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 *AMICUS CURIAE* DR. ERICA E. ANDERSON IN SUPPORT OF PETITIONERS

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INTEREST OF AMICUS[1]

Dr. Erica E. Anderson, PhD, is a transgender clinical psychologist practicing in California and Minnesota with over 45 years of experience. Between 2019 and 2021, Dr. Anderson served as a board member for the World Professional Association for Transgender Health (WPATH) and as the President of USPATH (the United States arm of WPATH). Since 2016, Dr. Anderson's work has focused primarily on children and adolescents dealing with gender-identity-related issues at a clinic at Benioff Children's Hospital at the University of California, San Francisco (2016 to 2021), and at a private practice (2016 to present). She has seen hundreds of children and adolescents for gender-identity-related issues, many of whom transition, with her guidance and support.

As a practitioner serving children and adolescents experiencing gender incongruence, Dr. Anderson has a strong interest in ensuring that such children receive the best possible care (whether or not they ultimately transition), which, in her view, requires involving their parents.

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[1] As required by Supreme Court Rule 37.6, Amicus states as follows: No counsel for a party authored this brief in whole or in part. No counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than Amicus or its counsel made such a monetary contribution. Counsel of record received timely notice of intent to file this brief under Supreme Court Rule 37.2.

INTRODUCTION AND SUMMARY OF ARGUMENT

In 2023, Washington passed a law replacing parents with government social workers for runaway children who request "gender-affirming treatment." Because of the so-called "Family Reconciliation Act" ("FRA"): SHB1406, 68th Leg., Reg. Sess. § 2 (Wash. 2023) and SB5599, 68th Leg., Reg. Sess. (Wash. 2023), families of runaway children will not be reconciled if the minor seeks protected health care services, which includes gender-affirming treatment. Wash. Rev. Code § 13.32A.082(2)–(3). Where, previously, parents would be informed within 72 hours if their runaway child arrived at a shelter, the law now only requires that notice goes to the Department of Youth and Family Services ("DYFS")—not the parents of the child.

As this Court has long recognized and recently reaffirmed, parents have a "constitutional right to make decisions concerning the rearing of [their] own [children]," *Troxel v. Granville*, 530 U.S. 57, 70 (2000) (plurality op.); *Mahmoud v. Taylor*, 145 S. Ct. 2332 (2025). Any attempt by the government to "supersede parental authority" is both unconstitutional and "repugnant to American tradition." *Parham v. J. R.*, 442 U.S. 584, 603 (1979). The "decisional framework" is what matters—government must apply a "presumption that a fit parent will act in the best interest of his or her child," *Troxel*, 530 U.S. at 69 (plurality op.), and may only override parents after providing procedural due process and a sufficiently high substantive standard, such as "clear and convincing evidence" of harm or abuse, *id.*; *Santosky v. Kramer*, 455 U.S. 745 (1982). Government may not "transfer the power to make [a] decision from the

parents to some agency or officer of the state," "[s]imply because the decision of a parent is not agreeable to a child or because it involves risks." *Parham*, 442 U.S. at 603. Yet that is exactly what Washington is doing—they are "transfer[ring] the power to [decide]" whether gender-affirming care will benefit or harm a minor child from the parents to DYFS employees and/or the children themselves, even when there are no allegations of abuse or neglect against the parents.

This issue is strikingly similar to a rising trend in school districts around the country that have policies preventing school officials from informing parents if their child requests to socially transition their gender at school. *See, e.g.*, *Foote v. Ludlow Sch. Comm.*, No. 25-77 (filed July 18, 2025); *Littlejohn v. Sch. Bd. Of Leon Cty., Fla.*, No. 25-259 (filed Sept. 5, 2025). Whether or not to inform parents if their child requests gender-affirming care, whether that be at school or in a shelter, is undoubtedly an issue "of great and growing national importance." *Parents Protecting Our Children, UA v. Eau Claire Area Sch. Dist.*, 145 S. Ct. 14 (U.S., 2024) (Alito, J., dissenting from denial of certiorari).

Nevertheless, these cases are splitting the lower courts in all sorts of directions. Many have been evading the merits, whether by "questionable" applications of standing,[2] the "shocks the conscience"

[2] *E.g.*, *Parents Protecting*, 145 S. Ct. 14 (Alito, J., dissenting from denial of certiorari); *John & Jane Parents 1 v. Montgomery Cnty. Bd. of Educ.*, 78 F.4th 622 (4th Cir. 2023).

test, Pet. App. 1a–175a, municipal immunity,[3] or other ancillary issues. When they reach the merits, some courts are mischaracterizing the issue as merely a matter of "curriculum."[4] Other courts and appellate jurists, however, have begun to recognize what should be obvious—these policies, including Washington's FRA, flagrantly usurp parental decision-making authority. *Infra* Part II.

In the meantime, children are being hurt by these policies—again, and again, and again. In Florida, a school district withheld from the parents that their 12-year-old was struggling with her gender identity, until she attempted suicide. Twice.[5] Same story in Ohio—a school district withheld from parents that their daughter was struggling with gender dysphoria and that school staff were addressing her as if she were a boy, until she attempted suicide.[6] In Colorado, a school district ran an after-school club that encouraged 12-year-olds to transition and to hide this from their parents, leading multiple girls into a months-long "emotional decline." One attempted suicide.[7] In Virginia, a school district withheld from the parents that their 14-year-old daughter had adopted a male identity and had begun using the boys'

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[3] *Lee v. Poudre School District R-1*, 135 F.4th 924 (10th Cir. 2025).

[4] *Foote v. Ludlow Sch. Comm.*, 128 F.4th 336, 351–52 (1st Cir. 2025)

[5] Second Amended Complaint ¶¶54–63, *Perez v. Clay Cnty. Sch. Bd.*, No. 3:22-cv-83 (M.D. Fla., filed May 31, 2023).

[6] *Kaltenbach v. Hilliard City Sch.*, No. 24-3336, 2025 WL 1147577, at *2 (6th Cir. Mar. 27, 2025).

[7] *Lee*, 135 F.4th at 927–29.

bathroom at school, for which the boys harassed her. Due to the harassment, she ran away from home—and then was kidnapped, sex trafficked, and raped repeatedly.[8] In Maine, school staff secretly gave a 13-year-old girl a chest binder,[9] which can cause serious physical damage.[10] In California, a school district secretly transitioned an *11-year-old* girl.[11] In Wisconsin, parents were forced to remove their 12-year-old daughter, who was struggling with various mental-health issues, from a school that refused to respect their decision about how their daughter should be addressed. After being removed from that environment, the daughter later reflected that the "affirmation" that she was actually a boy "really messed [her] up."[12]

Washington's FRA is even more egregious than these harmful school district policies because here, not only are parents not told that their child is requesting gender-affirming care, they are also not being told of their child's whereabouts at all. A social transition is

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[8] *Blair v. Appomattox Cnty. Sch. Bd.*, __ F.4th __, No. 24-1682, 2025 WL 2249351, at *2–*4 (4th Cir. Aug. 7, 2025).

[9] *Lavigne v. Great Salt Bay Cmty. Sch. Bd.*, __ F.4th __, No. 24-1509, 2025 WL 2103993, at *1–*2 (1st Cir. July 28, 2025).

[10] Peitzmeier, et al., *Health impact of chest binding among transgender adults: a community-engaged, cross-sectional study*, 19(1) Culture, Health & Sexuality 64–75 (2017), https://doi.org/10.1080/13691058.2016.1191675.

[11] *Regino v. Staley*, 133 F.4th 951, 957–59 (9th Cir. 2025).

[12] Affidavit of T.F. ¶19, *T.F. v. Kettle Moraine Sch. Dist.*, No. 21-cv-1650 (Waukesha Cnty., Wis. Cir. Ct., filed Feb. 3, 2023), *available at* https://bit.ly/3QVds8H. The daughter shares her own story here: https://youtu.be/PJJdq3vW21w?feature=shared &t=151.

a major, health-related decision with long-term implications. *Infra* Part I. And excluding parents from this decision violates their constitutionally protected decision-making authority. *Infra* Part II. Children cannot even receive a Tylenol without parental consent; facilitating a secret gender transition is far more serious, particularly when the parent does not even know the location of or any information about their child's well-being. This Court should grant the petition and reverse.

ARGUMENT

I. Whether to Provide Gender-Affirming Care Is a Major Health-Related Decision That Requires Parental Involvement, for Many Reasons.

When children and adolescents express a desire to transition to a different gender identity—either socially (to change their name and pronouns to ones at odds with their natal sex) or medically (to undergo sex-change surgery or receive cross-sex hormones or puberty blockers)—there is a major fork in the road, a decision to be made about whether a transition will be in the youth's best interests. While medical transitions are obviously very serious and involve life-altering and irreversible procedures for which parents must be able to provide informed consent before their child is subjected to medical intervention, social transitions are also very serious and often have long-term consequences. Parents must be involved in this decision, for many reasons.

First, there is an ongoing debate in the mental health community about how quickly and under what conditions children and adolescents who experience

gender incongruence (a mismatch between their natal sex and perceived or desired gender identity) should transition socially. Childhood transitions were "[r]elatively unheard-of 10 years ago" but have become far more frequent in recent years.[13] Before the recent trend in some circles to immediately "affirm" every child's and adolescent's expression of a desire for an alternate gender identity, a robust body of research had found that, for the vast majority of children (roughly 80 to 90 percent), gender incongruence does not persist.[14] As one researcher summarized, "*every* follow-up study of GD [gender diverse] children, without exception, found the same thing: Over puberty, the majority of GD children cease to want to transition."[15]

These studies were conducted before the recent trend to quickly transition, whereas some newer studies of youth who *have* socially transitioned show much higher rates of persistence. A study in 2013 found that "[c]hildhood social transitions were important predictors of persistence, especially among

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[13] James R. Rae, et al., *Predicting Early-Childhood Gender Transitions*, 30(5) Psychological Science 669–681, at 669–70 (2019), https://doi.org/10.1177/0956797619830649.

[14] *See*, *e.g.*, The World Professional Association for Transgender Health, *Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People* ("WPATH SOC7") at 11 (Version 7, 2012), *available at* https://gendergp.s3.eu-west-2.amazonaws.com/media/Standards-of-Care-V7-2011-WPATH.pdf.

[15] James M. Cantor, *Transgender and Gender Diverse Children and Adolescents: Fact-Checking of AAP Policy*, 46(4) Journal of Sex & Marital Therapy 307–313 (2019), https://doi.org/10.1080/0092623X.2019.1698481.

natal boys."[16] Another recent study of 317 transgender youth found that 94% continued to identify as transgender five years after transitioning.[17]

Considering the vastly different rates of persistence between youth who transition and those who do not, many experts in the field are concerned that a social transition may affect the likelihood that a child's or adolescent's experience of gender incongruence will persist.

In the UK, for example, a recent, comprehensive review of the evidence by the National Health Service concluded that "social transition in childhood may change the trajectory of gender identity development for children with early gender incongruence."[18] This review also found that "those who had socially transitioned at an earlier age and/or prior to being seen in clinic were more likely to proceed to a medical pathway," with all the associated risks and complications. In view of this evidence, the report

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[16] T. D. Steensma, et al., *Factors Associated with Desistence and Persistence of Childhood Gender Dysphoria: A Quantitative Follow-Up Study*, 52(6) Journal of the American Academy of Child & Adolescent Psychiatry 582–590, at 588 (2013), https://doi.org/10.1016/j.jaac.2013.03.016.

[17] Kristina R. Olson, et al., *Gender Identity 5 Years After Social Transition*, 150(2) Pediatrics (Aug. 2022), https://doi.org/10.1542/peds.2021-056082.

[18] Hilary Cass, *Independent review of gender identity services for children and young people: Final report* at 31–32 (April 2024), https://cass.independent-review.uk/home/publications/final-report/.

concluded that "parents should be actively involved in decision making" about a social transition.[19]

Dr. Kenneth Zucker, who for decades led "one of the most well-known clinics in the world for children and adolescents with gender dysphoria," has argued that a social transition can "become[ ] self-reinforcing" because "messages from family, peers, and society do a huge amount of the work of helping form, reinforce, and solidify gender identities."[20] He has also written that "parents who support, implement, or encourage a gender social transition (and clinicians who recommend one) are implementing a psychosocial treatment that will increase the odds of long-term persistence."[21]

The authors of the 2013 study referenced above expressed concern that "the hypothesized link between social transitioning and the cognitive representation of the self" may "influence the future rates of persistence," while noting that this "possible impact of the social transition itself on cognitive representation of gender identity or persistence" had

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[19] *Id.* at 163.

[20] Jesse Singal, *How the Fight Over Transgender Kids Got a Leading Sex Researcher Fired*, The Cut (Feb. 7, 2016), https://www.thecut.com/2016/02/fight-over-trans-kids-got-a-researcher-fired.html.

[21] Kenneth J. Zucker, *The myth of persistence: Response to "A critical commentary on follow-up studies and 'desistance' theories about transgender and gender non-conforming children" by Temple Newhook et al.*, 19(2) International Journal of Transgenderism 231–245 (2018), available at https://www.researchgate.net/publication/325443416.

"never been independently studied," Steensma (2013), *supra* n.16, at 588–89.

Another group of researchers recently wrote that "early childhood social transitions are a contentious issue within the clinical, scientific, and broader public communities. [citations omitted]. Despite the increasing occurrence of such transitions, we know little about who does and does not transition, the predictors of social transitions, and whether *transitions impact children's views of their own gender*." Rae (2019), *supra* n.13, at 669–70 (emphasis added).

The Endocrine Society's guidelines similarly recognize that "[s]ocial transition is associated with the persistence of GD/gender incongruence as a child progresses into adolescence. It may be that the presence of GD/gender incongruence in prepubertal children is the earliest sign that a child is destined to be transgender as an adolescent/adult (20). However, social transition (in addition to GD/gender incongruence) has been found to contribute to the likelihood of persistence."[22]

The World Professional Association for Transgender Health (WPATH), which takes a decidedly pro-transitioning stance, has acknowledged that "[s]ocial transitions in early childhood" are "controversial," that "health professionals" have "divergent views," that "[f]amilies vary in the extent

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[22] Wylie C. Hembree, et al., *Endocrine Treatment of Gender-Dyshporic/Gender-Incongruent Persons: An Endocrine Society Clinical Practice Guideline*, Endocrine Society, 102(11) J Clin. Endocrinol. Metab. 3869–3903, at 3879 (2017), https://doi.org/10.1210/jc.2017-01658.

to which they *allow* their young children to make a social transition to another gender role," and that there is insufficient evidence "to predict the long-term outcomes of completing a gender role transition during early childhood." WPATH SOC7, *supra* n.14, at 17.[23]

In short, when a child or adolescent expresses a desire to change name and pronouns to another gender identity, mental health professionals do not universally agree that the best decision, for *every* such child or adolescent, is to immediately "affirm" their desire and begin treating that child or adolescent as the opposite sex. And whether transitioning will be helpful or harmful likely depends on the individual child or adolescent. As WPATH emphasizes, "an individualized approach to clinical care is considered both ethical and necessary." WPATH SOC8, *supra* n.23, at S45.

While the mental health community continues to debate whether socially transitioning is generally beneficial or not, it is beyond dispute that there is currently little solid evidence about who is right, given how recent a trend this is. *See supra* n.23.

Even setting aside the debate about socially transitioning, there is near-universal agreement that, when a child or adolescent exhibits signs of gender incongruence (and a request to change

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[23] The latest version continues to acknowledge "a dearth of empirical literature regarding best practices related to the social transition process." *Standards of Care for the Health of Transgender and Gender Diverse People, Version 8*, WPATH, 23 International J. Trans. Health 2022 S1–S258, at S76 (2022), *available at* https://www.tandfonline.com/doi/pdf/10.1080/26895269.2022.2100644.

name/pronouns would qualify), each should be considered separately and individually and can benefit from the assistance of a mental health professional, for multiple reasons.

Every major professional association recommends a thorough professional evaluation to assess, among other things, the underlying causes of the child's or adolescent's feelings and consider whether a transition will be beneficial. The American Psychological Association, for example, recommends a "comprehensive evaluation" and consultation with the parents and youth to discuss, among other things, "the advantages and disadvantages of social transition during childhood and adolescence."[24] The Endocrine Society likewise recommends "a complete psychodiagnostic assessment." *Supra* n.22, at 3877. WPATH, too, recommends a comprehensive "psychodiagnostic and psychiatric assessment," covering "areas of emotional functioning, peer and other social relationships, and intellectual functioning/school achievement," "an evaluation of the strengths and weaknesses of family functioning," any "emotional or behavioral problems," and any "unresolved issues in a child's or youth's environment." WPATH SOC7, *supra* n.14, at 15.[25]

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[24] American Psychological Association, *Guidelines for Psychological Practice With Transgender and Gender Nonconforming People*, 70(9) APA 832–864, at 843 (2015), https://www.apa.org/practice/guidelines/transgender.pdf.

[25] WPATH SOC8, *supra* n. 23, at S45, likewise states that "a comprehensive clinical approach is important and necessary," "[s]ince it is impossible to definitively delineate the contribution of various factors contributing to gender identity development for any given young person."

WPATH also recommends that mental health professionals "discuss the potential benefits and risks of a social transition with families who are considering it." WPATH SOC8, *supra* n.23, at S69.

A professional assessment is especially important given the "sharp increase in the number of adolescents requesting gender care" recently, particularly among adolescent girls ("2.5-7.1 times" adolescent boys). WPATH SOC8, *supra* n.23, at S43. As WPATH acknowledges, an increasing number of "adolescents [are] seeking care who have not seemingly experienced, expressed (or experienced and expressed) gender diversity during their childhood years," indicating that "social factors also play a role," including "susceptibility to social influence." *Id.* at S44–S45.

There is also growing awareness of adolescents who come to "regret gender-affirming decisions made during adolescence" and later "detransition," which many find to be a "difficult[ ]" and "isolating experience." *Id.* at S47. In one recent survey of 237 detransitioners (over 90% of whom were natal females), 70% said they realized their "gender dysphoria was related to other issues," and half reported that transitioning did not help.[26]

Another reason for professional involvement is to assess whether the child or adolescent needs mental health support. Many experience dysphoria—psychological distress—associated with the mismatch

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[26] Elie Vandenbussche, *Detransition-Related Needs and Support: A Cross-Sectional Online Survey*, 69(9) Journal of Homosexuality 1602–1620, at 1606 (2022), https://doi.org/10.1080/00918369.2021.1919479.

between their natal sex and perceived or desired gender identity. Indeed, the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders' (DSM-V) official diagnosis for "gender dysphoria" is *defined by* "clinically significant distress." *See What Is Gender Dysphoria?*, American Psychiatric Association.[27]

Gender incongruence is also frequently associated with other mental health issues. WPATH's SOC8 surveys studies showing that transgender youth have higher rates of depression, anxiety, self-harm, suicide attempts, eating disorders, autism spectrum disorders, and other emotional and behavioral problems than the general population. *Supra* n.23, at S62–63. All major professional organizations recommend screening for these coexisting issues and treating them if needed. *Id.*; APA Guidelines, *supra* n.24, at 845; Endocrine Society Guidelines, *supra* n.22, at 3876.

Finally, professional support can be vital *during* any transition. A transition can "test [a young] person's resolve, the capacity to function in the affirmed gender, and the adequacy of social, economic, and psychological supports," and "[d]uring social transitioning, the person's feelings about the social transformation (including coping with the responses of others) is a major focus of [ ] counseling." Endocrine Society Guidelines, *supra* n.22, at 3877.

It should go without saying, but parents cannot obtain a professional evaluation, screen for dysphoria

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[27] American Psychiatric Association, *What is Gender Dysphoria?* https://www.psychiatry.org/patients-amilies/gender-dysphoria/what-is-gender-dysphoria.

and other coexisting issues, or provide professional mental health support for their children, if their government hides from them what is happening to their child, what treatment their child is receiving, or even where their child is located.

To summarize, no professional association recommends that social workers or government employees, who have no expertise whatsoever in these issues, should facilitate a gender transition while a child is at a shelter, treating minors as if they are really the opposite sex, in secret from their parents.

II. Parental Decision-Making Authority Includes the Right to Decide How One's Own Minor Children Are Addressed.

A long line of cases from this Court establishes that parents have a constitutional right "to direct the upbringing and education of children under their control." *Troxel*, 530 U.S. at 65 (plurality op.) (quoting *Pierce v. Soc'y of Sisters*, 268 U.S. 510, 534–35 (1925)); *Mahmoud*, 145 S. Ct. at 2351. This is "perhaps the oldest of the fundamental liberty interests recognized by this Court," *Troxel*, 530 U.S. at 65 (plurality op.), and is "established beyond debate as an enduring American tradition," *Wisconsin v. Yoder*, 406 U.S. 205, 232 (1972). It is a "basic civil right[ ] of man," *Skinner v. Oklahoma*, 316 U.S. 535, 541 (1942), "far more precious … than property rights," *May v. Anderson*, 345 U.S. 528, 533 (1953).

This line of cases establishes four important principles with respect to parents' rights. *See Mahmoud*, 145 S. Ct. at 2357 (holding that "[w]e have never confined *Yoder* to its facts").

First, parents are the primary decision-makers with respect to their minor children—not a shelter employee, not a social worker (when the parents have never been accused of abuse or neglect), or not even the children themselves. *Parham*, 442 U.S. at 602 ("Our jurisprudence historically has reflected … broad parental authority over minor children."); *Troxel*, 530 U.S. at 66 (plurality op.) ("[W]e have recognized the fundamental right of parents to *make decisions* concerning the care, custody, and control of their children.") (emphasis added); *Yoder*, 406 U.S. at 232 (emphasizing the "primary role of the parents in the upbringing of their children"); *Mahmoud*, 145 S. Ct. at 2351 (parental authority "extends to the choices that parents wish to make for their children outside the home.").

Parental decision-making authority rests on two core presumptions: "that parents possess what a child lacks in maturity, experience, and capacity for judgment required for making life's difficult decisions," *Parham*, 442 U.S. at 602, and that "natural bonds of affection lead parents to act in the best interests of their children," far more than anyone else. *Parham*, 442 U.S. at 602; *Yoder*, 406 U.S. at 232 ("The history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children.").

Second, parental rights reach their peak, and thus receive the greatest constitutional protection, on "matters of the greatest importance." *See C.N. v. Ridgewood Bd. of Educ.*, 430 F.3d 159, 184 (3d Cir. 2005) (calling this "the heart of parental decision-making authority"); *Yoder*, 406 U.S. at 233–34. One such area traditionally reserved for parents is medical and health-related decisions. As this Court recognized

long ago: "Most children, even in adolescence, simply are not able to make sound judgments concerning many decisions, including their need for medical care or treatment. Parents can and must make those judgments." *Parham*, 442 U.S. at 603.

Third, a child's disagreement with a parent's decision "does not diminish the parents' authority to decide what is best for the child." *Parham*, 442 U.S. at 603–04. *Parham* illustrates how far this principle goes. That case involved a Georgia statute that allowed parents to voluntarily commit their minor children to a mental hospital (subject to review by medical professionals). *Id.* at 591–92. A committed minor argued that the statute violated his due process rights by failing to provide him with an adversarial hearing, instead giving his parents substantial authority over the commitment decision. *Id.* at 587. The Court rejected the minor's argument, confirming that parents "retain a substantial, if not the dominant, role in the [commitment] decision." *Id.* at 603–04. "The fact that a child may balk at hospitalization or complain about a parental refusal to provide cosmetic surgery does not diminish the parents' authority." *Id.* at 604.

Fourth, the fact that "the decision of a parent is not agreeable to a child or … involves risks does not automatically transfer the power to make that decision from the parents to some agency or officer of the state." *Parham*, 442 U.S. at 603; *cf. Mahmoud*, 145 S. Ct. at 2377 (Thomas, J., concurring). Likewise, the unfortunate reality that some parents "act[ ] against the interests of their children" does not justify "discard[ing] wholesale those pages of human experience that teach that parents generally do act in the child's best interests." *Id.* at 602–03. The "notion

that governmental power should supersede parental authority in *all* cases because *some* parents abuse and neglect children" is "statist" and "repugnant to American tradition." *Id.* at 603 (emphasis in original). Thus, as long as a parent is fit, "there will normally be no reason for the State to inject itself into the private realm of the family to further question the ability of that parent to make the best decisions concerning the rearing of that parent's children." *Troxel*, 530 U.S. at 68–69 (plurality op.).

In accordance with these principles, courts have recognized that a school violates parents' constitutional rights if it attempts to usurp their role in significant decisions. In *Gruenke v. Seip*, 225 F.3d 290 (3d Cir. 2000), for example, a high school swim coach suspected that a team member was pregnant, and, rather than notifying her parents, discussed the matter with other coaches, guidance counselors, and teammates, and eventually pressured her into taking a pregnancy test. *Id.* at 295–97, 306. The mother sued the coach for a violation of parental rights, explaining that, had she been notified, she would have "quietly withdrawn [her daughter] from school" and sent her to live with her sister until the baby was born. *Id.* at 306. "[M]anagement of this teenage pregnancy was a family crisis," she argued, and the coach's "failure to notify her" "obstruct[ed] the parental right to choose the proper method of resolution." *Id.* at 306. The court found that the mother had "sufficiently alleged a constitutional violation" against the coach and condemned his "arrogation of the parental role": "It is not educators, but parents who have primary rights in the upbringing of children. School officials have only a secondary responsibility and must respect these rights." *Id.* at 306–07. The same principle applies here

to shelter employees and DYFS workers with respect to runaway children when there have been no allegations of parental abuse or neglect.

The FRA violates parents' decision-making authority in at least three different ways.

First, the law violates parents' constitutional right to make the decision about whether a social transition is in their child's best interest. When children or adolescents experience gender dysphoria, whether they should socially transition is a significant and impactful health-related decision that falls squarely within "the heart of parental decision-making authority," *C.N.*, 430 F.3d at 184; *Parham*, 442 U.S. at 603. As described above, there is an ongoing debate among mental health professionals over how to respond when a child experiences gender incongruence, and, in particular, whether and when children should transition by being addressed as though they were the opposite sex.

The law takes this life-altering decision out of parents' hands and places it with government employees and young children, who lack the "maturity, experience, and capacity for judgment required for making life's difficult decisions." *Parham*, 442 U.S. at 602. By enabling children to transition at a shelter, in secret from parents, without parental involvement, Washington is effectively making a treatment decision without the legal authority to do so and without informed consent from the parents. Given the significance of changing gender identity, especially at a young age, parents "can and must" make this decision. *Parham*, 442 U.S. at 603.

A child's fear that his or her parents might not support a transition is not sufficient to override their

decision-making authority. Parents' role is sometimes to say "no" to protect their children from decisions against their long-term interests.

Second, the FRA also violates parental rights by concealing a serious mental health issue from parents, circumventing their involvement altogether on this sensitive issue. *See Mahmoud*, 145 S. Ct. at 2358 (emphasizing that the district "will not notify parents when the books are being read"); *H. L. v. Matheson*, 450 U.S. 398, 410 (1981) (parents' rights "presumptively include[ ] counseling [their children] on important decisions"); *Arnold v. Bd. of Educ. of Escambia Cnty., Ala.*, 880 F.2d 305, 313 (11th Cir. 1989). Parents cannot guide their children through difficult decisions without knowing what their children are facing. By allowing secrecy from parents about this one issue, the law effectively substitutes shelter staff and social workers for parents as the primary source of input for children navigating difficult decisions, with long-term implications. *See Gruenke*, 225 F.3d at 306–07.

Third, the policy interferes with parents' ability to provide professional assistance that their children may urgently need. As explained above, gender dysphoria can be a serious psychological issue that requires support from mental health professionals. And gender incongruent children often present other psychiatric co-morbidities, including depression, anxiety, suicidal ideation and attempts, and self-harm. Government employees with no medical degrees do not have the training and experience necessary to properly diagnose children with gender dysphoria or to opine and advise on the treatment options. They cannot provide professional assistance for children dealing with these issues, and parents

cannot obtain it either for their child if they are kept in the dark. Thus, parents must be notified and involved not only to make the decision about whether a gender transition is in their child's best interest, but also to obtain professional support for their child.

Other courts and judges are beginning to recognize that policies to exclude parents from gender transitions violate parents' constitutional rights. In Wisconsin, parents were forced to remove their 12-year-old daughter, who was struggling with various mental health issues, from a school that refused to respect their decision about how their daughter should be addressed. After being removed from that environment, the daughter changed her mind about wanting to transition, realizing that her struggle with her gender was related to other issues. *Supra* n.12. The parents sued their school district, and a Wisconsin court held that the district violated their parental rights. *T.F. v. Kettle Moraine Sch. Dist.*, No. 21-CV-1650, 2023 WL 6544917 (Wis. Cir. Ct. Oct. 3, 2023). As the Court put it, "The School District could not administer medicine to a student without parental consent. The School District could not require or allow a student to participate in a sport without parental consent. Likewise, the School District [cannot] change the pronoun of a student without parental consent without impinging on a fundamental liberty interest of the parents." *Id.* The Court enjoined the District from "allowing or requiring staff to refer to students using a name or pronouns at odds with the student's biological sex, while at school, without express parental consent." *Id.*

The District Court for the Southern District of California denied a motion to dismiss in a similar case, holding that parents "have a constitutional right

to be accurately informed by public school teachers about their student's gender incongruity that could progress to gender dysphoria, depression, or suicidal ideation, because it is a matter of health." *Mirabelli v. Olson*, 761 F. Supp. 3d 1317, 1332 (S.D. Cal. 2025). Another district court granted a preliminary injunction against such a policy, after which the case settled. As that court put it, a parent's "constitutional right includes the right … to have an opinion and to have a say in what a minor child is called and by what pronouns they are referred." *Ricard v. USD 475 Geary Cnty., KS Sch. Bd.*, No. 5:22-cv-4015, 2022 WL 1471372 (D. Kan. May 9, 2022).

There is also a growing chorus of appellate judges who have criticized similar policies in cases where the majority resolved the case on some ground other than the merits. Judge Niemeyer, for example, wrote that a similar policy was "effectively a nullification of the constitutionally protected parental rights," by "granting the school the prerogative to decide what kinds of attitudes are not sufficiently supportive for parents to be permitted to have a say in a matter of central importance in their child's upbringing." *John & Jane Parents 1*, 78 F.4th at 646 (Niemeyer, J., dissenting) (the majority concluded the parents lacked standing). Judge Thapar, in an appeal dismissed solely for lack of a final, appealable order, called a similar policy "beyond troubling." *Kaltenbach*, 2025 WL 1147577, at *1 (Thapar, J., concurring).

Judge McHugh wrote that a policy "to help students conceal their gender identities from their parents" "impedes parents' longstanding, fundamental right." *Lee*, 135 F.4th at 936–38 (McHugh, J., concurring). "While the district may disagree with how some parents may react when they

learn about their children's gender identities, the district may not seize control of a child's upbringing based on a 'simple disagreement' about what is in the child's best interests." *Id.* (Judge McHugh concurred with the majority, however, that the policy was not a sufficient cause of the plaintiff's injuries to support a *Monell* claim.)

Three Justices of the Wisconsin Supreme Court, in yet another case similar to this one, reasoned that "social transitioning is a healthcare choice for parents to make," and that putting a school district "in charge of enabling healthcare choices without parental consent" deprives parents of their constitutionally protected "decision-making [authority] for their children." *Doe 1 v. Madison Metro. Sch. Dist.*, 2022 WI 65, ¶¶ 89, 92, 94, 403 Wis. 2d 369, 976 N.W.2d 584 (Roggensack, J., dissenting) (again, the majority did not reach or discuss the merits).

It is never constitutionally permissible to usurp parental authority solely at the say-so of a minor, without requiring any evidence or allegation of harm, or providing any process or opportunity for the parents to respond or defend themselves. *See Santosky*, 455 U.S. 745. Shelters housing runaway children do not have the power to act as ad hoc family courts, litigating family law issues or deciding on their own, independent of any court process, which parents will be included in which decisions.

The idea that government actors can override parents solely because they think they know better is, in this Court's words, "statist" and "repugnant to American tradition." *Parham*, 442 U.S. at 603. Judge Thapar has described similar allegations as "beyond troubling." *Kaltenbach*, 2025 WL 1147577, at *1

(Thapar, J., concurring). At least one circuit has recognized that a "significant interference with … the parent-child relationship" is the kind of thing that should "usually" qualify as "[c]onscience-shocking conduct." *McConkie v. Nichols*, 446 F.3d 258, 261 (1st Cir. 2006). Parents must be informed if their child requests to receive gender-affirming care, whether that happens at school or in a shelter after a child has run away.

CONCLUSION

This Court should grant the Petition.

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Respectfully submitted,

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