

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 EDUCATION
ASSOCIATION AS *AMICUS CURIAE* IN
SUPPORT OF RESPONDENTS**

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INTEREST OF AMICUS CURIAE

This amicus curiae brief is submitted by the National Education Association (“NEA”).¹ NEA is the nation’s largest professional association and union, representing nearly three million members. The vast majority of NEA’s members serve as teachers, counselors, and education support professionals in our nation’s public schools. NEA’s mission is to advocate for education professionals and work with communities to fulfill the promise of public education to prepare every student to succeed in a diverse and interdependent world.

NEA has a strong interest in this case, which presents a question about the circumstances in which individual parents may enlist the federal courts in disrupting or diverting the provision of important public services—including the education of the Nation’s youth in our public schools—to accommodate the parents’ personal preferences.

NEA believes that educating young people is a partnership between administrators, teachers, students, and their families. NEA knows that the involvement of parents and caregivers is critical to the education and growth of children: when families are involved, students attend school more regularly, stay in school longer, and perform at higher levels. NEA also recognizes that in a diverse nation, absolute consensus in public policy about services for children is rare, and people who care about children may have reasonable

¹ Amicus states that no party’s counsel authored the brief in whole or in part; no party’s counsel contributed money that was intended to fund preparing or submitting the brief; and no person—other than NEA, its members, or its counsel—contributed money that was intended to fund preparing or submitting the brief. See Sup. Ct. R. 37.6.

disagreements. In a healthy democracy, it is the job of democratically elected and properly appointed decisionmakers to develop and implement policy solutions to difficult problems.

NEA submits this brief in support of Respondents to elucidate the troubling consequences that a ruling in favor of Petitioners would have on public programming that serves children. The judgment of the Ninth Circuit is correct and should be affirmed or, alternatively, the writ of certiorari should be dismissed as improvidently granted.

INTRODUCTION AND SUMMARY OF ARGUMENT

In pursuit of a challenge to a set of Washington State laws that have no current or certainly impending effect on them or their children, Petitioners urge this Court to adopt a new theory of standing to sidestep what have long been understood as the irreducible minimum requirements of Article III of the U.S. Constitution. Amicus NEA urges the Court to reject Petitioners' attempt to refashion the law of standing in this way.

One of the primary functions of this Court's standing jurisprudence is to prevent federal courts from adjudicating generalized grievances that transform lifetime judicial appointees into unelected and unrepresentative policymakers. Indeed, Article III extends the federal courts' purview to "cases" and "controversies," not to all matters of public concern. To ensure that the federal judiciary maintains its properly limited role, this Court's cases establish that in any case before a federal court the 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.

Petitioners' new theory of standing replaces these requirements with a single nebulous inquiry into whether a plaintiff is an "object" of the challenged law or policy. Under this approach, it is apparently of no moment that a plaintiff has suffered no actual or imminent injury, that its claimed injuries are entirely subjective or self-inflicted, or that any harm would only come about as the result of a speculative or attenuated chain of events. Nor does this novel theory contain any limiting principle that constrains a court's standing inquiry. Instead, it opens the door to the adjudication of generalized grievances in federal court.

Adopting Petitioners' open-ended theory of standing theory is especially concerning because it would burden important governmental services—and especially K-12 public education—with unworkable demands. Public institutions and decisionmakers will be pulled in every direction at once, forced to determine how to develop programs that are consistent with every parenting style and preference.

This would be particularly true for K-12 public schools, given Petitioners' expansive view of standing and misguided conception of the scope of parental rights protected by the Constitution. Under Petitioners' approach, individual disagreements with any aspect of the broad array of programming, services, and instruction provided by public schools would be open to constitutional challenge—not just by parents of students in the school, but by anyone who theoretically could become a parent of a student in the school. This would place untenable burdens on schools and teachers. And it would contravene this Court's longstanding recognition that federal courts are poorly equipped to

second-guess the day-to-day operations of K-12 schools.

Amicus NEA therefore submits this brief to emphasize the negative impacts that adopting this theory of standing would have on public programming that serves children and families, including schools.

ARGUMENT

A. A fundamental purpose of this Court’s standing jurisprudence is to prevent the adjudication of generalized grievances that improperly allow Article III judges to act as unelected policymakers

“The Constitution confers limited authority on each branch of the Federal Government.” *Spokeo, Inc. v. Robins*, 578 U.S. 330, 337 (2016). For the federal courts, Article III limits them to exercising the “judicial power” to decide “cases” and “controversies.” And such cases or controversies “exist only if a plaintiff has standing to sue.” *United States v. Texas*, 599 U.S. 670, 675 (2023). The requirement for standing is therefore “founded in concern about the proper—and properly limited—role of the courts in a democratic society.” *Warth v. Seldin*, 422 U.S. 490, 498 (1975).

One of the primary purposes of this Court’s standing doctrine is to prevent the adjudication of a plaintiff’s “generalized” grievance that asserts only an “interest in proper application of the Constitution and laws.” *Hollingsworth v. Perry*, 570 U.S. 693, 706 (2013). This is “an essential limit” on the judicial power, ensuring that lifetime appointees to the federal bench act “as judges, and do not engage in policymaking properly left to elected representatives.” *Id.* at 700 (emphasis omitted); see also *Lance v. Coffman*, 549 U.S. 437, 439 (2007) (per curiam) (“[This Court’s]

refusal to serve as a forum for generalized grievances has a lengthy pedigree.”).

Under the standing doctrine’s prohibition on entertaining generalized grievances, federal courts have no “roving commission to publicly opine on every legal question” or authority to “issue advisory opinions.” *TransUnion LLC v. Ramirez*, 594 U.S. 413, 423–24 (2021); *see also Hein v. Freedom From Religion Found., Inc.*, 551 U.S. 587, 593 (2007) (explaining that, absent such a limitation, “the federal courts would cease to function as courts of law and would be cast in the role of general complaint bureaus”). Likewise, would-be litigants have no ability to “sue merely because their legal objection is accompanied by a strong moral, ideological, or policy objection to a government action.” *Food & Drug Admin. v. All. for Hippocratic Med.*, 602 U.S. 367, 381 (2024). Instead, a plaintiff must show from the outset of the litigation and at every stage thereafter that the “legal questions presented to the court will be resolved . . . in a concrete factual context conducive to a realistic appreciation of the consequences of judicial action.” *Diamond Alternative Energy, LLC v. EPA*, 606 U.S. 100, 111 (2025) (citation omitted).

To establish such a case or controversy for purposes of 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*, 594 U.S. at 423. These elements “distinguish cases and controversies fit for judicial resolution from questions of public policy reserved to the elected branches or abstract disputes better left to the debating hall.” *First Choice Women’s Res. Ctrs., Inc. v. Davenport*, 608 U.S. 174, 183 (2026). And because these

three elements comprise “the irreducible constitutional minimum of standing,” they dictate the standard that Petitioners must be held to—and that they ultimately fail to meet—here. *Diamond Alternative Energy*, 606 U.S. at 111 (citation omitted).

B. Petitioners’ novel and expansive standing theories fail every limitation in this Court’s caselaw guarding against the adjudication of generalized grievances

Petitioners seek to challenge a Washington State statute that regulates licensed youth shelters. *See* Wash. Rev. Code § 13.32A.082. Usually, when a runaway youth arrives at a licensed shelter, the shelter contacts the youth’s parents within 72 hours. *Id.* § 13.32A.082(1)(b)(i). If, however, the runaway youth is seeking or receiving protected healthcare services—such as pregnancy or gender affirming care—the law requires the shelter to notify the Department of Children, Youth, and Families, which then contacts the youth’s parents and refers the youth to voluntary behavioral health and family reconciliation services. *Id.* § 13.32A.082(3).

However, Petitioners have no children who are—or ever have been—in a licensed shelter and have never been offered the referrals to services that they find objectionable. Their primary argument before this Court, therefore, is that they may dispense with ordinary standing requirements and instead avail themselves of what they call “object-of-the-law standing” to mount their challenge. Pet. Br. 30. Per Petitioners, this supposed form of standing sidesteps any need to establish the traditional elements of injury, causation,

and redressability.² *See id.* at 21–31. But as the State shows conclusively in its brief, Petitioners’ novel “object-of-the-law” theory reflects a basic misreading of this Court’s precedent, *see* Resp. Br. 26–28, and it would make a hash of existing caselaw if this Court were to accept it, *id.* at 28–29. Indeed, Petitioners’ theory is so misguided and unworkable that some of their own most prominent supporting amici disavow it.³ *See* Am. First Legal Found. Amicus Br. 25 (“More importantly, an “object” of a challenged policy (whatever

² The State points out that Petitioners did not raise their novel “object-of-the-law standing” argument below. *See* Resp. Br. 23. Where a plaintiff has “raised for the first time a novel alternative theory of standing,” this Court should follow its existing practice of “declin[ing] to consider” the newly raised argument. *California v. Texas*, 593 U.S. 659, 674 (2021). Indeed, it would be appropriate for this Court to dismiss the writ of certiorari as improvidently granted, as the State suggests in its brief. *See* Resp. Br. 20–24.

³ Even setting aside the larger deficiencies in Petitioners’ “object-of-the-law” theory of standing, their challenge to one provision of Washington law fails the requirements of Article III for other reasons. Specifically, Petitioners seek to challenge the constitutionality of Wash. Rev. Code § 71.34.530, a provision of Washington law that does not regulate licensed homeless shelters, but instead generally allows adolescents thirteen and older to “request and receive outpatient [behavioral health] treatment without the consent of the adolescent’s parent.” *See* Pet. Br. 30, 44–45. Yet, nowhere in their brief or in the pleadings below do Petitioners actually identify a named defendant with the authority to enforce or administer the challenged statute. As a result, Petitioners cannot establish the redressability element of standing required for their challenge. After all, in the absence of a named defendant with authority to enforce or administer the challenged statute, even a judgment in Petitioners’ favor on the merits would not give them “legally enforceable protection” from any supposed harm caused by the law. *Haaland v. Brackeen*, 599 U.S. 255, 293 (2023); *see also California*, 593 U.S. at 672 (explaining that remedies “operate with respect to specific parties” and not “on legal rules in the abstract”) (citation omitted).

that means) is not excused from his obligation to plead and prove the components of Article III standing—injury in fact, traceability, and redressability.”); *see also* U.S. Amicus Br. 13, 23 (reiterating the longstanding elements of standing and dismissing Petitioners’ approach as “too broad”).

Although there are many features of Petitioners’ theory that warrant scrutiny, Amicus NEA’s primary concern is the risk that what masquerades as a theory of standing is, in reality, an open door to adjudicating generalized grievances in the federal courts. Accordingly, we emphasize several ways in which Petitioners’ novel theory disregards the most crucial aspects of the standing inquiry that prevent federal-court jurisdiction from encroaching on the other organs of our democracy.

The requirement for a present or imminent injury. This Court has consistently held that speculative “allegations of possible future injury are not sufficient” to support standing. *Clapper v. Amnesty Int’l USA*, 568 U.S. 398, 409 (2013) (citation omitted). Instead, Article III demands that a plaintiff’s asserted injury must be actually occurring or “certainly impending” *Ibid.*; *see also All. for Hippocratic Med.*, 602 U.S. at 381 (explaining that “the injury must be actual or imminent, not speculative—meaning that the injury must have already occurred or be likely to occur soon”). This requirement is a first line of defense for identifying and filtering out generalized grievances; it ensures that the court is addressing a genuine dispute rather than operating as a “a legislative assembly, a town square, or a faculty lounge.” *All. for Hippocratic Med.*, 602 U.S. at 382.

By contrast, Petitioners’ claims rely substantially on predictions of injury that may occur, if at all, at some unknown point in the future. *See, e.g.,* Pet. Br.

17 (claiming as a sufficient injury that one of Petitioners’ children could at some point “run away to get the treatment their parents reject”). Allowing any parent to sue on the theory that they are an “object” of a law by virtue of the fact that they have children—while having no actual or certainly impending injury—would fatally undermine the longstanding prohibition on generalized grievances.

Declining standing based on asserted harms that are subjective, manufactured, or self-inflicted. This Court has consistently rejected claims of standing based on the notion that the mere presence of a law “on the books” will cause a plaintiff to “feel inhibited” in his actions. *Younger v. Harris*, 401 U. S. 37, 42 (1971); *see also Laird v. Tatum*, 408 U.S. 1, 13–14 (1972) (“Allegations of a subjective ‘chill’ are not an adequate substitute for a claim of specific present objective harm or a threat of specific future harm”). Under this principle, a plaintiff “cannot manufacture standing merely by inflicting harm on themselves based on their fears of hypothetical future harm.” *Murthy v. Missouri*, 603 U.S. 43, 73 (2024) (citation omitted); *see also Los Angeles v. Lyons*, 461 U.S. 95, 107 n.8 (1983) (explaining that what matters for purposes of standing is the “reality of the threat of . . . injury,” not “subjective apprehensions”) (emphasis omitted).

By contrast, the only present (as opposed to future) harm Petitioners attempt to identify is that the existence of Washington’s laws on the books gives them “fear” and causes them to “chill their speech at home and change their parenting strategy.” Pet. Br. 43. But allowing standing on subjective grounds that could be invoked by nearly anyone means that “the federal courts would be open to virtually any citizen who

desired an advisory opinion.” *Ellis v. Dyson*, 421 U.S. 426, 446 n.12 (1975) (Powell, J., dissenting).

Rejecting standing based on speculation or attenuated claims of causation. This Court has consistently rejected claims of standing where the elements of causation and redressability are based on a “highly attenuated chain of possibilities.” *Clapper*, 568 U.S. at 410–11. And this is especially true where links in the causal chain include speculation about the independent action of others. *See Simon v. Eastern Ky. Welfare Rts. Org.*, 426 U.S. 26, 41–42 (1976); *see also All. for Hippocratic Med.*, 602 U.S. at 383. Without such a limitation, a generalized grievance could become a federal court judgment through “an ingenious academic exercise in the conceivable.” *United States v. Students Challenging Regul. Agency Procs.*, 412 U.S. 669, 688 (1973).

By contrast, the chain that would connect Petitioners to any conceivable injury is both highly speculative and depends on a chain of events that could at any point be disrupted. As the Ninth Circuit recognized below, before any parent suffers an injury on account of the challenged Washington laws, their child would have to:

- (1) have a gender identity different from their sex assigned at birth; (2) be seeking gender-affirming care; (3) run away; (4) find a licensed shelter; (5) decline to share parental information with the Department; (6) accept the Department’s referral for behavioral health services; and (7) obtain mental health care from a provider without parental consent based on the Department’s referral. (Resp. Br. 42)

This potential chain of events becomes even more speculative and attenuated because other actors—including Petitioners’ own children—could easily break a link of the chain that connects Petitioners’ asserted harms to the actions of the State. After all, as Petitioners themselves admit, “virtually all youth already seek to circumvent their parents’ authority and desires without needing any legal encouragement.” Pet. Br. 41. This is far from the “high degree of immediacy” that would be needed “to reduce of the possibility of deciding a case in which no injury would have occurred at all.” *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 565 n.2 (1992).

Rejecting theories of standing that lack any meaningful limiting principle. This Court has consistently rejected theories of standing that are “boundless,” *Already, LLC v. Nike, Inc.*, 568 U.S. 85, 99 (2013), or lack “any meaningful limiting principles,” *Whole Woman’s Health v. Jackson*, 595 U.S. 30, 40 (2021); see also *Valley Forge Christian Coll. v. Americans United for Separation of Church & State, Inc.*, 454 U.S. 464, 489 (1982) (rejecting a plaintiff’s standing argument because there was “no principled basis for confining” it); *Murthy*, 603 U.S. at 75 (same with regard to a plaintiff’s “startlingly broad” theory of standing). The reason for this is obvious: if this Court were to start down the path of accepting such a theory, it may “not end until virtually every citizen had standing to challenge virtually every government action that they do not like—an approach to standing that this Court has consistently rejected as flatly inconsistent with Article III.” *All. for Hippocratic Med.*, 602 U.S. at 392.

By contrast, Petitioners identify no coherent principle that would limit their expansive “object-of-the-law” theory of standing. For example, Petitioners suggest that one limiting principle of their theory for this

case is that it would extend only to parents in Washington State. *See* Pet. Br. 29–31. But such a limitation makes little sense if the relevant harms, as Petitioners claim, derive from the possibility that a parent’s child *might* run away to a licensed shelter in Washington and there receive a referral for behavioral health services. After all, children are capable of running away from one state to another; indeed, it is an issue of such magnitude that every state in the union has adopted the Interstate Compact for Juveniles as a means to address it. *See, e.g.*, Wash. Rev. Code § 13.24.011 (recognizing that “each state is responsible for the safe return of juveniles who have run away from home and in doing so have left their state of residence”). Thus, the logic of Petitioners’ theory does not comport with limiting standing to parents in Washington; it would seemingly extend so far as to allow Washington’s laws to be challenged by *any* parent in the Nation.

Perhaps Petitioners intend for their theory of standing to be limited to situations where a law purportedly affects parents’ “decisionmaking role as to gender transitions of their children.” Pet. Br. i; *see also* U.S. Amicus Br. 4 (arguing that standing should be limited to “parents’ control over the medical care their child may access”). But the floodgates would be open. There is far more to the upbringing of children than decisions about gender transitions and medical care, and far more that might conceivably induce a child to buck their parents’ authority or even leave the home—what Petitioners repeatedly claim is the crux of their concern. Indeed, “the majority of parent–child conflicts during adolescence are about typical, everyday family matters such as home chores, personal hygiene, friends and social life, and school work.” Anat Moed et al., *Parent–Adolescent Conflict as Sequences of Reciprocal Negative Emotion: Links with Conflict Resolution*

and Adolescents' Behavior Problems, 44 J. YOUTH & ADOLESCENCE 1607, 1608 (2015). The logic of Petitioners' standing theory would allow any parent to mount a legal challenge over concerns that a shelter's policies with respect to issues such as bedtimes, television watching, or toothbrushing would conflict with their own parental approach to those issues. Indeed, on Petitioners' view, the very existence of shelters available to adolescent runaways would be subject to challenge because they could "lure children to run away when they disagree with their parents." Pet. Br. 2. So, again, the logic of Petitioners' standing theory opens the door to a wide array of generalized grievances.

Nor does this Court's emergency order in *Mirabelli v. Bonta*, 607 U.S. 492 (2026), save any of the failures of Petitioners' standing theory. There, the Court granted a stay to reinstate a district court's preliminary injunction against a state policy prohibiting public schools from informing parents that their children had socially transitioned at school. *Id.* at 496. In reaching that conclusion, this Court briefly noted that "the parents protected by the injunction very likely have standing because they are objects of the challenged exclusion policies." *Id.* at 498. The Court also noted that the "injunction does not provide relief for all the parents of California public school students, but only for those parents who object to the challenged policies or seek religious exemptions." *Ibid.* Petitioners argue that this result validates their bid for standing here, Pet. Br. 26–28, but they are mistaken.

Mirabelli did not—and could not—announce a new and binding standard for Article III standing. *See Merrill v. Milligan*, 142 S. Ct. 879, 879 (2022) (Kavanaugh, J., concurring) (A "stay order is not a decision on the merits."). Moreover, even *Mirabelli*'s preliminary assessment of the standing issue provides no assistance

to Petitioners here. This is because Petitioners (and all other parents in Washington State) are not situated similarly to the class of parents described as the “objects of the challenged exclusion policies” in *Mirabelli*, 607 U.S. at 498. That class was limited to parents whose children were currently subject to the challenged policies in California public schools and who either objected to those policies or sought religious exemptions. *Ibid.* So, a comparable class for a challenge to the policies for licensed youth shelters in Washington State at issue here would be parents whose children are currently in those shelters and who object to the challenged policies—in other words, a class that by definition *excludes* Petitioners and most other parents in the State.

At the end of the day, if this Court were to “invent a new doctrine of . . . standing,” as Petitioners propose to do here, “there would be no principled way to cabin such a sweeping doctrinal change.” *All. for Hippocratic Med.*, 602 U.S. at 392. This Court should “decline to start the Federal Judiciary down that uncharted path.” *Texas*, 599 U.S. at 681.

C. When coupled with its expansive theory of parental rights, Petitioners’ novel standing theory threatens to burden important governmental services—and especially K-12 public education—with unworkable obligations

Amicus NEA’s primary concern in this case is that, when Petitioners’ novel theory of standing is paired with their expansive theory of parental rights, it will impose significant and unmanageable burdens on important governmental services, particularly the provision of K-12 education in the Nation’s public schools. Given the lack of clear limiting principles to Petitioners’ theories, NEA submits that its concerns are well

founded and warrant either affirmance of the judgment below or a dismissal of the writ of certiorari as improvidently granted.

1. At the heart of Petitioners' claims is the notion that the Constitution requires near-absolute deference to each parent's authority over their child—to the exclusion of the operational needs of a government that provides services for the entire public. But this Court has long been cautious about interpreting constitutional rights in a way that effectively allows “every citizen to become a law unto himself,” reasoning that government “could exist only in name under such circumstances.” *Reynolds v. United States*, 98 U.S. 145, 167 (1878); *see also Bowen v. Roy*, 476 U.S. 693, 699–700 (1986) (explaining that the Constitution generally does not require the “Government itself to behave in ways that the individual believes will further his or her spiritual development or that of his or her family” or “afford an individual a right to dictate the conduct of the Government's internal procedures”) (emphasis omitted).

That caution has also extended to claims of parental rights as they relate to the operation of public schools. *See Runyon v. McCrary*, 427 U.S. 160, 177 (1976) (rejecting the notion that “parents may replace state educational requirements with their own idiosyncratic views of what knowledge a child needs to be a productive and happy member of society”) (citation omitted). This is due at least in part to the fact that the early English (and, before that, Roman) legal tradition—which gave a father an almost absolute right to the custody, labor, and earnings of his minor children, *see* 1 William Blackstone, COMMENTARIES *441—never fully took hold as part of the American legal tradition. For example, Justice Story acknowledged the earlier common-law rule that a father had an “absolute

right to the care and custody of his children” and that the state lacked the authority to “control the conduct of the father in the education of his children,” but he explained that continuing to adhere to such an inflexible rule would now “strike all civilized countries with astonishment.” Joseph Story, 2 COMMENTARIES ON EQUITY JURISPRUDENCE § 1347 (1836); *see also* James Kent, 2 COMMENTARIES ON AMERICAN LAW 205 (O.W. Holmes, Jr., ed., 12th ed. 1873) (explaining that the code of parent-child relations under Roman law “was barbarous and unfit for a free and civilized people”); Lewis Hochheimer, THE LAW RELATING TO THE CUSTODY OF INFANTS § 22 (3d ed. 1899) (explaining that “the general result of the American cases” is an “utter repudiation” of the English common-law notion granting parents an absolute “proprietary right of interest in or to the custody” of children).

Instead, the American tradition of protecting parental rights has been more tempered. *See Troxel v. Granville*, 530 U.S. 57, 92–93 (2000) (Scalia, J., dissenting) (“[N]o one believes” that “parental rights are to be absolute.”). And that is especially true when parental prerogatives come into conflict with the operation of public schools. *See Morse v. Frederick*, 551 U.S. 393, 413–16, 420 (2007) (Thomas, J., concurring) (surveying 19th Century cases that affirm the authority of schools to “enforce rules” and “maintain order,” including over the objections of parents). While there were undoubtedly instances where early American courts upheld a parent’s request to excuse a child from some aspect of the school curriculum,⁴ the majority of cases from this era recognize that an obligation to conform to the wishes, values, or preferences of all parents

⁴ *See, e.g., Hardwick v. Bd. of Sch. Trs.*, 54 Cal. App. 696 (1921) (excusing child from dancing exercises).

(continued . . .)

would be inconsistent with the operational needs of schools.⁵ As one of those courts observed:

[T]he power of each parent to decide the question what studies the scholars should pursue, or what exercises they should perform, would be a power of disorganizing the school, and practically rendering it substantially useless. However judicious it may be to consult the wishes of parents, the disintegrating principle of parental authority to prevent all classification and destroy all system in any school, public or private, is unknown to the law.

Kidder v. Chellis, 59 N.H. 473, 476 (1879).⁶

⁵ See *Ferriter v. Tyler*, 48 Vt. 444, 467 (1876) (explaining that the operational needs of a school could not be subjugated “to the peculiar faith, personal judgment, individual will or wish of” a parent, “however his conscience might demand or protest”); *Bd. of Educ. v. Purse*, 28 S.E. 896, 900 (Ga. 1897) (explaining that “it is the right of the state, through its constituted authorities, to require of the parent that he shall do nothing inconsistent with the peace, good order, and authority of the [school] system”); *State v. Webber*, 8 N.E. 708, 713 (Ind. 1886) (explaining that the wishes of an individual parent “must yield and be subordinated to the governing authorities of the school” and “their reasonable rules and regulations for the government of the pupils of its high school”); accord *Sewell v. Bd. of Educ. of Defiance Union Sch.*, 29 Ohio St. 89, 92 (1876); *Samuel Benedict Mem’l Sch. v. Bradford*, 36 S.E. 920, 920–21 (Ga. 1900); *State v. Bailey*, 61 N.E. 730, 732 (Ind. 1901).

⁶ The late Justice Jackson voiced similar concerns, explaining that it would “leave public education in shreds” if parents were given the right to “eliminate everything that is objectionable to any of these warring sects or inconsistent with any of their doctrines.” *McCullum v. Bd. of Educ.*, 333 U.S. 203, 235 (1948) (Jackson, J., concurring). He added that nothing but “educational confusion and a discrediting of the public school system can result from subjecting it to constant law suits” challenging what or how students are taught. *Ibid.*; see also *Linnemeir v. Bd. of Trs. of Purdue Univ.*, 260 F.3d 757, 759 (7th Cir. 2001) (Posner, J.)

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Nevertheless, Petitioners advance a conception of parental rights that puts public institutions at the mercy of individual preferences, wholly out of step with this history and tradition. To make matters worse, they urge a theory of standing that would allow virtually anyone—including parents whose children do not even use or receive the benefits of a particular public program—to enlist the aid of federal courts to impose their views of education and proper parenting on that program and all children and families it serves. Whereas in *Mahmoud v. Taylor*, 606 U.S. 522 (2025), the parents were exercising their free exercise right to control the religious upbringing of their own children, Petitioners’ theory would establish a seemingly unlimited parental right to control how public institutions administer programs for *all* children.

At least as applied to public schools, Petitioners’ position is one that will generate endless administrative confusion, impose burdensome unfunded mandates on schools, and mire federal courts in litigation over matters far outside their traditional jurisdiction or expertise. Each of these features is a sign that adopting Petitioners’ position would lead this Court, and the nation’s public schools, down a treacherous path. See *Harris v. Quinn*, 573 U.S. 616, 636–37 (2014) (explaining the dangers of adopting constitutional rules that will be fraught with “conceptual difficulty” and “practical administrative problems”).

2. Petitioners’ theory of parental rights and standing, taken together, have the potential to unleash chaos in all public institutions, but particularly in

(explaining that the “government’s interest in providing a stimulating, well-rounded education would be crippled by attempting to accommodate every parent’s hostility to books inconsistent with their . . . beliefs”) (citation omitted).

public education. Public-school educators and administrators “have a difficult job, and a vitally important one.” *Morse*, 551 U.S. at 409. Not only are they charged with providing an education that prepares each new generation to become citizens, see *Ambach v. Norwick*, 441 U.S. 68, 75–76 (1979), they also often act as the primary social safety net for many vulnerable young people—from providing free school lunches for students who are food-insecure to serving as mandatory reporters of childhood abuse and neglect, see *Ohio v. Clark*, 576 U.S. 237, 246–47 (2015).

Given the range of services and education programming provided in modern public schools, Petitioners’ expansive theories of both standing and the merits of parental rights claims would burden schools with significant costs and uncertainty. For example, parents have widely divergent views on what children should eat at lunch—from added sugar, to servings of vegetables, to the inclusion of highly processed foods. In Petitioners’ view, these differences of opinion could be the basis for federal litigation—not just by the parents of students in the school, but by parents whose children someday could become students at the school through some attenuated series of future events. And the same would be true of parental views related to screen-time on computers in the school library, school dress codes, the availability of extracurricular activities, and the content of school coursework.

This will be an extraordinary task, given the wide variation of views on proper parenting held in this country, as well as the fact that those views need not be “logical, consistent, or comprehensible to others,” *Fulton v. Philadelphia*, 593 U.S. 522, 532 (2021) (quoting *Thomas v. Review Bd. of Ind. Employment Security Div.*, 450 U.S. 707, 714 (1981)). For example, if a school confined itself just to parental objections that have

been asserted in extant caselaw, schools could face challenges to programming or instruction on a dizzying array of topics, including: interracial dating and marriage;⁷ “immodest” apparel;⁸ the use of “audio-visual projections”;⁹ “play acting”;¹⁰ singing or dancing “to worldly music”;¹¹ “biographical material about women who have been recognized for achievements outside their homes”;¹² teaching “children to use imagination”;¹³ home economics and shop class;¹⁴ “poetic chants”;¹⁵ literary depictions of telepathy, magic, witches, wizards, and “creatures with supernatural powers,”¹⁶ and literary depictions of tricks, deceit, and disrespect or rebellion against parents.¹⁷ In other words, Petitioners’ rule would place public schools—and, inevitably, courts—in the impossible position of the film censors in *Joseph Burstyn, Inc. v. Wilson*, 343 U.S. 495 (1952), and would leave them “adrift upon a

⁷ *Bob Jones Univ. v. United States*, 461 U.S. 574, 580 (1983).

⁸ *Moody v. Cronin*, 484 F. Supp. 270, 275 (C.D. Ill. 1979).

⁹ *Davis v. Page*, 385 F. Supp. 395, 397–405 (D.N.H. 1974).

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹² *Mozert v. Hawkins County Bd. of Educ.*, 827 F.2d 1058, 1062–70 (6th Cir. 1987).

¹³ *Ibid.*

¹⁴ *Davis*, 385 F. Supp. at 397–405; *Smith v. Bd. of Sch. Comm’rs*, 827 F.2d 684, 690–93 (11th Cir. 1987).

¹⁵ *Brown v. Woodland Joint Unif. Sch. Dist.*, 27 F.3d 1373, 1377 (9th Cir. 1994).

¹⁶ *Fleischfresser v. Dirs. of Sch. Dist. 200*, 15 F.3d 680, 683, 690 (7th Cir. 1994); *Mozert*, 827 F.2d at 1062–70; *Brown*, 27 F.3d at 1377.

¹⁷ *Fleischfresser*, 15 F.3d at 683; *Mozert*, 827 F.2d at 1062–70.

boundless sea amid a myriad of conflicting” beliefs. *Id.* at 504.

This Court has repeatedly warned about the dangers of federal judicial interference in local school matters. *See, e.g., Endrew F. v. Douglas County Sch. Dist. RE-1*, 580 U.S. 386, 404 (2017) (cautioning that courts do not have “an invitation...to substitute their own notions of sound educational policy for those of the school authorities which they review”) (citation and quotation marks omitted); *Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260, 273 (1988) (reiterating this Court’s “oft-expressed view that the education of the Nation’s youth is primarily the responsibility of parents, teachers, and state and local school officials, and not of federal judges”); *Wisconsin v. Yoder*, 406 U.S. 205, 235 (1972) (recognizing the “obvious fact” that courts are “ill-equipped” to make determinations about “discrete aspects” of schools’ curricula and operations); *Morse*, 551 U.S. at 421 (Thomas, J., concurring) (“Local school boards, not the courts, should determine what pedagogical interests are legitimate and what rules reasonably relate to those interests.”) (citation omitted).

Petitioners’ claims, by contrast, thrust courts into the role of exercising general supervisory authority over the day-to-day decisions of educators and administrators with regard to every aspect of the school environment. And they stand to undermine the authority of democratically elected and properly appointed decisionmakers to address the complex questions entrusted to them by their communities. Indeed, Petitioners’ theories would elevate the voices of the most litigious above all others.

“There simply are certain things that courts, in order to remain courts, cannot and should not do.” *Missouri v. Jenkins*, 515 U.S. 70, 132 (1995) (Thomas, J.,

concurring). Adopting the unfounded and unworkable rule advanced by the Petitioners here is chief among them.

CONCLUSION

For the foregoing reasons, the judgment of the Ninth Circuit should be affirmed or, alternatively, the writ of certiorari should be dismissed as improvidently granted.

Respectfully submitted,

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