

MEMORANDUM**TO:** Central Public Board of Education**FROM:** School Board Attorney**DATE:** February 09, 2026**SUBJECT:** Protection of Student Autonomy and the Limits of Parental Opt-Outs Under *Mahmoud v. Taylor*

I. BACKGROUND

The recent implementation of the *Mahmoud v. Taylor* decision has created a complex legal environment at Cooper High School, leading to conflicting interpretations of parental and student rights. While the ruling allows parents to excuse their children from instruction that interferes with religious upbringing, the practical application of this policy has diverged significantly between individual cases. For example, Senior David Kim complied with a parental opt out regarding biology units on evolution, whereas Junior Emma Walsh challenged a similar exemption in her AP Chemistry course.

Emma refused to leave a unit on carbon dating, maintaining that the material did not violate her personal convictions and that, at seventeen years old, she should have a say in her academic path. The school subsequently suspended Emma for insubordination, citing the parents' authority under the *Mahmoud* precedent. This situation raises questions regarding whether public school authorities are legally required to enforce parental exemptions when a student who is close to the age of majority explicitly objects to being excluded from the classroom.

II. ANALYSIS AND SUMMARY

The school's reliance on *Mahmoud v. Taylor* (2025) to justify removing Ms. Emma Walsh is legally complex because the decision does not clearly require compulsory exclusion as the automatic method of implementing a parental opt out.¹ *Mahmoud* recognizes a parental right to request that a child be excused from instruction that substantially interferes with religious upbringing, but it does not specify that schools must enforce that request by removing an older student who independently wishes to stay in class. When a Supreme Court ruling creates an accommodation but does not direct a specific enforcement method, school officials must implement that accommodation in a way that is neutral, consistent, and proportionate. This distinction is especially relevant for students who are close to the age of majority. As children near adulthood, their access to education has increasing consequences for civic participation and economic opportunity. Courts have long recognized a significant state interest in ensuring that older students receive meaningful education before entering adult life.² In the context of a seventeen year old who affirmatively seeks academic instruction, there is no clear basis in *Mahmoud* for selecting compulsory removal as the only permissible method of compliance when less restrictive administrative alternatives are available.

Beyond the limits of parental authority, Emma Walsh holds a protected property interest in her education under the Due Process Clause of the Fourteenth Amendment.³ As recognized in *Meyer v. Nebraska*, constitutional liberty includes an individual's right to acquire useful knowledge.⁴ By removing Emma from a class she wished to attend, the school burdened that interest without providing a fair or neutral process for resolving a contested opt out. Under *Tinker v. Des Moines*, student rights remain protected within the school environment unless the student's conduct creates a material disruption.⁵ Emma's

¹ *Tamer Mahmoud, et al., Petitioners v. Thomas W. Taylor, et al.* 606 U.S. 11 (2025)

² *Wisconsin v. Yoder, et al.* 406 U.S. 205 (1972).

³ *Norval Goss et al., Appellants, v. Eileen Lopez et al.* 419 U.S. 565 (1975)

⁴ *Robert T. Meyer v. State of Nebraska.* 262 U.S. 390 (1923)

⁵ *John F. TINKER and Mary Beth Tinker, Minors, etc., et al., Petitioners, v. Des Moines Independent Community School District et al.* 393 U.S. 503 (1969)

presence in her chemistry classroom was not disruptive. The only disruption resulted from the school's immediate choice to remove her.

The treatment of Emma must also be understood accurately in relation to the handling of David Kim. David's parents submitted an opt out request and David complied with it. Emma's parents submitted an opt out request and she refused to comply because she disagreed with the basis for the exemption and wished to remain in class. The difference in outcomes therefore reflects not identical curriculum concerns, but rather the school's response to student disagreement. The legal issue is whether treating a seventeen year old's objection as punishable insubordination, instead of routing the disagreement through a neutral review process, is lawful. Such an approach risks inconsistent enforcement and may give the appearance that the school is enforcing religious preferences rather than acting as a neutral provider of secular education.⁶ This concern is heightened if exclusion is treated as the automatic consequence whenever a parent asserts a religious objection, because such a pattern may raise Establishment Clause concerns.⁷

Given these constitutional protections, Emma's suspension for insubordination was not justified. For conduct to constitute insubordination, the underlying directive must be lawful. Because the order to leave the classroom was implemented through a method that was not clearly required by *Mahmoud* and that lacked a neutral dispute resolution process, Emma's refusal to comply cannot serve as a reliable basis for discipline.⁸ The school's response was disproportionate and procedurally unsound because it punished a student for attempting to access instruction that the state is obligated to provide. When a student near the age of majority expresses an educational preference that does not create disruption and that can be respected without undermining parental interests, the school should address the conflict through administrative review rather than immediate punishment.

⁶Anna Saavedra et al., "Most Americans Support Parental Opt-out of School Curriculum—until They Consider the Downsides," *Brookings*, 2025, <https://www.brookings.edu/articles/most-americans-support-parental-opt-out-of-school-curriculum-until-they-consider-the-downsides/>.

⁷United States, Department of Education, *Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools*, 2023,

<https://www.ed.gov/laws-and-policy/laws-preschool-grade-12-education/preschool-grade-12-policy-documents/guidance-on-constitutionally-protected-prayer-and-religious-expression-in-public-elementary-and-secondary-schools>.

⁸*Norval Goss et al., Appellants, v. Eileen Lopez et al.* 419 U.S. 565 (1975)

III. OPTIONS AND RECOMMENDATIONS

To ensure consistent and lawful handling of future conflicts, the Central Public Board of Education should adopt a clear procedure for resolving contested opt outs that preserves the validity of parental requests under *Mahmoud* while avoiding automatic exclusion of older students who object. When a parent submits an opt out request and the student complies with it, the school should continue to provide ordinary accommodations such as alternative assignments or excusal from the specific portion of the lesson.⁹ However, when a student who is close to the age of majority affirmatively objects to being excluded, the school should not default to immediate removal and discipline. Instead, the district should use a brief administrative review that includes notice of the content at issue, a short meeting with an administrator to explore whether a less restrictive option can satisfy parental concerns, and a written explanation of the accommodation selected. This approach implements *Mahmoud* without converting a voluntary opt out into compulsory exclusion and allows the district to remain neutral while still respecting the rights asserted by the parents.

To avoid arbitrary application, any policy addressing contested opt outs should define “close to the age of majority” using an objective benchmark, such as students within two years of the legal age of majority or those at or above the compulsory attendance age. This provides a rebuttable presumption that older students can express meaningful educational preferences while still preserving the availability of opt outs for those who actually want them.¹⁰ Finally, to reduce legal exposure and ensure procedural fairness, the Board should vacate Emma Walsh’s suspension and remove it from her record. The disciplinary action was imposed without a process designed to evaluate her objection, and it punished her for attempting to remain in a class that she wished to attend. Rescinding the suspension would demonstrate the district’s commitment to constitutional neutrality and to treating contested opt outs in a consistent and lawful manner.

⁹Luisa Blanchfield, *The United Nations Convention on the Rights of the Child*, Congressional Research Service, 27 July 2015, https://www.congress.gov/crs_external_products/R/PDF/R40484/R40484.25.pdf.

¹⁰“Best Practices for Supporting Inclusive Education Following *Mahmoud v. Taylor*,” National Education Association, 2025, <https://www.nea.org/resource-library/best-practices-supporting-inclusive-education-following-mahmoud-v-taylor>.

IV. CONCLUSION

The suspension of Emma Walsh represents an unconstitutional overreach. By prioritizing a parental opt-out over the rights of a nearly adult student who sought to learn, the school failed to balance competing interests in a fair and lawful manner. Moving forward, the Board must give greater weight to student autonomy and uphold constitutional neutrality so that the schoolhouse gate remains open to all students who wish to receive a full and meaningful education.

Works Cited

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