

[MODEL] POLICY XXXXX: OPT-OUTS BASED ON FREE EXERCISE OF RELIGION

Date adopted:

I. Purpose and Scope

This policy protects the rights of parents and guardians to guide their children's education and freely to exercise their religion provided by the United States and Missouri Constitutions. In *Mahmoud v. Taylor* (2025), the United States Supreme Court clarified the constitutional requirement that public school districts provide parents with the opportunity to opt their children out of instruction or material on topics that parents judge will impede their constitutional rights freely to exercise their religion. The Supreme Court made clear that the right to opt out includes and relies on a right to advance notice of such instruction or material.

By adopting this policy, school districts will comply with the Supreme Court's holding in *Mahmoud v. Taylor* by identifying when and how parents may or will have advance notice of instructional content, when and how they may submit opt-out requests, and when and how such requests will be handled.

II. Definitions

- A. **Controversial issue:** any issue or question that is the subject of significant public dispute, disagreement, or disapproval, either within or outside the district.
- B. **Protected subject:** any subject information about which falls within the scope of the Protection of Pupil Rights Amendment, 20 U.S.C. § 1232h, including:
 - a. political affiliations or beliefs;
 - b. mental or psychological health;
 - c. sex behavior or attitudes;
 - d. illegal or anti-social behavior;
 - e. religious practices, affiliations, or beliefs.

III. Notice

- A. **General.** The district shall provide parents with advance notice of the following, including specific identification of the content that makes such notice necessary, with enough time (usually, one month) for parents to inspect or review and, if necessary, opt their children out.
 - 1. Instruction, resources, communications, or activities, mandatory or optional, delivered physically or electronically, involving controversial issues or protected subjects, including *but not limited to* sex education,

student surveys, mental health screenings, and LGBTQ-related instruction or material.¹

2. Presentations, communications, or activities involving speakers or organizers from outside the district, mandatory or optional, that involve controversial issues or protected subjects;
3. Teacher-created materials addressing controversial issues or protected subjects;
4. Materials or resources provided by any district employee, in physical or electronic form, for mandatory or optional use, that make accessible to students, directly or by providing access, material meeting the definition of “explicit sexual material” laid out in Revised Missouri Statute Section 573.550, or material that would be otherwise illegal to provide to minors outside a school setting;
5. Instruction, resources, communications, or activities, mandatory or optional, that involve any topic previously identified in writing by a parent as sensitive or controversial or otherwise objectionable based on that family’s religious beliefs, regardless of whether the district or district representative considers the topic to be sensitive or controversial, and regardless of whether the subject is otherwise protected.

B. Continuously available resources. Where notice is made of materials or resources the district proposes to make continuously available to students, such as library or electronic resources, the district shall provide such notice and opportunity to opt out at least one month prior to the initial introduction of such material or resource and again at least one month prior to the first instructional day of each school year.

C. Specific instruction. Where notice is made of specific instruction, material, events, or communications, the district shall provide such notice and opportunity to opt out at least one month prior to the specific instruction, event, or communication.

D. Explicit or illegal material. Where notice is made of resources providing access to “explicit sexual material” or material otherwise illegal to provide to minors, such notice shall attach examples of such material.

¹ Nothing in this policy will limit notice and opt out requirements otherwise provided by law or district policy.

E. Form

- a. **Specific notice.** Notice to parents of students affected by instruction or materials shall be provided in whatever form the district ordinarily uses to communicate important or urgent information to parents and shall be marked as time-sensitive and requiring parent attention. Notice shall include reference to this policy.
- b. **Online notice.** The district shall include prominently on its public website a link to an inventory of all notices provided under this policy, accessible by link and organized by grade level. Notice shall include reference to this policy.

IV. Access to Instructional Materials [CAN BE OMITTED BY DISTRICTS WITH EXISTING COEXTENSIVE INSPECTION POLICIES, BUT INCLUDE “RELATED POLICIES” REFERENCE TO INSPECTION POLICY]

Upon request, parents shall be permitted to review any and all instruction or materials used in the education of their children, including printed or digital materials, audio-visual content, vendor-created resources, materials provided by or in conjunction with speakers or events invited from outside the district, teacher-developed content, materials accessible to their students in physical or electronic libraries or databases, and tests or assessments.

V. Opt-Out Requirements and Procedures

A. Submitting a Request

1. **Documentation.** Parents shall be encouraged to submit a written opt-out request to either the principal or the student’s teacher.
2. **Elements.** An opt out request should:
 - a. identify the content, activity, material, or course at issue; and
 - b. include a concise description of the religious or moral basis for the request.

If an opt-out request lacks one or both of these elements, is ambiguous, or is delivered verbally or otherwise lacks formality, that shall not be a basis for denial of the request. The district representative receiving such a request shall work with the submitter to seek and document a complete request.

Opt-out requests submitted on the basis of a religious objection need only state that the instruction conflicts with the family’s religious beliefs. Religious beliefs shall not be subject to review or judgment.

3. **Communication.** A district representative receiving an opt-out request must promptly share a copy with the principal for the affected student(s). Principals shall be responsible for promptly sharing opt out requests with all affected district representatives, including teachers, administrators, advisers, librarians, coaches, event leaders, and other organizers.
4. **Duration.** Opt-out requests shall be effective until a parent formally withdraws such a request or until the instruction or materials from which the student has been opted out are no longer provided. Principals shall be responsible for communicating student opt-out information to newly affected teachers or staff, and, upon graduations or transitions between schools, for providing student opt-out information to the principals newly assigned to affected students.

B. District Review and Response

1. **Principal review.** If a principal believes 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 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.
2. **Board review.** The school board, or a designated committee thereof, will review any challenged opt-out request and the asserted reasons for denying the request under strict scrutiny standards, per *Mahmoud v. Taylor*, and make a determination as to whether the opt-out request may be denied.
3. **Presumption of validity.** Opt-out requests will be honored unless and until the request is formally denied by the school board. In no case shall the student be exposed to the materials or instruction or communications that are the subject of the opt-out request prior to a decision by the board.
4. **Timeliness.** It shall not be prejudicial to any opt-out request that a unit of instruction or curriculum from which the parent seeks to opt their student[s] out has already begun (whether or not such unit was the subject of advance notice to parents), nor that the district did not deem a lesson or unit or curriculum to require advance notice to parents under this policy.

VI. Alternative instruction. Consistent with *Mahmoud v. Taylor*, when a parent submits a religious objection to specific content or activities, the district shall offer reasonable alternative instruction that fulfills educational objectives without burdening the family's religious beliefs.

VII. Nondiscrimination. Neither students who are the subject of opt-out requests nor their parents shall be subjected to discrimination, retaliation, or penalty as a result of their free exercise of their religious beliefs through the opt-out process, and the submission and execution of opt-out requests shall occur with as little as possible disruption to instruction or attention to the affected students.

VIII. Policy Communication

- A. Continuous notice.** The district shall continuously inform families of all opt-out rights, including the First Amendment rights protected by this policy, in the student handbook and on the district website. Such notice shall include a non-exhaustive list of areas commonly subject to opt-out and explain how parents can submit requests. Such notice shall include reference to this policy as well as reference, with electronic link, to the district's online list of notices issued under this policy, organized by grade level.
- B. Annual notice.** The district shall also inform parents of their rights under this policy at least once annually, at least one month prior to the first instructional day of the school year, by whatever means and in whatever form the district ordinarily uses to communicate important or urgent information to parents. This annual notice to parents of their opt-out rights shall include reference to this policy as well as reference, with electronic link, to the district's online list of notices issued under this policy, organized by grade level.

IX. Enforcement and Records

The district shall maintain records of approved opt-out requests and document compliance with same. Each school shall have responsibility for maintaining an updated list of opt-outs in effect for its students, and a single district administrator shall be assigned responsibility for maintaining a database of opt-outs affecting students throughout the district.

The school board shall maintain records of denied opt-out requests along with documentation of the board's justification for denial.

Administration, teachers, and staff shall be trained in this policy and the legal bases therefore once upon adoption of this policy (or upon later initiation of employment with the district) and again annually as part of continuing education.

Affected teachers and staff shall be fully informed of students with opt-outs and tasked with fully complying with them.

X. 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, intentional, or other violations may result in professional discipline and may expose the district to legal liability.

XI. 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.

Students shall not be excused from instruction essential to the physical security at school of themselves or others (e.g., fire safety, emergency drills) unless a valid legal or religious exemption is granted.

XII. Applicable law

Parents have a fundamental right to direct the religious upbringing and education of their children that is burdened by government (school district) decisions to expose their children to instructional content or activities that conflict with their sincerely held religious beliefs. *Mahmoud v. Taylor*, 606 U.S. -- (2025). This right “follow[s]...children into the public school classroom” and “limits...the government’s ability to interfere with a student’s religious upbringing in a public school setting.” *Id.* at 2351.

As such, when a school district wishes to provide instruction or use material that conflicts with parents’ right to direct the religious upbringing of their child, it must either (1) provide an opportunity for parents to opt their student out, with the advance notice required to exercise that right, or (2) justify their instructional decision by showing the district has **a compelling interest** for requiring the instruction or materials that is **achieved in the least restrictive way possible** (in other words, it must survive “strict scrutiny”). *Id.* at 2361-62; see also *Wisconsin v. Yoder*, 406 U.S. 205 (1972).

US Const amd. I: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.”

MO Const art. I s 5: “no student shall be compelled to perform or participate in academic assignments or educational presentations that violate his or her religious beliefs.”

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