

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

**BRIEF OF AMICI CURIAE ADVANCING AMERICAN FREEDOM;
AMERICAN ENCORE; AMERICAN VALUES; CALIFORNIA
POLICY CENTER; CENTER FOR URBAN RENEWAL AND
EDUCATION (CURE); CHRISTIAN LAW ASSOCIATION;
CHRISTIAN MEDICAL & DENTAL ASSOCIATIONS; COALITION
FOR JEWISH VALUES; CONCERNED WOMEN FOR AMERICA;
EAGLE FORUM; FAMILY COUNCIL IN ARKANSAS; FRONTLINE
POLICY COUNCIL; INTERNATIONAL CONFERENCE OF
EVANGELICAL CHAPLAIN ENDORSERS; JAMES DOBSON
FAMILY INSTITUTE; JCCWATCH.ORG; KANSAS FAMILY
VOICE; LOUISIANA FAMILY FORUM; LUTHERAN CENTER FOR
RELIGIOUS LIBERTY; MEN AND WOMEN FOR A
REPRESENTATIVE DEMOCRACY IN AMERICA, INC.; , ET AL.
IN SUPPORT OF PETITIONERS
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QUESTIONS PRESENTED

1. 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 INTEREST OF AMICI CURIAE

Advancing American Freedom (AAF) is a nonprofit organization that promotes and defends policies that elevate traditional American values, including freedom from arbitrary power.¹ AAF “will continue to serve as a beacon for conservative ideas, a reminder to all branches of government of their responsibilities to the nation,”² and believes American prosperity depends on ordered liberty and self-government.³ AAF files this brief on behalf of its 164,819 members nationwide including 29,180 members in the Ninth Circuit.

Amici American Encore; American Values; California Policy Center; Center for Urban Renewal and Education (CURE); Christian Law Association; Christian Medical & Dental Associations; Coalition for Jewish Values; Concerned Women for America; Eagle Forum; Family Council in Arkansas; Frontline Policy Council; International Conference of Evangelical Chaplain Endorsers; James Dobson Family Institute; JCCWatch.org; Kansas Family Voice; Louisiana Family Forum; Lutheran Center for Religious Liberty; Men and Women for a Representative Democracy in America, Inc.; Moms for America; Moms for Liberty;

¹ No counsel for a party authored this brief in whole or in part. No person other than Amicus Curiae and its counsel made any monetary contribution intended to fund the preparation or submission of this brief.

² Edwin J. Feulner, Jr., *Conservatives Stalk the House: The Story of the Republican Study Committee*, 212 (Green Hill Publishers, Inc. 1983).

³ See, e.g., “Educational Freedom” in *The Independence Index: Measuring Life, Liberty and the Pursuit of Happiness* at 50, Advancing American Freedom available at <https://theindependenceindex.org/>.

National Apostolic Christian Leadership Conference; National Association of Parents, Inc. dba ParentsUSA; National Religious Broadcasters; New Jersey Family Policy Center; New Mexico Family Action Movement; North Carolina Values Coalition; Orthodox Jewish Chamber Of Commerce; Power2Parent Union; Restore America's Mission; The Family Foundation of Virginia; The Justice Foundation; The Wagner Center; Tradition, Family, Property, Inc.; True North Legal; Upper Midwest Law Center; Women for Democracy in America, Inc.; Young America's Foundation; Gary L. Bauer, President, American Values; Charlie Gerow, Former Vice Chairman, American Conservative Union; Tim Jones, Former Speaker, Missouri House, Founder, Leadership for America Institute; Jenny Beth Martin, Honorary Chairman, Tea Party Patriots Action; Rick Santorum, Former Senator 1995-2007; Ann Schockett, Former President, National Federation of Republican Women; Dr. Gregory P. Seltz, Executive Director, Lutheran Center for Religious Liberty (LCRL), Speaker Emeritus, The Lutheran Hour; Eunie Smith, President, Eagle Forum of Alabama; Paul Stam, Former Speaker Pro Tem, NC House of Representatives; Richard Viguerie, Chairman, ConservativeHQ.com; and Suzi Voyles, President, Eagle Forum of Georgia believe that the fundamental right of parents to direct the upbringing of their children is essential to liberty and is deeply rooted in American tradition and practice.

INTRODUCTION AND SUMMARY OF THE ARGUMENT

No parent should have to live in fear that, without their consent, the government will hold their children and facilitate life-altering medical interventions. Thanks to a Washington law, though, parents have reason for such fear. Yet, under the Ninth Circuit’s reasoning, courts need not hear these parents’ claims until after it may be too late.

Standing doctrine should not be blind to constitutional harm that has not yet occurred but which, if it were to occur, would have irreversible consequences. Yet federal courts seem tempted to use standing as a means of avoiding difficult questions about parental rights and state policy regarding children’s gender identity. *See Parents Protecting Our Children, UA v. Eau Claire Area Sch. Dist., Wisconsin*, 145 S. Ct. 14, 14-15 (2024) (Alito, J., dissenting from denial of certiorari) (“I am concerned that some federal courts are succumbing to the temptation to use the doctrine of Article III standing as a way of avoiding some particularly contentious constitutional questions.”).

At issue in this case is Wash. Rev. Code § 13.32A.082(2), a provision of Washington law directing state licensed shelters to “notify” the Department of Children, Youth and Family Services (DCYF) rather than parents, § 13.32A.082(1)(b)(i), if they take in a runaway child and that child “is seeking or receiving protected health care services,” § 13.32A.082(2)(c)(2) which the statute defines as “gender-affirming treatment” and “reproductive healthcare.” § 13.32A.082(2)(d). The only other situation in which such shelters are permitted to

notify the department rather than the parents is if there is some indication “that notifying the parent or legal guardian will subject the minor to abuse or neglect.” § 13.32A.082(2)(c)(1).

When the department is notified that a shelter has taken in a child seeking “gender affirming treatment” or “reproductive healthcare,” the provision directs it to “[o]ffer to make referrals on behalf of the minor for appropriate behavioral health services,” § 13.32A.082(2)(b)(1), with no requirement that parents be notified before such referrals are made and thus no requirement that parents consent to any such “treatment.”⁴

⁴ Parents must be able to protect their children. As explained in a 2025 Department of Health and Human Services (HHS) report, gender clinics are not neutral arbiters of medical care. In 2024, Tamara Pietzke, “a licensed clinical social worker and therapist” in Washington, described patients with “comorbid health conditions and complicated life histories” who, nonetheless, were approved for hormone interventions. *Treatment for Pediatric Gender Dysphoria: Review of Evidence and Best Practices* 206 Department of Health and Human Services (2025) available at <https://opa.hhs.gov/sites/default/files/2025-11/gender-dysphoria-report.pdf>.

One of her patients, a thirteen-year-old girl, had “diagnoses of depression, anxiety, post-traumatic stress disorder, and intermittent explosive disorder” and had “experienced childhood abuse, neglect, and sexual violence.” *Id.* Pietzke reported that “horror and porn movies . . . were the only ones available in her house” and that the child’s mother practiced bestiality. *Id.* The girl “communicated in therapy sessions by displaying extremely sadistic and graphic pornographic videos to Pietzke on her phone” and was reported to have “autism spectrum disorder, a factor that may have contributed to her communication difficulties.” *Id.* The girl never asked for testosterone and “failed to demonstrate an understanding of the hormone” when mentioned. *Id.* at 207.

Plaintiffs in this case include numerous parents with children experiencing gender dysphoria. One set of parents fears that Washington’s statutes will force them to affirm something they do not believe. When one of their children experienced gender confusion, “a friend’s family encouraged [him] to run away and live with them.” *Int’l Partners for Ethical Care v. Ferguson*, 146 F.4th 841, 847 (9th Cir. 2025) (internal quotation marks omitted). Now, they worry that their 14-year-old child, who is autistic, will fall prey to similar encouragement and thereby force the parents to accept “gender-affirming treatment.” *Id.* at 846-47.

Another set of parents has already had their now 15-year-old child run away once. Experiencing gender dysphoria suddenly at age 12, the child “underwent a social transition at school without [the parents] knowledge.” *Id.* at 847. The child continues to identify as transgender and has “had conversations with numerous therapists and behavioral health specialists about gender identity and ‘transitioning.’” *Id.* at 847 (internal quotation marks omitted). Even worse, the parents still have “limited information” about their child’s hospitalizations. *Id.* The parents worry that their child will run away again to seek gender-affirming care.

Nevertheless, the gender clinic at Mary Bridge Children’s Hospital “approved the teenager for testosterone on her first visit.” *Id.*

When Pietzke refused to “sign a letter of support clearing the patient of any mental health contraindications,” the case was “referred to the hospital’s risk management team” and Pietzke was ultimately told that she should consider “transferring the client ‘to someone who is comfortable with providing gender affirming care.’” *Id.*

A third set of Petitioner parents has two children “who have shown signs of gender dysphoria,” an 18-year-old and a 13-year-old. *Id.* at 846. The 18-year-old has called the parents “transphobic” and “threatened to take [the younger child], who underwent a social transition at school, to a ‘safe place.’” *Id.* Fearing the child will run away to a shelter, the parents no longer talk with their children about gender and have stopped using the younger child’s “name or pronouns in public settings.” *Id.*

Parents who, like Petitioners here, have children who have expressed confusion about their gender identity and who wish to affirm their children’s birth sex always risk alienating their children, especially as gender activists in schools condition children not to trust their parents. That is bad enough, but here, Washington further undermines that relationship by incentivizing children to run away from home if their parents upset them.

This is Orwellian. In *1984*’s Oceania, “[i]t was normal for people over thirty to be frightened of their children,” because “hardly a week passed in which the *Times* did not carry a paragraph describing how some eavesdropping little sneak—‘child hero’ was the phrase generally used—had overheard some compromising remark and denounced his parents to the Thought police.”⁵ In Oceania, “such organizations as the Spies” turned children into “ungovernable little savages.”⁶ This indoctrination “produced in them no tendency whatever to rebel against the party.”⁷ Rather, “[a]ll their ferocity was turned outwards,

⁵ George Orwell, *1984* 25 (Signet Classics 1977).

⁶ *Id.*

⁷ *Id.*

against the enemies of the State, against foreigners, traitors, saboteurs, thought-criminals.”

In Washington, not “Spies” but “allies,” work on the children, turning them not into ferocious “ungovernable little savages,” but into pliable victims, whose distrust rather than “ferocity” is directed at a different kind of thought-criminal: parents and “transphobes.”

And the threat, for loving parents, is worse too. Rather than being, themselves, dragged away in the night by the Thought Police, they may wake in their own home but find their daughter’s bed empty. She having been taken by the state not by force but through manipulation, possibly only to be returned to the parents’ care, if at all, on the other side of irreversible, unnecessary, and disastrous medical interventions.

For fear of finding themselves in this position, plaintiffs in this case are, like the residents of Oceania, carefully censoring themselves even around their own children.

The unconstitutionality of Washington’s policy is obvious: “[T]his wolf comes as a wolf.” *Morrison v. Olson*, 487 U.S. 654, 699 (1988) (Scalia, J., dissenting). This Court has “recognized on numerous occasions that the *relationship* between parent and child is constitutionally protected” *Quilloin v. Walcott*, 434 U.S. 246, 255 (1978) (emphasis added). Just as California’s policy concealing a child’s expression of gender dysphoria from parents “likely violate[s] parents’ rights to direct the upbringing and education of their children,” *Mirabelli v. Bonta*, 607 U.S. 492, 497 (2026) (per curiam), so does a state policy that

would provide “treatment” for gender dysphoria without parental notification and consent.

Despite Washington’s clear violation of parental rights in this case, the Ninth Circuit rejected Petitioners’ claims, finding that they lacked standing. *Int’l Partners*, 146 F.4th at 854. Cases challenging other policies that circumvent parental notification and consent are being challenged in at least ten of the federal circuits.

Such policies are dangerous. In *Mirabelli v. Bonta*, parents were not aware of their daughter’s “deteriorated mental health until after she attempted suicide.”⁸ In *Lee v. Poudre*, a sixth grader who attempted suicide identified her attendance at a “Gender and Sexualities Alliance” club meeting as the beginning of her suicidal ideation.⁹

This Court has explained that “[t]he fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the State to standardize its children by forcing them to accept instruction . . . The child is not the mere creature of the State.” *Pierce v. Soc’y of Sisters of the Holy Name of Jesus and Mary*, 268 U.S. 510, 535 (1925). The Court’s longstanding and oft-reiterated parental rights precedent makes it indisputably clear that “the Fourteenth Amendment protects the fundamental

⁸ Brief of Advancing American Freedom et al. as amici curiae at 2, *Mirabelli v. Bonta*, No. 25A810 (Jan. 21, 2026) available at <https://advancingamericanfreedom.com/aaf-files-amicus-brief-standing-for-parental-rights/>.

⁹ Brief of Advancing American Freedom et al. as amici curiae at 5, *Lee v. Poudre*, No. 25-89 (Aug. 22, 2025) available at <https://advancingamericanfreedom.com/aaf-fights-back-against-radical-gender-ideologists/>.

right of parents to make decisions concerning the care, custody, and control of their children.” *Troxel v. Granville*, 500 U.S. 57, 66 (2000).

The gender agenda has menaced vulnerable young people and families for the better part of a decade. But it looks like the tide is turning. In February, the American Society of Plastic Surgeons (ASPS) announced that it now advises against surgeries as a treatment for gender dysphoria for patients under 19.¹⁰ Even the American Medical Association (AMA) has admitted “that surgical interventions in minors should be generally deferred to adulthood.”¹¹

Further, in the first verdict of its kind, a jury in New York awarded Fox Varian \$2 million in damages from her psychologist and the surgeon who performed her double mastectomy when she was only 16 years old.¹²

These changes are positive, but they do not protect parents and their children from state policies like the one at issue in this case. Parents today should not have to worry that their daughter will one day be the one winning a monetary award for irreversible

¹⁰ American Society of Plastic Surgeons, *Position Statement on Gender Surgery for Children and Adolescents* at 3 (Feb. 3, 2026) available at <https://www.plasticsurgery.org/documents/health-policy/positions/2026-gender-surgery-children-adolescents.pdf>.

¹¹ Tyler O’Neil, *Is the American Medical Association Really Changing Course on Transgender Surgery for Minors?*, Daily Signal (Feb. 6, 2026) <https://www.dailysignal.com/2026/02/06/is-american-medical-association-really-changing-course-transgender-surgery-minors/>.

¹² Andrew Jacobs, *Woman Wins Malpractice Suit Over Gender Surgery as Minor*, New York Times (Feb. 3, 2026) <https://www.nytimes.com/2026/02/03/health/gender-surgery-malpractice-varian.html>.

damage done to her body. The parents in this case are experiencing immediate harm and are facing imminent further harm under Washington's runaway child law. They have standing to challenge that policy.

The Court should rule for Petitioners.

ARGUMENT

I. The Prevalence of Similar Cases Across the Federal Circuits Warrants the Supreme Court's Attention.

The harm inflicted when the state facilitates a child's secret social transitions without parental knowledge or consent is real and widespread. As of June 2026, one database suggested that over 1,200 school districts responsible for more than 12,300,000 children had adopted secret social transition policies.¹³ At least ten of the thirteen Federal Circuits have heard or are hearing challenges to similar gender policies. This Court must clarify that parents have standing to challenge such policies and reiterate that they have a right to direct the upbringing of their children.

In the First Circuit, a Massachusetts middle-school facilitated the social transition of an eleven-year-old girl, ignoring her mother's requests that school officials not discuss gender identity with her daughter.¹⁴ Instead, the school counselor texted and

¹³ List of School District Transgender-Gender Nonconforming Student Policies, Defending Education (updated June 29, 2026) <https://defendinged.org/investigations/list-of-school-district-transgender-gender-nonconforming-student-policies/>.

¹⁴ Brief of Advancing American Freedom et al. as amici curiae,

messaging the eleven-year-old via online chat to encourage weekly meetings “to discuss any gender-related concerns.”¹⁵

In the Second Circuit, school officials assured a mother that no unusual circumstances were to blame for her daughter’s falling grades and distraction from her schoolwork.¹⁶ Even after the mother learned of the school’s social transition campaign and moved her daughter to at-home instruction, school officials continued to speak with the girl about gender issues.¹⁷

In the Third Circuit, a freshman girl diagnosed with attention-deficit hyperactivity disorder and “high functioning autism” struggled with anxiety stemming from the “the childhood trauma of the death of her mother.”¹⁸ Yet, after the girl asked the school counselor to help her socially transition at school, the school took steps to ensure that her father would not be informed, including using the girl’s legal name for announcements over the school intercom lest her

Foot v. Ludlow School Committee, No. 24-77 (August 21, 2025) available at <https://advancingamericanfreedom.com/aaf-urges-supreme-court-to-hear-parental-rights-case/>.

¹⁵ *Id.* at 5.

¹⁶ Brief of Advancing American Freedom et al. as amici curiae at 4-5, *Vitsaxaki v. Skaneateles Central Sch. Dist.*, No. 25-0952 (2nd Cir. June 17, 2025) available at <https://advancingamericanfreedom.com/aaf-leads-amicus-coalition-defending-the-rights-of-parents-and-children-against-gender-indoctrination/>.

¹⁷ *Id.* at 5.

¹⁸ Brief of Advancing American Freedom et al. as amici curiae at 3-4, *Heaps v. Delaware Valley Regional High Sch. Bd. of Ed.*, No. 24-3278 (3d Cir. July 8, 2025) available at <https://advancingamericanfreedom.com/aaf-fights-for-parental-rights-in-new-jersey/>.

siblings should find out about her social transition and inform their father.¹⁹

In the Fourth Circuit, Maryland’s Montgomery County Public Schools’ Guidelines for Student Gender Identity adopted before the 2019-2020 school year informed teachers and school staff that “each student” has a “right . . . to keep gender identity private, including from the student’s parents.”²⁰ *Polk v. Montgomery Cnty. Pub. Schs.*, 2026 WL 216479 at *1 (4th Cir. Jan. 28, 2026).

In the Sixth Circuit, a school district “equate[d] harassment with the ‘intentional use of pronouns inconsistent with a student’s gender identity.’”²¹

In the Seventh Circuit, a school district that requires written parental authorization to administer over-the-counter medication such as aspirin instituted a policy directing staff to facilitate social transitions without notifying parents or seeking their consent.²²

¹⁹ *Id.* at 4.

²⁰ The 2025-2026 guidelines include substantially similar language. Gender Identity in Montgomery County Public Schools for 2025-2026 at 2, available at <https://www.montgomeryschoolsmd.org/siteassets/district/students/rights/gender-identity/genderidentityguidelinesforstudents.pdf>.

²¹ Brief of Advancing American Freedom et al. as amici curiae at 3-4, *Parents Defending Ed. v. Olentangy Local Sch. Dist. Bd. of Ed.*, No. 23-3630 (6th Cir. Dec. 19, 2024) available at <https://advancingamericanfreedom.com/parents-v-olentangy/>.

²² Brief of Advancing American Freedom et al. as amici curiae at 5, *Parents Protecting Our Children v. Eau Claire Area Sch. Dist.*, No. 23-1280 (7th Cir. July 8, 2024) available at <https://advancingamericanfreedom.com/parents-protecting-our-children-v-eau-claire-area-school-district/>.

In the Eighth Circuit, a school district’s policy for gender transitions of students in the seventh grade and above “openly encourage[d] children to deceive their parents” about their social gender transition “by hiding the name and pronouns that they [were] using at school.”²³ The policy prohibited teachers and school staff from informing parents about their children’s social gender transition unless they were required to do so by law or the child consented.²⁴

In the Ninth Circuit, parents and teachers are challenging California policies that “are designed to create a zone of secrecy around a school student who expresses gender incongruity.”²⁵

In the Tenth Circuit, without seeking consent from parents, two sixth graders were invited to after-school meetings that discussed gender identity.²⁶ One tragically attempted suicide and identified her attendance at the meeting as the source of her suicidal ideation.²⁷

In the Eleventh Circuit, a Florida School District resisted plaintiff-parents’ attempts to direct the

²³ Brief of Advancing American Freedom et al. as amici curiae at 8-9, *Parents Defending Ed. v. Linn-Mar Comm. Sch. Dist.*, No. 22-2927 (8th Cir. Nov. 10, 2022) available at <https://advancingamericanfreedom.com/aaf-amicus-brief-in-parents-defending-education-v-linn-mar-community-school-district/>.

²⁴ *Id.* at 8.

²⁵ Brief of Advancing American Freedom et al. as amici curiae, *supra* note 8 at 2 (internal quotation marks omitted) (quoting *Mirabelli v. Olson*, 2025 WL 3713588 at *4 (S.D. Cal. Dec. 22, 2025)).

²⁶ Brief of Advancing American Freedom et al. as amici curiae, *supra* note 9 at 4-5.

²⁷ *Id.* at 5.

school’s response to their daughter’s gender dysphoria opting to follow the school board’s policy that “[o]uting a student to parents can be very dangerous to the student’s health and wellbeing.”²⁸

Parents around the country will continue to face threats to their fundamental rights until this Court reiterates in a final decision what it made clear in *Mirabelli*: that parents have a fundamental right protected by the Fourteenth Amendment to “participat[e] in decisions regarding their children’s mental health.” 607 U.S. at 497.

II. Parental Rights Are Deeply Rooted in Our Nation’s History and Tradition.

This Court has explained that “[o]ur Nation’s history, legal traditions, and practices . . . provide the crucial ‘guideposts for responsible [judicial] decision-making.’” *Washington v. Glucksberg*, 521 U.S. 702, 721 (1997). Parental rights have been recognized throughout American history and even earlier as among the most fundamental of rights.

A. Parental rights in education are a part of the Western tradition.

Parental authority has long been recognized as the first form of government²⁹ because it is “the most

²⁸ Brief of Advancing American Freedom et al. as amici curiae, at 3-4 *Littlejohn v. Sch. Bd. of Leon Cnty.*, No. 25-259 (Oct. 6, 2025) (internal quotation marks omitted) available at <https://advancingamericanfreedom.com/aaf-stands-for-parental-rights-in-secret-social-transition-case/>.

²⁹ John Locke, *Two Treatises on Government* 252-53 (Hollis ed., 1764) (1689) (“The subjection of a minor places in the father a temporary government, which terminates with the minority of the child.”). The Framers relied upon Locke’s *Two Treatises on*

Sacred and Ancient Kind of Authority.”³⁰ This part of the Western tradition stretches back to antiquity, when Aristotle and Cicero recognized parental authority as the foundation for a free and flourishing state.³¹ More recently, philosophers, politicians, and judges who were influential during the Founding era recognized the fundamentality of the parent-child relationship to freedom.

Parental rights are, according to Lord Kames, who was sympathetic to American concerns and was the leading British jurist on the eve of the American Revolution, the “corner-stone of society.”³² Scottish Enlightenment thinker David Fordyce, whose books were part of Harvard’s curriculum during the colonial

Government and bought the work for the use of the Continental Congress. See “Report on Books for Congress, [23 January] 1783,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Madison/01-06-02-0031>.

³⁰ Samuel von Pufendorf, *The Whole Duty of Man According to the Law of Nature* 179-180 (Ian Hunter & David Saunders eds., Liberty Fund 2003) (1673).

³¹ Aristotle, *Politics* 3-4, 16 (Benjamin Jowett ed., 1885) (“[W]hen several families are united, and the association aims at something more than the supply of daily needs, the first society to be formed is the village... the first community, indeed... is the family.”). M. Tullius Cicero, *De Officiis* 54 (Walter Miller ed., 1913) (“For since the reproductive instinct is by Nature’s gift the common possession of all living creatures, the first bond of union is that between husband and wife; the next, that between parents and children; then we find one home, with everything in common. And this is the foundation of civil government, the nursery, as it were, of the state.”).

³² Henry Kames, *Sketches of the History of Man Considerably enlarged by the last additions and corrections of the author* 80 (James A. Harris ed., Liberty Fund 2007) (1788).

period,³³ wrote that the “weak and ignorant State of Children, seems plainly to invest their Parents with such Authority and Power as is necessary to their Support, Protection, and Education.”³⁴ The natural law theorist Samuel von Pufendorf, whose works were bought for the use of the Continental Congress,³⁵ observed that “nature has implanted in parents a tender affection for their offspring, so that no one can be willing readily to neglect that office.”³⁶ Lord Kames described the parent-child relationship as “one of the strongest that can exist among individuals.”³⁷

These writers understood providing an education to be both a chief parental right and duty. Sir William Blackstone described education as “the last duty of parents toward their children.”³⁸ Education, however, did not just mean teaching arithmetic or literacy. At the time of the founding, the end of education was private and civic virtue.³⁹ Christian Thomasius, whose

³³ Daniel N. Robinson, *The Scottish Enlightenment and the American Founding* 90 *The Monist* 170, 174 (2007).

³⁴ David Fordyce, *The Elements of Moral Philosophy* 8 (Thomas Kennedy ed., Liberty Fund 2003) (1754).

³⁵ “Report on Books for Congress, [23 January] 1783,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Madison/01-06-02-0031>.

³⁶ Samuel von Pufendorf, *Two Books of the Elements of Universal Jurisprudence* 380 (Thomas Behme ed., The Liberty Fund 2009) (1660).

³⁷ Henry Kames, *Principles of Equity* 15-16 (Michael Lobban ed., The Liberty Fund 2014) (1760).

³⁸ William Blackstone, Vol. 1 *Commentaries on the Laws of England* 283 (George Sharswood ed., Lippincott Company 1893) (1753) (available online through the Liberty Fund at https://oll-resources.s3.us-east-2.amazonaws.com/oll3/store/titles/2140/Blackstone_1387-01_EBk_v6.0.pdf).

³⁹ Benjamin Rush, *Essays, literary, moral & philosophical* 8

books James Madison ordered for the Continental Congress,⁴⁰ wrote that parental authority entails “leading the child from first infancy to the maturity of body and mind,” a responsibility that “contains two parts, namely, nourishment, which pertains to the infant’s body, and learning, which pertains to his mind.”⁴¹ This recognition of parental authority continued into the nation’s infancy.

B. Parental rights in education were ubiquitous in the early Republic.

Parental rights were also broadly recognized in America’s founding era. James Wilson, a signer of both the Declaration of Independence and the Constitution and later a Justice of this Court appointed by President Washington,⁴² contrasted, in his 1791 lectures on law, ancient and modern modes of education to illustrate the American view of parental rights. Spurning the example of the Spartans where “the care and education of children were taken

(1798) in *Evans Early American Imprint Collection*, <https://name.umd.umich.edu/N25938.0001.001>.

University of Michigan Library Digital Collections. Accessed June 17, 2025. (“I beg leave to remark, that the only foundation for a useful education in a republic is to be laid in Religion. Without this there can be no virtue, and without virtue there can be no liberty, and liberty is the object and life of all republican governments.”).

⁴⁰ “Report on Books for Congress, [23 January] 1783,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Madison/01-06-02-0031>.

⁴¹ Christian Thomasius, *Institutes of Divine Jurisprudence. With Selections from Foundations of the Law of Nature and Nations* 466-67 (Thomas Ahnert ed., Liberty Fund 2011) (1688).

⁴² *James Wilson in Biographical Directory of the United States Congress*, <https://bioguide.congress.gov/search/bio/W000591>.

entirely out of the hands of their parents,” Wilson commended American law which recognized that “to parental affection the care of education may, in most instances, be safely intrusted.”⁴³

Benjamin Rush, also a signer of the Declaration of Independence, was one of the foremost advocates for public schooling. In 1786, Rush published a pamphlet setting out a plan for public schools in which teachers were to inculcate morality, but only in “a strict conformity to . . . the inclinations of their parents.”⁴⁴

Thomas Jefferson, writing in the margins of his 1817 draft plan for public schooling in Virginia, wrestled with parental rights and influence in education.⁴⁵ Ultimately, he concluded that “it is better to tolerate the rare instance of a parent refusing to let his child be educated, than to *shock the common feelings & ideas* by the forcible asportation

⁴³ James Wilson, *Collected Works of James Wilson* 908-910 (Kermit L. Hall & Mark David Hall ed., Liberty Fund 2007) (1791) (Emphasis added).

⁴⁴ Benjamin Rush, *A plan for the establishment of public schools and the diffusion of knowledge in Pennsylvania; to which are added thoughts upon the mode of education, proper in a republic: Addressed to the legislature and citizens of the state* 18 (1786) in *Evans Early American Imprint Collection*.

<https://name.umd.umich.edu/N15652.0001.001>. University of Michigan Library Digital Collections. Accessed June 18, 2025.

⁴⁵ “Thomas Jefferson’s Bill for Establishing Elementary Schools, [ca. 9 September 1817],” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Jefferson/03-12-02-0007>. (“A question of some doubt might be raised on the latter part of this section, as to the rights & duties of society towards it’s members infant & adult. is it a right or a duty in society to take care of their infant members, in opposition to the will of the parent? how far does this right & duty extend?”).

& education of the infant against the will of the father.”⁴⁶

This respect for parental rights continued through the Reconstruction era and the ratification of the Fourteenth Amendment.

C. The Antebellum Period and Reconstruction reaffirmed parental rights in education.

Parental control over the inculcation of virtue in children who attended public schools was reaffirmed throughout the antebellum period, even as changes in American society over questions of race and religion put strains on the tradition. James Kent, first professor of law at Columbia University from 1826 to 1830, turned his series of lectures into the widely popular *Commentaries on American Law*.⁴⁷ Kent started with antiquity and remarked that some ancient states had refused to entrust education to parents.⁴⁸ Such an idea in America was “totally inadmissible.”⁴⁹ Because nature bound parents to “maintain and educate their children, the law has given them a right to such authority.”⁵⁰ This was “the true foundation of parental power.”⁵¹

Justice Joseph Story agreed. In his *Commentaries on Equity Jurisprudence*, Justice Story quoted the case of *Jenkins v. Peter*: “the presumption ought to be, in the absence of all proof tending to a contrary

⁴⁶ *Id.*

⁴⁷ John M. Gould, Preface to James Kent, *Commentaries on American Law*, at v (Little, Brown & Co. 14th ed. 1896).

⁴⁸ James Kent, *Commentaries on American Law* 233 (Oliver Wendell Holmes ed., Twelfth Edition 1873).

⁴⁹ *Id.*

⁵⁰ *Id.* at 252.

⁵¹ *Id.*

conclusion, that the advancement of the interest of the child was the object in view.”⁵² The “natural and reasonable presumption in all transactions of this kind is, that a benefit was intended the child, because in the discharge of a moral and parental duty.”⁵³ Anything else would be “a principle at war with all filial as well as parental duty and affection.”⁵⁴

The horrors of American slavery became the catalyst for enshrining into the Constitution parental rights to oversee the moral upbringing of one’s children. Slave narratives following the Civil War were replete with the tearing apart of children from their parents’ oversight.⁵⁵ Freed former slaves organized “Colored Conventions” throughout the antebellum period and through the Civil War, in which they petitioned for laws and amendments to protect their rights as citizens. One of the petitioned grievances was a lack of state protection for black parental rights. The 1851 Colored Convention of Ohio lamented that black Americans had “no parental or filial rights; but husband and wife, parent and child, may be torn from each other.”⁵⁶ Other conventions recognized parental

⁵² 1 Joseph Story, *Commentaries on Equity Jurisprudence* 328 (Charles C. Little & James Brown) (4th ed. 1846) (1836) (internal quotation marks omitted).

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ Luray Buckner, *A Right Defined by a Duty: The Original Understanding of Parental Rights*, 37 NOTRE DAME J.L. ETHICS & PUB. POL’Y 493, 501 (2023).

⁵⁶ Convention of the Colored Freemen of Ohio (1852: Cincinnati, OH), 275, 285 *Proceedings of the Convention, of the Colored Freemen of Ohio, Held in Cincinnati, January 14, 15, 16, 17 and 19, 1852* (Colored Conventions Project Digital Records) <https://omeka.coloredconventions.org/items/show/250> (last visited Jan. 20, 2026).

rights and education were intertwined, writing that, as former slaves, they were “denied the control of their children” who were “debarred an education.”⁵⁷ Abolitionist and anti-slavery Republicans regularly intertwined the denial of the right to educate and oversee one’s own children as one of the badges of slavery.⁵⁸

The Congressional debates on the Thirteenth and Fourteenth Amendments make clear that one purpose of the amendments was to protect the fundamental right of parents to direct the upbringing of their children. Senator James Harlan of Iowa said that a consequence of slavery was “the abolition practically of the parental relation, robbing the offspring of the care and attention of his parents.”⁵⁹ Senator Charles Sumner of Massachusetts, a political leader of the abolitionist movement (who was famously caned nearly to death on the Senate floor after attacking slavery), decried slavery’s destruction “of all rights, even . . . the sacred right of family; so that the relation of husband and wife was impossible and no parent could claim his own child.”⁶⁰

⁵⁷ Convention of the Colored Men of Ohio (1858: Cincinnati, OH), 333, *333 Proceedings of a Convention of the Colored Men of Ohio, Held in the City of Cincinnati, on the 23d, 24th, 25th and 26th days of November, 1858* (Colored Conventions Project Digital Records) <https://omeka.coloredconventions.org/items/show/254> (last visited Jan. 20, 2026).

⁵⁸ Joseph K. Griffith II, *Is the Right of Parents to Direct Their Children’s Education “Deeply Rooted” in Our “History and Tradition”?* 28 TEX. REV. L. & POLS. 795. 803-04 (2024).

⁵⁹ Cong. Globe, 38th Cong., 1st Sess., 1439 (1864) (Statement of Senator Harlan).

⁶⁰ Cong. Globe, 38th Cong., 1st Sess., 1479 (1864) (statement of Senator Sumner).

When speaking in support of the Thirteenth Amendment, Senator Henry Wilson of Massachusetts, author of the bills which outlawed slavery in Washington, D.C., and later the 18th Vice President of the United States, said, “the sacred rights of human nature, the hallowed family relations of husband and wife, parent and child, will be protected by the guardian spirit of that law which makes sacred alike the proud homes and lowly cabins of freedom.”⁶¹

During the drafting of the Fourteenth Amendment in the 39th Congress, the Joint Committee on Reconstruction inquired into whether certain fundamental rights were being respected in the occupied South. The Joint Committee asked whether Southern whites objected to “the legal establishment of the domestic relations among the blacks, such as the relation of husband and wife, of parent and child, and the securing by law to the negro the rights of those relations?”⁶² Likewise, Representative Thomas Dawes Eliot of Massachusetts’ first district spoke of the need to protect the right of “husband, wife, and parent.”⁶³

Few if any unenumerated fundamental rights are more deeply rooted in American history and tradition than parental rights.

⁶¹ Cong. Globe, 38th Cong., 1st Sess., 1324 (1864) (Statement of Senator Wilson).

⁶² Joint Comm. on Reconstruction, Report of the Joint Committee on Reconstruction, H.R. Rep. No. 30, 39th Cong., 1st Sess. (1866) at 171.

⁶³ Cong. Globe, 39th Cong., 1st Sess. 2773 (1866) (Statement of Representative Eliot).

III. Parental Rights are Essential to Liberty and Justice.

This Court's precedent demonstrates that parental rights are not only deeply rooted in American history and tradition but are also "implicit in the concept of ordered liberty' such that 'neither liberty nor justice would exist if they were sacrificed.'" *Glucksberg*, 521 U.S. at 702 (quoting *Palko v. Connecticut*, 302 U.S. 319, 325 (1937)).

In *Meyer v. Nebraska*, this Court explained that "Without doubt," the Fourteenth Amendment protects "the right of the individual to . . . marry, establish a home and bring up children." 262 U.S. 390, 399 (1923). Considering its long-established parental rights precedent, this Court in 2000 reiterated that "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." *Troxel*, 500 U.S. at 66.

The Court has also been clear about the content of that right. Parents "have the right, coupled with the high duty, to recognize and prepare [the child] for additional obligations." *Id.* The state may not enter "the private realm of family life" because "the custody, care, and nurture of the child reside[s] first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder." *Prince v. Commonwealth of Massachusetts*, 321 U.S. 158, 166 (1944).

In *Wisconsin v. Yoder*, the Court recognized "the fundamental interest of parents, as contrasted with that of the State, to guide the religious future *and*

education of their children,” noting that the “history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children.” 406 U.S. 205, 232 (1972) (emphasis added). Thus, the rights of parents generally,⁶⁴ and of religious parents specifically, exist together and do not detract from one another.

“The child is not the mere creature of the state,” *Pierce*, 268 U.S. at 535, and parents, not school officials, have the right and responsibility “to direct the education and upbringing” of their children. *Glucksberg*, 521 U.S. at 720. Washington’s parental notification policies cannot be squared with parents’ fundamental rights.

IV. Washington Harms Parents’ Constitutional Right by Incentivizing Vulnerable Children to Run Away.

For at least a century, this Court has recognized that a state may not “strip the citizen of rights guaranteed by the federal Constitution . . . under the guise of a surrender of a right in exchange for a valuable privilege which the state threatens otherwise to withhold.” *Frost v. R.R. Comm. of Cal.*, 271 U.S. 583, 593 (1926). “It is *inconceivable*,” the Court wrote in 1926, “that guarantees embedded in the Constitution of the United States may thus be

⁶⁴ “[P]arents whose belief in binary sexuality is not religiously based” are “entitled to the same protection against state intrusion” as religious parents received in *Mahmoud v. Taylor*, 606 U.S. 522 (2025). Paul J. Larkin, *Gender Dysphoria, Public School Responsibilities, and Parental Rights*, 32 https://papers.ssrn.com/sol3/papers.cfm?abstract_id=7302438 (SSRN-7302438).

manipulated out of existence.” *Id.* at 594 (emphasis added).

The unconstitutional conditions doctrine “vindicates the Constitution’s enumerated rights by preventing the government from coercing people into giving them up.” *Koontz v. St. Johns River Water Mgmt. Dist.*, 570 U.S. 595, 604 (2013). “[T]he government may not deny a benefit to a person because he exercises a constitutional right.” *Id.* (internal quotation marks omitted) (quoting *Regan v. Taxation Without Representation of Wash.*, 461 U.S. 540, 545 (1983)). And “[v]irtually all . . . unconstitutional conditions cases involve a gratuitous governmental benefit of some kind.” *Id.* at 608.

Parents’ fundamental right “to direct the education and upbringing” of their children, *Glucksberg*, 521 U.S. at 720, includes the right to have custody of the child. *Troxel v. Granville*, 530 U.S. 57, 65 (2000) (plurality opinion) (“[T]he 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.”); *Stanley v. Illinois*, 405 U.S. 645, 651 (1972) (recognizing “the interest of a parent in the companionship, care, custody, and management of his or her children”). Parents’ fundamental rights also include the right to inculcate their values in their children. *See Pierce*, 268 U.S. at 535 (“The 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.”). By incentivizing unhappy children to run away from home, Washington effectively conditions parents’

ability to exercise the former on their willingness to forgo, at least to a significant extent, their exercise of the latter.

The deprivation of the parental right is no less severe because the minor child's choice to run away contributes to the deprivation. When that choice is incentivized by the state and then ratified by the state's acquiescence in that decision, the state is responsible for the deprivation. Not every state policy that harms parental rights does so in such a rapacious way. But "this wolf comes as a wolf." *Morrison*, 487 U.S. at 699 (Scalia, J., dissenting). This Court should intervene to resolve confusion among the circuits and ensure that parental rights remain secure in every state in the nation.

CONCLUSION

For the forgoing reasons, the Court should rule for Petitioners.

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