A.082(2)(c)–(d), and (3) (2023); Pet. 4–6; App. 155a; App. 172a. Under the amended regime, the State may refer a parent's child for behavioral health services, restrict parental access to information regarding the child's condition and location, and delay family reunification for an indeterminate period, even absent any finding of

abuse or neglect. See e.g., Wash. Rev. Code § 13.32A.082(3)(b)(i) (2023); Pet. 6–16; App. I; App. J; App. K; App. L.

Petitioners include parents of children experiencing gender confusion, several of whom have socially transitioned at school without parental knowledge, and one of whom previously ran away, who assert the challenged laws presently chill their ability to parent and create a substantial risk that the State will facilitate medical or psychological transition of their children over parental objection. Pet. 16–18; App. 70a–77a.

In conclusory fashion, with no oral argument, the district court dismissed the parents' constitutional claims for lack of Article III standing; the Ninth Circuit affirmed, contending the parents' alleged present injuries were "self-inflicted" and that the risk of future harm was too speculative and not sufficiently immediate, despite a cogent dissent (from a denial of rehearing *en banc*) warning that Washington's statutory scheme "will obliterate" parental rights if left unreviewed. Pet. 1–3, 18–19; App 4a-5a; App. 14a–25a; App. 28a–31a; 47a; 55a.

The Petition squarely presents a question of standing; the answer to that question cannot be divorced from the nature of the liberty interest allegedly displaced. This Court has long recognized that the constitutional liberty at issue here, by its very nature, is exercised in the present, is relational rather than episodic, and is gravely impaired when the State deliberately supplants the rightful citizen

decisionmaker. Indeed, the parental right to direct and control the upbringing of one's children is among the oldest and most fundamental of our liberties. To assist this Court, your *Amicus*, therefore, addresses the character of the parental liberty that the challenged policies intentionally displace, because the gravity, immediacy, and constitutional importance of that liberty underscore why this case warrants the Court's review.

B. The Parental Right to Direct the Upbringing of Children Is a Fundamental and Unalienable Liberty Protected by the Constitution

This Court looks to "history and tradition" in determining Fourteenth Amendment liberty limits on the exercise of government power. See, e.g., *Dobbs v Jackson Women's Health Org*., 597 U.S. 215, 240 n.22 (2022). The liberty of parents to direct and control the upbringing of their children is deeply rooted in the legal history and traditions of this nation. This Court first examined the issue of parental rights over a century ago in *Meyer v. Nebraska,* 262 U.S. 390 (1923). In *Meyer,* the State made it unlawful to teach any subject in languages other than English. *Id.* Prior to the government's action in that case, no conflict existed between the state and parents. The reason no conflict existed is because deeply rooted historical and legal traditions of the nation properly recognized the family as the backbone of society. See e.g., John Locke, Second Treatise of Civil Government, 1690, Sec. 56, Sec. 63. (authority "to govern the minority of their children" rests with parents); 1 W. Blackstone,

Commentaries * 447; 2 J. Kent, Commentaries on American Law * 190 (recognizing that natural bonds of affection lead parents to act in the best interest of the children). The deeply rooted historical and legal traditions were well in place before the founding of our nation and existed in the common law at the time we ratified our Constitution. Wagner, *Revisiting Divine, Natural, and Common Law Foundations Underlying Parental Liberty to Direct and Control the Upbringing of Children,* 5 W. Australian Jurist 1 (2014) https://classic.austlii.edu.au/au/journals/WAJurist/2014/1.pdf (last visited February 6, 2026); Estrada, *Homeschooling in the United States: A Seismic Parental Rights Victory*, 18 Liberty L. Rev. 865 (2024). And see, *Dobbs*, 597 U.S. at 240 n.22 (looking to our "history and tradition" in determining Fourteenth Amendment liberty limits on the exercise of government power).

Political and social activism in the early 20th century sought to alter those deeply rooted historic views on family and government. The *Meyer* Court responded by holding that "it is the natural duty of the parent to give his children education suitable to their station in life." *Meyer,* 262 U.S. at 400. The Court explained that "[t]he individual has certain fundamental rights which must be respected. ... [The individual] cannot be coerced by methods which conflict with the Constitution — a desirable end cannot be promoted by prohibited means." *Id.* at 401.

Meyer recognized the family as the building block of society -- rejecting Plato's musing that "children are to be common" as contrary to our nation's founding. *Id.*

at 402. *Meyer* conclusively held that parental rights are a constitutional right under the Fourteenth Amendment. *Id.* at 398.

Two years later the Court unanimously reaffirmed that parental rights are a constitutional right under the Fourteenth Amendment. *Pierce v. Society of the Sisters of the Holy Names of Jesus and Mary,* 268 U.S. 510 (1925) (striking down an Oregon law requiring children between 8 and 16 to attend only public schools). Building upon the foundation laid in *Meyer,* the *Pierce* Court confirmed that "[t]he child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations." *Pierce,* 268 U.S at 535.

Later, in *Prince v. Massachusetts*, the Supreme Court again recognized parental rights stating:

> [i]t is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder. . . . It is in recognition of this that these decisions have respected the private realm of family life which the state cannot enter.
>
> 321 U.S. 158, 166 (1944).

Thereafter, this Court in *Wisconsin v. Yoder,* decisively reaffirmed the fundamental nature of parental rights under both the First and Fourteenth

Amendments. 406 U.S. 205 (1972) (confirming "the fundamental interest of parents" in overturning convictions of Amish citizens convicted of violating a State's compulsory attendance statute). The Court reasoned,

> "[t]he values of parental direction of the religious upbringing and education of their children in their early and formative years have a high place in our society. … Even more markedly than in *Prince*, therefore, this case involves the fundamental interest of parents, as contrasted with that of the State, to guide the religious future and education of their children. The history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition." *Yoder*, 406 U.S. at 213-214, 232.

After affirming the inalienable nature of the parental rights, *Yoder* made clear that government actions infringing on this constitutional liberty must face strict scrutiny:

> The essence of all that has been said and written on the subject is that only those interests of the highest order and those not otherwise served can

> overbalance legitimate claims to the free exercise of religion. We can accept it as settled, therefore, that, however strong the State's interest in universal compulsory education, it is by no means absolute to the exclusion or subordination of all other interests. *Id.* at 215.

In *Washington v. Glucksberg*, this Court upheld Washington's law banning assisted suicide. 521 U.S. 702 (1997). The Court in that case held that the Fourteenth Amendment did not include a fundamental right to physician-assisted suicide, while reaffirming that parental rights were a fundamental right -- and that courts must use strict scrutiny in reviewing governmental actions infringing upon parental rights:

> In a long line of cases, we have held that, in addition to the specific freedoms protected by the Bill of Rights, the 'liberty' specially protected by the Due Process Clause includes the rights . . . to direct the education and upbringing of one's children. … The Fourteenth Amendment forbids the government to infringe 'fundamental' liberty interests *at all*, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest. *Id.* at 720 - 721 (cleaned up).

While physician-assisted suicide killing was not deeply rooted in the legal history or traditions of the nation, the right of parents to direct the upbringing and education of their children was – and was part of our common law at the founding of our Constitution, as later amended by the Fourteenth Amendment. Thus, for the same reason the Court found no fundamental right for physician-assisted suicide in the Constitution under the Due Process Clause, it found there a fundamental right for parents to direct the education and upbringing of their children. See Phillips, *Liberating Liberty: How the Glucksberg Test Can Solve the Supreme Court's Confusing Jurisprudence on Parental Rights,* 16 Liberty L. Rev 347 (2022). https://digitalcommons.liberty.edu/cgi/viewcontent.cgi?article=1319&context=lu_law_review (last visited February 6, 2026); Wagner, *Revisiting Divine, Natural, and Common Law Foundations Underlying Parental Liberty to Direct and Control the Upbringing of Children,* 5 W. Australian Jurist 1 (2014). https://classic.austlii.edu.au/au/journals/WAJurist/2014/1.pdf (last visited February 6, 2026)

In the grandparent visitation case of *Troxel v. Granville*, 530 U.S. 57 (2000), this Court summed up almost a century's worth of precedence, stating,

> "[t]he liberty interest at issue in this case—the interest of parents in the care, custody, and control of their children—is perhaps the oldest of the fundamental liberty interests recognized by this Court. … In light of this extensive precedent, it cannot now be doubted that

> the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children. … The Due Process Clause does not permit a State to infringe on the fundamental right of parents to make childrearing decisions simply because a state judge believes a 'better' decision could be made." *Id.* at 65-66, 72-73.

Recognizing that the Fourteenth Amendment "provides heightened protection against government interference with certain fundamental rights and liberty interests," a plurality of the Court in *Troxel* reaffirmed the fundamental nature of parental rights and found that the State's nonparental visitation statute "unconstitutionally infringe[d] on that fundamental parental right" *Troxel,* 530 U.S. at 65, 67. While *Troxel* strongly reaffirmed a parent's right to direct and control the upbringing of their children as a fundamental liberty interest under the Fourteenth Amendment, the lack of consensus among the Justices on the appropriate level of scrutiny to apply to government interference created a catalysis for jurisprudential confusion. 530 U.S. at 80 (Thomas, J., concurring).

In *Mahmoud v. Taylor*, 606 U.S. __ (No. 24-297), slip op. (U.S. June 27, 2025)) this Court recently helped to clarify some of the jurisprudential confusion. The Court did so by reaffirming the longstanding recognition of parental rights as fundamental, and by

applying strict scrutiny to government actions infringing on this inalienable liberty.

Focusing this time on the First Amendment, *Mahmoud* reasserted the lesson in *Yoder* that:

> A government burdens the [fundamental right] of parents when it requires them to submit their children to instruction that poses "a very real threat of undermining" the ... beliefs and practices that the parents wish to instill. *[Yoder*, 406 U. S. at 218]. And a government cannot condition the benefit of free public education on parents' acceptance of such instruction. *Mahmoud*, No. 24-297, slip op. at 1-2

In *Mahmoud,* the State of Maryland "introduced a variety of LGBTQ+ inclusive storybooks into the elementary school curriculum." *Id.* The government sought to "disrupt children's thinking about sexuality and gender" and to that end the government mandated attendance of children and refused to notify parents. *Id.* Relying on *Yoder,* the parents there contended the government's no parental notification / no opt out policy "infringed on their right as parents to the free exercise of their religion" in violation of the First Amendment. *Id* at 14.

Based on the record before it, the Court agreed:

> We hold that the Board's introduction of the "LGBTQ+-inclusive" storybooks—

> combined with its decision to withhold notice to parents and to forbid opt outs—substantially interferes with the religious development of their children and imposes the kind of burden on religious exercise that *Yoder* found unacceptable. *Id.* at 21-22

Relying on *Yoder,* the *Mahmoud* Court stated:

> Here, the Board requires teachers to instruct young children using storybooks that explicitly contradict their parents' religious views, and it encourages the teachers to correct the children and accuse them of being "hurtful" when they express a degree of religious confusion. Such instruction "carries with it precisely the kind of objective danger to the free exercise of religion that the First Amendment was designed to prevent." *Yoder*, 406 U. S., at 218. (cleaned up) *Mahmoud*, No. 24-297, slip op. at 26

Mahmoud confirmed that "when a law imposes a burden of the same character as that in *Yoder,* strict scrutiny is appropriate" even if the "law is neutral or generally applicable." *Id.* at 36 In *Mahmoud,*

> the board's policies, like the compulsory-attendance requirement in *Yoder*, substantially interfered with the religious development of the parents' children. And those policies pose "a very

> real threat of undermining" the religious beliefs and practices that the parents wish to instill in their children. *Id.* at 37

Because the burden in *Mahmoud* was "of the exact same character as the burden in *Yoder*," the Court applied strict scrutiny to the government action. *Id.* The Court then reaffirmed that "[t]o survive strict scrutiny, a government must demonstrate that its policy advances interests of the highest order and is narrowly tailored to achieve those interests." *Id.,* citing, *Fulton v. Philadelphia*, 593 U. S. 522, 541 (2021) (quoting *Church of Lukumi Babalu Aye, Inc. v. Hialeah*, 508 U. S. 520, 546 (1993)). (cleaned up) Under this standard of review, the Court found Maryland's action unconstitutional.

The appellate court's decision cannot be reconciled with this Court's decisions in *Meyer, Pierce, Troxel, Yoder,* and *Mahmoud*. As relevant to Article III standing, the parental right to direct and control the upbringing of one's child is, by its nature, a present and ongoing liberty, relational rather than episodic, and it is gravely impaired when the State deliberately displaces the parent as the rightful decisionmaker. If government policy empowers officials to knowingly contradict parents and hide vital information from them, no way exists for the parents to guide the future, education, or healthcare, of their children. *Yoder*, 406 U.S. at 232. There is also no way that the parents can exercise "parental concern for the nurture and upbringing of their children." *Id.*

Indeed, the appellate court's reasoning undermines the core teaching of this Court's decision in *Yoder,* and the Supreme Court's recognition that parents, not government officials are the ones with the "primary role … in the upbringing of their children…" *Id.* See also, *Cleveland Board of Education v. LaFleur*, 414 U.S. 632, 639-640 (1974) (confirming "freedom of personal choice in matters of marriage and family life" as constitutionally protected liberties); *Moore v. East Cleveland*, 431 U.S. 494, 503-504 (1977) (holding that "the institution of the family is deeply rooted in this Nation's history and tradition."; *Smith v. Organization of Foster Families,* 431 U.S. 816, 845 (1977) (documenting the fundamental nature of liberty associated with family matters as deeply rooted in history and tradition of the American nation, predating even the Bill of Rights); *Quilloin v. Walcott*, 434 U.S. 246, 255 (1978) (confirming that "the relationship between parent and child is constitutionally protected"); *Stanley v. Illinois*, 405 U.S. 645, 651 (1978) (reaffirming the fundamental nature of parental rights); *Parham v. J. R.,* 442 U.S. 584, 602-604 (1979) (reaffirming the fundamental nature of parental rights, rejecting "any notion that a child is the mere creature of the State"); *Santosky v. Kramer*, 455 U.S. 745, 753, 760 (1982) (reaffirming "[t]he fundamental liberty interest of natural parents in the care, custody, and management of their child); *Reno v. Flores,* 507 U.S. 292, 303-304 (1993) (confirming that parental rights must be respected as a constitutional limit on the exercise of state power, even if nonparents think they would do a better job making decisions for a child than the child's parents).

This Court's parental-rights jurisprudence has long treated the authority of parents to direct the upbringing of their children as a liberty exercised continuously and embedded in the parent–child relationship itself, rather than as a right that arises only at isolated decision points or formal proceedings. In cases like *Meyer*, *Pierce*, *Prince*, *Yoder*, *Troxel*, and *Parham*, for example, the Court consistently understood parental authority as operating throughout the process of upbringing, informing daily guidance, moral formation, education, and medical decision-making, not merely at the moment of a final outcome. See, e.g., *Troxel*, 530 U.S. at 65–66 (plurality) (citing a long line of this Court's precedents emphasizing the "fundamental right of parents to make decisions concerning the care, custody, and control of their children" as a matter of ongoing judgment and recognizing parents as the presumptive decisionmakers for their children). This understanding reflects an implicit but settled premise of the Court's cases: parental rights are present and ongoing, relational rather than episodic, and integral to the structure of family life protected by the Constitution.

Consistent with that understanding, the Court has treated the constitutional injury to parental rights as occurring when the State deliberately displaces parents as the primary decisionmakers, not merely when the State imposes a final or irreversible outcome. For example, in *Pierce*, the injury lay in the State's effort to "standardize" children by supplanting parental choice; in *Yoder*, it arose from the State's override of parental direction in education; and in

Troxel, from a court's substitution of its own judgment for that of a fit parent. In each instance, the constitutional problem was not simply *what* decision was reached, but *who* was authorized to decide. That framing is especially important in the Article III standing context, because a governmental reordering of decision-making authority inflicts a concrete injury at the moment parental judgment is supplanted, even before downstream consequences materialize. This Court's cases thus recognize that when the State assumes control over decisions the Constitution entrusts to parents, the injury to the parental liberty interest is immediate, concrete, and real.

A century of U.S. Supreme Court precedents firmly establishes that the Constitution protects the right of a parent to direct and control the upbringing of their children as a fundamental right.

CONCLUSION

For the foregoing reasons, *Amici Curiae* urge this Court to grant the Petition for a Writ of Certiorari.

Respectfully submitted,

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