

LEGAL MAILBAG – APRIL 24, 2025



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The “Legal Mailbag Question of the Week” is a regular feature of the CAS Weekly NewsBlast. We invite readers to submit short, law-related questions of practical concern to school administrators. Each week, we will select a question and publish an answer. While these answers cannot be considered formal legal advice, they may be of help to you and your colleagues. We may edit your questions, and we will not identify the authors. Please submit your questions to: legalmailbag@casciac.org.

Dear Legal Mailbag,

As an educator, I am having trouble keeping all these executive orders and lawsuits straight. Most recently, I heard that school districts throughout the country must certify to the United States Department of Education that they do not violate Title VI or they will lose their federal funding, and I don't even know what Title VI is! Moreover, earlier this week the United States Supreme Court heard argument in a case in which parents have claimed that they should be able to opt out from certain books that a school district uses in classroom instruction. To make matters worse, apparently the President has issued an executive order prohibiting educators from engaging in “radical indoctrination” of students, whatever that is.

I am confused and afraid. Can Legal Mailbag offer me and my colleagues any words of comfort?

Signed,
What's Going On?

Dear What:

These are indeed interesting times. Legal Mailbag can help you sort some of these things out – for now. But we will need to stay tuned, because further guidance is coming as to what will and what will not be allowed in our schools.

As a threshold matter, Title VI provides:

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

The prohibition in Title VI is straightforward, and educators certainly would not want to engage in such discrimination against anyone on the basis of their race, color or national origin. The wrinkle is that discrimination works both ways, and Title VI also prohibits actions that give special favor to persons (be that job applicants, employees, or students) on the basis of race, color or national origin.

Happily, the controversy over required certification of compliance with Title VI is over, at least for now. By letter dated April 3, 2025, the United States Department of Education (USDOE) directed the state education agencies (here, the Connecticut State Department of Education) to certify compliance with Title VI by filling out and returning a form found here: [USDOE Title VI Certification Form](#). In the related [Press Release](#), the United States Department of Education also asked that local education agencies fill out and return the form to the state education agency. There were legitimate concerns with the certification form the USDOE presented for signature, but local and regional districts in Connecticut are off the hook, at least for now. Commissioner Russell-Tucker responded to the USDOE by [Letter dated April 15, 2025](#), stating that the State Department of Education and the local education agencies in Connecticut do comply with Title VI, have already so certified, and that no further response will be forthcoming. We will monitor whether and how the United States Department of Education responds to Commissioner Russell-Tucker's letter. However, in the meantime, school officials must be vigilant against giving individuals in any group preference by virtue of their race, whether through their "increasing educator diversity" plan (as required by Conn. Gen. Stat. §§ 10-220(a) and 10-156jj) or otherwise.

We will also all need to keep apprised of further developments as to the K-12 curriculum from both the executive and judicial branches of government. As to the executive branch, President Trump issued an executive order on January 29, 2025, entitled "[Ending Radical Indoctrination in K-12 Schooling](#)," and that executive order may result in restrictions in the future against using certain terms or engaging in certain activities in the curriculum as a condition of receiving federal funds. The executive order charges the Secretaries of HHS, Education and Defense (in consultation with the Attorney General) with the task of presenting to the President "an Ending Indoctrination Strategy," which is to contain "recommendations and a plan for: (i) eliminating Federal funding or support for illegal and discriminatory treatment and indoctrination in K-12 schools, including based on gender ideology and discriminatory equity ideology; and (ii) protecting parental rights, pursuant to FERPA, 20 U.S.C. 1232g, and the PPRA, 20 U.S.C. 1232h, with respect to any K-12 policies or

conduct implicated by the purpose and policy of this order.” In accordance with the order, these recommendations are due within ninety days of its issuance on January 29, 2025, and thus we may hear soon whether the federal government will be imposing new conditions on the receipt of federal funds.

As to the judicial branch, earlier this week, the United States Supreme Court heard argument in *Mahmoud v. Taylor*, an appeal of a Fourth Circuit Court of Appeals decision in a case previously named [Mahmoud v. McKnight](#), 102 F.4th 191 (4th Cir. 2024). There, parents in Montgomery County, Maryland, challenged the decision of the Montgomery County Board of Education to approve a group of “LGBTQ-Inclusive Books as part of the English language Arts Curriculum” for all students. When the Board first approved use of these books in 2022, there was provision for notice and an opportunity for parents to opt out of instruction using these books. However, in March 2023, the Board terminated the opt-out provision, and that is when the trouble started. A group of parents brought suit in federal court against the Board, claiming that use of these books in the instruction of their children burdened their exercise of religion because the content of these books contradicted their religious values. They sought an injunction against the use of these books in the curriculum without parental notification and opt-out opportunity, but their request was denied by the district court, and the Fourth Circuit affirmed that decision.

The rulings of the lower courts in *Mahmoud* were consistent with judicial precedents holding that school officials have the right to establish the curriculum, and exposure of students to ideas in conflict with a parent’s religious or personal views does not violate their constitutional rights. For example, in one case from Connecticut, a parent claimed that certain topics in the health curriculum conflicted with his sincerely-held religious beliefs, and that therefore he had a constitutional right to have his son excused from instruction in such topics. The Second Circuit Court of Appeals held otherwise, ruling that free exercise rights are not violated by exposure to ideas that an individual parent finds offensive on religious grounds. Only if a student were forced to accept (or to espouse) principles inconsistent with his/her religious beliefs would free exercise rights come into play. Therefore, the court upheld the school district’s mandatory health curriculum. [Leebaert v. Harrington](#), 332 F.3d 134 (2d Cir. 2003). *See also* [Parker v. Hurley](#), 514 F.3d 87 (1st Cir. 2008).

Despite these precedents, it appears that the parents in *Mahmoud* found a sympathetic audience at the United States Supreme Court this week. *See, e.g.*, Howe, [“Supreme Court Likely to Rule for Parental Opt-Out on LGBTQ Books in Schools,”](#) Scotus Blog, April 22, 2025. In Connecticut, parents already have the right by statute to opt out of the following topics in the curriculum:

- Acquired immune deficiency syndrome instruction. Conn. Gen. Stat. § 10-19(b).
- Family life education. Conn. Gen. Stat. § 10-16e.
- Firearm safety programs. Conn. Gen. Stat. § 10-18c.
- Sexual abuse and assault awareness. Conn. Gen. Stat. § 17a-101q(c).
- Dissection. Conn. Gen. Stat. § 10-18d.

When the United States Supreme Court rules in the *Mahmoud* case later this year, we will learn whether parents have any additional right to opt out of instruction on other topics as a matter of constitutional law.