

MEMORANDUM

TO: District Superintendents

FROM: Todd K. Atwater
Deputy Superintendent, General Counsel

DATE: March 3, 2026

RE: Impact of U.S. Supreme Court's decision in *Mahmoud v. Taylor*, 606 U.S. ____ (2025) on South Carolina School Districts

I. PURPOSE

To provide guidance on district obligations following the U.S. Supreme Court's decision in *Mahmoud v. Taylor*, 606 U.S. ____ (2025).

II. SUMMARY OF THE DECISION

The Supreme Court held that public schools violate parents' constitutional rights when they require elementary students to participate in instruction on gender or sexuality that conflicts with parents' sincerely held religious beliefs without advance notice and an opportunity to opt-out.

Schools must:

1. Provide parents with advance notice when instruction addresses sensitive topics involving gender, sexuality, or moral belief systems; and
2. Provide parents with a meaningful opt-out without penalty or allow parents to excuse their children from such instruction.

III. SUGGESTED DISTRICT ACTION

Districts shall:

- Review district policy to confirm alignment with *Mahmoud* and S.C. Regulation 43-170, which requires schools to provide parents with a list of all library and

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classroom materials made available to students in their classroom upon a “reasonable request” by a parent. S.C. Code Regs. 43-170(II(D)).

- Ensure parents receive advance notice of upcoming instruction involving gender identity, sexual orientation, or related moral topics.
- Provide a clear and accessible opt-out process.
- Ensure that students excused under an opt-out:
 - Are not marked absent;
 - Are not penalized academically; and
 - Receive an appropriate alternative assignment where feasible.
 - When an appropriate alternative assignment is not possible, the student shall be excused from such instruction or assignment without penalty.
- Publish opt-out procedures on the district website and in materials accessible to parents.
- If a teacher declines to provide the requested information or allow an opt-out, the parent may escalate to school and then district administration.
- If objections become so frequent or broad as to make alternative instruction impracticable (defined as $\geq 20\%$ of class content), the case should be referred to the district office for individual review.

IV. IMPLEMENTATION

Districts may use the attached:

- Implementation Checklist; and
- Model Religious Opt-Out Form.

Districts may adopt these documents or implement substantially similar procedures consistent with this memorandum. For additional legal reference and detailed analysis, see **Attachment A: Legal Brief – Mahmoud v. Taylor Summary and Implementation Guidance.**