

DOJ Signals Civil, Criminal Enforcement of “Parental Rights” in Education

by Nicole Engisch and Matthew Gillespie

In a recent memorandum addressing new enforcement priorities for the Department of Justice (“DOJ”), Attorney General Pam Bondi directed both DOJ’s Civil Rights Division and U.S. Attorneys to “be alert” and to “identify and respond to” violations of “parental rights.”^[1] The September 8, 2025, memorandum signals once again that the Trump administration’s DOJ intends to aggressively pursue enforcement actions against educational institutions, particularly public school districts.^[2]

The September 8 Bondi Memo warns against “government actors” restricting parents from “exercising their constitutional freedoms” through “abusive conduct.” The Memo references what Attorney General Bondi characterizes as the “disturbing trend in which state and local authorities have brought radical gender and racial ideology into our public schools” that have resulted in in parents being “ignored, dismissed, and even retaliated against[.]”

The Memo further provides that publicly funded schools are required to permit parents to exempt children from “instruction that conflicts with the family’s sincerely held religious beliefs,” including instruction related to “sexuality and gender ideology.” The Memo goes on to cite *Mahmoud v. Taylor*, a Supreme Court decision from June 2025 that held that a school district’s failure to permit parents to exempt their students from LGBTQ+-inclusive instruction unconstitutionally burdened their rights to free exercise of religion. ^[3] The Memo also provides that “[a]ny attempt to burden these rights will face scrutiny and action from the Department of Justice.”

The September 8 Bondi Memo does not identify all authorities that DOJ intends to rely on to combat practices it determines to be unlawful. Nonetheless, the Memo signals an aggressive approach to enforcement in citing the Conspiracy Against Rights statute, 21 U.S.C. § 241. That statute criminalizes any conspiracy by two or more people to “injure, oppress, threaten, or intimidate” another in the free exercise of a constitutional right or other right under federal law. Violations of the Conspiracy Against Rights statute are punishable by a fine and up to ten years’ imprisonment. Certain violent conspiracies will

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result in enhanced penalties.

What Happens Next?

The September 8 Bondi Memo directs DOJ's Civil Rights Division to "be alert to violations of parental rights and First Amendment liberties in educational settings" and U.S. Attorney's Offices to "work with federal state, and local partners to identify and respond to credible threats against parents and violations of their federal rights."

While the Memo does not expressly reference higher education, DOJ's aggressive stance with respect to institutions of higher education and the broader applicability of some of the doctrines addressed in the Memo (e.g., responses to dissent in public meetings) may warrant consideration at all educational levels. As a result, school districts and institutions of higher education alike should consider taking proactive steps to reduce their exposure to potential civil and criminal liability, including by:

- **Reviewing and updating policies.** Public schools districts and institutions of higher education should have clear and comprehensive policies that prescribe how decisionmakers should respond to parental (and other) concerns, to include policies and practices related to conducting public meetings, handling disruptions at meetings, and prohibiting retaliation against parents, students, and members of the public who raise concerns.
- **Provide appropriate opt-outs.** Consistent with the Supreme Court's opinion in *Mahmoud*, public school districts should consider developing processes for families to opt-out of instruction or curricular requirements that could be seen to impinge on families' sincerely held religious beliefs, to include teaching related to sexuality and gender ideology.
- **Clearly communicate to stakeholders.** School districts and institutions of higher education are facing rapidly shifting expectations and regulatory environments. In the face of these challenges, educational institutions should clearly communicate their policies and expectations to their stakeholders (instructors, students, parents, etc.), including regarding the best means of providing feedback to instructors and administrators and, as appropriate, opt-out processes for potentially controversial curricular requirements.

[1] See [Upholding Constitutional Rights and Parental Authority in America's Education System](#).

[2] For earlier updates regarding this aggressive enforcement, see [U.S. Department of Education's Guidance Clarifies Discriminatory Activities Subject to Investigation and Funding Consequences](#) and [U.S. Department of Education To Step Up Scrutiny of Any Educational Institution's Programs Deemed "DEI"](#)

[3] In *Mahmoud*, the Supreme Court found that Maryland's Montgomery County Public Schools violated parents' rights when students were not permitted to opt out of a LGBTQ+-inclusive curriculum based on religious objections. The school district originally permitted parents to exclude their children from the curriculum, but the district changed course when a large number of opt-out requests created what the district believed were "unworkable burdens." 606 U.S. _____, 145 S. Ct. 2332.

