

No. 25-840

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**In the Supreme Court of the United States**

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

*v.*

BOB FERGUSON, GOVERNOR OF WASHINGTON, ET AL.

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

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**REPLY BRIEF FOR PETITIONERS**

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## INTRODUCTION

Respondents fail to refute that Washington law “places \*\*\* parents, who wish to raise their child in accordance with the child’s biological sex, in the same category as parents who are abusive or neglectful.” App.52a (Tung, J., dissenting). Nor do Respondents deny that this legal treatment is triggered merely by a runaway child’s showing up at a shelter and requesting “gender-affirming treatment.” And thus, because the state is clearly willing to grant the child’s request, Respondents cannot dispute that “Washington’s regulatory regime \*\*\* facilitates the covert transitioning of children without parental knowledge or consent.” App.37a (VanDyke, J., dissenting). Perhaps most important, Respondents don’t deny that compromising parental rights was the challenged laws’ *purpose*—because, “[i]n the legislature’s view, a child suffering from gender dysphoria must be ‘protected’ from parents who do not seek ‘gender-affirming treatment’ for their child and do not ‘affirm’ the child’s gender identity.” App.52a (Tung, J., dissenting).

Those implicit concessions more than suffice to require reversal of the Ninth Circuit’s decision under the standing principle recently made clear by this Court: that targets or objects of a law have standing to challenge it even if that targeting is indirect. *Diamond Alternative Energy, LLC v. EPA*, 606 U.S. 100, 114-116 (2025). And that includes governments’ shielding children from parental awareness of “gender transitioning” or facilitating that transitioning without parental involvement. *Mirabelli v. Bonta*, 146 S.Ct. 797, 803 (2026) (per curiam). Thus, “as the

objects of the challenged Washington law, the parents have standing to sue.” App.57a (Tung, J., dissenting).

Respondents try to evade this clear doctrine by claiming the challenged laws don’t regulate parents. But Respondents miss the whole point of *Diamond* and *Mirabelli*, which involved laws that didn’t regulate fuel producers or parents, whom this Court nevertheless found had standing.

Respondents, moreover, don’t deny that the standing question presented here is no obscure issue, but a problem of “great and growing national importance” afflicting potentially millions of parents nationwide. *Parents Protecting Our Child., UA v. Eau Claire Area Sch. Dist.*, 145 S.Ct. 14, 14 (2024) (Alito, J., dissenting from denial of certiorari). Review should be granted for those reasons and the others explained below and in the petition.

### **I. Respondents Fail to Refute the “Great and Growing National Importance” of the Question.**

Respondents don’t even acknowledge that three Justices have declared parental standing to challenge gender-transition policies “a question of great and growing national importance.” *Id.* (Alito, J., dissenting); *Lee v. Poudre Sch. Dist. R-1*, 607 U.S.--, 2025 WL 2906469, \*1 (2025) (statement of Alito., J., joined by Thomas and Gorsuch, JJ., respecting denial of certiorari). Nor do Respondents deny that a fourth would have granted the petition in *Parents Protecting*. 145 S.Ct. at 14. Nor do they dispute that government entities’ increasing adoption of “policies \*\*\* that purposefully interfere with parents’ access to critical

information about their children’s gender-identity choices and [government] personnel’s involvement in and influence on those choices” is both “troubling \*\*\* and tragic.” *Lee*, 2025 WL 2906469, at \*1 (statement of Alito, J.).

The importance of the question presented is further demonstrated by twenty *amicus* briefs supporting the petition. Those include a brief for 16 states representing over 85 million Americans,<sup>1</sup> Br. *Amici Curiae* Florida, and another for religious organizations representing tens of thousands of congregations and millions of members. Br. *Amici Curiae* The Church of Jesus Christ of Latter-day Saints.

Respondents never address the importance of the concerns of these Justices and *amici*. That silence is deafening. And even if there were no conflict on the question presented (there is), these concerns and the undisputed reality that the question presented is of “great and growing national importance” are powerful grounds to grant review. Sup. Ct. R. 10(c); *Massachusetts v. EPA*, 549 U.S. 497, 505-506 (2007).

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<sup>1</sup> *Population Estimate for 2025*, StatsAmerica (May 30, 2026), <https://tinyurl.com/47pmkff2> (pop. of states named in brief).

## II. Respondents Misread This Court's and Other Circuits' Precedent in a Futile Attempt to Sidestep Multiple Conflicts.

1. As Petitioners explained, the challenged laws circumvent parents as to “gender-affirming treatment,” withhold information about the child’s location and condition, and at least delay notification to parents and reunification with the runaway child. Pet.4-16. Respondents merely confirm this.

For example, in stating that “[DCYF] must make a good-faith attempt to notify parents about the youth,” BIO.6-7, Respondents don’t deny that, according to their own policy memo, a good-faith effort only requires *asking the child* for the parents’ contact information—something few if any runaway children would provide, Pet.13. And Respondents concede that, if that “good-faith attempt” does not result in the agency’s reaching the parents, the law “allows a minor to stay in a licensed overnight youth shelter for up to [ninety] days.” BIO.10.

Similarly, Respondents argue that referring children to gender-affirming behavioral health services is merely “voluntary” and that “[n]othing in the law restricts parents’ input in decision-making.” BIO.9 (emphasis omitted). But when the law delays notification to parents but does *not* delay referring services to the runaway child, it makes parental input into decisions about those services impossible.

Respondents also don’t deny that referrals for “behavioral health services \*\*\* can include ‘gender-affirming’ treatment.” App.53a (Tung, J., dissenting) (cleaned up). Nor do Respondents deny that, by adding

an extra player in the parental notification scheme, it takes longer than previously to contact parents. Pet.11-13. And Respondents say nothing about the all-important *incentive* the laws create for gender-confused children to run away. Finally, Respondents don't deny the incriminating legislative history showing that the Legislature's intent was to step in and "insure" children get the "gender-affirming care \*\*\* they deserve." Pet.7.

Judges Tung, Bumatay, and VanDyke were therefore correct: The "law appears designed to \*\*\* prevent parents from reuniting with their child (unless they 'affirm' the child's gender identification) and to clear the path of obstacles for the child to receive 'gender-affirming' treatment." App.53a (Tung, J., dissenting). And that means Petitioners have challenged "a law whose very object is to prevent the parents from knowing \*\*\* of their child's arrival at the shelter and his or her receipt of 'gender-affirming' treatment." App.55a (Tung, J., dissenting).

2. Further, even if one accepts Respondents' reading of the challenged laws, their reading is irrelevant because those laws, by their text, logic, and purpose, target parents like Petitioners, even without regulating them directly. Under *Diamond*, that is enough for standing even if harm doesn't materialize for years.

As reiterated above, the challenged laws move parents of runaway children seeking "gender-affirming treatment" from one category of treatment under the statute to another—the same category as abusive and neglectful parents—where these parents'

rights will be “obliterate[d].” App.47a (VanDyke, J., dissenting). This reclassification only makes sense if parents are the statute’s target.

The Legislature’s *expressed* purpose makes this even clearer. Respondents concede that the Legislature passed SB 5599 because “[f]ear of [parental] notification \*\*\* caused some transgender youth to leave the safety of shelters or avoid them altogether.” BIO.5. And the legislators’ comments hammer home their focus on what they viewed as problematic parents. Pet.6-9, 24-26. Even the Associated Press’s headline declared: “Trans Minors Protected from Parents under Washington Law.”<sup>2</sup> Pet.9.

In short, as Judge Tung observed, “[i]n the legislature’s view, a child suffering from gender dysphoria must be ‘protected’ from parents who do not seek ‘gender-affirming treatment’ for their child and do not ‘affirm’ the child’s gender identity.” App.52a (Tung, J., dissenting). Put another way, the challenged laws’ “object is to ‘protect’ runaway children with gender dysphoria *from their parents* who might hinder their desired treatment. Those parents are the clear ‘targets’ of the law.” App.57a (Tung, J., dissenting) (cleaned up). And as Petitioners showed, under *Diamond*, that is sufficient for standing. Pet.23-27. But the panel ignored *Diamond*. App.58a (Tung, J., dissenting).

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<sup>2</sup> Associated Press, *Trans Minors Protected from Parents under Washington Law*, KNKX Pub. Radio (May 9, 2023), <https://tinyurl.com/ynyfm7s6>.

Respondents nonetheless say Petitioners' reliance on *Diamond* is "misplaced" because "ESSB 5599 doesn't regulate parents at all." BIO.23-25. But that misunderstands *Diamond*, which held that fuel producers had standing to challenge a regulation that did not regulate them but regulated automobile manufacturers. 606 U.S. at 104-105. And standing existed there even though actual harm to the fuel producers would not materialize for years and depended on a series of choices by others. *Id.* at 115-120.

The stark, irreconcilable conflict between the Ninth Circuit and *Diamond* is also a powerful reason to grant review.

3. This Court's emergency order in *Mirabelli*, issued after Petitioners filed, confirms that *Diamond* applies here. *Mirabelli* determined that parents of children attending schools with policies keeping a child's gender transitioning secret from parents "very likely ha[d] standing because [the parents] are objects of the challenged exclusion policies." 146 S.Ct. at 803 (citing *Diamond*, 606 U.S. at 114). Respondents' attempts to distinguish *Mirabelli* fail.

For example, Respondents focus on the only parents with proof that the school hid and facilitated their child's gender transitioning in an effort to limit *Mirabelli* to current injury. BIO.29. But Respondents ignore that those parents only represented one subclass, and that this Court found the other subclass also had standing despite the representative class members' being unsure whether they had suffered

harm—because the school refused to say. *Mirabelli*, 146 S.Ct. at 801, 803.

Moreover, while Respondents focus only on the harm of parents being denied information, BIO.29, *Mirabelli* also noted the harm of “be[ing] shut out of participation in decisions regarding their children’s mental health,” 146 S.Ct. at 803—the same harm Petitioners alleged here and recognized by the dissenting judges below. App.37a (VanDyke, J., dissenting); App.55a (Tung, J., dissenting).

Finally, Respondents argue that SB 5599 “only requires the Department to offer referrals to voluntary services.” BIO.29 (quoting *FDA v. Alliance for Hippocratic Med.*, 602 U.S. 367, 374 (2024)). But that’s misleading and irrelevant: Perhaps offering “gender-affirming treatment” to a runaway child (in a troubled emotional state away from parents) is somehow “voluntary.” But so were the policies in *Mirabelli*—allowing children, if they asked, to be referred to by their “preferred names and pronouns.” 146 S.Ct. at 800. And just as that voluntariness vis-à-vis the children didn’t prevent standing in *Mirabelli*, it doesn’t prevent standing here.

Likewise, the preferred name/pronoun policy in *Mirabelli* also did not “require [parents] to do or [not do] anything.” BIO.29 (citation omitted). But that policy was still sufficient to confer standing there just as the challenged laws sufficiently harm parents here. See *Mirabelli*, 146 S.Ct. at 803.

Respondents are also wrong in claiming the Washington laws do not prohibit parents from acting. BIO.23,29. As the dissenting judges below recognized,

the laws have the effect of blocking parents from participating in mental health decisions for their children just as in *Mirabelli*. App.55a (Tung, J., dissenting); App.37a (VanDyke, J., dissenting). In fact, here the laws block parental action even more than in *Mirabelli*: Parents cannot pick up their child from a runaway shelter when they are not told where the child is, unlike the parents in *Mirabelli*, who can easily pull their child out of a public school. Compare App.52a with 146 S.Ct. at 801. And Respondents ignore that, with the referral, Washington law blocks parents’ access to information about such “services.” Pet.6 n.4.

In short, if the parents had standing in *Mirabelli*, they have standing here. In both instances the parents are the object of the challenged laws and that suffices. The Court should use this case to establish that important principle in a fully binding merits decision.<sup>3</sup>

4. Besides the conflict with *Diamond*, Petitioners also showed a conflict with this Court’s standing doctrine of future harm under *Massachusetts*, 549 U.S. 497, which allows a sliding scale of the harm’s seriousness and immediacy. Pet.31-35. Like the decision below, Respondents raise two main

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<sup>3</sup> Far from undermining the need for review here, *Mirabelli* reinforces it. First, *Mirabelli* came to the Court on its emergency docket, meaning Petitioners cannot even ask this Court to GVR in consideration of *Mirabelli*. Second, because of that posture and the case’s involving only a stay of an injunction, this Court only determined that the parents “very likely have standing,” with the analysis amounting to one sentence. 146 S.Ct. at 803. That is understandable given the posture of that case. But more guidance is needed from this Court—in a full merits decision—for lower courts and millions of parents.

counterarguments: that *Massachusetts* discussed this principle under redressability rather than injury-in-fact; and that *Massachusetts* was about actual injury, not risk of future harm. BIO.27-28.

As Petitioners showed, the first claim is mistaken—*Massachusetts* discusses this doctrine under both redressability *and* injury-in-fact. Pet.33-34. And other lower courts likewise read *Massachusetts* as Petitioners do, with five circuits placing this sliding-scale doctrine under injury-in-fact. Pet.34. These circuits also refute Respondents’ second argument as they similarly read *Massachusetts* as articulating a risk-of-future-harm doctrine rather than one merely about current injury. *Ibid.*

Respondents half-heartedly address this split. BIO.31. But they only briefly discuss two of the five conflicting circuits and thus do not even attempt to refute the Petition’s showing of a conflict with three circuits.<sup>4</sup> Resolving this circuit split thus remains another powerful reason to grant the petition.

Moreover, Respondents do not dispute that under *Massachusetts*, a vested procedural right does away with “the normal standards for \*\*\* immediacy.” 549 U.S. at 517-518 (cleaned up). And Respondents ignore “the *incentive* that Washington law has created for gender-dysphoric children to run away to licensed

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<sup>4</sup> Of those two circuits’ cases, Respondents misread one that merely determines that “not all risks constitute injury.” *Kerin v. Titeflex Corp.*, 770 F.3d 978, 983 (1st Cir. 2014). The other, at best for Respondents, shows that the D.C. Circuit has contradictory rulings or that the split is 4-2 rather than 5-1. *Public Citizen, Inc. v. National Highway Traffic Safety Admin.*, 489 F.3d 1279, 1294-1296 & n.2 (D.C. Cir. 2007).

shelters,” which “is also enough to confer standing.” App.56a (Tung, J., dissenting); Pet.27, 30. That’s because “parents should not have to wait until their child has run away to a shelter and received life-altering treatment before they are afforded the opportunity to challenge the law—a law whose very object is to prevent the parents from knowing \*\*\* of their child’s arrival at the shelter and his or her receipt of ‘gender-affirming’ treatment.” App.55a (Tung, J., dissenting).

Clarifying when altered incentives are sufficient to confer standing is another powerful reason for granting review.

5. That perverse incentive is also relevant to current harm—as Petitioners have chilled their own speech and altered their parenting to reduce the increased risk of their children running away to a shelter. Pet.28-31. As Judge VanDyke noted, “[s]o long as Washington encourages minors to take the plunge into gender transitions without the knowledge (or even over the objection) of fit parents, parents lose their ability to direct the care and upbringing of their children, regardless of whether [the challenged laws’] sword of Damocles ever falls on that particular parent.” App.48a (VanDyke, J., dissenting).

Respondents try to dismiss this reality—and the split with the Fifth Circuit—by arguing that any harm is self-inflicted or that this current harm is insufficient because the laws do not regulate parents. BIO.18. Both arguments have been refuted above.

Given the massive threat posed by these laws, “the real harm to parents from Washington’s legal

regime happens long before a child runs away”—because “intentional interference with the parent-child relationship, be it direct or indirect, creates an injury to the fundamental right to parent.” App.44a-45a (VanDyke, J., dissenting). Thus, the panel “fundamentally misunderstood the nature of parental rights by concluding that the plaintiff parents have only alleged ‘self-inflicted injuries’ in describing how Washington’s legal regime has chilled and interfered with their parenting.” App.44a (VanDyke, J., dissenting).

For this reason, the decision below directly conflicts with the Fifth Circuit—the laws in both cases interfere with the right of parents to direct the medical decisions of their children. Pet.28-29. See App.47a (VanDyke, J., dissenting). Resolving that conflict is yet another powerful reason to grant review.

6. More generally, as Petitioners noted, there is widespread confusion in lower courts over the standard for analyzing standing on a motion to dismiss. Pet.35-37. That confusion may have caused the panel to improperly “construe[] the parents’ allegations in the most *disfavorable* light” because “[o]nly by drawing inferences in favor of the State (rather than the plaintiffs) could the panel conclude that standing was lacking.” App.61a (Tung, J., dissenting); App.51a (VanDyke, J., dissenting).

Ignoring this lower court confusion, Respondents claim the panel didn’t treat the complaint’s allegations as “implausible.” BIO.32. But that is not the standard—any inferences must be drawn in the *plaintiff’s* favor. Pet.36-37. Given the frequency with

which lower courts face motions to dismiss on standing, clarifying the standard is yet another powerful reason to grant review.

### **III. Respondents Inadvertently Confirm that This Court Is Unlikely to See a Cleaner Vehicle.**

Finally, Respondents do not seriously dispute that this is a clean vehicle. Petitioners present a facial challenge, to specific Washington statutes, that was dismissed on the pleadings. In an area that often “presents unique and fact-specific considerations that have made appellate review challenging to obtain,” App.49a (VanDyke, J., dissenting), this case is the opposite. Even Respondents admit that “Petitioners seek to facially invalidate three state laws” and that this Court would be “[a]ddressing standing \*\*\* only on the pleadings.” BIO.33. That’s exactly why this case is a good vehicle for addressing that issue.

Respondents’ contrary argument—claiming the case involves “hypothetical facts”—really just restates their merits argument on standing. *Ibid.* If a case where the Court need only read the complaint and the challenged statutes to decide standing is not a clean vehicle, it’s unclear what is.

**CONCLUSION**

To paraphrase Justice Robert Jackson, standing should not be a suicide pact for parents. Only this Court can halt the spread of lower courts' misreading of standing doctrine before this "great and growing national" cancer metastasizes further. The petition should be granted.

Respectfully submitted,

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