

MODEL POLICY #40

PARENTAL OPT-OUT RIGHTS

Why adopt this policy?

Adopting a clear and comprehensive opt-out policy reinforces the vital role of parental involvement in guiding their children's education and respects the fundamental right to religious freedom affirmed by the U.S. Supreme Court in *Mahmoud v. Taylor*. Providing transparent procedures and advance notice about potentially sensitive or controversial curriculum topics fosters trust and partnership between families, educators, and administrators. This policy helps ensure that teachers and school leaders understand how to handle opt-out requests consistently and respectfully, preventing confusion or disputes. By committing to transparency and clear communication, school boards can uphold best practices that empower families while maintaining educational integrity and a positive learning environment for all students.

Policy

I. Purpose and Scope

This policy affirms the rights of parents and guardians to guide their children's education, consistent with constitutional protections and Supreme Court precedent, including *Mahmoud v. Taylor* (2025). The goal of this policy is to ensure that public schools remain transparent and responsive to families. It outlines when the district must provide advance notice of potentially sensitive or controversial instruction, when and how parents may submit opt-out requests, and how such requests must be handled. By doing so, this policy protects parental authority and religious liberty, and promotes trust between families and educators.

II. Transparency and Notice Requirements

To ensure that families can make informed decisions about their children's education, the district shall provide parents with advance notice of the following:

A. Instruction Commonly Subject to Opt-Outs:

- Topics such as sex education, student surveys, mental health screenings, and controversial social issues.*
- Presentations or activities involving guest speakers from outside the district;
- Teacher-created materials addressing sensitive or ideologically contested topics beyond core academic standards;
- Any topic previously identified in writing by a parent as sensitive or ideologically contested with respect

* This policy is not intended to replace any existing opt-out policies based on state law sex education instruction.

to that family's religious beliefs, regardless of whether the district or teacher considers the topic to be controversial.

- Controversial issues, defined for purposes of this policy as anything that is the subject of intense public argument, disagreement, or disapproval. This includes issues which may have political, social, or personal impacts on students and/or the community, and it includes issues that are likely to arouse both support and opposition in the community.

B. Access to Instructional Materials:

Upon request, parents shall be permitted to review any instructional materials used in the education of their children, including:

- a. Printed or digital materials, audio-visual content, vendor-created resources, teacher-developed content, and tests or assessments.
- b. Materials used in connection with surveys or evaluations, in accordance with the Protection of Pupil Rights Amendment.

The district shall provide such notice sufficiently in advance to allow parents a meaningful opportunity to submit an opt-out request, as described below.

III. Opt-Out Requirements and Procedures

Opt-Out Rights

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:

- a. Promptly review the request;
- b. Honor all parental opt-out requests submitted under this policy, unless the opt-out request is denied by the school board; and
- c. Offer reasonable alternative assignments that fulfill educational objectives without burdening the family's religious beliefs.

If district staff believes there may be a legal basis to deny a particular request, the matter shall be referred to the school board for determination, as described under "Review and Response" in this policy. No opt-out request shall be denied without formal action by the school board.

Neutrality and Nondiscrimination: Opt-out requests shall 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.

Submitting a Request

Parents shall submit a written opt-out request to either the principal or the student's teacher. The request should:

- a. Identify the content, activity, or course at issue;

- b. Include a concise description of the religious or moral basis for the request; and
- c. Religious opt-out requests need only state that the instruction conflicts with the family's religious beliefs and shall not be subject to questioning.

Whichever recipient receives the request must promptly share a copy with the other (principal or teacher) to ensure both are informed.

Teachers should request that opt-out requests be in writing and explain the basis and scope, but if a parent verbally opts out, then the teacher shall follow up with an email or other written communication explaining his or her understanding of the opt-out and ensure it is documented.

Review and Response

If district personnel believe that a specific opt-out request should be denied, then, as soon as possible, but no later than 10 school days after receiving the request, the principal of the school that the child attends shall inform the parent(s) who submitted the request and the school board of that belief and shall explain in writing the asserted reasons for denying the request.

The school board will then review the opt-out request and the asserted reasons for denying the request, under strict scrutiny standards, as described in the legal analysis for this policy, and will make a determination as to whether the opt-out request may be denied.

The opt-out request will be honored unless and until the opt-out 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.

If a parent submits an opt-out request after a lesson or unit has already begun, the request shall still be honored. Parents are not expected to anticipate all instructional content in advance, and a delay in recognizing or objecting to content shall not be grounds for denying the opt-out.

Alternative Instruction

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

IV. Communication and Enforcement

Annual Notice

The district shall annually inform families of their opt-out rights in the student handbook and on the district website.

The district shall include a non-exhaustive list of areas commonly subject to opt-out and explain how parents can submit requests.

Enforcement and Records

Schools shall 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.

Accountability for Violations

If a parent reports a failure to honor an approved opt-out, the district shall investigate and respond within five school days.

Repeated or intentional violations may result in staff discipline and may expose the district to legal liability.

Limitations and Clarifications

This policy does 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.

Legal Analysis — Wisconsin

The Wisconsin Constitution says each citizen has the right to “worship Almighty God according to the dictates of conscience” and that right “shall never be infringed.” Wis. Const. Art. I § 18.

Wisconsin statute prohibits school districts from discriminating against students on the basis of the student’s religion and requires school boards to develop written policies and procedures to prevent such discrimination. Wis. Stat. § 118.13 *et seq.*

Wisconsin statute requires schools to notify parents and give them the opportunity to opt their student out of human growth and development curriculum. Wis. Stat. § 118.019(3).



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