

No. 24-297

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IN THE  
**Supreme Court of the United States**

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TAMER MAHMOUD, ET AL.,  
*Petitioners,*

v.

THOMAS W. TAYLOR, ET AL.,  
*Respondents.*

\_\_\_\_\_  
*ON WRIT OF CERTIORARI TO THE UNITED STATES COURT  
OF APPEALS FOR THE FOURTH CIRCUIT*

\_\_\_\_\_  
**BRIEF OF THE LEADERSHIP CONFERENCE  
EDUCATION FUND, PFLAG, INC., NATIONAL WOMEN'S  
LAW CENTER, AND LAMBDA LEGAL DEFENSE AND  
EDUCATION FUND, INC.  
AS AMICI CURIAE  
IN SUPPORT OF RESPONDENTS**

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OECD, <i>Equity and Inclusion in Education: Finding Strength through Diversity</i> (2023) .....	5
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## INTERESTS OF *AMICI CURIAE*<sup>1</sup>

*Amici curiae*—organizations comprising parents, students, civil rights advocates, and service providers—represent, support, and provide services to lesbian, gay, bisexual, transgender, and queer/questioning (“LGBTQ”) people throughout the Nation. As part of their various missions, *amici* are committed to ensuring that children and young people have access to full educational, social, economic, and other opportunities, and that their mental and physical wellbeing are protected.

The **Leadership Conference Education Fund** builds public will for laws and policies that promote and protect the civil and human rights of every person in the United States. The issues The Education Fund works on have deep roots in the organization’s history and across the communities the organization represents. Founded in 1969, The Education Fund is the education and research arm of The Leadership Conference on Civil and Human Rights, the nation’s oldest and largest civil and human rights coalition of more than 240 national organizations. Because of the Education Fund’s unique proximity to a leading coalition, it is able to leverage a range of diverse voices to empower and mobilize advocates at the local, state, and federal levels. For more than five decades, the Education Fund has served as a force multiplier and amplified the call for a just, inclusive, and fair democracy believing that an informed public is not only necessary to achieve civil and human rights, but also to make sure those rights endure. Through its Education Equity Program, The Education Fund conducts research and public education campaigns in support of safe, welcoming, and inclusive

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<sup>1</sup> No counsel for a party authored this brief in whole or in part, and no person other than *amici curiae* or their counsel made a monetary contribution to this brief’s preparation and submission.

schools that prepare all students from early care to postsecondary education for college, careers, life, and the full exercise of their social, political, and economic rights.

Founded in 1973, **PFLAG, Inc.** (“PFLAG”) is the first and largest organization dedicated to supporting, educating, and advocating for lesbian, gay, bisexual, transgender, and queer (“LGBTQ+”) people, their parents and families, and allies. With nearly 350 chapters and more than 550,000 members and supporters nationwide, PFLAG envisions an equitable and inclusive world where every LGBTQ+ person is safe, celebrated, empowered, and loved. PFLAG’s work includes ending bullying, discrimination, and harassment in educational settings by supporting teachers, administrators, and district leaders in providing inclusive, accurate, and honest education, because we know that when LGBTQ+ youth are supported in their schools and communities, they thrive.

**National Women’s Law Center** (“NWLC”) is a non-profit legal advocacy organization that fights for gender justice—in the courts, in public policy, and in our society—working across the issues that are central to the lives of women and girls—especially women of color, LGBTQI+ people, and low-income women and families. Since its founding in 1972, NWLC has worked to advance educational opportunities, workplace justice, health and reproductive rights, and income security. NWLC has participated in numerous cases to advocate for equal opportunities and greater inclusion in our society including through civil rights legal protections for women, people of color, disabled individuals, and LGBTQI+ individuals.

**Lambda Legal Defense and Education Fund, Inc.** (“Lambda Legal”) is the nation’s oldest and largest nonprofit legal organization working for full recognition of

the civil rights of LGBTQ people and everyone living with HIV through impact litigation, education, and policy advocacy. Throughout its history, Lambda Legal has worked to protect students from discrimination and harassment at school on the basis of sexual orientation and transgender status. Lambda Legal has also served as counsel of record or *amicus curiae* in seminal cases regarding the rights of LGBTQ people and people living with HIV.

Drawing on their experience in this field, *amici* seek to emphasize the critical importance of inclusive curricula like the books at issue in this litigation to create a school climate where all students can safely and effectively learn.

### **SUMMARY OF ARGUMENT**

This Court has long recognized that public schools must make curricular and administrative decisions as part of their critical job of educating this nation's future leaders. This Court has also consistently acknowledged the importance to all students of the exchange of diverse views in public schools to prepare students to be members of democratic society. The Fourth Circuit affirmed these principles in rejecting Petitioners' challenge to the inclusive materials at issue here (the "Storybooks"). This Court should affirm the Fourth Circuit's decision for two primary reasons.

First, welcoming, respectful school climates that inculcate respect for the wide range of identities in the school environment and entail the exchange of diverse viewpoints benefit all students. Not only has this Court repeatedly affirmed the importance of the exchange of diverse ideas in public schools, but this is also supported by a wealth of evidence from research on school climates. As the research amply demonstrates, inclusive curricula like the Storybooks are integral to creating such a climate

for all students, including for LGBTQ students and those students with LGBTQ parents.

Second, while this Court should affirm the Fourth Circuit's well-reasoned conclusion that Petitioners have failed to allege any burden on their free exercise of religion, should this Court disagree and proceed to apply strict scrutiny, Respondents have established a sufficiently compelling government interest to warrant affirmance. Protecting children's well-being is a long-recognized compelling government interest. In furtherance of this compelling interest, Respondents designed a curriculum that promotes a safe and welcoming environment.

This Court should affirm the Fourth Circuit's ruling and recognize the importance of materials like the Storybooks in cultivating a safe, inclusive environment that benefits all students.

## **ARGUMENT**

### **I. ALL STUDENTS BENEFIT FROM A SCHOOL CLIMATE THAT PROMOTES ACCEPTANCE AND RESPECT.**

For decades, educators and policymakers have recognized the importance of creating optimal "conditions for learning" in schools, and that this includes "support[ing] physical and emotional safety, connection and support, and engagement." *Quick Guide on Making School Climate Improvements*, Nat'l Ctr. on Safe Supportive Learning Env'ts at 1 (2d ed. 2018), [https://safesupportivelearning.ed.gov/sites/default/files/SCIRP/NCSSLE\\_SCIRP\\_QuickGuide508%20gdc.pdf](https://safesupportivelearning.ed.gov/sites/default/files/SCIRP/NCSSLE_SCIRP_QuickGuide508%20gdc.pdf). Often referred to as a school's "climate," this dynamic describes "a school's attention to fostering safety; promoting a supportive academic, disciplinary, and physical environment; and encouraging and maintaining respectful,

trusting, and caring relationships throughout the school community no matter the setting—from Pre-K/Elementary School to higher education.” *School Climate Improvement*, Nat’l Ctr. on Safe Supportive Learning Env’ts, <https://safesupportivelearning.ed.gov/school-climate-improvement> (last visited Apr. 7, 2025). Accepting and inclusive school climates are important at every level, but especially in primary and secondary schools, which particularly influence children’s development of social skills and cultivation of responsibility, accountability, and independence. See Joseph A. Durlak et al., *The Impact of Enhancing Students’ Social and Emotional Learning: A Meta-Analysis of School-Based Universal Interventions*, 82 *Child Dev.* 405, 417–19 (2011).

When a school “effectively attends to all the social, emotional, and academic support needs of its students,” the benefits are real and substantial across the board. Frank Brogan & Johnny Collett, *A Parent and Educator Guide to School Climate Resources*, U.S. Dep’t of Educ. Off. of Elementary & Secondary Educ., April 10, 2019, at 2. School climates that foster a sense of belonging and community not only provide a more supportive learning environment in which children learn to respect those who differ from them, but also report better test scores, graduation rates, student engagement, mental and physical health, and brain development. Miguel A. Cardona & Roberto J. Rodriguez, *Guiding Principles for Creating Safe, Inclusive, Supportive, and Fair School Climates*, U.S. Dep’t of Educ., Mar. 2023, at 7-8 (noting the importance of school climates that “encourage and maintain respectful, trusting, and caring relationships throughout the school community”); see also OECD, *Equity and Inclusion in Education: Finding Strength through Diversity*, at 248 (2023) (“Research indicates that a positive school climate promotes students’ abilities to learn . . . with a number of studies having shown that school

climate is directly related to academic achievement, at all school levels”); Ctrs. for Disease Control & Prevention, *School Connectedness: Strategies for Increasing Protective Factors Among Youth*, at 7 (2009) (discussing the importance of “[a] positive school environment . . . characterized by caring and supportive interpersonal relationships; opportunities to participate in school activities and decision-making; and shared positive norms, goals, and values.”).

Not surprisingly, negative school climates, characterized by a lack of support, safety, and respect among students, produce the opposite effect. *See, e.g.*, Didier Jourdan et al., *Supporting Every School to Become a Foundation for Healthy Lives*, 5 *Lancet Child & Adolescent Health* 295, 295 (2021). As the Department of Education reports, “research indicates that schools with negative school climates”—those that do not “maintain[] respectful, trusting, and caring relationships throughout the school community”—“adversely affect student health, wellbeing and achievement.” Brogan & Collett, *supra*, at 2, 5; *see also* Sophie Maxwell et al., *The Impact of School Climate and School Identification on Academic Achievement: Multilevel Modeling with Student and Teacher Data*, 8 *Frontiers in Psych.* 1, at 3 (2017) (“[A] negative school climate has been found to reduce student participation in school activities and student learning.”). Even though a school’s students may experience a negative climate in different ways, the likelihood of poor outcomes remains higher for all of them. For example, as Montgomery County Public Schools have recognized, “[s]tudents who are bullied, students who bully, and students who are bystanders to bullying are at risk of a range of negative health, safety, and educational outcomes.” Brenda Wolff et al., *2022-2023 Guidelines for Respecting Religious Diversity*, MONTGOMERY CNTY. PUB. SCHS., July 2022, at 6.



**A. Inclusive curricula play a critical role in creating a positive school climate.**

Creating a positive school climate requires both that students' own identities and experiences be affirmed and that they can learn about and develop respect for those whose identities and experiences differ from their own. This Court has long recognized that "public schools are vitally important 'in the preparation of individuals for participation as citizens,' and as vehicles for 'inculcating fundamental values necessary to the maintenance of a democratic political system.'" *Bd. Of Educ., Island Trees Union Free Sch. Dist. No. 26 v. Pico*, 457 U.S. 853, 864 (1982) (quoting *Ambach v. Norwick*, 441 U.S. 68, 76-77 (1979)). For this reason, the public school system "must inculcate the habits and manners of civility," which "must, of course, include tolerance of divergent political and religious views." *Bethel Sch. Dist. No. 403 v. Fraser*, 478 U.S. 675, 681 (1986). The classroom is where our nation's future leaders are taught, and they must be "trained through wide exposure to that robust exchange of ideas," *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603 (1967), "recognizing that in a pluralistic society we must 'live and let live.'" *Mozert v. Hawkins Cnty. Bd. of Educ.*, 827 F.2d 1058, 1069 (6th Cir. 1987).

Research shows that engaging students through their own cultural experiences and frames of reference, while also providing opportunities for students to learn and think critically about their peers' experience—often known as "culturally responsive" education—has a positive impact on learning outcomes. *See, e.g.*, Jenny Muñiz, *Understanding Culturally Responsive Teaching*, New America, Sept. 23, 2020. Indeed, "studies in brain science and education find that drawing on learners' background knowledge shapes comprehension." *Id.*; *see also* Deborah Son Holoein, *Do Differences Make a Difference? The Effects*

*of Diversity on Learning, Intergroup Outcomes, and Civic Engagement*, Trustee Ad Hoc Committee on Diversity, Princeton Univ. (Sept. 2013), at 4 (finding that when people share different views and experiences it “can facilitate active listening on the part of the listeners.”).

For decades, courts across the country have reaffirmed the importance of this principle. *See, e.g., Smith v. Board of Sch. Com’rs of Mobile County*, 827 F.2d 684, 692 (11th Cir. 1987) (recognizing importance of instilling in “public school children such values as independent thought, tolerance of diverse views, self-respect, maturity, self-reliance and logical decision-making”); *Bible Club v. Placentia-Yorba Linda Sch. Dist.*, 573 F. Supp. 2d 1291 (C.D. Cal. 2008) (holding that “schools must provide a microcosm of society, along with the freedom for students to be exposed to diverse and challenging views and choose between them” (citing *Tinker v. Des Moines Ind. Cmty. Sch. Dist.*, 393 U.S. 503, 508 (1968))); *Moore v. Bryant*, 205 F. Supp. 3d 834, 857 (S.D. Miss. 2016) (explaining that “[t]he very purpose of our public education system is to provide instruction and in many instances present different viewpoints”). Promoting acceptance and respect by ensuring that learning materials reflect the full diversity of the school community thus serves this vital purpose of preparing students to become active and contributing members of the citizenry.

**B. LGBTQ young people face particular risks, increasing the need for a positive school climate.**

Supportive schools and their protective, nurturing influence are important to every child, including LGBTQ students, who face outsized risks to their health, wellness, and academic achievement.

Due to the challenges of living in a culture in which they are often marginalized, mental and physical health risks among LGBTQ young people are significantly higher than those among the general population. Studies consistently show that LGBTQ youth experience depression, disordered eating, and self-harm at far higher rates than their peers. See Kari McDonald, *Social Support and Mental Health in LGBTQ Adolescents: A review of the literature*, 39 Issues in Mental Health Learning 16 (2018); Michael J. Pellicane & Jeffrey A. Ciesla, *Associations between minority stress, depression, and suicidal ideation and attempts in transgender and gender diverse (TGD) individuals: Systematic review and meta-analysis*, 91 Clinical Psych. Rev. 102113, (2022), at 6-7. Consistent with these findings, 66% of LGBTQ youth surveyed in a major 2024 study reported experiencing anxiety symptoms, with nearly **half** saying that they had considered suicide. See Ronita Nath et al., *2024 National Survey on the Mental Health of LGBTQ+ Young People*, The Trevor Project (2024), at 3, 6 (hereinafter “2024 National Survey”); see also April J. Ancheta et al., *The Impact of Positive School Climate on Suicidality and Mental Health Among LGBTQ Adolescents: A Systematic Review*, 37 J. Sch. Nursing 75, 77 (2021) (reporting similar figures). And these serious issues often go untreated. Half of LGBTQ youth reported that they wanted to obtain help from a mental health professional but had been unable to receive it over the past year. *2024 National Survey* at 8; see also Shoshana K. Goldberg et al., *2023 LBGTQ+ Youth Report*, Human Rights Campaign (2023), at 38 (hereinafter “2023 Youth Report”) (reporting similar figures).

Negative school climates often contribute to and seriously exacerbate these problems. Anti-LGBTQ language is rampant in U.S. schools, with 90% of students surveyed in the 2021-22 school year reporting that they

had heard homophobic remarks in school. Joseph G. Kosciw et al., *The 2021 National School Climate Survey: The Experiences of LGBTQ+ Youth in Our Nation's Schools*, GLSEN (2022), at xvi (hereinafter “*2021 National School Climate Survey*”). For a supermajority of students, this kind of harassment had been directed at them: 76% had experienced “in-person verbal harassment” at school. *Ibid*; see also *2023 Youth Report* at 32-33 (reporting that more than half of LGBTQ+ youth surveyed “were victimized specifically due to their sexual identity, gender identity, and/or gender expression”). Nearly one-third of survey respondents had been physically harassed, and over half had experienced some kind of sexual harassment, including unwanted touching or sexual remarks. *2021 National School Climate Survey* at xvi-xvii; see also, e.g., *Sexual Violence and Suicide Risk among LGBTQ+ Young People*, The Trevor Project, Mar. 27, 2024 (explaining that “[n]early two in five LGBTQ+ young people (39%)” reported forced sexual contact, and “LGBTQ+ young people who had ever experienced any forced sexual contact reported more than twice the odds of seriously considering suicide in the past year”). As a result, LGBTQ students often avoid school activities, classroom instruction, and particular settings that present heightened risks, like bathrooms, lockers rooms, and gym classes. *2021 National School Climate Survey* at 10-11; *2023 Youth Report*, at 31. This, in turn, produces worse educational outcomes, including lower GPAs and decreased likelihood of pursuing higher education. *Id.* at xviii-XX; see also Hilary Burdge et al., *Implementing Lessons That Matter: The Impact of LGBTQ-Inclusive Curriculum on Student Safety, Well-Being, and Achievement*, GSA Network (2013), at 9, [https://gsanetwork.org/wp-content/uploads/2018/08/Implementing\\_Lessons.pdf](https://gsanetwork.org/wp-content/uploads/2018/08/Implementing_Lessons.pdf) (“[N]ot only is the student’s ability to focus, complete

assignments, and attend class compromised, but also she ultimately faces the possibility of a failing grade and/or inability to graduate.”).

Students with LGBTQ family members also face hostility in schools with negative climates, regardless of their personal sexual orientation or gender identity, including at very young ages. One national longitudinal study found that one-half of children of lesbian parents reported that they had experienced homophobic teasing before the age of 10. Nanette Gartrell & Henny Bos, *US National Longitudinal Lesbian Family Study: Psychological Adjustment of 17-Year-Old Adolescents*, 126 *Pediatrics*, 28 (2010). In a more recent survey of 455 students aged 14 and up with at least one LGBTQ+ parent or caregiver, 86.8% reported hearing negative comments about LGBTQ+ parents in general and 80.25% reported hearing negative comments about their own family in particular. Leah M. Roberts et al., *Experiences of Students with LGBTQ+ Caregivers and their Families in K-12 Schools*, GLSEN (2023), at 16, 19, 23. Over two-thirds of participants were verbally harassed at school for having an LGBTQ parent, and over 20% of those students experienced harassment frequently or often. *Id.* at 24. As to exclusion from a school or classroom activity, 96.6% reported this exclusion had occurred because of having an LGBTQ+ parent and 68.6% reported being discouraged by a teacher, principal or school staff from talking about their LGBTQ+ parent or parents at school. *Id.* at 25.<sup>2</sup>

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<sup>2</sup> One student explained, “We had to share some basic information about our family, and I said that I had two moms. The students made fun of me, and the teacher told me that I couldn’t participate in this activity anymore because I ‘spread propaganda.’”

The particular vulnerabilities of LGBTQ students and students with LGBTQ parents underscore the need for welcoming, inclusive school environments.

## **II. THE STORYBOOKS ADVANCE RESPONDENTS' COMPELLING INTEREST IN ENSURING A SAFE, SUPPORTIVE SCHOOL ENVIRONMENT IN WHICH ALL STUDENTS CAN THRIVE.**

Protecting the well-being of children is unquestionably a compelling government interest. See *Sable Commc'ns of Cal., Inc. v. FCC*, 492 U.S. 115, 126 (1989) (“there is a compelling interest in protecting the physical and psychological well-being of minors”); *New York v. Ferber*, 458 U.S. 747, 756-57 (1982) (“a State’s interest in ‘safeguarding the physical and psychological well-being of a minor’ is ‘compelling’”) (quoting *Globe Newspaper Co. v. Superior Court of Norfolk County*, 457 U.S. 596, 607 (1982)). Consistent with these principles, Respondents have a compelling interest in offering curricula dedicated to providing all students “the right to educational environments that are” “[s]afe,” “[a]ppropriate for academic achievement,” and “[f]ree from any form of harassment.” Md. Code Regs. 13A.01.04.03.

Montgomery County Public Schools have taken important steps to advance this interest by ensuring that its English Language Arts curriculum represents the full diversity of its community. Pet. App. 581a-596a. This includes curricula that represent LGBTQ people and families. The Storybooks are an essential part of a curriculum that advances its goal of creating an inclusive environment that supports academic achievement for all students, particularly in light of the greater risks and dangers that LGBTQ students and students with LGBTQ parents face at school and in society.

Far from “indoctrinating” students or forcing them to adopt a particular viewpoint, the Storybooks and related curricula like them “help young children appreciate people with individual characteristics that differ from their own.” Elena Monoyiou & Simoni Symeonidou, *The Wonderful World of Children’s Books? Negotiating diversity through children’s literature*, 20 Int’l J. Inclusive Educ. 588, 589 (2015); *see also, e.g.*, Wolff et al., *supra*, at 6 (“With great diversity in our community, there is much that we can learn from each other when there is a culture of respect, openness, and tolerance.”). They further the district’s commitment to “promot[ing] equity, respect, and civility among our diverse community, accurately depict[ing] and represent[ing] the distinctive contributions of our global community, and provid[ing] opportunities for staff and students to model cultural proficiency in every school and program.” Pet. App. 589a. More specifically, they:

enable staff to model, and students to develop, the following attitudes, skills, and behaviors: (a) Value one’s heritage and the heritage of others; (b) Respect, value, and celebrate diversity as an essential component of a healthy and thriving community; (c) Value the richness of cultural pluralism and commonality; (d) Develop and promote inclusive relationships and work effectively in cross-cultural environments; and (e) Confront and eliminate stereotypes related to individuals’ actual or perceived personal characteristics.

*Ibid.*

This bringing together of diverse elements of our society “on broad but common ground” is a quintessential purpose of public schools, “inculcating fundamental values

necessary to the maintenance of a democratic political system.” *Ambach*, 441 U.S. at 77. For instance, the principal message of *Intersection Allies* is that “kids’ lives are unique, as you’ll soon be aware.” Pet. App. 314a. The book goes on to present short portraits of children with many different characteristics and backgrounds: one uses a wheelchair, one is a bilingual girl who helps her mother at work after school, one wears a hijab, one emigrated from Korea, one prefers wearing a superhero cape instead of “skirts and frills,” and so on. *Id.* at 314a-345a. *Born Ready* describes the challenges, resilience, and triumph of “a boy named Penelope,” who loves “baggy blue jeans,” considers himself “a ninja.” *Id.* at 448a-480a. And *Uncle Bobby’s Wedding* tells the story of a girl whose fears that she will lose her favorite uncle when he gets married are assuaged “after spending a fun-filled day” with her uncle and his male fiancé. *See id.* at 279a-306a.

Simply put, instructional materials like the Storybooks—those that portray LGBTQ people and many other characteristics and facilitate open, inclusive conversations about these identities and issues—serve as “a ‘mirror’ for the person, and a ‘window’ into the lives of others,” helping students to “see themselves *and* learn about others through their curricula.” Laura Baams et al., *Comprehensive Sexuality Education as a Longitudinal Predictor of LGBTQ Name-Calling and Perceived Willingness to Intervene in School*, 46 J. Youth Adolescence 931, 932 (2017).

Failing to create a school curriculum that positively reflects the diversity of its students has real, damaging consequences:

When children cannot find themselves reflected in the books they read, or when the images they see are distorted, negative, or



laughable, they learn a powerful lesson about how they are devalued in the society of which they are a part. Our classrooms need to be places where all the children from all the cultures that make up the salad bowl of American society can find their mirrors. ... [Children], too, have suffered from the lack of availability of books about others. They need the books as windows on to reality, not just on imaginary worlds. They need books that will help them understand the multicultural nature of the world they live in, and their place as a member of just one group, as well as their connections to all other humans.

Rudine Sims Bishop, *Mirrors, Windows, and Sliding Glass Doors*, in 6 *Choosing and Using Books for the Classroom* (Hughes Moir et al. ed., 1990). The Storybooks are a vital tool for promoting tolerance and for preparing students for citizenship within the full diversity of the community. *See Bethel Sch. Dist. No. 403*, 478 U.S. at 681–85; *Parker v. Hurley*, 514 F.3d 87, 105-06 (1st Cir. 2008).

Petitioners attempt to characterize the Storybooks as health or sexuality curricula, *see* Petitioners' Opening Br. at 30-31, which exploits stereotypes that hyper-sexualize LGBTQ people and reductively limit LGBTQ identity to sexuality. For decades, courts rightly have refused to permit this kind of differential treatment of LGBTQ students and content based on impermissible stereotypes. *See, e.g., Gonzalez Through Gonzalez v. Sch. Bd. of Okeechobee Cnty.*, 571 F. Supp. 2d 1257, 1266–67 (S.D. Fla. 2008) (rejecting the notion that “a club whose stated purpose is to promote tolerance towards non-heterosexuals within the student body promotes the

premature sexualization of students”); *Colín ex rel. Colín v. Orange Unified Sch. Dist.*, 83 F. Supp. 2d 1135, 1148 (C.D. Cal. 2000) (requirement that only gay student group must state that it would not talk about sexual activities at its meetings wrongfully validated stereotypes that “gay people are inherently more sexual than others” even though you can “talk about being gay without having to talk about sex, just as you can talk about being heterosexual without talking about sex.”). The same legal rejection of treating LGBTQ identities as inherently more sexual than others applies in contexts other than schools as well. *See, e.g.*, Mary L. Bonauto & Arielle B. Kristan, *Discrimination and Harassment Based on Sexual Orientation and Gender Identity*, EL MA-CLE 12-1 (6th ed. 2024), at 16 (“An employee who disclosed ‘I’m a newlywed’ would not be accused—as is sometimes the case with LGBTQ employees who state ‘I’m gay’ or ‘I’m transgender’—of discussing their sex life or engaging in sexual conduct or inviting revelations of their coworkers’ sex lives.”); Suzanne B. Goldberg, *Sticky Intuition and the Future of Sexual Orientation Discrimination*, 57 UCLA L. Rev. 1375, 1391 (2010) (addressing the policy influence of the “hypersexualization of gay people, relative to heterosexuals, in the public imagination” such that “sexual acts are often treated as the defining feature of being gay.”); Cynthia Lee, *The Gay Panic Defense*, 42 U.C. Davis L. Rev. 471, 476 (2008) (acknowledging controversy about “gay panic” defenses as reinforcing and promoting negative stereotypes of gay men as sexual deviants and aggressors). Treating these Storybooks as falling within the sexuality education framework solely because they discuss LGBTQ identities perpetuates the same pernicious essentialization and stereotyping of LGBTQ people and undermines the diversity education goals that Maryland’s English Language Arts curriculum aims to fulfill. *See, e.g.*,

*Maryland College and Career Ready Standards Framework: Reading Literature PreK*, Maryland State Dep't of Educ. (June 2012), at 4 (providing that curricula should enable students to “listen to and discuss a wide variety of complex literary texts . . . representing diverse cultures, perspectives and ethnicities”).

With at least 8% of Americans identifying as LGBTQ, students, schools, families, and society at large benefit when young people recognize those with differing “individual characteristics” as full humans who deserve to be treated with respect and civility. Human Rights Campaign, *We Are Here: Understanding the Size of the LGBTQ+ Community* (2021), at 2. As the National Council for the Social Studies puts it in discussing the analogous benefits of studying a diversity of religious traditions in public schools, these types of curricula empower students “to navigate diverse and shifting cultural values, to engage respectfully with diverse neighbors, and to resist common misunderstandings that have negative real-world consequences.” *The College, Career, and Civic Life (C3) Framework for Social Studies State Standards: Guidance for Enhancing the Rigor of K-12 Civics, Economics, Geography, and History*, Nat'l Council for the Social Studies (2013), at 93; see also Pet. App. 324a (*Intersection Allies* page depicting Adilah, a child who wears a hijab, with the caption “Some give, some chant, some sing, some pray. / My hijab is my choice—you can choose your own way.”).

Accordingly, as a substantial body of research confirms, curricula like the Storybooks help create positive school climates that benefit all students and provide particularly powerful mitigation of the negative outcomes that so many LGBTQ youth face. Schools that feature LGBTQ-inclusive curricula like the Storybooks experience “overall less bullying than schools with unsupportive

curricula.” Shannon D. Snapp, *LGBTQ-inclusive Curricula: Why Supportive Curricula Matter*, 15 Sex Educ. 580, 587 (2015). Similarly, “attending a school that included positive representations of LGBTQ topics in the curriculum was related to less frequent use of anti-LGBTQ language,” which (as noted above) is otherwise all too common. Joseph G. Kosciw et al., *The 2019 National School Climate Survey: The Experiences of Lesbian, Gay, Bisexual, Transgender, and Queer Youth in Our Nation’s Schools*, GLSEN (2020), at 73. And 66.9% of LGBTQ students at schools with inclusive curricula describe their classmates as “somewhat accepting” or “very accepting” of them—**nearly double** the rate in schools without these curricula. *Id.* at 75. These non-LGBTQ students are, in turn, more likely to intervene or support their LGBTQ classmates in the face of harmful and unsafe behavior at school, ranging from verbal slurs to physical attacks. *Ibid.* LGBTQ students at schools with inclusive curricula likewise experience lower rates of absenteeism, better grades, and a greater likelihood of attending college or other post-secondary education. *Id.* at 74-75; Emily A. Greytak et al., *Putting the “T” in “Resource”: The Benefits of LGBT-Related School Resources for Transgender Youth*, 10 J. LGBT Youth 45, 45 (2013). Simply put, “the implementation of LGBTQ-inclusive curriculum promotes greater feelings of student safety, health, and well-being,” with measurably positive results for educational and social outcomes. Burdge et al., *supra*, at 25.

Empirical research on curricula that highlight people from other historically marginalized backgrounds show similar beneficial effects among students of all backgrounds. One study, for example, determined that “children’s implicit pro-White bias was reduced following exposure to positive Black exemplars,” which researchers presented through a series of “vignettes”—essentially,

short age-appropriate stories closely analogous to the Storybooks. Antonya M. Gonzalez et al., *Reducing Children's Implicit Racial Bias Through Exposure to Positive Out-Group Exemplars*, 88 *Child Development* 123, 215 (2017). Likewise, kindergarten-age children who spent time with and read books featuring people with disabilities showed significantly greater acceptance of others' disability status. Paddy C. Favazza & Samuel L. Odom, *Promoting Positive Attitudes of Kindergarten-Age Children Toward People with Disabilities*, 63 *Exceptional Children* 405 (1997). Another study found that teaching children about a variety of religious traditions in a world religions course "increased students' . . . tolerance for religious diversity, and for First Amendment rights in general." Emile Lester & Patrick S. Roberts, *Learning About World Religions in Modesto, California: The Promise of Teaching Tolerance in Public Schools*, 4 *Politics & Religion* 264, 265 (2011).

Under Petitioners' proposed rule, any parent with a religious objection to inclusive curricula could preclude their child's participation, no matter the curriculum's demonstrable benefit to student well-being and educational success. The resulting negative effects on the entire school climate and community, especially for LGBTQ peers and peers with LGBTQ parents, threatens to seriously undermine the compelling state interest in safe schools where every student has the chance to thrive. Moreover, were a substantial cohort of students to collectively and vocally opt-out, such developments could cause rifts among large groups of students with different views and, even worse, could contribute to exactly the kind of "us versus them" thinking that research convincingly proves is detrimental to educational outcomes.

Long ago this Court upheld "the state's power to prescribe a curriculum for institutions which it supports,"

*Meyer v. Nebraska*, 262 U.S. 390, 402 (1923), while balancing that power with parents’ rights “to provide an equivalent education in a privately operated system.” *Wisconsin v. Yoder*, 406 U.S. 205, 213 (1972); *see also Pierce v. Soc’y of Sisters*, 268 U.S. 510, 534 (1925) (“No question is raised concerning the power of the state to reasonably regulate all schools”).

Every Court of Appeals that has encountered a parent’s Free Exercise challenge to a school’s curricular and administrative decisions has reaffirmed the school’s authority, recognizing that parents remain free to instill their religious beliefs in their children regarding anything they might learn in school. *See, e.g., Parker*, 514 F.3d at 105 (“[T]he mere fact that a child is exposed on occasion in public school to a concept offensive to a parent’s religious beliefs does not inhibit the parent from instructing the child differently.”); *Field v. Palmdale School Dist.*, 427 F.3d 1197, 1206 (9th Cir. 2005) (“Neither *Meyer* nor *Pierce* provides support for the view that parents have a right to prevent a school from providing any kind of information—sexual or otherwise—to its students[.]”); *Leebaert v. Harrington*, 332 F.3d 134 (2d Cir. 2003) (“*Meyer*, *Pierce*, and their progeny do not begin to suggest the existence of a fundamental right of every parent to tell a public school what his or her child will and will not be taught[.]”); *Fleischfresser v. Dirs. Of School Dist. 200*, 15 F.3d 680, 690 (7th Cir. 1994) (school’s use of a book series did not “compel the parents or children to do or refrain from doing anything of a religious nature”). As the First Circuit recently noted, “public schools need not offer students an educational experience tailored to the preferences of their parents”; rather, schools retain broad authority to determine “how to reasonably meet diverse student needs within the school setting.” *Foote v. Ludlow Sch. Comm.*, 128 F.4th 336, 351-52 (1st Cir. 2025). Stated simply, “[t]here is

no free exercise right to be free from any reference in public elementary schools to the existence of families in which the parents are of different gender combinations,” or that otherwise acknowledge the existence of LGBTQ people. *Parker*, 514 F.3d at 106.

A member of this Court once warned: “If we are to eliminate everything that is objectionable to any [religious group] or inconsistent with any of their doctrines, we will leave public schools in shreds. Nothing but educational confusion and a discrediting of the public school system can result from subjecting it to constant law suits.” *McColum v. Board of Educ.*, 333 U.S. 203, 235 (1948) (Jackson, J., concurring). Those words are as true now as they were then.

### CONCLUSION

For the foregoing reasons, *amici* respectfully urge this Court to recognize the importance of inclusive curricula like Respondents’ and to affirm the Fourth Circuit’s decision.

Respectfully submitted,

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