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.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

BRIEF FOR THE UNITED STATES
AS AMICUS CURIAE SUPPORTING PETITIONERS

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QUESTION PRESENTED

When a child runs away to a licensed shelter in Washington seeking "gender-affirming treatment," the State "shall" "[o]ffer to make referrals on behalf of the minor for appropriate behavioral health services," and will do so if asked by the child, regardless of parental consent. Wash. Rev. Code § 13.32A.082(3)(b). The question presented is whether parents who object to a scheme that displaces their control over the medical care their child may access have standing to challenge such a scheme.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases:

Cases—Continued: Page

Cases—Continued: Page

Statutes:

Miscellaneous:

Miscellaneous—Continued: Page

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INTEREST OF THE UNITED STATES

The United States has a strong interest in protecting the rights of parents over the care, custody, and control of their children—including with respect to what medical care those children may have access to or receive. The United States also has a strong interest in ensuring that proper parties can sue to enforce those parental rights, and that improper parties cannot invoke the jurisdiction of the federal courts.

INTRODUCTION

In 2023, Washington amended its laws to "remove" what it saw as "barriers" to runaway children seeking "gender-affirming treatment" at the State's licensed shelters. Under its revised scheme, Washington will now offer to refer such children for what the State calls "appropriate behavioral-health services"—and will do so without first notifying the child's parents, and regardless of their consent. Petitioners are parents whose minor children have expressed gender confusion, and who fear that their children may take Washington up on its offer to be connected with behavioral-health services that would otherwise be forbidden at home.

To the extent Article III standing comes down to the basic question—"What's it to you?"—the parents here have a good answer. Washington has tried to wrest away from them the fundamental right to control what medical care their child may access. In providing a means for children to circumvent their parents, the State has inserted itself into the parent-child relationship, and has displaced the traditional authority parents otherwise possess over who decides these vital questions.

That is "more than enough to establish injury in fact." *First Choice Women's Resource Centers, Inc.* v. *Davenport*, 608 U.S. 174, 189 (2026). This Court has long held that the Constitution protects the parent-child relationship itself. As part of that relationship, this Court has further recognized that parents have the right to control the medical care their children may access. See *Mirabelli* v. *Bonta*, 607 U.S. 492, 497 (2026) (per curiam). Where the government restricts that control, and displaces parents' authority to direct and manage the medical care their child receives, that inflicts a here-and-now injury upon objecting parents.

Nothing more is necessary to resolve this case. Such a loss of a fundamental parental right is an injury in and of itself, creating a current and ongoing constitutional harm traditionally sufficient for standing, without more. See *TransUnion LLC* v. *Ramirez*, 594 U.S. 413, 425 (2021). To have standing to sue here, parents need not wait to be injured again, by having their child actually take advantage of the State's offer and access some medical treatment that the parents would have stopped.

The Ninth Circuit held otherwise, reasoning that the parents here lacked standing because they had not shown it was sufficiently likely their children would actually run away to a licensed shelter to obtain these services. But that decision rests on a cramped view of parental rights, which incorrectly assumes parents are injured only when their child in fact receives medical care against their parents' wishes. Instead, the parent-child relationship is defined by a parent's ongoing authority over his or her child, and with that the right to control the entire process of deliberation—from the discussions leading up to a medical decision, to the permission culminating in the decision itself. When a State provides a mechanism to "shut out" parents from part of that process, *Mirabelli*, 607 U.S. at 497, that alone inflicts a here-and-now injury upon objecting parents sufficient for standing, regardless of whether their child takes advantage of the state-revised dynamic and regardless of whether the parents ultimately prevail on their constitutional claim. In focusing solely on whether petitioners' children would likely run away later to seek these services at a licensed shelter, the Ninth Circuit lost sight of the here-and-now injury that the State's regime is already inflicting.

The decision below would also unnecessarily create a jurisprudence of chaos. By making a child's ultimate likelihood of accessing a forbidden medical treatment the analytic touchstone, the Ninth Circuit's approach would have standing rest on judicial guesswork about how another person's child may behave in the future. Suppose a State offered mifepristone to pregnant teens, or mastectomies to consenting minors. A standing inquiry trained upon whether another person's child is about to accept such an offer would require a court to determine whether a parent's good-faith fears are well-founded or too speculative, even as the child's choices may unfold swiftly and provoke immediate, irreversible consequences. Any cases that did not immediately become moot would force courts to resolve these fraught questions in emergency postures.

This Court should decline that course and adopt a simple yet narrow rule, which reflects the unique aspects of the Court's parental-rights jurisprudence: As soon as a State restricts parents' control over the medical care their child may access, objecting parents have standing to contest that change. Because objecting parents suffer a here-and-now injury from such a scheme, there is no reason to force them to show anything further, let alone to condition standing on a parent catching his or her child sneaking out the backdoor, waiting in a doctor's foyer, or whatever else would be needed under the Ninth Circuit's approach below.

STATEMENT

A. Washington Law

Before 2023, when a child ran away to a licensed shelter in Washington, that shelter generally needed to "contact the youth's parent within seventy-two hours, but preferably within twenty-four hours," and tell the

parent "the whereabouts of the youth, a description of the youth's physical and emotional condition, and the circumstances surrounding the youth's contact with the shelter." Wash. Rev. Code § 13.32A.082(1)(b)(i). That notice requirement had one longstanding exception, where there were "compelling reasons not to notify the parent." *Ibid.* Washington had defined "compelling reasons" by reference to one set of illustrative "circumstances," where a "parent or legal guardian will subject the minor to abuse or neglect." *Id.* § 13.32A.082(2)(c); see Pet. App. 154a-155a (showing changes to prior law).

In 2023, however, Washington decided this parental-notification requirement was creating a "barrier[]" for youth "seeking certain protected health care services" at the State's "licensed shelter[s]." 2023 Wash. Sess. Laws, p. 2183, ch. 408, § 1. To "remove" this "barrier[]," *ibid.*, Washington changed its laws governing what licensed shelters and the State's Department of Children, Youth, and Families (DCYF) must do when a runaway child comes to such a shelter seeking "gender affirming treatment." *Id.* § 2; see, *e.g.*, Wash. Rev. Code § 13.32A.082(1)(b)(i), (c)(ii), and (d). Namely, the State expanded the definition of "compelling reasons" to include whenever a "minor is seeking or receiving protected health services"—and further provided that "protected health services" includes "gender affirming treatment." 2023 Wash. Sess. Laws, p. 2184, ch. 408, § 2(c)(ii) and (d); see Wash. Rev. Code § 74.09.675 (defining "gender-affirming treatment" to include any "service or product" that is prescribed "to an individual to support and affirm the individual's gender identity").

As a result, when a runaway child seeking "gender-affirming treatment" now goes to a licensed shelter, the shelter must no longer "notify the parent[s]"; it "must

instead notify" DCYF. Wash. Rev. Code § 13.32A.082(1)(b)(i). DCYF must then do three things:

- First, DCYF "shall make a good faith attempt to notify the parent." Wash. Rev. Code § 13.32A.082(3)(a). While the law says only that DCYF must "notify the parent that a report has been received," *ibid.*, the State represents that the substance of this notice is no different from what a licensed shelter would give, and DCYF would (among other things) notify parents within 72 hours and reveal the child's location. Br. in Opp. 7, 3a-4a, 6a; see Wash. Rev. Code § 13.50.100(7).
- Second, DCYF "shall" "[o]ffer services designed to resolve the conflict and accomplish a reunification of the family." Wash. Rev. Code § 13.32A.082(3)(b)(ii).
- Third, DCYF "shall" "[o]ffer to make referrals on behalf of the minor for appropriate behavioral health services." Wash. Rev. Code § 13.32A.082(3)(b)(i). Elsewhere, the State defines "behavioral health services" to include "mental health services." *Id.* § 71.24.025(11).

As for the third item, DCYF's obligation to make certain referrals dovetails with the Department's general policy of "support[ing] children and youth identifying as transgender, gender non-conforming, and intersex who are seeking gender-affirming medical services by * * * [f]acilitating access to gender-affirming resources." DCYF, *Administrative Policy* 6.04 § 1(b)(vi)(E) (Oct. 20, 2022), https://perma.cc/YU47-VDEW. Should a child follow through on one of the State's referrals, state law also provides that minors 13 and older "may request and receive outpatient treatment without the consent"

of their parents. Wash. Rev. Code § 71.34.530. Moreover, should such an adolescent take up these services, the State will generally keep that information confidential, including from the child's parents. *E.g.*, *id.* § 70.02.265(1); see Seattle Children's Hospital, *What Is Washington's Mental Health Referral Service for Children and Teens?*, https://perma.cc/5W7T-TWFC ("[F]or Teens 13+": "As per Washington state law, we will not share your information with your parent/guardians without your consent.") (last visited Sept. 14, 2026).

As the State itself describes, the purpose and effect of this new scheme is to guarantee that runaway youth will have the "opportunity" to obtain select services—most relevant, state-curated and facilitated medical referrals for "appropriate behavioral health services"—before the child is reunited with his or her parents. See Br. in Opp. 5-8. That specific guarantee is new. *Id.* at 2a-3a. Again, before 2023, licensed shelters generally contacted parents when runaway children arrived, including when seeking "gender-affirming treatment." The 2023 laws were enacted to provide those children with certain "services" before this "notification requirement" kicked in—indeed, that was a key part of the "barrier[]" to children accessing licensed shelters that the State wanted to "remove[]." *Id.* at 5-6 (quotation marks omitted). As one legislator summed up on the Washington House floor, these laws enable the State to "step in" and "provide a [safe] place for the child"—even if temporary—to receive certain assistance or materials that the runaway child would not otherwise receive "from their parents." Pet. App. 95a-96a (quoting Rep. Jamila Taylor).

B. Factual Background

Petitioners are five sets of parents who do not want their children to receive "gender-affirming treatment"

or behavioral-health services that would affirm that a person may have a "gender identity" distinct from biological sex. Pet. App. 70a-77a. Petitioners further include two nonprofit organizations—International Partners for Ethical Care, Inc., and Advocates Protecting Children—that oppose policies like Washington's. *Id.* at 69a-70a. International Partners has among its members around "two dozen parents in the State of Washington, including at least one" who has a "minor child who experiences gender confusion, has received counseling for such, and is at risk of running away." *Id.* at 69a.*

As for the plaintiff parents, four allege their teenage children are struggling with a sense of gender different from their biological sex. Pet. App. 70a (1C), 72a (2D), 73a (3C), 76a (5C). All of these children have exhibited signs of gender dysphoria or "gender confusion." *Ibid.* All have socially transitioned, in some form or another, at school. *Id.* at 70a ("1C's school encouraged her to socially 'transition' to being recognized as a boy."), 72a ("The school of 2D socially transitioned her without her parents' knowledge."), 74a ("3C has been experimenting with a new name and female pronouns with friends and at school."), 77a ("5C's school district transitioned her behind her parents' back, starting in [] 8th grade."). Some of the children have received mental-health treatment in connection with these issues. *Id.* at 74a (3C has seen a "therapist"), 76a-77a (5C was "hospitalized for suicidality" and has seen "therapists" and "specialists" on the subject of "gender identity and 'transitioning' ").

These parents are deeply fearful that their children may run away as a result of Washington's new scheme

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* Because this case arises from the grant of a motion to dismiss, the amended complaint's well-pleaded allegations are taken as true. See, *e.g.*, *Stanley* v. *City of Sanford*, 606 U.S. 46, 49 (2025).

in order to seek out or obtain certain medical services that their parents would not allow them to access at home. Pet. App. 71a, 73a, 75a, 77a. For many of the children, that concern is not theoretical. 5C "ran away from home" once before, following an earlier conflict over being called "by her birth name." *Id.* at 77a. 2D has "credibly threatened to run away," with 2D's sibling offering "to provide transportation to take the younger child (too young to drive) to an environment that would provide gender affirmation." *Id.* at 72a, 101a. 3C, who is autistic, and whose brother was encouraged to run away "when he was still 'identifying as a girl,'" was seemingly put in a similar situation by "parents of a school friend," who have insisted on using 3C's "preferred name and preferred pronouns." *Id.* at 75a, 102a.

All of these parents oppose having their child "adopt a gender identity inconsistent with [their] biological sex" because they believe that doing so would harm their children's development. Pet. App. 70a; see *id.* at 73a, 74a, 76a-77a. At least one set of parents roots this belief in their religious faith. *Id.* at 74a, 97a-99a (3A/3B).

Because of the State's new scheme, several petitioners have already changed their parenting styles, lest their children run away. Parent 1A has been "hesitant to discipline 1C" or actively "disagree[] with 1C" "for fear it will cause a rift that others might take advantage of." Pet. App. 71a. Likewise, Parent 2A is now "afraid to use 2D's given name and pronouns that match her biology in most public places, so 2A [generally] does not use 2D's given name in public or use any pronouns when referring to her." *Id.* at 73a. "Parents 2A and 2B avoid talking about gender at all with 2D or near her." *Ibid.*

C. Procedural History

1. In August 2023, shortly after Washington's new laws took effect, petitioners brought this suit, and filed their amended complaint that November. See Pet. App. 66a. Among other things, petitioners claimed the State's new scheme violated their parental rights under the Fourteenth Amendment, and sought declaratory and injunctive relief to that effect. See *id.* at 109a-137a.

2. The district court granted respondents' motion to dismiss on the ground that all petitioners lacked standing. Pet. App. 28a-31a. In a brief opinion, the court asserted petitioners failed to allege any actual or imminent injury, because whether their children would run away to a licensed shelter was ultimately "speculative," and accordingly not "certainly impending." *Id.* at 30a.

3. The court of appeals affirmed. Pet. App. 1a-27a. As for the parents' alleged "current injuries"—including that the laws are already chilling their parenting styles, or causing them to self-censor their speech—the court held these to be self-inflicted harms, because the parents had not alleged there was a sufficient risk that their children would otherwise run away to a licensed shelter and even avail themselves of this new scheme. *Id.* at 14a-19a. As for the parents' alleged "future injuries," the court held that any harms from petitioners' children receiving "gender-affirming treatment" in the future were too remote. *Id.* at 19a-25a. For much the same reason, the court also held that the organizational plaintiffs lacked associational standing. *Id.* at 25a-26a.

4. The court of appeals denied a timely petition for panel rehearing and rehearing en banc. Pet. App. 34a.

a. Judge VanDyke dissented from the denial of rehearing en banc, joined by Judge Bumatay. Pet. App. 34a-51a. In his view, the panel decision fundamentally

"misunderst[ood] the nature and contours of parental rights," which extend beyond certain discrete decisions, and also "protect[] the parent-child relationship" itself. *Id.* at 39a, 41a. He reasoned that by giving children an effective "veto" over their parents' decisions as to what medical care they may access, Washington has forced objecting parents to "navigate" a transformed parent-child relationship. *Id.* at 38a-39a. That fundamental change inflicts an actual injury upon objecting parents, because it "presently interferes with the protected parent-child relationship by subverting a parent's authority to direct the upbringing of her child." *Id.* at 44a.

Judge VanDyke further argued that the panel's focus on imminence—that is, its decision to have standing turn on whether parents can adequately convince a court their child is likely to run away—is "unworkable." Pet. App. 48a; see *id.* at 35a. He explained that courts are ill-suited to evaluate whether parents who "live[] in fear" do so reasonably, or determine "[w]hen exactly" a child is at risk of fleeing home to obtain a state-sponsored service. *Id.* at 47a-48a. The better course is to hold that laws like Washington's necessarily injure objecting parents—"regardless of whether [the] sword of Damocles ever falls on [a] particular parent." *Id.* at 48a.

b. Judge Tung also dissented, joined by Judges Bumatay and VanDyke. Pet. App. 51a-65a. He agreed that Washington's laws inflict an "actual injury" on objecting parents. *Id.* at 60a n.2. He added that the "whole point" of Washington's scheme was to "alter" certain parents' behavior, or at least to give select children access to resources their parents would otherwise forbid. *Id.* at 63a, 57a. In his view, because such "parents are the clear 'targets' of the law[s]" at issue, they should have standing to challenge them. *Id.* at 57a.

SUMMARY OF ARGUMENT

Washington law provides that runaway minors seeking "gender-affirming treatment" can obtain referrals from state officials for certain "behavioral-health services." Washington provides those referrals without first notifying the child's parents, and regardless of their consent. Parents who object to that usurpation of their constitutional right to control the medical care their child may access have Article III standing to challenge it.

A. Washington's interference with petitioners' ability to direct and manage their children's medical care inflicts a traditional harm upon them, which gives these parents standing under this Court's precedents. This Court has long held that the relationship between a parent and child is itself constitutionally protected. That includes parents' fundamental right to decide what medical care their child may access. When a State restricts that control, and alters the authority parents would otherwise possess over their children, that alone inflicts a here-and-now injury upon objecting parents.

Here, Washington has inserted itself into the parent-child relationship and meaningfully displaced parents' control over their children's medical care, by giving children an independent means to access services that would otherwise be forbidden. In shutting parents out from this decision, and providing such information without (indeed, against) their permission, the State arrogates to itself an important aspect of the traditional parent-child relationship, and has changed the preexisting rule that parents decide these questions of care. Nothing more is needed for standing. It does not matter whether petitioners' children have taken advantage of the state-revised parenting dynamic, or will do so soon.

B. The Ninth Circuit held otherwise, reasoning that petitioners lacked standing because they had failed to establish that it was sufficiently likely that any of their children would soon run away to a licensed shelter, and do so in the hopes of obtaining referrals for the professional services their parents would forbid at home.

That myopic approach is wrong. In focusing solely on a child's future behavior, the court below lost sight of the here-and-now injury a scheme like Washington's inflicts. As soon as a State restricts parents' control over the medical care their children may access, and thus alters the traditional authority those parents would otherwise possess over their children, objecting parents suffer a current harm. The court below instead focused entirely on downstream injuries—an approach that would also mire courts in impossible judgment calls on emergency timetables, with standing turning on a court's independent assessment of parents' good-faith fears that their child is really about to flee home or otherwise take a State up on a direct offer of services.

ARGUMENT

To establish Article III standing, "a plaintiff must show (i) that he suffered an injury in fact that is concrete, particularized, and actual or imminent; (ii) that the injury was likely caused by the defendant; and (iii) that the injury would likely be redressed by judicial relief." *TransUnion LLC* v. *Ramirez*, 594 U.S. 413, 423 (2021). Put simply, "plaintiffs must show that they possess a personal stake in the dispute and are not mere bystanders." *Diamond Alternative Energy, LLC* v. *EPA*, 606 U.S. 100, 110 (2025) (quotation marks omitted); see *National Park Service* v. *National Trust for Historic Preservation in the United States*, No. 26A203 (Aug. 31, 2026), slip op. 2-4.

Petitioners—parents of gender-confused children who do not want those children to avail themselves of Washington's new referral services for gender-confused children—are the opposite of "mere bystanders." They have standing to challenge a scheme that, by intent and design, displaces their authority as parents to decide what medical care their children may access. See *Mirabelli* v. *Bonta*, 607 U.S. 492, 498 (2026) (per curiam).

A. Petitioners Have Suffered Here-And-Now Injuries Sufficient For Article III Standing

Washington now provides that if a child runs away to a licensed shelter seeking "gender-affirming treatment," the State will offer to refer that child to what it deems "appropriate behavioral health services," without first notifying the parents, and regardless of whether they consent. See Wash. Rev. Code § 13.32A.082(3)(b). Petitioners object to that referral scheme, because Washington is stripping away their control over what medical care their children may access and imposing a substitute regime that cuts parents out of key information and decisions. Nothing more is needed for petitioners to have standing. When a State restricts a parent's control over their child's medical care, that itself inflicts a here-and-now injury upon objecting parents sufficient for standing, regardless of whether the child later takes advantage of the law and obtains surreptitious referrals.

1. The Court has long recognized "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* v. *Granville*, 530 U.S. 57, 66 (2000) (plurality opinion); see *id.* at 66-67 (collecting cases). That principle of parental control includes parents' right to "direct the upbringing" of their children, *Pierce* v. *Society of*

the Sisters, 268 U.S. 510, 534-535 (1925), and also bring them up within the bonds and bounds of their "religious beliefs," *Mahmoud* v. *Taylor*, 606 U.S. 522, 547 (2025).

This Court has further held that parents have the fundamental right to decide the "medical care or treatment" their children may access. *Parham* v. *J.R.*, 442 U.S. 584, 603 (1979); see *id.* at 602-604. That parental authority naturally extends to children's mental health as well. *Mirabelli*, 607 U.S. at 497; see *id.* at 499 (Barrett, J., concurring). Parents accordingly have "the right not to be shut out of participation in decisions regarding their children's mental health"—from the discussions leading up to a decision, to actually making (or granting permission for) the decision itself. *Id.* at 497; accord *Hodgson* v. *Minnesota*, 497 U.S. 417, 483 (1990) (Kennedy, J., concurring in the judgment in part and dissenting in part) (explaining parents have a right "to participate in the upbringing of [their] own children" and the "common law historically has given recognition to the right of parents, not merely to be notified of their children's actions, but to speak and act on their behalf").

More broadly, this Court has repeatedly held that the Constitution protects the traditional parent-child "relationship" itself, which is defined by the authority that a parent holds over his or her child, and the protective obligations that arise from that role. *Quilloin* v. *Walcott*, 434 U.S. 246, 255 (1978). By that light, this Court's cases affirm that parents have an interest in the "integrity" of the parent-child relationship, *Stanley* v. *Illinois*, 405 U.S. 645, 651 (1972), and accordingly, the parental powers that shape and define that relationship.

In this sense, this Court has treated parental rights as distinct within "our constitutional system," because they go beyond simply the ability to take a discrete set

of actions, or merely make a fixed array of significant life decisions on behalf of one's child. See *Parham*, 442 U.S. at 602. A parent's "primary function and freedom" is to "prepar[e]" their child for the various "obligations" of life, not just to make a series of major choices for him. *Prince* v. *Massachusetts*, 321 U.S. 158, 166 (1944). Because parental rights protect that parent-child relationship itself, they also encompass a parent's ongoing "authority" over their child, *Parham*, 442 U.S. at 602, and their "right [to] control" the day-to-day guidance and protection provided to one's children as they grow up, *Meyer* v. *Nebraska*, 262 U.S. 390, 400 (1923); see *John & Jane Parents 1* v. *Montgomery County Board of Education*, 78 F.4th 622, 640-641 (4th Cir. 2023) (Niemeyer, J., dissenting), cert. denied, 144 S. Ct. 2560 (2024). When a State takes away or pares back that authority, it reaches into the home and alters a basic aspect of the traditional parent-child relationship. See *Quilloin*, 434 U.S. at 255. Such an "invasion" gives rise to a traditional Article III injury. See *Bennett* v. *Spear*, 520 U.S. 154, 167 (1997); accord *TransUnion*, 594 U.S. at 425.

Mirabelli illustrates this point, and shows how the particular nature of parental rights shapes when parents have standing to defend them. There, California had a policy where public schools would not "tell[] [parents] about their children's efforts to engage in gender transitioning at school unless the children consent[ed] to parental notification." 607 U.S. at 493. A class of parents who "object[ed]" brought suit, and this Court held that those parents "very likely" had standing, "because they are objects of the challenged exclusion policies." *Id.* at 498. Notably, the Court did not require the parental class to show that each of its members had a child with gender confusion; nor did it require they each

establish their schools were actively (or imminently) participating in their child's social transition. Instead, the nature of the injury, shared across class members, was more foundational: The State had intervened in the parent-child relationship, and through its intervention, had restricted parents' "rights to direct the upbringing" of their children, and control "decisions regarding their children's mental health." *Id.* at 497. Nothing more than that severing of the "authority" that parents would otherwise possess was necessary. *Ibid.*; see *id.* at 498; see also America First Legal Foundation Amicus Br. 26.

Under this Court's cases, a parent thus may suffer an Article III injury when the government changes a fundamental aspect of the parent-child relationship—not just when a child takes advantage of that new relationship, and acts against their parents' wishes. To take another example, suppose a State said the government would let a child decide the medical care he receives at a public hospital, without notice to parents, and regardless of their consent. Parents "who object[ed]" to the State coopting their "primary authority" over such decisions would of course have standing to challenge the State's attempt to displace their control. *Mirabelli*, 607 U.S. at 497-498. They would not need to first wait until their child was wheeled into the operating room to have their day in court. Instead, parents suffer a concrete harm once a State engineers a scheme that "shut[s] [them] out of participation in decisions regarding" their child's medical care. *Id.* at 497. That restriction on parents' preexisting control alters the traditional day-to-day parenting relationship to which they are entitled, and thereby inflicts a here-and-now injury for Article III.

2. Petitioners have standing to challenge Washington's scheme, because the scheme wrests away a critical

aspect of their parental authority in connection with their children. Even on the State's own account, Washington now guarantees that a child who runs away to a licensed shelter and seeks "gender-affirming care" will receive the "opportunity" to be referred to a select set of behavioral-health professionals, curated by the State, before the child is reunited with his or her parents. Br. in Opp. 7-8. The impetus for this change was to restrict parents' control over such decisions, and ensure runaway children would have the opportunity to be referred to and learn about certain professional services their parents would never allow them to access. P.7, *supra*.

By giving children an independent means to access these particular services—without any notice to their parents, and regardless of their consent—the State "shut[s] out" parents from a decision that they would otherwise have a claim to control. See *Mirabelli*, 607 U.S. at 497. That is, Washington's scheme meaningfully "transfer[s]" "the power to make [these] decision[s] from the parents"—and the parents alone—to their children, who no longer need to seek parental permission to access certain medical professionals. See *Parham*, 442 U.S. at 603. Further, that transfer is carried out by "authority figures" in the government telling children that they can independently seek out certain services without their parent's consent and even against their parent's best wishes. *Mahmoud*, 606 U.S. at 554.

Regardless of whether such a scheme is ultimately constitutional, objecting parents have standing to challenge it. Washington has negated parents' asserted right to control what medical care their children may access, and it has inserted a state-sanctioned means for the "unconsented facilitation of a child's gender transition," accomplished via referrals for services that these

parents would never let their children inquire into at home. *Mirabelli*, 607 U.S. at 496. That usurpation effects a "[d]eparture[]" from a "preordained rule[]" structuring the parent-child relationship—that parents are the deciders when it comes to these vital questions of care. See *Bost* v. *Illinois State Board of Elections*, 607 U.S. 71, 78-79 (2026). Objecting parents who must operate under that revised dynamic suffer a "particularized and concrete harm" that is "in no sense common to all members of the public." *Ibid.* It is a cognizable here-and-now injury that itself is sufficient for standing.

3. Washington seeks to downplay its laws, stressing that it only offers referrals, and does not itself administer "gender-affirming care to minors." Br. in Opp. 9. But the State empowers minors to act upon such referrals, by allowing children thirteen and older to "request and receive outpatient treatment without the consent of the adolescent's parent." Wash. Rev. Code § 71.34.530. As the State accepts, Br. in Opp. 10, petitioners challenged this too as part of the State's overall scheme, Pet. App. 68a. Regardless, Washington's referral-care distinction does not matter to the Article III inquiry.

To start, Washington's approach to standing would apply equally to a scheme where the government did offer surgeries or similar services at its licensed shelters. On the State's view, parents cannot challenge that either, at least until a family could prove that their child is on the verge of running away to a licensed shelter in order to get a particular surgery. Cf. Br. in Opp. 29.

At any rate, Washington's referral services inflict an injury upon objecting parents that is different in degree, but not kind. The State is still limiting a parent's right to control what medical care their child may access and is still inserting state intermediators in the parents'

stead. Even if less drastic, such informational referrals are of course consequential: When Washington changed its laws in 2023, it did not do so to "change nothing." See *Diamond*, 606 U.S. at 118. Instead, the State took legislative action to ensure runaway children seeking "gender-affirming treatment" would be guaranteed the opportunity to learn about and be directed to professional services that would otherwise be forbidden at home (and that, apparently, the State did not think children could adequately access before). See p.7, *supra*. That action comes with the imprimatur of the government, see *Mahmoud*, 606 U.S. at 553-554, and the risk of lasting consequences, see Pet. App. 91a ("[A]pproximately 4 of every 5 minor children with gender dysphoria see it resolve * * * *if not affirmed as the opposite sex.*"). The State cannot maintain that its new laws "remove[d] barriers" to its licensed shelters, Br. in Opp. 5, but then insist they have no real-world effects on the parent-child relationships to which they respond.

Rather, Washington's scheme directly infringes on the parent-child relationship in a manner sufficient for standing. As a result of that scheme, parents no longer have the same manner of control over the medical care their child may access, but share their authority with their children, who now hold a state-fashioned "veto," with which they may independently access medical services their parents would otherwise forbid. Pet. App. 38a-39a (VanDyke, J., dissenting from the denial of rehearing en banc); see America First Legal Foundation Amicus Br. 17-19. That on its own inflicts a here-and-now injury upon objecting parents, because it restricts what would otherwise be their ongoing control over their child, alters a fundamental aspect of parental power, and ultimately transforms the parent-child

relationship itself. That suffices for standing, regardless of whether one's child takes advantage of the new state-revised relationship to access objectionable care.

4. The parental-rights context also cabins this case. As explained, parental rights occupy a special place in this Court's precedent, because they concern the unique protective authority that parents have over their children, which gives parents an enforceable interest in the integrity of the parent-child relationship itself. That sort of interest is different in kind from a substantive right to take (or to be free from) some discrete action.

In the latter context, it is insufficient for someone to just hold a right and point to a law that may reach some aspect of its exercise. For instance, in *Susan B. Anthony List* v. *Driehaus*, 573 U.S. 149 (2014), it was not enough for the petitioners to assert that they had a First Amendment right to speak; they needed to show that they intended to speak in a given manner, but for a "credible threat of enforcement." *Id.* at 161, 164-167. Likewise, gunowners would not have automatic standing to challenge every firearm restriction, nor libertarians every new surveillance program. Cf. *FDA* v. *Alliance for Hippocratic Medicine*, 602 U.S. 367, 391-392 (2024). A universal rule that would suggest a rights-holder must always have standing to sue "[w]henever" a law encompasses any "individual legal right" would thus extend far too broadly. Contra Pet. Br. 2.

The nature of parental rights, however, makes this a different case. Because parents have an interest in the integrity of the parent-child relationship itself, and with it the constitutive right to maintain their traditional authority over their children, parents suffer an immediate, concrete, and cognizable harm as soon as the government alters that authority and changes the dynamic

within which their children will grow up. See *Bellotti* v. *Baird*, 443 U.S. 622, 638-639 (1979) (plurality opinion); accord *Brown* v. *Entertainment Merchants Ass'n*, 564 U.S. 786, 824-834 (2011) (Thomas, J., dissenting) (tracing history of parents' right to direct a child's rearing).

Besides limiting any holding to the particular nature of the rights at stake, two other limits bear emphasis. First, to resolve this case, this Court need not define the full constitutional contours of parental rights or prospectively identify every type of law that would inflict a here-and-now harm upon parents. Cf. *Bost*, 607 U.S. at 82 n.7. While parents have the right over the "care, custody, and control of their children," *Troxel*, 530 U.S. at 66 (plurality opinion), there is of course a difference between a state program that, say, encourages children to support the Jets over the Giants, versus one that promotes the "unconsented facilitation of a child's gender transition." *Mirabelli*, 607 U.S. at 496. But no such line-drawing is needed to resolve this case, because it is already well-established under this Court's precedent that the Constitution safeguards parents' right to control what medical care their child may access. See *id.* at 497.

Second, as in *Mirabelli*, standing here should be limited to "parents who object" to Washington's new scheme, see 607 U.S. at 498, because if parents do not exercise their right to control the medical care their children may access, Washington has not meaningfully changed any aspect of their parent-child relationship, and thus has not inflicted any here-and-now injury on households that were already operating under such rules. In that light, while this Court has said that the "'object' of a government regulation" "ordinarily" has standing to challenge that regulation, *Diamond*, 606 U.S. at 114, it has applied that point pragmatically, and

it has never held a law's "direct object" means anyone to whom a law nominally applies, see *Driehaus*, 573 U.S. at 162-167. It is thus too broad to suggest any parent of a competent minor would have standing. Contra Pet. Br. 29-31, 33-34. If parents do not object to a scheme like Washington's—or if they do not clearly come within the reach of Washington's law (say, they live in Maine, or the child is an infant incapable of running away to a licensed shelter)—the real-world "personal stake" is missing for those parents. *Diamond*, 606 U.S. at 110.

But for parents like petitioners, the stake is obvious. The "whole point" of Washington's scheme is to take away an important element of these parents' decisionmaking authority over what medical care their children may access. Pet. App. 63a (Tung, J., dissenting from the denial of rehearing en banc). These parents vigorously object to that loss of control, because they vigorously oppose their children being connected with behavioral-health professionals who endorse the notion an individual may possess a "gender identity" distinct from biological sex. See *id.* at 70a-79a, 101a-103a. Petitioners are thus the very "targets" of these laws, because they are the families whose parenting dynamics are being intentionally altered, and the ones being required to play under a different set of rules. See *Diamond*, 606 U.S. at 125; cf. *Pierce*, 268 U.S. at 535-536. Those are the parents that need, and indeed may receive, judicial "relief." See *Mirabelli*, 607 U.S. at 498.

B. The Ninth Circuit's Exclusive Focus On Imminence Is Doctrinally Wrong And Practically Untenable

The Ninth Circuit held that petitioners lacked standing, because they failed to show it was sufficiently likely their children would run away to a licensed shelter to seek "gender-affirming treatment," thus rendering

their current chill-based harms self-inflicted, and their alleged future harms too remote. Pet. App. 14a-25a, 27a. That approach is erroneous and unworkable.

1. In forcing the standing analysis here to turn purely on whether any of petitioners' children were sufficiently likely to run away, the Ninth Circuit lost sight of the harm that Washington's scheme presently inflicts. As explained, when the State takes away a fundamental stick in the bundle of parental rights—here, the right of parents to control what medical care their child may access—that inflicts a here-and-now injury upon objecting parents. That Article III injury exists on its own, irrespective of how the altered parent-child relationship transpires in practice, and regardless of whether someone's child in fact takes advantage of the state-revised regime. See Pet. App. 44a-45a (VanDyke, J., dissenting from the denial of rehearing en banc).

To that end, while parental rights possess a unique place in our constitutional system, the notion of a here-and-now harm distinct from downstream consequences recurs across this Court's cases. Private parties hauled before unconstitutionally structured federal agencies, for instance, suffer a "here-and-now injury" from being subjected to unconstitutional agency authority, separate and apart from any additional injury from a possible adverse decision at the end of the process. *Seila Law LLC* v. *CFPB*, 591 U.S. 197, 212 (2020) (quotation marks omitted). Students may challenge an admissions process tainted by racial discrimination, separate and apart from any additional injury from being denied admission at the end of the process. *Parents Involved in Community Schools* v. *Seattle School District No. 1*, 551 U.S. 701, 718-719 (2007). Both shoo-in and long-shot candidates alike may challenge changes to the rules

governing elections, separate and apart from any injury from actually losing votes, let alone losing the race. *Bost*, 607 U.S. at 77. In such cases, this Court has held that a party may have an enforceable "interest" in the integrity of a process, distinct from whether that process ultimately yields a favorable result, which gives rise to standing when the government takes an action that alters or corrupts that process. See *id.* at 82-83.

The injuries to parental rights here should confer standing *a fortiori*. The Court has held that parents have a constitutional entitlement to the traditional parent-child "relationship." *Quilloin*, 434 U.S. at 255. Where, as here, the government alters one of the "preordained rules" governing that relationship—a relationship of "the most fundamental significance under our constitutional structure"—objecting parents suffer a "particularized and concrete harm." See *Bost*, 607 U.S. at 77, 79, 82; see also Pet. Br. 41-42. That is this case: Parents ordinarily have the right to control what medical care their child may access; in restricting that control, Washington has altered one of the fundamental rules governing the parent-child relationship. See *Parham*, 442 U.S. at 602-604. That suffices for standing.

The Ninth Circuit's reliance on cases like *Clapper* v. *Amnesty International USA*, 568 U.S. 398 (2013), is thus misplaced, because petitioners are suffering a *current* harm. The defect in *Clapper* was the plaintiffs "could not show that they had been or were likely to be subjected to [the] policy [at issue]." *FEC* v. *Cruz*, 596 U.S. 289, 297 (2022). But as explained, petitioners are subject to the State's scheme now; it has already reached into their homes and restricted the control parents have over the medical care their child may access. That "invasion" itself inflicts a here-and-now injury.

See *Bennett*, 520 U.S. at 167; see also Pet. App. 47a (VanDyke, J., dissenting from the denial of rehearing en banc).

This Court likewise does not need to address petitioners' fallback arguments for satisfying imminence—in particular, petitioners' expansive theory of probabilistic standing. See Pet. Br. 48-53. But if it does, this Court should reject it. Standing does not operate on a sliding scale. Contra *id.* at 52. Injury and causation are separate inquiries, and a small harm that is remote does not become "certainly impending" if it grows larger. See *Clapper*, 568 U.S. at 414. Nothing in *Massachusetts* v. *EPA*, 549 U.S. 497 (2007), says anything different. Contra Pet. Br. 51-52. There, in discussing redressability, the Court reasoned that the prospect of partial relief from an "enorm[ous]" harm satisfies that prong, because even though such a partial remedy may not solve the whole problem, it would still supply real-world relief. 549 U.S. at 525-526 & n.23. That is a far cry from declaring that attenuated injuries are somehow imminent so long as they are deemed adequately large.

2. Besides ignoring the threshold here-and-now injury a scheme like Washington's inflicts, the Ninth Circuit's approach would also invite unworkable and unnecessary emergency litigation in the parental-rights context. By focusing solely on the future injury that occurs when a child actually obtains medical services against his or her parent's wishes, the court below adopted a standing analysis that would turn wholly on imminence. In practice, then, standing would depend upon a parent's ability to convince a federal court that their child is sufficiently likely to run away (or otherwise accept a similar direct offer for services from a State). That approach is "practically untenable." *Bost*, 607 U.S. at 79.

Major aspects of an imminence-focused inquiry are unusually difficult to gauge in the parental-rights context. It is "not clear" what "specific information" parents would need to put forth to prove their child is at a sufficiently imminent risk of fleeing home. See *Mahmoud*, 606 U.S. at 560. A parent's fear that a child may run away or take some other immediate action typically results from intuition and parental expertise—often gleaned from an unexpected outburst or unusual behavior—none of which is the typical fodder of a federal filing.

Also unclear is how federal courts would independently assess parents' judgments. Getting inside the mind of someone else's child "invites findings on matters as to which neither judges nor anyone else"—besides the child's parents—"can have any confidence." *Rucho* v. *Common Cause*, 588 U.S. 684, 711 (2019) (quotation marks omitted). It is the sort of a "determination[]" a court is "no better qualified to make," and in truth is far worse equipped to do. *Bost*, 607 U.S. at 81.

These problems would plague all sorts of parental-rights scenarios, not just Washington's law. Suppose a State offered to discreetly mail mifepristone to any pregnant minor who wants an abortifacient. It is unclear what objecting parents are plausibly supposed to marshal to prove their pregnant child is at imminent risk of taking the State up on its offer, especially given that (by definition) the parents' views diverge from their child's. Likewise, imagine a State provided walk-in cosmetic surgeries for self-conscious teens. There is not a clear line for when ordinary body-image issues translate into an imminent risk of elective surgery. Or consider a State with different sensibilities than Washington, which offered "conversion therapy" for youth without telling their parents. If parents are worried their gay child

might seek such therapy against their wishes, it is anyone's guess how they are supposed to show their child is on the brink of pursuing such a course. Finally, take an example given by Judge VanDyke, where a State offers an "assisted-suicide-in-secret program." Pet. App. 47a. Judges would be hard-pressed to pinpoint just how demonstrably troubled a child must be in order for Article III to allow his parents to bring suit.

Indeed, it is difficult to see what would be enough to satisfy the approach below short of a child actually running away, or walking into a shelter, or found dialing the number of a behavioral-health professional. See also Br. in Opp. 29. Yet the upshot of such an approach is not the guarantee of bona fide cases and controversies, but instead a system where parents cannot get a day in court until it is "too late." Pet. App. 35a (VanDyke, J., dissenting from the denial of rehearing en banc).

At the very least, the Ninth Circuit's approach would channel parental-rights-related challenges into emergency litigation. Washington agreed below that under its view of standing, these cases would likely be resolved in hearings for a TRO or preliminary relief. See C.A. Oral Argument at 27:00-27:35. The result of such "expedited" proceedings will be "rushed, high-stakes, low-information decisions" in cases of constitutional significance. See *DHS* v. *New York*, 589 U.S. 1173, 1174 (2020) (Gorsuch, J., concurring in the grant of stay). Those practical problems are compounded by the reality that States often endeavor to keep parents "in the dark" about a child's gender confusion, thus hiding from them the very information they would need to plead an imminent injury. *Parents Protecting Our Children, UA* v. *Eau Claire Area School District*, 145 S. Ct. 14, 14 (2024)

(Alito, J., dissenting from the denial of certiorari); see p.8, *supra*; see also, *e.g.*, Pet. App. 105a.

3. Washington's position mostly echoes the Ninth Circuit. Br. in Opp. 16-17. But at times, the State seems to accept—as *Mirabelli* and *Mahmoud* require—that the analysis would be different if this case involved public schools. Washington suggests if its scheme "dictated terms" to school counselors, such that they would offer these referrals to students on request without notifying parents, objecting parents would have standing without having to show anything else. *Id.* at 26-27; see *id.* at 29.

The standing inquiry should not be straightforward in the schooling context, yet practically insurmountable if the State moves the service across the street. First, each case involves the same here-and-now injury: The "challenged policies" "intru[de]" on parental rights, because they reduce the control, and alter the authority, parents otherwise exercise over their children. *Mirabelli*, 607 U.S. at 496, 498; see Pet. App. 46a-48a (VanDyke, J., dissenting from the denial of rehearing en banc).

Moreover, whether the policy is in the school setting or somewhere outside of it, when a State "has clearly stated how it intends to proceed" should a child take it up on its offer, it is typically not "realistic," or for that matter acceptable, to require parents to "rely on after-the-fact" events to make their claim, especially given that such *ex post* reports are by definition coming after the harm has been inflicted. *Mahmoud*, 606 U.S. at 560. That same intuition should hold here. If Montgomery County chose to move its LGBTQ program to nearby afterschool facilities that were open to any child who arrived, regardless of parental consent, there is no reason the justiciability analysis should radically differ.

Instead, here too, parents need not "wait and see" whether their child tries to avail himself of a program like Washington's in order to challenge such a program. See *Mahmoud*, 606 U.S. at 560. As soon as a State restricts a parent's control over their child's medical care, objecting parents have standing to contest that change.

CONCLUSION

The judgment of the court of appeals should be vacated, and this case remanded for further proceedings.

Respectfully submitted.

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