

No. 25-840

In the Supreme Court of the United States

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

Petitioners,

v.

BOB FERGUSON, GOVERNOR OF WASHINGTON, ET AL.

Respondents.

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

**BRIEF OF THE NATIONAL JEWISH
ADVOCACY CENTER, AS AMICUS CURIAE IN
SUPPORT OF PETITIONER**

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INTEREST OF *AMICUS CURIAE*¹

The National Jewish Advocacy Center (“NJAC”) is a non-profit legal organization dedicated to combating antisemitism and advocating for the rights of Jewish people through legal and public policy initiatives. NJAC addresses the rising tide of antisemitism through litigation, advocacy, and education.

NJAC and the community it serves have a direct and substantial interest in the questions presented. This case asks whether parents may invoke the jurisdiction of a federal court to challenge a state law that displaces their role in their children’s lives. That question matters to Jewish families in a particular way. In Jewish law and practice, a parent’s obligation to raise and teach a child, known as the commandment of *chinuch*, is a duty that is discharged daily, in the home, at the table, and in the school the parents choose. Washington’s scheme reaches precisely that duty: a shelter that takes in a child seeking gender-affirming treatment may withhold notice to the parent for that reason alone and may

¹ No counsel for any party either (a) authored this brief in whole or in part or (b) made a monetary contribution intended to fund the preparation or submission of the brief. No person other than amicus, its members, or its counsel funded its preparation. *See* SUP. CT. R. 37.6.

hold the child without the the parent's knowledge or counsel. For a Jewish parent, that is precisely when the continuous duty of *chinuch* is cut off, and it is at the moment the child needs it most. A rule of standing that closes the courthouse until a parent's authority has already been displaced would fall hard on a community whose survival across generations has depended on precisely that transmission of knowledge and values.

Amicus writes to show that Jewish law assigns the parent a continuous, personal duty of moral formation, and that a rule of standing which waits for that duty to be displaced arrives after the injury is done.

Amicus's submission is deliberately narrow. Amicus takes no position on the medical or policy questions surrounding Washington's statute, and it does not repeat Petitioners' account of the object-of-the-law doctrine, which Petitioners have briefed in full. Amicus addresses one question: whether a parent whose religion commands the very conduct a statute chills can be said to have injured himself. Jewish law answers that question, and the Jewish experience of state interposition between parent and child explains why a rule that withholds a forum until the displacement is complete withholds it too late.

SUMMARY OF THE ARGUMENT

Amicus supports Petitioners and urges reversal of the Ninth Circuit's judgment in *International Partners for Ethical Care, Inc. v. Ferguson*, 146 F.4th 841 (9th Cir. 2025), *reh'g en banc denied*, No. 24-3661 (9th Cir. Dec. 5, 2025), which affirmed the dismissal of this constitutional challenge for lack of Article III standing.

The authority Washington attempts to displace is the fundamental right of parents to direct the upbringing of their children, which this Court has called “perhaps the oldest” of the fundamental liberty interests it has recognized. *Troxel v. Granville*, 530 U.S. 57, 65 (2000) (plurality opinion). For religious parents, complying with the commandment to exercise that parental authority is an exercise of religion, in itself. Here, religious parents are among the plaintiffs, and amicus speaks to how one minority faith may experience the impact of the Ninth Circuit's opinion.

In Jewish law, the parental duty to teach and mold one's child is continuous, non-delegable, and begins in a child's earliest years. History has shown Jewish families many examples of the State (both in the US and abroad) attempting to prevent parents from performing those obligations by inappropriately meddling in the moral and ethical formation of Jewish children. Governments have done this repeatedly

through the regulation of religious schooling. More recently, there have also been attempts to regulate the religious rite of circumcision, symbolizing acceptance of the ancient covenant with God. If standing disappears whenever a State works through a third-party organization or some other conduit rather than by direct command, religious minorities will be locked out of court until the harm is complete, and by then it may be too late, because the harm to any particular child may be irreversible.

Petitioners have briefed the governing standing doctrine in full, and amicus states it here only to frame its narrower point. Where the plaintiff is the object of the challenged government action, “there is ordinarily little question that the action or inaction has caused him injury.” *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561-62 (1992). A party need not be the one the statute directly regulates: when the government “prohibits or impedes Company A from using Company B’s product, then both Company A and Company B might be deemed objects of the government action at issue.” *Diamond Alternative Energy, LLC v. EPA*, 606 U.S. 100, 115 (2025). This Court applied the rule to parents this year, concluding that parents challenging school policies that concealed their children’s gender identity from them “very likely have standing because they are objects of the challenged exclusion policies.” *Mirabelli v. Bonta*, 607 U.S. 492, 498 (2026) (per curiam). And the Fifth

Circuit held that a federal policy displacing a parent's right to consent to his children's care was itself the injury: "That invasion of Deanda's state-created right alone creates Article III injury." *Deanda v. Becerra*, 96 F.4th 750, 753 (5th Cir. 2024). Washington's statute identifies a class of parents by what they will not do and withholds from that class the notice and participation to which parents are otherwise entitled. Those parents are its objects.

Amicus writes to the one question Petitioners' brief does not reach. The panel below held that the parents' present injuries were self-inflicted: because the statute commands parents to do nothing, any change in how they speak to and guide their children was their own choice. *Int'l Partners v. Ferguson*, 146 F.4th 841, at 849. That premise fails when the conduct the statute chills is conduct the parent's religion commands. A parent under a continuous religious duty to teach his child, who now measures every conversation against a risk the State built, is not choosing to injure himself. He is choosing between his faith's command and the State's hazard. That is a present injury traceable to the State, *FEC v. Cruz*, 596 U.S. 289, 296-97 (2022), and Jewish law and Jewish history show why.

The Ninth Circuit's judgment should be reversed.

ARGUMENT

I. I. For Religious Parents, Parental Authority Is an Exercise of Religion.

For a religious family, raising a child is a religious act. This Court has long recognized “the rights of parents to direct ‘the religious upbringing’ of their children.” *Espinoza v. Montana Dep’t of Revenue*, 591 U.S. 464, 486 (2020). A State may not “standardize its children,” because “[t]he child is not the mere creature of the State.” *Pierce v. Society of Sisters*, 268 U.S. 510, 535 (1925). Nearly fifty years later, *Wisconsin v. Yoder*, 406 U.S. 205, 233 (1972), described *Pierce* “as a charter of the rights of parents to direct the religious upbringing of their children.”

In *Yoder*, the state requirement was unconstitutional because it “carries with it a very real threat of undermining the Amish community and religious practice as they exist today,” and thus “carries with it precisely the kind of objective danger to the free exercise of religion that the First Amendment was designed to prevent.” *Id.* at 218. Last Term, this Court applied that same measure, holding that materials which “carry with them ‘a very real threat of undermining’ the religious beliefs that the parents wish to instill in their children” imposed a cognizable burden. *Mahmoud v. Taylor*, 606 U.S. 522, 553 (2025) (citing *Yoder*, 406 U.S. at 218).

Yoder and *Mahmoud* decided whether a burden on religious exercise existed, which is a merits question. But *Mahmoud* also spoke to timing, and that is the point here: “[W]hen a deprivation of First Amendment rights is at stake, a plaintiff need not wait for the damage to occur before filing suit.” *Mahmoud*, 606 U.S. at 559-60 (citing *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 158 (2014)). The Court borrowed that rule from its pre-enforcement cases, under which a plaintiff shows injury by alleging “an intention to engage in a course of conduct arguably affected with a constitutional interest, but proscribed by a statute, and there exists a credible threat of prosecution thereunder.” *Susan B. Anthony List*, 573 U.S. at 159. Applied to parents, the rule means that a religious parent’s injury from a scheme aimed at his authority ripens before the child is harmed.

In Jewish law, the obligation to transmit faith and practice to one’s children is binding, continuous and constant. It is performed in ordinary conversation between parent and child, in the choice of a school, in what a parent says at the moment a child raises a hard question, and in the countless smaller moments in between. A regime that removes the parent from that moment inflicts an immediate obstacle to free religious exercise.

The panel below held otherwise. It reasoned that because the challenged provisions do not require

parents to do or refrain from anything, any change in how they speak to or guide their children was voluntary, and it drew that rule from *Clapper v. Amnesty Int’l USA*, 568 U.S. 398, 416 (2013), which holds that plaintiffs “cannot manufacture standing merely by inflicting harm on themselves based on their fears of hypothetical future harm that is not certainly impending.” That is not what happened to these parents.

Once the duty is understood as a command rather than a preference, the panel’s self-infliction premise collapses. Washington’s scheme creates the risk that a child who leaves home will be sheltered and referred for treatment while the parent is kept outside the process. The parent who then measures every conversation about faith, identity, obligation, and tradition against that risk is choosing between discharging an obligation his faith imposes on him and exposing his child to a hazard the State built.

The Court has already rejected the argument that such a response defeats standing. In *FEC v. Cruz*, 596 U.S. 289, 296-97 (2022), the Government contended that because the plaintiffs had knowingly triggered the challenged provision’s operation, any resulting injury was traceable to them rather than to the Government. This Court held otherwise: an injury resulting from the application or threatened application of an unlawful enactment remains fairly traceable to that enactment “even if the injury could

be described in some sense as willingly incurred.” That is precisely the posture here. The threatened application of Washington’s scheme is what alters the parent’s conduct, and the resulting burden is traceable to the scheme even though the immediate step, caution in how they speak to their children, was the parent’s own.

When a court says a plaintiff could simply have kept speaking to his child as before, it is describing a choice. When the conduct is commanded by a parent’s religion, there is no choice of the kind *Clapper* contemplated. *Clapper* denied standing to plaintiffs who spent money to guard against surveillance they had no reason to expect; it did not hold that a plaintiff forfeits standing whenever the final act in the causal chain is his own. Read the way the panel read it, *Clapper* would immunize any scheme that burdens religious exercise indirectly, so long as the State is careful never to command the believer directly. That is not the law under *Cruz*.

II. II. The Jewish Experience Demonstrates Why A Narrow Rule Of Standing Would Be Dangerous For Religious Minorities

Jewish survival across centuries of displacement has rested on the ordinary, repeated act of one generation teaching the next (*l’dor vador*, from generation to generation). That is why *chinuch* (the

obligation to transmit a system of moral values) occupies the place it does in Jewish law, and why Jewish families treat interference with the religious formation of a child as an existential matter. When the State inserts itself between a Jewish parent and a Jewish child, the Jewish community fears for its very survival.

A. In Jewish law, the duty to raise and teach a child is binding, continuous, and personal to the parent.

The obligation is scriptural at its root. The command to teach one's children appears, among other places, in the *Shema*, a well-known prayer repeated by traditionally observant Jews multiple times a day. The *Shema*, quoting the book of Deuteronomy, directs a parent to impress these teachings upon his children and to speak of them constantly. "And these words which I command you today shall be upon your heart. You shall teach them thoroughly to your children, and you shall speak of them when you sit in your house and when you walk on the road, when you lie down and when you rise." Deuteronomy 6:6-7. The same instruction is repeated later in the same book, again directing parents to teach their children and again describing that teaching as woven through the day rather than merely confined to a specific time. Deuteronomy 11:19.

Proverbs instructs that a child be trained so that the training holds as he grows; the Hebrew verb, “training” in that verse shares the root of the word *chinuch* itself. Proverbs 22:6. And when the Talmud recounts the ordinance of Yehoshua ben Gamla, which established teachers for children in every town so that Torah would not be forgotten, it grounds that communal institution in the parental teaching duty of Deuteronomy 11:19. Babylonian Talmud, Bava Batra 21a. The institution of the school was created to assist the parent in discharging the obligation because it was understood the parent cannot always fulfill the commandment alone, but it was certainly not created to supersede or sidestep the parent.

The Talmud enumerates what a father owes his son as a list of specific, concrete acts: to circumcise him, to redeem him, to teach him Torah, to see him married, and teach him a trade. Babylonian Talmud, Kiddushin 29a. The list begins in infancy with the rite of circumcision performed on a child eight days old, and it runs through the whole arc of raising a person capable of living in the world. Furthermore, the commandment is a personal charge to the parent, not merely a general aspiration for how a good Jewish child should be raised.

The medieval scholar and sage, Moses Maimonides, remains respected over 800 years after his death, for, among other things, taking the

multitude of volumes in the Talmud (a record of centuries of rabbinic debate) and codifying them into the Mishneh Torah, a more concise collection of legal volumes, more closely approximating what we would call a Legal Code. And even Maimonides, who regularly translated the esoteric into the actionable, made sure that the moral shaping of a child was not a vague communal policy responsibility, but a commandment set directly at the foot of the child's father: "A father is obligated to teach his son Torah while he is a minor, as [Deuteronomy 11:19] states: 'And you shall teach them to your sons to speak about them.'" Moses Maimonides, *Mishneh Torah*, Hilchot Talmud Torah 1:1 (Eliyahu Touger trans., Moznaim Publ'g Corp. 1990). Also, one is obligated to hire a teacher for one's son. *Id.* at 1:3. The duty is thus not only to instruct but to direct the child's education, including by choosing who else will instruct him. That is precisely the authority that a State displaces when it decides, over the parent's objection, who will guide the child on deeply personal and consequential formative questions.

The Shulchan Arukh, a significantly more concise codebook of Jewish law published in 1565, and still a widely consulted authority today, remains equally committed to this commandment. It sets out the enduring duty to teach one's children (Shulchan Arukh, Yoreh De'ah 245:1) including the obligation to pay for a teacher's instruction. *Id.* at 245:4. A duty

that requires a parent to spend his own resources on his child's religious formation is an assignment of responsibility, and it presupposes that the parent retains the authority to discharge it.

Three features of this body of Jewish law bear directly on the standing question in the instant case. First, the duty is continuous. It is discharged in daily conversation and daily example, not at a single ceremony. Second, it is non-delegable in the sense that matters here: a parent may hire a teacher, but he remains the one answerable for the child's formation, and he chooses the teacher. Third, it begins at the child's earliest age.

B. B. Jewish families have repeatedly been the object of state action reaching into their children's religious formation.

First, religious schooling. For years, Orthodox Jewish families and the organizations that represent them have contested New York's application of its "substantial equivalency" requirements to yeshivas on the ground that the State's supervision of religious curricula intrudes on the parents' right to choose and direct their children's religious education. Those disputes have been litigated for years, reaching New York's highest court in 2025. In *Parents for Educ. & Religious Liberty in Schs. v. Young*, 44 N.Y.3d 477 (2025), the Court of Appeals rejected the yeshiva

parents' facial challenge, held that the Commissioner acted within the statute, and did not reach the constitutional claims. That dispute remains live, and those families are asserting the same interest the petitioners assert here: the right of a parent, not the State, to decide how a child is formed.

When Maimonides writes that a father who cannot teach his son must secure someone who will, the choice of that teacher remains a parental duty. Regulations that dictate what the chosen teacher must teach reach that parental duty directly.

Second, circumcision. Circumcision on the eighth day after a boy's birth is a symbol of the covenant described in Genesis, where Abraham was commanded to ensure that every male in his household be circumcised at eight days old, and it is restated as law in Leviticus. Genesis 17:10-14; Leviticus 12:3. It is, in the Talmud's enumeration, the first of the father's duties to his son. Babylonian Talmud, Kiddushin 29a. The rite is performed at the direction of an infant's parents, in fulfillment of their obligation.

In 2012, New York City adopted a regulation requiring written parental consent and a disclosure form before a mohel (ritual circumciser) could perform *metzitzah b'peh*, a component of ritual circumcision practiced in some Orthodox communities. The measure was a consent and disclosure requirement,

not a prohibition. Jewish organizations nevertheless challenged it as a burden on religious exercise, because it inserted a government-scripted communication into a religious rite performed on an infant at his parents' direction. See *Central Rabbinical Congress of the U.S. & Canada v. New York City Dep't of Health & Mental Hygiene*, 763 F.3d 183 (2d Cir. 2014) (Second Circuit vacated the denial of the preliminary injunction and remanded, holding the regulation is "neither neutral nor, on this record, generally applicable and therefore must satisfy strict scrutiny"). Again, the objection was not that the State had banned anything, but that it had inserted itself into a parent-directed religious moment. Washington's scheme features the same common thread of government insertion into parental rights.

Third, Jewish history supplies the starkest illustration.

Amicus draws no equivalence between Washington's statute and the episode that follows. A shelter-notification law enacted by a state legislature in a constitutional democracy is not a child-seizure, and amicus does not suggest otherwise. The episode is offered for one purpose only: to explain why, in Jewish experience, the interposition of the State into the transmission of faith from parent to child registers as an immediate and grave injury, and why

a judicial forum before the interference is complete is essential.

Consider the 1858 case of six-year-old Edgardo Mortara. Mortara was removed from his Jewish parents' home after a household servant reported having secretly baptized him as an infant. Because the governing law of the Papal States forbade Jews to raise a child regarded as Christian, Mortara was taken by the authorities. His parents were told that he would be returned to them if they themselves converted. They did not, and he was never returned. *See* David I. Kertzer, *The Kidnapping of Edgardo Mortara* (Alfred A. Knopf 1997). Again, the operative act was the transfer of a single child's upbringing out of his parents' hands, accomplished through the act of a third party and ratified by the State.

What the yeshiva regulations, the circumcision rule, and the Mortara case share is the structure that matters to the question presented. In each, the State reached the child through an intermediary, whether a school, a practitioner, or a servant whose act the authorities ratified, rather than by commanding the parent. In the gravest of them, the harm to the child's religious formation was irreversible once complete. A rule that withholds a forum until the interference is complete withholds that forum precisely when it matters: once the child's formation is already lost, there is nothing left for a court to protect.

C. Because the parental duty is consistent, the harm suffered from its forced abrogation is immediate and continuous.

Transmission of knowledge, tradition, faith, values, ritual, and common history from parent to child has been, for the Jewish people, an existential matter of survival. Through expulsion and dispersion, and through long centuries in which Jewish communities held no political power and controlled no institutions of their own, what endured was carried in the home. A people that has repeatedly lost everything else has learned that its continuity depends on whether one generation can still teach the next. Interference with that transmission is felt as no less than an existential threat to community and peoplehood.

In such a context, the injury a scheme like Washington's inflicts is far from speculative. A parent who must weigh every conversation about faith, identity, obligation, and tradition against the risk that the State will treat that conversation as a rationale for removing that parent from the child's moral upbringing suffers a real and present harm. It is a concrete alteration of protected conduct compelled by the State's own enactment, *see Cruz*, 596 U.S. at

296-97, and suffered by the persons the enactment targets. *See Lujan*, 504 U.S. at 561-62; *Mirabelli*, 607 U.S. at 498.

To be commanded by God and faith to transmit a particular value system, while simultaneously being commanded by the organs of the state to transmit a decidedly different value system on pain of long-term rending of familial bonds is not unfamiliar territory for the Jewish people. It is, in fact, why many Jewish families came to America in the first place.

In a world in which the Ninth Circuit's decision is upheld, a State may circumvent parents entirely in the child rearing process by choosing to regulate a school, a shelter, a clinic, or any other licensed intermediary, and route its policy through that conduit, all while keeping the parent at arm's length from their child. On the reasoning below, the parents affected would have no standing to object, because the law does not command them to do anything and because the harm to their own child has not yet materialized. They would simply have to watch and wait, with no recourse to intervene, fix, or prevent what the State has arranged for their child.

That rule would apply with equal force to a Jewish family objecting to state supervision of a yeshiva curriculum, to a family objecting to state involvement in a religious rite performed on an

infant, and to every religious minority whose practices are unfamiliar enough to attract regulation.

The yeshiva and circumcision examples illustrate the structural problem. Government can reach minority religious practice through the schools, practitioners, and other institutions, rather than by commanding parents directly; that indirect structure can not only exert influence on a child, but also simultaneously conceal that influence from the parents, until it is too late and moral formation has already been altered.

In *Carolene Products*, this Court identified laws directed at particular religious minorities, and prejudice against discrete and insular minorities that curtails the political processes ordinarily relied upon to protect them, as circumstances that may call for more searching judicial inquiry. *United States v. Carolene Products Co.*, 304 U.S. 144, 152-53 n.4 (1938). The footnote concerns the standard of review, not Article III, and amicus does not suggest otherwise. Its insight bears on this case for a narrower reason: it identifies where a minority can go for protection. A group that can assemble a legislative majority can repeal the law that burdens it, while a group that cannot has only the courts, and a wait-and-see standing rule closes the courthouse to exactly those families for exactly as long as the interference lasts.

CONCLUSION

For the above reasons, the judgment of the Ninth Circuit should be reversed.

Respectfully submitted,

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