

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 MASSACHUSETTS, SIXTEEN OTHER
STATES, AND THE DISTRICT OF COLUMBIA AS
AMICI CURIAE IN SUPPORT OF RESPONDENTS**

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INTEREST OF AMICI CURIAE

Massachusetts, California, Colorado, Delaware, the District of Columbia, Hawai‘i, Illinois, Maine, Maryland, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, Oregon, Rhode Island, and Vermont respectfully submit this brief as amici curiae in support of respondents. Given their obligation to protect the safety and welfare of minors and their duty to honor the fundamental rights of parents and families, amici have a strong interest in the substantive questions underlying this lawsuit. More immediately, amici also have a vested interest in the jurisdictional question now pending before the Court. As amici will explain, any erosion of the standing requirements enshrined in Article III would have a direct effect on amici in their capacity as sovereigns.

INTRODUCTION AND SUMMARY OF THE ARGUMENT

This is—or at least should be—a case about mundane standing principles. Petitioners earnestly oppose several Washington laws that govern what happens when a minor seeking gender-affirming care arrives at a homeless shelter in that state. But earnest opposition to a government policy has never been enough to create a justiciable case or controversy; to sue in federal court, a plaintiff must point to an injury that is “concrete and particularized” and “actual or imminent.” *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992). Applying well-worn standing principles, the court below held that petitioners failed to make these threshold showings.

Petitioners and their amici now treat those well-worn principles as an afterthought, urging this Court instead to recognize two new pathways to Article III

standing. Petitioners first propose an aggressive “object-of-the-law” test, under which *any* person who claims to be “targeted” by a law—including someone who faces no imminent, real-world injury—would have standing to bring a legal challenge. As a fallback, petitioners suggest—and the United States expressly argues—that parental-rights claims are so exceptional that they warrant their own loosened standing requirements. The upshot of these novel theories: on petitioners’ view, even parents who do “not . . . ha[ve] a gender-dysphoric child” (Br. 27) may challenge a policy that concerns minors’ access to gender-affirming care.

The Court should reject that proposed dilution of the injury-in-fact requirement. As respondents explain at greater length, petitioners’ arguments are inconsistent with blackletter standing principles, which are sufficient to resolve this case in respondents’ favor. This brief underscores an additional point: adopting petitioners’ proffered tests would be a practical nightmare. Amici routinely enact laws to protect the welfare of minors, including laws about custody, guardianship, child support, schooling, youth employment, immunization, vehicle safety, and a host of other topics. As amici can attest, the existing injury-in-fact framework leaves no shortage of plaintiffs with standing to challenge these laws. That is as it should be: state governments expect to defend their actions in federal court against timely claims brought by parties with a concrete stake in the outcome. But petitioners’ approach would go further, subjecting state statutes and regulations to claims by individuals *without* such a concrete stake. The federal courts should not be in the business of refereeing academic disputes, and the states should not have to expend their already scarce resources to litigate them. The

Court should decline petitioners’ invitation to rethink standing law and should affirm the judgment below.

ARGUMENT

A. Ordinary standing principles resolve this case in favor of respondents.

Article III, this Court has explained, requires a plaintiff-by-plaintiff and claim-by-claim analysis of standing. *Lujan*, 547 U.S. at 352. In a given parental-rights case, therefore, the parties can naturally have good-faith disagreements over whether specific parents have established concrete and imminent injuries on the facts alleged. What should not be up for debate, however, is whether a court will resolve the question of injury using the same settled principles that govern every other case. Those principles readily defeat petitioners’ claim that the mere existence of Washington’s law causes them a concrete injury in fact.

1. This Court hardly needs reminding of its established framework for evaluating standing. To satisfy Article III, a plaintiff “must have (1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision.” *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2016). The “foremost” of these elements—injury in fact—in turn requires a plaintiff to establish a “concrete and particularized” invasion of a legally protected interest that is “actual or imminent, not conjectural or hypothetical.” *Id.* at 338-339 (quotation marks omitted). These standing requirements stem from the text of Article III, which limits federal-court jurisdiction to discrete “Cases” and “Controversies.” Together, they preserve the separation of powers; prevent courts from issuing advisory opinions; and ensure that lawsuits involve

genuine, adversarial disputes rather than abstract or generalized grievances. *See Clapper v. Amnesty Int’l USA*, 568 U.S. 398, 408-409 (2013).

2. The same well-worn principles suffice to resolve this case. Like every other federal-court plaintiff, petitioners must show that they are experiencing a “concrete and particularized” invasion of a legally protected interest that is “actual or imminent, not conjectural or hypothetical.” *Spokeo*, 578 U.S. at 338. To determine whether petitioners have carried that burden, a court must consider a host of case-specific facts, including, among other things, whether each plaintiff has a child who is likely to seek gender-affirming care; whether that child is likely to run away at all; and whether that child is likely to run away to a licensed homeless shelter covered by the challenged laws (*e.g.*, because the child is aware of those laws and their implications). *See* Resp. Br. 42. As the district court and court of appeals found, that familiar inquiry is where this case begins and ends. *See, e.g.*, Pet. App. 21a (holding that certain parents lacked standing because they offered “no allegation that [their child] is transgender, has sought gender-affirming treatment, or has expressed an interest in running away”).

B. Petitioners’ new theories of Article III injury are legally and practically unsound.

Perhaps recognizing they have not made the showings necessary to survive a traditional standing inquiry, petitioners and their amici advance two other theories of Article III injury. Neither is consistent with settled law, and both would create problems in practice.

1. The Court should reject petitioners’ amorphous object-of-the-law test.

Petitioners first argue (Br. 21-31) that they have standing because they are the “objects” or “targets” of the challenged statutes. That argument breaks with settled precedent; lacks internal consistency; and, if adopted, would expose state and local governments to a flood of new litigation raising abstract questions.

a. Although petitioners try to situate their object-of-the-law test within existing doctrine, it looks nothing like any view of injury this Court has previously adopted. Relying largely on the floor statements of individual legislators (*see* Pet. Br. 25), petitioners argue that the challenged Washington statutes target parents who oppose gender-affirming care, and that *every* such parent therefore has standing to sue. According to petitioners (Br. 34-35), the *only* thing their object-of-the-law test requires is that a parent (1) “oppose gender transitioning” and (2) “have a minor capable of understanding gender and running away.” In other words, petitioners’ test would confer standing on parents whose children do not identify as transgender or have gender dysphoria, as well as parents whose children, although capable in theory of running away to a Washington homeless shelter, have no likelihood of ever doing so. *See* Pet. Br. 27 (arguing that a parent is an object of the law “whether or not the parent has a gender-dysphoric child”).

Precedent forecloses that sweeping theory of injury. As the Court has repeatedly (and recently) admonished, mere disagreement with government action—even deeply held, good-faith disagreement—does not qualify as an Article III injury. *See FDA v. Alliance for Hippocratic Medicine*, 602 U.S. 367, 390 n. 3 (2024) (“[D]istress at or disagreement with the

activities of others is not a basis under Article III for a plaintiff to bring a federal lawsuit challenging the legality of a government regulation allowing those activities.”). Instead, would-be plaintiffs must show that a challenged government action has had some real-world effect on them. *See supra*, at 3-4. Such a real-world effect, the Court has made clear, is part of “the irreducible constitutional minimum of standing.” *Lujan*, 504 U.S. at 560.

Petitioners’ authorities do not support their arguments to the contrary. Petitioners rely heavily on the emergency-docket decision in *Mirabelli v. Bonta*, 607 U.S. 492 (2026), but each and every named parent in that case had alleged that the challenged school policies *actually* deprived them of requested information after their children *actually* “socially transitioned” at school. *See id.* at 492-494; *see also* Emergency Appl. at 11-13, 58a-60a, *Mirabelli v. Bonta*, No. 25A810 (Jan. 8, 2025) (discussing the Doe and Poe parents).¹ Petitioners also emphasize the decision in *Diamond Alternative Energy, LLC v. EPA*, 606 U.S. 100 (2025), but that case merely explained that when a law directly regulates party *A* and has an immediate and predictable real-world effect on party *B*, party *B* “might be” an object of the law. *Id.* at 115 (“If the government

¹ Petitioners suggest (Br. 26) that *Mirabelli* “conferred standing on absent class members” whose injuries were more speculative than those of the named plaintiffs in that case. Even accepting petitioners’ characterization of the Court’s decision, however, the injunction in *Mirabelli* only reached objecting parents whose children attended the public schools where the challenged policies were in force. *See* Emergency Appl. at 80a, *Mirabelli, supra*. Here, by contrast, petitioners’ theory would extend standing to objecting parents who cannot show that their children have any likelihood of ever finding themselves in the licensed homeless shelters where the challenged policies are in force.

prohibits aluminum bats in Little League, then aluminum bat manufacturers, not only Little League, might be objects of the regulation.”).

Neither of these decisions comes close to endorsing petitioners’ extreme understanding of what it means to be an “object” of a law. Again, petitioners maintain that parents have standing even if their children have no reasonable prospect of ever running away to a Washington homeless shelter while seeking gender-affirming care. That account of Article III strays far beyond the boundaries of existing law.

b. Petitioners’ theory is also internally inconsistent, with arbitrary lines separating the parents it covers from those it does not. For example, petitioners insist (Br. 27) that a parent is an object of the challenged Washington laws “whether or not the parent has a gender-dysphoric child.” In an effort to demonstrate that their injuries are particularized, however, petitioners simultaneously contend that parents whose children are too young to run away would *not* be objects of the challenged laws. According to petitioners, the latter parents “ha[ve] no reason to alter their parenting *now*”; the challenged laws “ha[ve] not changed these [parents’] legal status” until their children are old enough to run away. Pet. Br. 34 n. 16 (emphasis added). But that logic applies equally to parents whose children do not have (and have never exhibited) signs of gender dysphoria: those parents, too, have no reason to alter their parenting *now*, and the law has not changed their legal status.

The fact that petitioners’ test would confer standing on one set of parents (those whose children exhibit no signs of gender dysphoria) but not the other (those whose children are too young to run away) demonstrates its fundamental incoherence. Such a results-

oriented test is not capable of principled application.

c. Finally, even setting aside the deficiencies just described, petitioners’ test would cause problems in practice. Every day, state governments address countless public-policy debates through the legislative process, resulting in laws with numerous putative “targets” or “objects.” This year alone, for example, state legislatures have enacted at least 700 bills on primary and secondary education, at least 250 bills on artificial intelligence, at least 200 bills on immigration, and at least 450 bills on policing and law enforcement.² And those are just four particularly high-profile topics: collectively, the states enact tens of thousands of new laws each year.³ Petitioners’ amorphous object-of-the-law test would grant Article III standing to any individual or organization who could plausibly claim to be “targeted” by any one of these laws—even if the challenged law would never realistically affect the plaintiff in question.

² Nat’l Conf. of State Legislatures, *Pre-K-12 Education Legislation—Bill Tracking*, <https://bit.ly/NCSL-2026-PK12> (filtered by selecting “Adopted/Enacted” under “Bill Status” and “2026” under “Year”); Nat’l Conf. of State Legislatures, *Artificial Intelligence Legislation Database*, <https://bit.ly/NCSL-2026-AI> (filtered by selecting “Enacted” under “Status” and “2026” under “Year” and clicking “Search”); Nat’l Conf. of State Legislatures, *Immigration Legislation Database*, <https://bit.ly/NCSL-2026-IM> (filtered as described in the preceding citation); Nat’l Conf. of State Legislatures, *Policing Legislation Database*, <https://bit.ly/NCSL-2026-CJ> (filtered as described in the preceding citation) (all websites last visited Oct. 28, 2026). For purposes of this discussion, the term “state legislatures” includes the legislatures of the District of Columbia and U.S. territories.

³ FiscalNote, *2025 State Sessions Recap: The Busiest & Most Effective States* (July 29, 2025), <https://bit.ly/FN-2025-REP> (reporting that states enacted nearly 29,000 bills into law in 2025).

The result would be a flood of new federal litigation raising abstract disputes. Federal lawsuits challenging state statutes and regulations already consume a significant amount of public resources—both for the state and local governments that must defend against those lawsuits and for the federal courts that must adjudicate them. In our constitutional system, this use of taxpayer money is worth it to vindicate the People’s right to hold their governments to account. But Article III supplies an important check, ensuring that these public expenditures only arise when someone has a genuine, real-world stake in the outcome. If this Court erodes that check—as petitioners ask the Court to do—state governments and lower federal courts will need to stretch already scarce resources to handle purely theoretical disputes.

In addition to a general increase in the number of federal lawsuits, petitioners’ object-of-the-law test would also have perverse consequences *within* the resulting lawsuits. A case filed by a plaintiff without a concrete stake in a challenged law is more likely than a case filed by a proper Article III plaintiff to feature disagreements that are antecedent to—but distinct from—the merits. Here, for example, petitioners and respondents often disagree about what the challenged Washington laws even do. *See* Resp. Br. 22-23. These kinds of distracting disputes—which ultimately frustrate review of the merits—are far less likely to arise in a case brought by plaintiffs who are currently facing, or imminently will face, the real-world effects of the laws they challenge.

Moreover, because petitioners’ test requires courts to ask whether a plaintiff is the true “object” of a law, the test improperly invites would-be plaintiffs to cite extratextual evidence of statutory meaning and to

delve into the supposed motives of individual legislators. Petitioners' own brief proves the point: they repeatedly rely (*e.g.*, at 10-12, 15, 25) on the floor statements of individual Washington legislators to substantiate their claim that they are the "targets" of the challenged laws. *See also, e.g.*, U.S. Amicus Br. 7 (relying on these floor statements); Florida et al. Amicus Br. 16 (same). Indeed, this legislative history appears to be petitioners' *only* evidence to support their claim of targeting, given that the text of the challenged laws treats so-called "affirming" and "non-affirming" parents the same. *See* Pet. Br. 30 (conceding that the challenged laws apply to "the child of 'affirming' parents who currently receives or seeks 'gender-affirming treatment' upon running away"). This Court is typically reluctant to inquire into the supposed motives of individual legislators. *See, e.g.*, *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 253-254 (2022); *United States v. O'Brien*, 391 U.S. 367, 383-384 (1968). So are state courts. *See, e.g.*, *Administrative Justice of the Housing Ct. Dep't v. Comm'r of Admin.*, 391 Mass. 198, 205 (1984); *Grupe Dev. Co. v. Superior Ct.*, 4 Cal. 4th 911, 922 (1993). An approach that calls for that kind of inquiry should raise red flags.

2. The Court should not create a parental-rights exception to the usual standing rules.

In addition to their object-of-the-law theory, petitioners also appear to ask the Court to create a new exception to ordinary standing rules for cases involving parents' fundamental right to direct the upbringing of their children. *See* Pet. Br. 23 (arguing that petitioners' relaxed theory of injury "is particularly apt as to parental rights"). The United States advances a more full-throated version of that request, seeking

such an exception even as it admits (Amicus Br. 21) that petitioners’ other arguments “extend far too broadly.” Under this novel standing theory, a statute that allegedly affects *any* parent-child relationship causes a per se “injury” to *all* parents by operation of the law alone. *See* U.S. Amicus Br. 17 (arguing that a parent “suffer[s] 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”). Like petitioners’ object-of-the-law test, however, this parental-rights exception is legally, logically, and practically unsound.

a. Doctrinally, the United States bases its argument for a parental-rights exception on the premise that the right to direct the upbringing of one’s children is unique among constitutional rights. *See, e.g.*, U.S. Amicus Br. 15, 17 (arguing that “parental rights occupy a special place in this Court’s precedent,” and that “this Court has treated parental rights as distinct within ‘our constitutional system’”). According to the United States (Amicus Br. 21), because parents have “an enforceable interest in the integrity of the parent-child relationship itself,” any law or policy touching on that relationship automatically confers standing. But that theory is flawed in at least two ways.

First, it blurs the constitutional line between rights and injuries. No party to this case disputes that the Constitution protects parents’ fundamental right to make decisions concerning the care, custody, and control of their children. *See, e.g.*, *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923); *Pierce v. Society of the Sisters of the Holy Names of Jesus & Mary*, 268 U.S. 510, 534-536 (1925). But the fact that every parent enjoys this fundamental right does not mean that every

parent has “a special license to roam the country” challenging every alleged infringement of that right. *Valley Forge Christian Coll. v. Americans United for Separation of Church & State, Inc.*, 454 U.S. 464, 487 (1982).

Second, the proposed parental-rights exception improperly distinguishes among constitutional rights. Petitioners and the United States “offer [no] sound reason to prefer one constitutional guarantee over another” in this context. *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 542-543 (2022). They fail to explain, for example, why a plaintiff invoking her fundamental parental rights should have easier access to the federal courts than a plaintiff invoking her right to vote, to petition the government, or to bear arms. Nor could plaintiffs explain that disparity: a theory of parental-rights exceptionalism sits uneasily with the text of the Constitution as a whole (which does not enumerate parental rights) and of Article III specifically (which speaks of “Cases” and “Controversies” without distinguishing among different claims).

b. In addition to these doctrinal issues, several other considerations militate against reading a new parental-rights exception into Article III.

First, the proposed parental-rights exception raises federalism and separation-of-powers concerns. “By limiting who can sue, the standing requirement implements the Framers’ concept of the proper—and properly limited—role of the courts in a democratic society.” *FDA*, 602 U.S. at 380 (quotation marks omitted). Under our Constitution, “the federal courts decide some contested legal questions later rather than sooner, thereby allowing issues to percolate and potentially be resolved by the political branches in the democratic process.” *Id.* (noting that “the standing

requirement means that the federal courts may never need to decide some contested legal questions”). Consistent with these principles, parents, like all other members of the public, must first make their policy objections known to their elected representatives, who may well resolve their concerns without litigation. And if they subsequently bring their policy disputes to federal court, parents, like all other litigants, must show injury-in-fact—as this Court has exhaustively defined the concept.

Second, the proposed parental-rights exception weakens states’ own compelling interest in safeguarding the physical and mental well-being of children within their borders. *See Globe Newspaper Co. v. Superior Ct.*, 457 U.S. 596, 607 (1982); *United States v. Skrmetti*, 605 U.S. 495, 524-525 (2025). As this Court has explained, parents do not “have absolute and unreviewable discretion” to make medical decisions for their children; states also have some constitutional discretion “in dealing with children when their physical or mental health is jeopardized.” *Parham v. J.R.*, 442 U.S. 584, 603-604 (1979). The threat of constant litigation will likely undermine those important state interests, frustrating states’ ability to enact and enforce laws that protect children’s privacy and safety.

Third, an automatic standing rule for parental-rights cases will burden states and their officials with an influx of costly litigation. *See supra*, at 8-9. In the school context, this influx will have a chilling effect on educators, deterring them from all manner of curricular and counseling decisions for fear that even parents whose children are unaffected by those decisions will now have standing to sue. To date, courts have rejected such lawsuits where parents have not alleged an actual or imminent injury. *See, e.g., John & Jane*

Parents 1 v. Montgomery County Bd. of Ed., 78 F.4th 622, 629-631 (4th Cir. 2023), *cert. denied*, 144 S. Ct. 2560 (2024) (holding that parents lacked standing to challenge a school board’s “Gender Identity Guidelines” because they failed to allege that “any of their children ha[d] gender support plans”; “that their children ha[d] had any discussions with school officials about gender-identity or gender-transition issues”; or that they “suspect[ed] their children might be considering gender transition or have a heightened risk of doing so”); *Parents Protecting Our Children, UA v. Eau Claire Area Sch. Dist.*, 95 F.4th 501, 505 (7th Cir. 2024), *cert. denied*, 145 S. Ct. 14 (2024) (holding that a plaintiff association lacked standing because it failed to “allege that even one of the association’s members—any particular parent—ha[d] experienced an actual or imminent injury attributable to [the challenged policies]”). But under petitioners’ and the United States’ view, these and other similarly abstract lawsuits (including, potentially, lawsuits brought by parents whose children do not even attend a school where challenged policies are in force) will now go forward.

And lawsuits about school policies on gender identity will not be the final frontier: states will feel the consequences of expanded standing far beyond today’s debates about transgender students and athletes. So many of the decisions that states make, in the school context and otherwise, affect the lives of children and families. If the Court adopts the automatic standing rule that petitioners and their amici advance, those decisions will be subject to litigation by every objecting parent—even before injury or enforcement.

CONCLUSION

The Court should affirm the judgment below.

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Respectfully submitted.

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