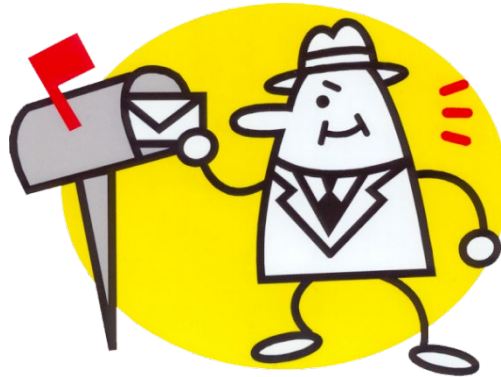


LEGAL MAILBAG – JULY 31, 2025



By Attorney Thomas B. Mooney, Neag School of Education, University of Connecticut

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,

I am the principal of a middle school. As I am getting ready for a new school year, I received a request from a parent that has me scratching my head. The curriculum for our seventh-grade science classes includes a unit on evolution, and a parent has just written to me to demand that her daughter be excused from that unit. Apparently, the family adheres to the religious tenets of creationism, *i.e.*, the view that the world as we know it was created by divine action, and they dispute the theory of evolution.

I met with the parent, and she was lovely. She explained that the theory of evolution contradicts the family’s religious beliefs, and she thinks it best, therefore, that her daughter not be taught about the theory of evolution. She told me that learning a theory that is inconsistent with the family’s religious teaching would be confusing to her daughter and may undermine her daughter’s religious faith.

In response, I told the parent that I wished her and her family all the best, but from my school law class, I know that there are only five topics in the curriculum from which a parent can unilaterally require excusal, and that the theory of evolution is not one of them. Sadly, she was not persuaded, and she told me that a recent decision of the United States Supreme Court makes clear that her daughter must be excused from the unit on evolution as a matter of constitutional right.

Legal Mailbag, what in heaven’s name is she talking about?

Signed,
Praying for Guidance

Dear Praying:

The parent is certainly referring to *Mahmoud v. Taylor*, No. 24-297 (U.S. 2025), a decision the Court handed down last month. However, the situation the Court dealt with was much different, and it is not at all clear that you must grant this request to excuse a seventh grade student from instruction on the theory of evolution. The key is that you must now carefully consider such requests and decide whether the instruction objected to truly burdens the family's religious practices so as to justify excusal.

The *Mahmoud* case involved a claim by parents that their First Amendment free exercise rights were violated by the refusal of the Montgomery County, Maryland, Board of Education to permit excusal of children at parent request from instruction for students from kindergarten to fifth grade that included what the Court described as "a variety of 'LGBTQ+ inclusive' storybooks into the elementary school curriculum." The Montgomery County School Board adopted these books in the curriculum, prescribed that they be available for students to read, and, importantly, required that teachers include these books in their instruction. Moreover, teachers were given a discussion guide regarding the use of these books in instruction, and that discussion guide stated that teachers should respond to student questions about gender identity and expression by promoting a single view of acceptance, which responses the plaintiffs claimed in this case contradicted the religious views they wished to inculcate in their children.

The Court ruled in favor of the parents. First, the Court found that use of these books in instructing elementary students as young as kindergarten burdened the parents' right to direct the religious upbringing of their children in a way that posed "'a very real threat of undermining' the religious beliefs and practices that the parents wished to instill in their children." Second, given that burden, the Court applied the "strict scrutiny" test, holding that the Montgomery County Board of Education had failed to demonstrate that its policy of using these books in the curriculum and denying requests for excusal "advances 'interests of the highest order' and is narrowly tailored to achieve those interests." The Court went on to conclude that the school district's actions were not narrowly tailored because excusal was possible (and had been permitted in the past), and it ordered that use of these books without permitting excusal be enjoined pending further consideration of the parents' claims.

In directing that an injunction be issued, the Court signaled that these parents have a winning case. The implications of this case will become clearer over time, in part through further litigation over excusal requests. However, the Court did provide guidance that suggests that excusal of students from certain instruction on religious grounds need not always be granted. Crucial to the Court's holding were the age of the students involved (kindergarten through fifth grade) and the fact that the instruction of these young children was to include normative judgments about matters of gender identity and expression. In the Court's words, we must ask whether such instructional materials are "presented in a neutral manner, or are they presented in a manner that is 'hostile' to religious viewpoints and designed to impose upon students a 'pressure to conform'?"

As you must know from your school law class, there are five areas in the curriculum from which by statute parents may unilaterally insist on excusal of their children from such instruction:

- AIDS instruction,
- Family life education,
- Firearm safety programs,
- Dissection, and
- Sexual abuse and assault awareness.

Now, given the *Mahmoud* case, educators must also consider excusal requests from parents on religious grounds. However, school officials must consider these requests on their individual facts, and not every religious objection will warrant excusal. In *Mahmoud*, the Court found, teachers were instructed to present the LGBTQ+ curriculum to very young children in a “normative” way, *i.e.*, teaching children that there is only one correct viewpoint on such matters. By contrast, parents may well not be able to show that instruction in evolution or other topics in the curriculum would be, as the Court noted, “presented in a manner that is ‘hostile’ to religious viewpoints and designed to impose upon students a ‘pressure to conform,’”

Finally, Legal Mailbag reminds you to be practical. Even if this parent is wrong in asserting that excusal from the unit on evolution is her constitutional right, you may wish to consider whether accommodation can be made without undue administrative burden. In these challenging situations involving religion in the schools, decisions are sometimes best based on what accommodations school officials can reasonably make, not strictly on what accommodations are legally required.