

LEGAL EXPLAINER #1

OVERVIEW OF PARENTAL RIGHTS LEGAL LANDSCAPE

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For over a century, the U.S. Supreme Court has made clear that parents, not government schools, have the fundamental right to direct the upbringing, education, and care of their children. This principle is not just aspirational. It is binding constitutional law.

Yet today, school districts across the country are adopting policies that keep parents in the dark about some of the most consequential decisions involving their children, including gender identity transitions at school. These policies often contradict clearly established constitutional rights and even violate federal laws like FERPA and the PPRA.

I. Key U.S. Supreme Court Decisions Affirming Parental Rights

Meyer v. Nebraska (1923)

Recognized the right of parents to “establish a home and bring up children” and “to control the education of their own.”

Pierce v. Society of Sisters (1925)

Declared that “[t]he child is not the mere creature of the state” and affirmed parents’ constitutional right to direct the upbringing and education of their children.

Prince v. Massachusetts (1944)

Held that “custody, care and nurture of the child reside first in the parents,” not the government.

Wisconsin v. Yoder (1972)

The Court held that the state's interest in compulsory education must yield to a parent's right to raise their child in accordance with religious beliefs.

Parham v. J.R. (1979)

Recognized that parents are presumed to act in their children's best interests when making medical and psychological decisions.

Troxel v. Granville (2000)

Reaffirmed the "fundamental right of parents to make decisions concerning the care, custody, and control of their children."

Mahanoy Area Sch. Dist. v. B.L. (2021)

Reinforced limits on school authority over student expression, especially outside school-sponsored activities.

Mahmoud v. Taylor (2025)

Reaffirmed that parents have a constitutional right to direct the religious upbringing of their children and held that this includes the right to opt them out of school activities that conflict with their religious beliefs

II. Federal Law Supports Parental Oversight

While school districts increasingly claim that federal law limits what parents can know, the opposite is true: federal laws like FERPA and PPRA exist to empower parents, not override them.

FERPA – Family Educational Rights and Privacy Act (1974)

FERPA grants parents full access to and control over their child's education records until the student turns 18.*

Under these rules, only parents (or students over 18) can request a change to education records, such as a change to name or gender. That's why many districts require parental consent to change a student's name in official records.

But increasingly, districts are attempting to circumvent FERPA by making informal changes, like updating student ID cards or internal forms, outside of official records, deliberately shielding them from parents.

* 20 U.S.C. § 1232g.

Some districts invoke FERPA to justify these policies, arguing that students have a “privacy right” from their parents. That’s a misrepresentation of the law. As the Fifth Circuit explained:

“There is no clearly established law holding that a student in a public secondary school has a privacy right...that precludes school officials from discussing *with a parent* the student’s private matters.” *Wyatt v. Fletcher*, 718 F.3d 496, 499 (5th Cir. 2013) (Emphasis in original.)

FERPA does not grant minors such rights against their parents. On the contrary, it reaffirms that parents are in charge.

As the judge noted in the decision in *T.F. v. Kettle Moraine School District* (2023) regarding social gender transitions without parental consent, “This is undisputedly a medical and healthcare issue – the Defendants put forth no evidence to the contrary. As such, the School District went against the parents’ wishes on how to medically treat their child. This directly implicates an infringement against the parental autonomy right to direct the care for their child.”

See [WILL resource on “What Parents Should Know about FERPA” for more information.](#)

PPRA – Protection of Pupil Rights Amendment (1978)

The PPRA reinforces parental control by requiring written parental consent before schools can ask students, verbally or in a written survey, about certain categories, including, but not limited to, political beliefs, mental or psychological problems, sex behavior, and religious practices.*

Just like FERPA, these rights belong to parents until the student turns 18. But schools routinely collect sensitive information, including questions related to sexual behavior, mental or psychological problems, religious beliefs, and political affiliations, without adequate parental notice or consent.

See [WILL resource on “What Parents Should Know about School Surveys” for more information.](#)

III. Where Do We Go from Here?

Parents should not have to fight to be informed about what is happening with their own child in a public school. But across the country, school policies are creating a false choice between student autonomy and parental authority.

This is not only immoral, but it violates parents’ long-established constitutional rights to direct the upbringing of their children. The Constitution, FERPA, and PPRA all put parents in the driver’s seat.

WILL is a legal resource for parents, students, and school districts. If you believe your rights have been violated, you can contact us at www.will-law.org/contact-a-lawyer. Depending on your situation, we may be able to help further.

* 20 U.S.C. § 1232h.