

K-12 Parental OPT-OUT Rights for Religious Beliefs



Why It Matters

An Opt-Out policy reinforces the vital role of parental involvement in guiding their children's education, including the fundamental right to religious freedom affirmed by the US Supreme Court in *Mahmoud V. Taylor*.

In addition, establishing transparent procedures fosters trust and partnership between families, educators, and administrators, preventing confusion or disputes. School boards can uphold best practices, while maintaining educational integrity and a positive learning environment for all students.

Primary Reasons Parents Want OPT-OUT

K-12 public schools are for everyone and by law all minors have a right to a free public education. It is incumbent on school boards to listen to members of their communities and select curriculum content acceptable to all families.

Controversial issues consist of any instructional content triggering intense public argument, disagreement, or disapproval. Topics may have political, social, or personal impact on students and/or the community, arousing both support and opposition. Topics include sexuality education, ideological pedagogy, student surveys, mental health screenings, and controversial social issues. Curriculum includes presentations, and activities involving outside district speakers, and supplemental materials addressing sensitive or ideologically contested topics beyond core academic standards. Controversy is unnecessary when the school's role is academic instruction.

Parents Have a Right to Access Instructional Content

Whether the school district or teacher considers the topic to be controversial, any topic identified in writing by a parent as sensitive or ideologically contested with respect to that family's religious beliefs is OPT-OUT qualified, and protected by law.

Upon request, parents shall be permitted to review any instructional materials, including printed or digital materials, audio-visual content, vendor-created resources, teacher-developed content, and tests or assessments.

School districts, in accordance with the Protection of Pupil Rights Amendment (PPRA), shall provide to parents all materials used in connection with surveys or evaluations, with sufficient advance notice allowing parents a meaningful opportunity to submit an OPT-OUT request.

What to do, NOW - Get the Facts

Parents, let's do some homework before approaching the district with your complaint. Find out what the district OPT-OUT policy is, first. Every district is different depending on your state and size of your district. You can contact the Administration Office or look up policies on the Board website.

If you know a school board Director, ask what OPT-OUT policies are in place. If they don't have one, take the offense and volunteer to help create one! Some states have additional OPT-OUT policies, but that doesn't mean your district can't create their own.

Know Your Opt-Out Rights, District Obligations

Parental Authority & Religious Liberty: Parents have the fundamental right to direct the religious upbringing and education of their children.

Consistent with *Mahmoud v. Taylor*, when a parent raises a religious objection to specific content or activities, the district must:

1. Promptly review the request
2. Honor all parental opt-out requests submitted under OPT-OUT policy, unless the opt-out request is denied by the school board.
3. Offer reasonable alternative assignments that fulfill educational objectives without burdening the family's religious beliefs.

If You Are Stonewalled, Go Public

Depending on your local policy, if district staff believes there may be a legal basis to deny a particular request, the matter should be referred to the school board for determination. No OPT-OUT request should be denied without formal action by the school board.

OPT-OUT requests should not be granted or denied based on agreement or disagreement with the parent's beliefs. Schools shall remain viewpoint-neutral and respectful of family diversity.

It's advised to petition the board to amend your district's policy, if these requirements are not included. If none exists, call on your board to establish one.

OPT-OUT Request Submission

It's always best to create a paper trail when asking a government bureaucracy to do anything. Submit a written opt-out request (link) to both the principal and the student's teacher. Include a concise description of the religious or moral basis for the request. Religious opt-out requests need only state that the instruction conflicts with the family's religious beliefs and shall not be subject to questioning. PRE has several good OPT-OUT forms available for your use.

District Review and Response

If district personnel choose to deny your opt-out request, then, no later than 10 school days after receipt, the principal should inform the parent's, and the school board in writing, of reasons for denial.

The school board should then review the opt-out request and reasons for denial, under strict scrutiny standards, based on federal law, and rule on the request. The opt-out request should be honored unless and until the request is denied by the school board. In no case shall the student be exposed to the materials or curricula that are the subject of the opt-out request prior to a decision by the board.

An opt-out request should be honored even if a parent submits after a lesson or unit has already begun. Parents cannot anticipate all instructional content in advance, and a delay in recognizing or objecting to content should not be grounds for denying the OPT-OUT.

Critical Alternative Instruction

When a student is excused from specific instruction under this policy, the school shall provide alternative assignments or academic activity aligned with the same learning goals, without penalty.

District Communication and Enforcement

The district should annually inform families of their opt-out rights in the student handbook and on the district website. The district should provide a non-exhaustive list of common subjects for OPT-OUT with detailed instruction for OPT-OUT requests.

Schools should maintain records of approved opt-out requests and document compliance. Teachers and staff shall be fully informed of students with approved opt-outs and expected to respect them fully.

Parents need to report failure to honor an approved OPT-OUT to the School Board and District Office. The district should investigate and respond within a school week's time. *Repeated or intentional violations may result in staff discipline and expose the district to legal liability.*

Limitations and Clarifications

An OPT-OUT policy should not create a right to opt-out of entire academic subjects or content required by law unless legally exempt or compelled by a religious accommodation. OPT-OUT rights do not permit disruption of instruction or school operations.

Students shall not be excused from instruction essential to health or safety (e.g., fire safety, emergency drills) unless a valid legal or religious exemption is granted.

Legal Analysis — National

Parents have a fundamental right to direct the religious upbringing and education of their children, including decisions about exposure to particular instructional content or activities that may conflict with their sincerely held religious beliefs. *Mahmoud v. Taylor*, 603 U.S. (2025). As such, when a school district wishes to use material that conflicts with parents' right to direct the religious upbringing of their child, it must provide an ability for parents to opt their student out, or must be able to provide a compelling interest as to why the material is going to be taught that is the least restrictive way to achieve its goal (in other words, it must survive "strict scrutiny"). *Id.* See also *Wisconsin v. Yoder*, 406 U.S. 205 (1972).

Under *Mahmoud v. Taylor*, a public school may only deny a religious opt-out request if it can satisfy the demanding constitutional standard of strict scrutiny—meaning the district must demonstrate a compelling educational interest and show that it is using the least restrictive means of achieving that interest. This policy indicates that this determination must be made by the school board, not individual staff.

Districts must make available for inspection all instructional materials (including teachers' manuals, films, tapes, or other supplementary material which will be used in connection with any survey, analysis, or evaluation) by the parents or guardians of the children. 20 U.S.C. § 1232h.

Any educational record (which means records, files, documents, and other materials that contain information directly related to a student and are maintained by an educational agency or institution) must be made available for inspection and review by the parents or guardians of the child. 20 U.S.C. § 1232g. Congress shall make no law prohibiting the free exercise of religion. U.S. Const. amend. I.