

- Federal judge orders notice and opt-out rights for parents regarding LGBTQ+ curriculum
- Ruling applies Supreme Court precedent on parents' religious rights in education
- Court finds likely First Amendment violation by Lexington Public Schools
- Decision raises concerns about administrative burdens and chilling effects on school curricula

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A public school district must notify a parent and provide "opt-outs" any time their child might be exposed to curriculum that incorporates LGBTQ+ themes and characters, a U.S. District Court (<https://masslawyersweekly.com/tag/u-s-district-court/?taxo-tag-body>) judge has ruled.

Plaintiff "Alan L," the parent of "J.L.," a kindergarten student in Lexington, brought suit against the district alleging that school officials violated his First Amendment rights by exposing his child to books and lessons depicting or normalizing LGBTQ+ relationships and gender expression despite his requests that he be provided advance notice and the ability to opt his son out of such lessons.

The plaintiff moved for a preliminary injunction requiring such notice and opt-out rights while the case is pending.

Judge F. Dennis Saylor IV (<https://masslawyersweekly.com/tag/judge-f-dennis-saylor-iv/?taxo-tag-body>) granted the motion, applying last year's U.S. Supreme Court decision in (<https://masslawyersweekly.com/2025/07/14/supreme-court-lgbtq-opt-out-ma-schools/>) *Mahmoud v. Taylor* (<https://masslawyersweekly.com/2025/07/14/supreme-court-lgbtq-opt-out-ma-schools/>).

In *Mahmoud*, the Supreme Court ruled that parents have a constitutional right to direct the religious upbringing of their children, which includes the ability to opt their children out of exposure to classroom materials that incorporate teachings counter to their religion.

"[P]laintiff is likely to show that the materials at issue burden his free-exercise rights by 'pos[ing] a very real threat of undermining' the religious beliefs and practices he wishes to instill in J.L., and defendants are not likely to show that their decision not to provide plaintiff with notice and the opportunity to opt J.L. out of these lessons survives strict scrutiny," Saylor wrote. "Plaintiff is therefore likely to succeed on the merits of his First Amendment claim."

The 24-page decision is *Alan L. v. Lexington Public Schools, et al.*, Lawyers Weekly No. 02-688-25 (<https://masslawyersweekly.com/2026/01/15/education-parental-notification-curriculum/>).

Chilling effect

One of the plaintiff's attorneys, Samuel Whiting of the Massachusetts Family Institute in Acton, said the decision clarifies *Mahmoud*.

The question of whether the school or the parent has the responsibility to identify the potentially educational content at issue was an open question, and Saylor chose a middle-ground approach under which the parent must identify their religious beliefs and categories of content that could violate them and then the school must identify curriculum that reasonably contradicts such beliefs, Whiting explained.

"We think that's a really important holding and hope that this will be a persuasive decision with impact in Massachusetts and across the country," he added.

Boston attorney Douglas I. Louison, who represented the school district, predicted that Saylor's decision would "ricochet" around the state and the country.

"We are seeing opt-out requests or requests from legal counsel on behalf of parents and they're already expanding their requests to opt out of sex education and health education classes as well," he said.

Louison said the problem that districts face with *Mahmoud* and a case like *Alan L.* is the lack of a clear procedure when a school and parents disagree on whether a student should be opted out of particular curriculum.

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We hope this will be a persuasive decision with impact in Massachusetts and across the country.



— Samuel Whiting, Massachusetts Family Institute

“Then there has to be a hearing before a federal district judge,” he said. “That’s not going to be a very workable mechanism for school districts to resolve such disputes.”

Louison’s partner and co-counsel, Sasha Gill, noted that Saylor’s ruling was a preliminary decision and that the court has not yet decided which material at issue substantially interferes with someone’s faith or right to direct their child’s religious upbringing.

“I found it interesting, for example, that the judge left open [in a footnote] the question of whether images that merely depict gay-appearing characters could constitute substantial interference, because the *Mahmoud* court seemed to rule those out,” she said.

Naomi R. Shatz, a Boston attorney who handles civil rights disputes in the educational context, predicted that cases like *Mahmoud* and *Alan L.* will have a chilling effect on information that schools include in their curriculum.

“It seems unlikely that schools will have the resources, both administrative and financial, to deal with individualized opt-out requests from numerous parents on different materials or to litigate legal challenges around those opt-out requests, and instead may preemptively remove any materials that could be subject to challenges or opt-outs from the curriculum entirely,” Shatz said.

I am concerned that the decision allows parents to make general requests for exemptions for certain categories of materials and that districts have an obligation to identify what material conflicts with those general requests.



— Felicia S. Vasudevan, Braintree

Felicia S. Vasudevan of Braintree said Saylor’s decision seems to burden schools beyond what the Supreme Court laid out in *Mahmoud*.

“I am concerned that the decision allows parents to make general requests for exemptions for certain categories of materials and that districts have an obligation to identify what material conflicts with those general requests,” Vasudevan said. “School district officials want to honor families’ requests; they do not want to guess wrongly in what is applicable.”

In particular, she pointed to the same footnote Gill referenced.

While Saylor’s footnote indicated that it was an “open question” whether a book merely featuring a depiction of a gay or lesbian couple could substantially burden someone’s free-exercise rights, his actual order required the district to allow opt-outs for those depictions, Vasudevan noted.

“To further require schools to review all mere depictions of different families creates an unreasonable burden on school districts,” she said.

Boston attorney Sara E. Burns said the decision was not surprising given the holding in *Mahmoud*.

“Going forward, we can expect more cases involving LGBTQ+ content in the classroom that test the scope of parents’ constitutional rights,” Burns said. “As those cases weave their way through the courts, we will likely see more Supreme Court decisions for parents like the plaintiffs in *Mahmoud* and *Alan L.*”

Substantial interference?

Before J.L. began kindergarten in September 2025, his father, Alan, a devout Christian, learned that Lexington Public Schools had introduced curriculum materials addressing topics related to sexual orientation, gender identity and family structures conflicting with his religious beliefs.

After raising concerns with J.L.’s teacher, Alan requested his class schedule and a syllabus.

He apparently received a link with high-level overviews of the curriculum but not the actual syllabi and curricula.

After reviewing the materials, Alan requested to opt J.L. out from any “DEI” curriculum and to excuse him from health class.

The district’s director of elementary education, Andrea So, denied the requests, asserting that they were not tied to a sincerely held religious belief and were not specific enough as to which curriculum was objectionable.

Alan subsequently submitted a formal opt-out letter to the principal, requesting his son’s exemption from “lessons, events, school assemblies or other instructional activities and programs which cover issues of sexual orientation or gender identity” pursuant to *Mahmoud*.

So responded that the request was overly broad and invited Alan to re-submit his request with more information regarding a specific lesson or to contact her if he wished to review curricular materials to better inform his request.

Alan L. v. Lexington Public Schools, et al.

(<https://masslawyersweekly.com/2026/01/15/education-parental-notification-curriculum/>)

THE ISSUE: Was a public school district required to notify a parent and provide “opt-outs” any time his child might be exposed to curriculum that incorporates LGBTQ+ themes and characters?

DECISION: Yes (U.S. District Court)

LAWYERS: Andrew J. Ekonomou, Jordan A. Sekulow, Nathan J. Moelker, Olivia F. Summers and Abigail A. Southerland, of the American Center for Law and Justice, Washington, D.C., and Franklin, Tennessee; Samuel Whiting of the Massachusetts Family Institute, Acton (plaintiff)

Sasha Gill and Douglas I. Louison, of Louison, Costello, Condon & Pfaff, Boston (defense)

Alan then retained counsel, who reiterated his request that J.L. be opted out of any instruction that normalized or promoted “LGBTQ identities or lifestyles” as well as the kindergarten DEI curriculum.

The district again denied his request, stating that his request to opt out of “all DEI instruction” was overly broad. The district’s counsel also invited him to review the kindergarten curriculum and classroom books with So in order to narrow his opt-out request to specific materials.

Despite the opt-out request, on Sept. 16, 2025, Alan’s son was allegedly shown a read-aloud video of a book in health class that directly contradicted Alan’s religious beliefs, along with a book that allegedly did the same.

On Oct. 17, 2025, Alan filed suit in U.S. District Court alleging that the district unconstitutionally interfered with his free-exercise rights by exposing his child to instruction counter to his religious beliefs.

Three weeks later, Alan moved for a preliminary injunction seeking opt-out rights while the case proceeded.

In his filings, Alan cited as evidence the two books his child allegedly saw as well as several other books that are part of the kindergarten curriculum.

Likelihood of success

Applying *Mahmoud*, Saylor found that Alan was likely to succeed on the merits of his free-exercise claim.

First, the judge said, "it is likely that the books identified by plaintiff burden his free-exercise rights because they 'pose a very real threat of undermining the religious beliefs and practices' he wishes to instill in J.L."

In fact, Saylor said, the *Mahmoud* court explicitly found that one of the books in question would burden the free-exercise rights of those similarly situated to the plaintiff.

Additionally, the judge found that the district was unlikely to show that its policy and practices could survive strict scrutiny.

While schools have a compelling interest in having an undisrupted school session, the district failed to show that denying Alan the specific notice and opt-out procedure he sought was necessary to serve that interest.

"Defendants agree that plaintiff must be allowed to opt his child out of at least some classroom instruction," Saylor said. "Furthermore, many of the concerns defendants raise – which involve the possibility of granting notice and opt-out rights to other parents in other contexts – are not directly implicated in this case, and will exist (in light of *Mahmoud*) whether or not the Court grants an injunction."

Saylor further found that Alan had shown a likelihood of irreparable harm absent a preliminary injunction.

Accordingly, he concluded, the plaintiff's motion should be granted.

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