



STATE OF NEW JERSEY

DEPARTMENT OF EDUCATION

A Memo from the New Jersey Department of Education

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To: Local Educational Agency Leads

Route To: Supervisors of Curriculum and Instruction, School Board Attorneys

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Guidance Regarding Parental Opt-Outs Based on Religious Objections

This broadcast provides information to local educational agencies (LEAs) about the ability of parents and guardians to exclude their child(ren) from certain instruction that conflicts with their sincerely held religious beliefs. In *Mahmoud v. Taylor*, 145 S.Ct. 2332 (2025), the United States Supreme Court considered a challenge brought by Maryland parents regarding the Montgomery County Public Schools Board of Education's practice of requiring the use of LGBTQ+-inclusive storybooks in its kindergarten through grade 5 curriculum. On the facts of that case, the Supreme Court held that the Montgomery County Board of Education violated the Constitution because it failed to provide parents who have religious objections with the ability to opt out.

Implications for New Jersey LEAs

Existing New Jersey law allows parents and guardians to exclude their child from any part of instruction in "health, family life education, or sex education" that is in conflict with their sincerely held religious beliefs. (N.J.S.A. 18A:35-4.7). The parental "opt-out" rights established by that State law are consistent with the Supreme Court's decision in *Mahmoud*. LEAs may work with their board counsel on any matters specific to their situation or circumstance.

Instruction Requirements Not Impacted by *Mahmoud*

The New Jersey Department of Education (NJDOE) is deeply committed to ensuring that schools are safe, welcoming, and inclusive environments for all students regardless of race or ethnicity, sexual and gender identities, mental and physical abilities and religious beliefs. This commitment is central not only to New Jersey values, but to New Jersey law (e.g., the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 *et seq.*).

New Jersey law requires instruction on the history and contributions of individuals with disabilities and lesbian, gay, bisexual, and transgender (LGBT) persons in middle and high school curriculum (N.J.S.A. 18A:35-4.35-6), as well as instruction in diversity and inclusion (N.J.S.A. 18A:35-4.36a) at appropriate points in the curriculum. The *Mahmoud* decision does not change these curricular requirements. Instead, the decision in *Mahmoud* underscores the importance of opt-out policies and procedures at the local level to ensure families have the rights afforded them under N.J.S.A. 18A:35-4.7. This means that neither the *Mahmoud* decision nor the opt-out provision at N.J.S.A. 18A:35-4.7 eliminates the requirement for districts to teach the New Jersey Student

Learning Standards, or for districts to comply with N.J.A.C. 6A:8, N.J.S.A. 18A:35-4.35-6, or N.J.S.A. 18A:35-4.36a. Moreover, because the opt-out provision applies only to individual parents who express a religious objection, it does not permit a district, school, or grade level to proactively omit instruction in these areas from their curriculum.

Considerations for Developing Local Policy Regarding Parental Opt-Outs under N.J.S.A. 18A:35-4.7

The NJDOE encourages LEAs to work closely with their board counsel in developing policies and procedures that allow for parental opt-out consistent with N.J.S.A. 18A:35-4.7 and this guidance, taking into account all relevant factors, which may include the following considerations:

- The process and consideration for individual opt-out requests, including the sufficiency and degree of notice to parents of curriculum content;
- The provision of alternative instruction for those students excluded from instruction because of parental opt-out requests; and
- The process for granting or denying parental requests, including ensuring that no penalties as to credit or graduation shall result for students with approved requests.

Noteworthy Recent Amendments to the Department's Standards and Assessment Regulations (N.J.A.C. 6A:8)

The NJDOE recently adopted two new regulatory provisions that will support school districts and parents/guardians in understanding and implementing the requirements and opportunities related to parental opt-outs under N.J.S.A. 18A:35-4.7. These provisions went into effect on November 3, 2025.

- N.J.A.C. 6A:8-3.4(e) now requires district boards of education to establish and make publicly available procedures whereby parents/guardians may submit signed opt-out statements pursuant to N.J.S.A. 18A:35-4.7.
- N.J.A.C. 6A:8-3.1(a)3 now requires district boards of education to make all approved curriculum pacing guides and citations for core instructional materials publicly available to ensure transparency for families and communities. This is designed to increase parent and family access to content that is addressed within their child's school district curriculum. This new regulation, in concert with existing N.J.S.A. 18A:35-4.7 and N.J.A.C. 6A:8-3.4(e), will continue to protect the rights of our New Jersey families.

c: Members, State Board of Education
NJDOE Staff
Statewide Parent Advocacy Network
Garden State Coalition of Schools
NJ LEE Group