

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 ATLANTIC LEGAL FOUNDATION
AS *AMICUS CURIAE*
IN SUPPORT OF PETITIONERS**

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INTEREST OF THE *AMICUS CURIAE* ¹

Established in 1977, the Atlantic Legal Foundation (ALF) is a national, nonprofit, nonpartisan, public interest law firm. ALF's mission is to advance the rule of law and civil justice by advocating for individual liberty, free enterprise, property rights, limited and responsible government, sound science in judicial and regulatory proceedings, and effective education, including parental rights and school choice. With the benefit of guidance from the distinguished legal scholars, former government officials, corporate legal officers, private practitioners, business executives, and prominent scientists who serve on its Board of Directors and Advisory Council, ALF pursues its mission by participating as *amicus curiae* in carefully selected appeals before the Supreme Court, federal courts of appeals, and state supreme courts. See atlanticlegal.org.

* * *

ALF long has supported parents' natural and legal rights to direct their children's upbringing, including by making decisions about their physical and mental health, well-being, and education. The question presented squarely aligns with this vital advocacy mission: "Whether parents have standing to challenge

¹ No counsel for a party authored this brief in whole or part, and no party, counsel for a party, or person other than the *amicus curiae* and its counsel made a monetary contribution intended to fund preparation or submission of this brief.

a law or policy that deliberately displaces their decision-making role as to ‘gender transitions’ of their children, and in so doing creates present and likely future impediments to their ability to parent their children as they deem best for them.”

The Court should reverse the Ninth Circuit’s ruling on Article III standing, and in so doing, reaffirm parents’ rights to control the upbringing of their minor children—including boys and girls who may be confused about their gender. To underscore the important context in which the question presented arises, this amicus brief highlights the deeply-rooted jurisprudential history of parents’ rights to superintend their children.

SUMMARY OF ARGUMENT

Parents’ fundamental decision-making role in their children’s upbringing is under attack by “trans activists” in the State of Washington and elsewhere. These vocal militants want to usurp parental control over minor children who seek so-called “gender-affirming care”—a euphemism that includes gender-transition “treatments” such as hormone injections, double mastectomies, and genital mutilation. The well-organized and well-funded political efforts of trans activists and their fellow travelers are intended to unravel our nation’s social and political fabric by systematically confusing young boys and girls about who they actually are, *i.e.*, by indoctrinating them with gender ideology and “transitioning” them, so that they identify as being a gender (if any) different from

their actual—and unalterable—male or female biological sex.

Since at least 1923, this Court has recognized parents’ critical role in being the primary caretakers of their children and overseeing their upbringing. *See, e.g., Meyer v. Nebraska*, 262 U.S. 390, 401 (1923) (recognizing that the Fourteenth Amendment’s due-process right to liberty includes “the right of the individual to . . . bring up children”). But as petitioners have explained, the Washington State laws at issue exclude parents from any decision-making role concerning whether their runaway minor children will be subjected to gender-affirming “care.” These state laws not only obstruct the exercise of parental rights, but also aid and abet gender ideologues and their communist sympathizers, who hope to destroy the family-based structure of American society. Such ill-conceived laws cannot be reconciled with this Court’s precedents or common law. As a matter of common sense as well as judicial precedent, parents have standing to challenge them.

ARGUMENT

The Court Should Hold That Parents Have Standing To Challenge Washington State’s Gender-Transition Laws For Runaway Children

A. This Court long has recognized parents’ right to direct the upbringing of their children

The Court repeatedly has recognized that parents have a fundamental interest in, responsibility for, and

right to control the education and upbringing of their children. Parental rights cases originally arose (and still arise) in the context of children’s education, including where free exercise of religion is implicated. *See, e.g., Meyer v. Nebraska*, 262 U.S. 390 (1923); *Pierce v. Society of the Sisters of the Holy Names of Jesus and Mary*, 268 U.S. 510 (1925); *Wisconsin v. Yoder*, 406 U.S. 205 (1972). The Court’s parental rights jurisprudence also encompasses additional subjects, including children’s physical and mental health, *see, e.g., Parham v. J.R.*, 442 U.S. 584 (1979), and most recently, gender transitioning, *see Mirabelli v. Bonta*, 607 U.S. 492 (2026) and *Mahmoud v. Taylor*, 606 U.S. 522 (2025).

1. In *Meyer*, a case involving foreign language instruction, the Court recognized that the Fourteenth Amendment affords parents the right to oversee and control the upbringing and education of their children, explaining that “it is the natural duty of the parent to give his children education suitable to their station in life.” 262 U.S. at 400.

The Court reaffirmed this parental right a short time later, in *Pierce*, holding that parents have the right “to direct the upbringing and education of children under their control.” 268 U.S. at 534-35. *Pierce*, which involved compulsory public school attendance, emphasized that “[t]he child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations.” *Id.* at 535.

2. Five decades after *Meyer* and *Pierce* the Court in *Wisconsin v. Yoder*, 406 U.S. 205 (1972), held that the State could not compel Amish parents to send their children to public school beyond the eighth grade. Although the Court's holding focused on freedom of religion, the opinion also emphasized the long tradition of parental rights:

[T]his case involves the fundamental interest of parents, as contrasted with that of the State, to guide the religious future and education of their children. The history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. *This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition.*

Id. at 232 (emphasis added).

3. Along the same lines, the Court held in *Stanley v. Illinois*, 405 U.S. 645 (1972), that the Fourteenth Amendment creates a presumption that a parent is competent to educate and care for a child, and that a State has the burden to prove otherwise.

In *Stanley* the Court invalidated an Illinois statute providing that upon the death of a mother, children of unwed fathers automatically became wards of the State. *Id.* at 646-47, 649. The Court held that the state law's presumption that unwed fathers were inherently unfit to raise their children violated basic due process

and parental rights. *See id.* at 651 (“The integrity of the family unit has found protection in the Due Process Clause of the Fourteenth Amendment.”).

4. Several years later, the Court recognized the logical implications of this constitutional presumption of competency when it held that parents can commit their child to a mental facility against his or her will, so long as the child (through a legal representative) is afforded an opportunity to present evidence to rebut the presumption. “Our jurisprudence,” the Court wrote, “historically has reflected Western civilization concepts of the family as a unit *with broad parental authority over minor children.*” *Parham*, 442 U.S. at 602 (emphasis added).

The Court explained that “[t]he law’s concept of the family rests on a presumption that *parents possess what a child lacks in maturity, experience, and capacity for judgment required for making life’s difficult decisions.*” *Id.* (emphasis added). “More important,” the Court continued, “historically it has recognized that natural bonds of affection lead parents to act in the best interests of their children.” *Id.* (citing 1 William Blackstone, *Commentaries on the Laws of England* *447 (1765); 2 James Kent, *Commentaries on American Law* *190 (1826-1830)). “The statist notion that governmental power should supersede parental authority in all cases because some parents abuse and neglect children is repugnant to American tradition.” *Id.* at 603.

Notably, in *Parham* Justice Stewart wrote a concurring opinion that is even more emphatic about parents' rights and responsibilities with regard to their children, even when it comes to difficult decisions about their psychological well-being. "For centuries," he wrote, "it has been a canon of the common law that parents speak for their minor children. So deeply imbedded in our traditions is this principle of law that the Constitution itself may compel a State to respect it." *Id.* at 621 (Stewart, J., concurring in the judgment). The state law at issue in *Parham* correctly presumed that parents act in their children's best interests, even when parents "make decisions for their minor children that deprive the children of liberty." *Id.* at 624. "In the case of parents, the presumptions are grounded in a statutory embodiment of long-established principles of the common law." *Id.* at 623.

"Under our law," Justice Stewart continued, "parents constantly make decisions for their minor children that deprive the children of liberty, and sometimes even of life itself." *Id.* at 624. Then, in words that have a prophetic tone when read in the context of today's attempt by state governments to impose transgender ideology upon children, Justice Stewart stated "surely the Fourteenth Amendment is not invoked when an informed parent decides upon major surgery for his child, even in a state hospital." *Id.*

Justice Stewart took it as a matter of common sense that minor children suffered no deprivation of

their Fourteenth Amendment constitutional rights when parents made decisions over whether or not to have their children undergo “major surgery.” He observed that parents have a constitutional interest in making such decisions for their children. Little could he have anticipated that the day would arrive in which state governments would attempt to deprive parents of having any say whatsoever in whether their children should undergo “gender-affirming care.”

5. In *Troxel v. Granville*, 530 U.S. 57 (2000). There, the Court invalidated application of a state statute that allowed, over a parent’s objections, nonparental visitation rights with children, provided that a trial court has determined by a preponderance of evidence that the children would benefit from such visitations. *See* 530 U.S. at 67-75.

In *Troxel* the trial court had awarded visitation rights to paternal grandparents (whose son had committed suicide) over the strong objection of the children’s natural mother. *Id.* at 60-63. The Supreme Court explained that “[m]ore than 75 years ago, in *Meyer* . . . we held that the ‘liberty’ protected by the Due Process Clause includes the right of parents to ‘establish a home and bring up children’ and ‘to control the education of their own.’” *Id.* at 65.

After citing its precedents beginning with *Meyer*, the Court observed in *Troxel* that “[i]n light of this extensive precedent, it cannot now be doubted that the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make

decisions concerning the care, custody, and control of their children.” *Id.* at 66. Given this long line of cases, the Court held the statute at issue “unconstitutionally infringes on that fundamental parental right.” *Id.* at 67.

Justice Souter’s separate opinion in *Troxel* strongly endorsed the importance of parental rights, observing that such rights would be undermined if the trial court’s visitation ruling were upheld. *Id.* at 75-79 (Souter, J., concurring in the judgment). Quoting *Meyer*, Justice Souter explained that “[a]s we first acknowledged in *Meyer*, the right of parents to ‘bring up children,’ 262 U.S., at 399, and ‘to control the education of their own’ is protected by the Constitution, *id.*, at 401.” *Troxel*, 530 U.S. at 77 (emphasis added). He further indicated that “[t]he strength of a parent’s interest in controlling a child’s associates is as obvious as the influence of personal associations on the development of the child’s social and moral character.” *Id.* at 78.

Justice Stevens, in his dissenting opinion in *Troxel*, conceded that his “colleagues are of course correct to recognize that the right of a parent to maintain a relationship with his or her child is among the interests included most often in the constellation of liberties protected through the Fourteenth Amendment.” *Id.* at 86-87 (Stevens, J., dissenting). There is “no doubt that parents have a *fundamental liberty interest in caring for and guiding their children*, and a corresponding privacy interest—absent exceptional circumstances—in doing so

without undue interference of strangers to them and to their child.” Id. at 87 (emphasis added).

6. The Court’s most recent parental rights decisions are *Mahmoud* and *Mirabelli*.

In *Mahmoud* the Court held that parents of Montgomery County, Maryland elementary school students were entitled on free-exercise grounds to a preliminary injunction against a school board policy preventing them from opting their children out of mandatory classroom instruction involving “a variety of ‘LGBTQ+-inclusive’ storybooks . . . designed to ‘disrupt’ children’s thinking about sexuality and gender.” 606 U.S. at 528-29. Recognizing “the rights of parents to direct ‘the religious upbringing’ of their children,” the Court held that the parents were likely to succeed on their claim that the school board’s policies unconstitutionally burdened their free exercise of religion. *Id.* at 546 (quoting *Espinoza v. Montana Dep’t of Revenue*, 591 U.S. 464, 486 (2020)).

In *Mirabelli* the Court vacated a Ninth Circuit stay of a permanent injunction against California policies that “prevent schools from telling [parents] about their children’s efforts to engage in gender transitioning at school unless the children consent to parental notification.” 607 U.S. at 492. Finding merit in the parents’ due-process objections, the Court explained:

Under long-established precedent, parents—not the State—have primary authority with respect to the upbringing

and education of children. The right protected by these precedents includes the right not to be shut out of participation in decisions regarding their children's mental health. Gender dysphoria is a condition that has an important bearing on a child's mental health, but when a child exhibits symptoms of gender dysphoria at school, California's policies conceal that information from parents and facilitate a degree of gender transitioning during school hours. *These policies likely violate parents' rights to direct the upbringing and education of their children.*

Id. at 497 (emphasis added).

B. Common law undergirds the Court's parental rights jurisprudence

Both English and American common law long ago recognized the right of parents to raise their children in the manner that they believe to be the most appropriate. This historical background has played an important role in development of the Supreme Court's jurisprudence on parental rights.

1. The English common law could not have been clearer that parents have an inviolate right to oversee the upbringing and education of their children. "Indeed, not only did the common law not interfere with the parental right and duty, it enforced the parents' educational wishes against unwilling

children.” S. Ernie Walton, *The Fundamental Right to Homeschool: A Historical Response to Professor Bartholet*, 25 Tex. Rev. L. & Pol. 377, 403 (2021).

For example, in *Hall v. Hall*, (1749) 26 Eng. Rep. 1213, a child’s legal guardian petitioned the Court of Chancery to send the child back to school at Eton after he had refused to return, demanding instead that he be schooled by a private tutor. Concluding that the child’s “guardian is the proper judge at what school to place him,” the court granted the petition. *Id.*; see also *Tremain’s Case*, (1718) 93 Eng. Rep. 452 (granting guardian’s petition to compel child to return to school at Cambridge despite child’s desire to attend Oxford).

Renowned British jurist William Blackstone was emphatic about the rights that parents possess. He wrote that one of their most important rights and duties is “that of giving [their children] an education suitable to their station in life: a duty pointed out by reason, and of far the greatest importance of any.” Blackstone, *supra* at *438. Blackstone’s views relied on the work of jurist and political philosopher Samuel Pufendorf. *Id.* While Pufendorf recognized that parents could delegate the responsibility of educating their children to others, he too was adamant that parents retain full responsibility for, and oversight of, their children’s education. See Samuel Pufendorf, *The Whole Duty of Man According to the Law of Nature* 274 (Andrew Tooke trans., 4th ed. 1716).

John Locke, one of the most influential political philosophers of the founding generation, was no less

firm in maintaining that parents have ultimate authority over their children's upbringing and education. "The well Educating of . . . Children," he wrote, "is so much the Duty and Concern of Parents, and the Welfare and prosperity of the Nation so much depends on it, that I would have every one lay it seriously to heart" John Locke, *Some Thoughts Concerning Education* lxiii (1693) (Cambridge Univ. Press ed. 1880).

2. This English common-law tradition of recognizing parental rights continued in the United States, even prior to the Supreme Court's opinion in *Meyer*. During the Nineteenth Century and thereafter, state courts were virtually unanimous in holding, for example, that the parents are presumed capable of caring for and educating their children, and that state authorities carry the burden of proving otherwise. This is essentially the same presumption that the Supreme Court subsequently adopted in *Stanley* and *Parham*, *supra*.

In *O'Connell v. Turner*, 55 Ill. 280 (1870), the State of Illinois committed a child to what was tantamount to a precursor of a juvenile detention center. The State did so without any finding that his parents were unable to care for him. *Id.* at 281-82, 284-85. The father petitioned to have his son returned to his custody. Agreeing with the parent, the Illinois Supreme Court was adamant that "[t]he parent has the right to the care, custody and assistance of his child. The duty to maintain and protect it, is a principle of natural law." *Id.* at 284. The court

concluded that the Illinois law that provided for the child's commitment made it far too easy to disrupt the parent-child relationship. *See id.* "Before any abridgment of the right, gross misconduct or almost total unfitness on the part of the parent, should be clearly proved." *Id.* at 284-85. The court thus ordered the child returned to his father. *Id.* at 287-88.

While *Turner* did not directly involve a dispute between a parent and a school, its holding and rationale are nevertheless relevant to the present case because of the burden of proof that it enunciated. *Turner* explicitly rejected the notion that a parent can be presumed to be incompetent or incapable of educating and caring for his or her child. Instead, a presumption of competency must attach to the parents in all disputes between them and a school over a particular policy or teaching matter. *Id.* at 284-85; accord *Mill v. Brown*, 88 P. 609 (Utah 1907).

The Wisconsin Supreme Court applied this presumption in the educational context in *Morrow v. Wood*, 35 Wis. 59 (1874). There, a father enrolled his son in a public school. *Id.* at 60. While generally agreeing with the teacher's proposed curriculum, the father disagreed with the teacher's decision to have his son study geography. *Id.* After the father directed his son to refuse to study that subject, his teacher inflicted corporal punishment. *Id.* at 62-63. The state supreme court rejected the notion that "upon an irreconcilable difference of views between the parent and teacher as to what studies the child shall pursue, the authority of the teacher is paramount and

controlling.” *Id.* at 63. It observed that normally, a parent has the “exclusive right to govern and control the conduct of his minor children.” *Id.* at 64. The court also emphasized that by electing to send the child to public school, the parent did not relinquish his ability to have a say in what the student was to learn. *Id.* at 65. “The parent is quite as likely to make a wise and judicious selection as the teacher.” *Id.* at 66.

The Nebraska Supreme Court echoed this language in *Sheibley v. School District No. 1*, 48 N.W. 393 (Neb. 1891). There, the court noted that a parent is presumed to be acting in the best interests of the child. *Id.* at 395. “[W]ho is to determine what studies [the student in question] shall pursue in school—a teacher, who has a mere temporary interest in her welfare, or her father, who may reasonably be supposed to be desirous of pursuing such course as will best promote the happiness of [the] child?” *Id.* It accordingly concluded that a parent’s right to determine a child’s course of studies prevailed over that of a teacher.

C. Washington State’s laws violate fundamental parental rights

The Washington State laws at issue exclude parents from irrevocable, life-altering decisions concerning their minor children. To hold that parents lack standing to challenge such laws would enable the State to eviscerate parents’ fundamental right to control their children’s upbringing without any legal recourse.

Judge VanDyke in his dissenting opinion below minced no words about the threat that the Washington State laws pose to parental authority: “Washington’s legal regime governing gender-confused children now empowers its state-run shelters to hide minors from parents and to encourage them to travel farther down the path of gender ideology—all while hiding from fit parents what the state or other actors do in those shelters.” Pet.App. 35a. Such an “odious framework,” he continued, “inverts the age-old, common-sense principle that parents—not the state and certainly not the child—hold primacy over the parent-child relationship.” *Id.*

Nor is this deprivation of parental authority academic. The laws in question present four different types of harm: “(1) parents are denied the right to consent to or refuse treatment for their child, including gender transition; (2) notice to parents is now denied or at least significantly delayed; (3) if given notice, parents are not informed about their child’s condition and location; and (4) the child’s return is significantly to indefinitely delayed.” Pet. at 6.

If a minor runs away, any youth shelter that comes into contact with the minor must, ordinarily, contact the minor’s parents within seventy-two hours, preferably within twenty-four hours. Wash. Rev. Code §13.32A.082(1)(b)(i). The new laws in question, however, make a major exception for this if the minor

is “seeking or receiving protected health care services.” *Id.* §13.32A.082(2)(c)(ii). “Protected health care services,” in turn, are defined to “include[] gender-affirming treatment[.]” *Id.* §13.32A.082(2)(d). In such a situation, notification is only given to the Department of Children, Youth and Family Services (“DCYF”), which is in turn required to “[o]ffer to make referrals on behalf of the minor for appropriate behavioral health services.” *Id.* §13.32A.082(3)(b)(i).

Not only are parents side-stepped in deciding whether their children should be subject to such treatment, they are not even provided notice or, if they are, such notice is delayed. Pet. at 11-13. And even if the parents receive notice, they are not told about where their child is or the condition that the child is in. Pet. at 14-15. Finally, a significant delay takes place in reunifying the child with the parents. Pet. at 15-16.

Emphasizing the role of parents, Dr. Bob Basu, President of the American Society of Plastic Surgeons, recently stated that “[b]ased on what we see today, we cannot endorse gender-related surgical intervention in minors and adolescent patients, given the uncertainties that we’ve discovered. . . . Parents and patients . . . should take time to either accept or decline any treatment. . . . Because the evidence is limited in this area, some interventions are irreversible.” Kristine Parks, *We Cannot Endorse: Why the Nation’s Plastic Surgeons are Pulling Back on Youth Gender Surgery*, Fox News (Feb. 9, 2026), available at <https://perma.cc/3FKC-K27T>.

But despite this warning, the Washington State laws turn the rights of parents to make medical decisions on behalf of their children on their head. It is a far cry from Justice Stewart's observation that the constitutional rights of minors are "not invoked when an informed parent decides upon major surgery for his child, even in a state hospital." *See Parham*, 442 U.S. at 624 (Stewart, J., concurring in the judgment). The law "now treats the parents of children suffering from gender dysphoria as per se neglectful or abusive and does not require the shelter to contact them." Pet.App. 38a (VanDyke, J., dissenting from the denial of rehearing en banc).

CONCLUSION

The Court should reverse the judgment below.

Respectfully submitted,

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