No. 25-1189

In the Supreme Court of the United States

ROCKLIN UNIFIED SCHOOL DISTRICT,
Petitioner,

v.

PUBLIC EMPLOYMENT RELATIONS BOARD, ET AL.,
Respondents.

On Petition for a Writ of Certiorari
to the Court of Appeal of California,
Third Appellate District

BRIEF OF *AMICUS CURIAE*
CENTER FOR AMERICAN LIBERTY
IN SUPPORT OF PETITIONER

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INTERESTS OF *AMICUS CURIAE*[1]

The Center for American Liberty (CAL) is a 501(c)(3) non-profit law firm dedicated to protecting free speech and civil liberties. CAL has represented litigants across the country, including in this Court, in cases seeking to vindicate religious freedom, free speech, and parental rights against oppressive state action. *See, e.g., Regino v. Staley*, 133 F.4th 951 (9th Cir. 2025); *Antonucci v. Winters*, 767 F. Supp. 3d 122 (D. Vt. 2025), *opinion vacated, appeal dismissed*, No. 25-514, 2026 WL 623319 (2d Cir. Feb. 25, 2026); *Doe v. Weiser*, No. 1:24-CV-2185-CNS-SBP, 2025 WL 295015 (D. Colo. Jan. 24, 2025), *appeal docketed* No. 25-1037 (10th Cir. Jan. 31, 2025); *Ateba v. Leavitt*, 133 F.4th 114 (D.C. Cir.), *cert. denied*, 146 S. Ct. 822 (2025). CAL has an interest in ensuring that courts apply the correct legal standard in cases involving these rights.

SUMMARY OF THE ARGUMENT

The Constitution forbids the State from turning parents into strangers in their own children's lives. Yet that is the practical effect of the decision below. California's Public Employment Relations Board

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[1] Pursuant to Supreme Court Rule 37.2, counsel for amicus timely notified all known parties of the intention to file a brief of amicus curiae in this case. In accordance with Supreme Court Rule 37, no party or party's counsel has authored this brief either in whole or in part. No party or party's counsel contributed money that was intended to fund preparing or submitting the brief. No person or party not related to amicus contributed money that was intended to fund preparing or submitting the brief.

(PERB) invalidated a school district policy requiring schools to notify parents when their child seeks to socially transition to a different gender at school. The California Supreme Court allowed that decision to stand. But the decision usurps parents' authority to make decisions in their children's lives and displaces the constitutional protections that this Court has long recognized belong to parents.

This case is not merely about labor procedure, bargaining obligations, or a school district's internal administration. Instead, it concerns whether parents retain the right to be involved when state actors facilitate decisions that bear directly on their child's identity development, mental health, family relationships, and future life course. In *Meyer*, *Pierce*, *Barnette*, *Yoder*, *Parham*, *Troxel*, *Mahmoud*, and *Mirabelli*, this Court has repeatedly reaffirmed that parents—not the State, and not schools—bear primary responsibility for the care, upbringing, education, and moral formation of children.

PERB's decision cannot be reconciled with that precedent. A school-facilitated social transition is not a routine matter of school administration. Instead, it is a significant decision affecting a child's psychological and medical well-being. By precluding school districts from requiring that parents be notified when their children are socially transitioned at school, the ruling below usurps parental authority, transferring that authority to state actors precisely when children need their parents most.

The decision below also creates a dangerous loophole. California may not directly exclude parents from

decisions concerning their children's social transition at school. But PERB's ruling permits the State to reach substantially the same result indirectly, through a labor-adjudication process initiated by a teachers' union that is insulated from meaningful judicial review. Constitutional rights cannot be nullified by relabeling a dispute over parental authority as a labor dispute. Nor may the State accomplish through administrative machinery what the Constitution forbids it to do directly.

This Court should grant the petition. It should make clear that parents have a constitutional right to notice and consent when schools facilitate a child's social transition; that States may not evade that right through labor proceedings, administrative orders, state statutes, or contractual mechanisms; and that constitutional protections for families cannot be displaced by agencies that lack authority to adjudicate them. Review is warranted to preserve the historic role of parents, to close the loophole created below, and to ensure that the Constitution remains a meaningful safeguard for families throughout the Nation.

ARGUMENT

I. THE COURT SHOULD GRANT CERTIORARI TO PRESERVE PARENTS' RIGHTS

Under the Constitution, parents have the right to "make decisions concerning the care, custody, and control" of their children. *Troxel v. Granville*, 530 U.S. 57, 66 (2000) (plurality op.); *Keates v. Koile*, 883 F.3d 1228, 1235–36 (9th Cir. 2018) (noting that this right arises under both the substantive Due Process Clause and Speech Clause). A historical canvass of parental

rights—as well as recent decisions from this Court—demonstrates the importance of these rights in our constitutional design.

A. Parental Rights are Fundamental in our Nation's History

To understand the parental right, it is necessary to understand its history. After all, "history guide[s the] consideration of modern regulations that were unimaginable at the founding." *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 28 (2022). Here, a historical view of this Court's parental rights precedent leads inexorably to the conclusion that PERB's decision infringes on parents' rights.

Under the common law, courts presumed that (1) "parents possess what a child lacks in maturity, experience, and capacity for judgment" and (2) the "natural bonds of affection lead parents to act in the best interests of their children." *Parham v. J.R.*, 442 U.S. 584, 602 (1979). These presumptions—which give parents "broad . . . authority" over their children—form the bedrock of the parental right. *Id.*

Parents' broad authority over their children served as a bulwark against attempts by states early in the last century to use childhood education "to coerce uniformity of sentiment," *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 640 (1943), often at a high cost to religious communities with dissenting views. This Court repeatedly made clear that state attempts to homogenize children have no place in our constitutional order.

In the wake of World War I, for example, a surge of ethnocentrism swept the nation, sparking "a spate of legislation to restrict the teaching of foreign languages"—especially German—to children. William G. Ross, *A Judicial Janus: Meyer v. Nebraska in Historical Perspective*, 57 U. Cin. L. Rev. 125, 126 (1988). These laws sought to dismantle the distinctive German-American culture and replace it with a patriotic, homogenized monoculture. *Id.* at 130–34. Nebraska, for instance, derided the German language as a "mental poison" that prevented the "sunshine of American ideals" from "permeat[ing] the life of the future citizens of this republic." *Id.* at 177 (cleaned up).

This legislative effort came with a steep cost to religious exercise. Many German Americans did not know enough English to "give their children religious instruction." *Meyer v. State*, 187 N.W. 100, 101 (Neb. 1922), *rev'd sub nom. Meyer v. Nebraska*, 262 U.S. 390 (1923). For these families, teaching their children the German language was not merely a political choice. Rather, it was necessary for children to "be able to worship with their parents" and for parents to maintain their "influence . . . in the home." *Id.*

State supreme courts brushed these concerns aside. They told parents that if they wanted to read the Bible to their children, then they could learn English. *See id.* at 101–02 (arguing that "religious teaching could, manifestly, be as fully and adequately done in the English as in the German language"); *see also State v. Bartels*, 181 N.W. 508, 514 (Iowa 1921), *rev'd sub nom. Bartels v. Iowa*, 262 U.S. 404 (1923). Believing that "permitting foreigners . . . to rear and educate their children in the language of their native land"

would "naturally inculcate in them the ideas and sentiments . . . foreign to the best interests of this country," state courts upheld these laws. *Meyer*, 187 N.W. at 102; *see also Bartels*, 181 N.W. at 508; *Pohl v. State*, 132 N.E. 20 (Ohio 1921), *rev'd by Bartels*, 262 U.S. 404.

But in *Meyer*, this Court categorically rejected that reasoning. It affirmed parents' "right" and "natural duty" to give their children "education suitable to their station in life." 262 U.S. at 400. That right, the Court held, extended to choosing whether their children learned the German language at school. *Id.* at 401. *Meyer* famously rejected allowing the State to use public schools—as the Spartans and Plato envisioned—"to submerge the individual and develop ideal citizens." *Id.* at 401–02. The State's desire to "foster a homogenous people with American ideals" did not justify disrupting the fundamental liberty of parents to direct their children's upbringing. *Id.* at 402.

Two years later, in *Pierce v. Society of Sisters*, this Court held unconstitutional an Oregon law compelling children to attend public schools. 268 U.S. 510, 534–535 (1925). Like the anti-German laws in *Meyer*, Oregon's law was enacted during a nativist paroxysm; it was primarily intended to prevent Roman Catholic children from attending Catholic School. *See* William G. Ross, *The Role of Religion in the Defeat of the 1937 Court-Packing Plan*, 23 J.L. & Religion 629, 636 (2008); S. Ernie Walton, *Gender Identity Ideology: The Totalitarian, Unconstitutional Takeover of America's Public Schools*, 34 Regent U. L. Rev. 219, 264 (2021). *Pierce* reaffirmed that the "child is not the mere

creature of the State," and that Oregon's law could not stand under *Meyer* because it "interfere[d] with the liberty of parents . . . to direct the upbringing and education of children under their control." 268 U.S. at 534–35.

The same principles animated this Court's seminal decision in *Barnette*. There, the Court confronted a West Virginia statute that required schools to orient instruction "for the purpose of teaching, fostering, and perpetuating the ideals, principles and spirit of Americanism." 319 U.S. at 625. Under this directive, a school board required students to salute the American flag and recite the Pledge of Allegiance. *Id.* Here again, the State's attempt to "standardize" children came at the expense of those with religious beliefs—this time, Jehovah's Witnesses, who considered the Flag a forbidden "graven image." *Id.* at 629–30.

In enjoining the law, this Court contrasted the American system with totalitarian attempts to eradicate disfavored beliefs—from the Roman Empire's attempt to snuff out nascent Christianity; to the Inquisition's persecution of Jews, Muslims and Protestants; to the then-contemporary examples of Nazi and Communist governments. History, *Barnette* explained, shows that "[t]hose who begin coercive elimination of dissent soon find themselves exterminating dissenters." *Id.* at 641. And "no deeper division could proceed from any provocation than from finding it necessary to choose what doctrine and whose program public educational officials shall compel youth to unite in embracing." *Id.*

As the decades have gone by, this Court has reinforced the idea that parental rights need not bend the knee to the statist tendency to force preferred views on children. In *Wisconsin v. Yoder*, for example, this Court concluded that Amish parents were not required to send their children to school after the age of fourteen despite a Wisconsin statute requiring compulsory education. 406 U.S. 205, 207–09 (1972). The *Yoder* Court noted that the Amish community's simple and uncomplicated mode of life had "come into conflict increasingly with requirements of contemporary society exerting a hydraulic insistence on conformity to majoritarian standards." *Id*. at 217. In that conflict, however, Amish parents' rights to raise their children in accordance with their religious beliefs won out. *Id*. Rejecting Wisconsin's argument that the state was empowered to protect children from environments that "foster[ed] ignorance," the Court admonished that "[t]here can be no assumption that today's majority is 'right' and the Amish and others like them are 'wrong.'" *Id*. at 222–23.

Meyer, *Pierce*, *Barnette*, and *Yoder* make clear that the state's attempts to enforce preferred views through public education have no place in the American system that respects and preserves parental rights. Prevailing orthodoxies change, but the government's desire to enforce those orthodoxies through the public school system has proven evergreen.

B. The Right to Direct and Control Important Decisions in Children's Lives Resides First in Parents

This Court's precedent confirms that parents have the right to direct and control children's education and upbringing. That principle is not limited to cases involving religious rearing or education. Rather, it reflects the Constitution's broader protection of parents' authority to make consequential decisions concerning their children's care, health, and development.

In *Parham*, this Court recognized that parents have the primary authority to make decisions regarding their children's healthcare treatment. 442 U.S. at 602–03. Citing the common-law presumptions of parental fitness and affection, the Court concluded that the Constitution gives parents "broad . . . authority" over their children. *Id.* at 602. Although the State may intervene in cases of abuse or neglect, the Constitution does not permit state actors to displace fit parents simply because officials believe they can make better decisions. *Id.* at 603–04. *Parham* thus stands for the proposition that parents have the right to make decisions affecting their children's health and well-being in the first instance.

This Court reaffirmed that rule in *Troxel*, invalidating a Washington state court order that required grandparent visitation over a fit parent's objection based on the judge's determination of the child's best interests. 530 U.S. at 60–63. The plurality held that the order violated "the fundamental right of parents to make decisions concerning the care, custody, and control of their children." *Id.* at 66. That right, the

Court explained, is "perhaps the oldest of the fundamental liberty interests recognized by this Court." *Id.* at 65. And because fit parents are presumed to act in their children's best interests, the State may not override parental judgment merely by substituting its own view of what would be better for the child. *Id.* at 68–69. *Troxel* confirms that important decisions about a child's life do not become the State's to make simply because state officials disagree with parents or prefer a different course.

This Court's recent decisions in *Mahmoud v. Taylor*, 606 U.S. 522 (2025), and *Mirabelli v. Bonta*, 146 S. Ct. 797 (2026) (per curiam), reinforce these holdings in the school context. *Mahmoud* made clear that public schools cannot condition access to education on parents' acceptance of curricula that conflict with their religious values. 606 U.S. at 550–551. In doing so, the Court confirmed parents' broad authority to shape their children's religious, moral, and psychological growth and to make significant "choices . . . for their children outside the home." *Id.* at 547. In short, government actions in educational settings must respect parents' authority to make decisions aligning with their deeply held beliefs. *Id.* at 550. And this authority extends beyond the Free Exercise context. As the *Mahmoud* Court explained, neither "the right to free exercise" nor "*other First Amendment rights* [are] shed . . . at the schoolhouse gate." *Id.* at 545 (cleaned up and emphasis added). Indeed, parents' rights "would be an empty promise if [they] did not follow . . . children into the public school[s]." *Id.* at 547. Thus, *Mahmoud* confirms that parents retain significant control, both in the religious context and based on other constitutional rights, over their children's

upbringing, even in the face of contrary public-school policies.

In *Mirabelli*, this Court concluded that California's policies requiring schools to facilitate children's request to undergo a gender transition without first obtaining parental consent likely violated parents' rights. 146 S. Ct. at 802–03. The Court held that parents have a right "not to be shut out of participation in decisions regarding their children's mental health." *Id.* Indeed, *Mirabelli* applies the broader rule recognized in *Parham* and *Troxel* to the precise setting at issue here. That is, when a school facilitates a child's social transition, it is not making an ordinary classroom-management decision. Instead, the school participates in a consequential decision affecting the child's mental health and development. That decision cannot constitutionally be withheld from the parents who bear primary responsibility for the child's care.

Together, *Parham*, *Troxel*, *Mahmoud*, and *Mirabelli* confirm that parental rights are not confined to religious objections. Rather, they stand for the proposition that parents—not the State—bear primary responsibility for making consequential decisions in their children's lives, including decisions affecting their mental health, identity development, and long-term well-being. While the State may have an interest in educating its citizens or in "protecting" students—as PERB concluded (App.27a)—those interests must yield to parents' "fundamental rights and interests." *Yoder*, 406 U.S. at 214.

II. PERB'S DECISION INFRINGES PARENTS' RIGHTS

PERB's ruling creates a regime under which schools must facilitate a child's social transition upon the child's request without notice or consent from parents—the very people the Constitution presumes bear primary responsibility for children's care, development, and protection. In doing so, the decision violates several interlocking constitutional guarantees: parents' right to consent when the state seeks to provide healthcare treatment to their children; to make important decisions in their children's lives; to the integrity of their family; and to name their children. By insulating school-facilitated transition from parents, PERB's ruling reassigns to the State authority the Constitution reserves to parents in the first instance.

A. PERB's Decision Violates Parents' Right to Notice and Consent When the State Seeks to Provide Healthcare Treatment to their Children

Relying on *Parham*, courts have recognized that the parental right "includes the right of parents to make important medical decisions for their children." *Wallis v. Spencer*, 202 F.3d 1126, 1141 (9th Cir. 2000). "[P]arental consent is critical in medical procedures involving children because children rely on parents . . . to provide informed permission." *Mann v. Cnty. of San Diego*, 907 F.3d 1154, 1162 (9th Cir. 2018) (cleaned up); *see also Dubbs v. Head Start, Inc.*, 336 F.3d 1194, 1203 (10th Cir. 2003) (recognizing "the parent's right to control the upbringing, including the medical care, of a child").

Social transitioning is a significant form of psychological treatment in minors. *See The Cass Review: Independent review of gender identity services for children and young people*, United Kingdom National Health Service ("*Cass Review*"), at 158 (concluding that social transitioning in minors is "an active intervention [that] may have significant effects . . . in terms of their psychological functioning and longer-term outcomes"), available at https://perma.cc/U684-54XM; *Treatment for Pediatric Gender Dysphoria: Review of Evidence and Best Practices*, U.S. Department of Health and Human Services ("*DHHS Report*"), at 84 (similar), available at https://perma.cc/XN3W-BK8W; Zucker, Ken J., *The myth of persistence: Response to "A Critical Commentary on Follow-Up Studies and Desistance Theories about Transgender and Gender Non-Conforming Children" by Temple Newhook et al.*, 19 International Journal of Transgenderism at 237 (concluding that a social transition is a form of "psychosocial treatment" for transgender-identifying minors), available at http://bit.ly/3IflPe2; Br. of Amici Curiae American Medical Association, the American Academy of Pediatrics, Endocrine Society, *et al.*, in *Adams v. Sch. Bd. of St. Johns Cnty.*, Case No. 18-13592 (11th Cir. 2018) at 13 (noting that a social transition is "a critically important part of treatment" in transgender-identifying minors), available at https://bit.ly/4pdFwDR. When a child undergoes a social transition at school, the school's creation of a putatively therapeutic environment in which the minor's transgender identity is "affirmed" constitutes treatment. *See Mirabelli*, 146 S. Ct. at 802 (noting that social transitioning implicates "children's mental health"); *see also id.* at 804 (Barrett, J., concurring) ("California's nondisclosure policy . . . quite obviously

excludes parents from highly important decisions about their child's mental health").

But social transitioning in minors is not a benign intervention, and like other forms of treatment, it can have serious consequences on the child's life course. For one thing, a social transition can increase the likelihood that the minor's transgender identity will persist into adulthood due to the psychological effect on the minor of inhabiting that identity. *Cass Review* at 164 (noting that "sex of rearing seems to have some influence on eventual gender outcome"); Zucker, *supra*, at 237 (explaining evidence that indicates that supporting and encouraging social transition "increases the odds of long-term persistence"). Moreover, minors who undergo a social transition will likely go on to receive graduated "affirmative" medical care—like puberty blockers and cross-sex hormones, and, for some, "affirming" surgeries like mastectomies, genital removal surgery, vaginoplasties, and phalloplasties. *Cass Review* at 31, 162, 176. The risks from these medical treatments are significant, and can include bone weakness, cardiovascular harm, deficiencies in neurocognitive development, depression/anxiety, sexual dysfunction, and infertility/sterility. *Id.* at 32, 174, 178, 196; *see also DHHS Report* at 14, 122–25, 221. Because of the close correlation between a social and medical transition, these risks must be accounted for when a social transition is undertaken, a balancing process that is beyond the capacity of minors.

In short, because social transitioning is a significant form of healthcare treatment in minors, with potentially life-long ramifications, parental notice and

consent is required before a child may be socially transitioned at school.

Of course, parents' right to direct their children's healthcare treatment is not absolute. While this right "reside[s] first" in parents, *Troxel*, 530 U.S. at 65, the state may exercise its *parens patriae* authority to override parents' rights when their children are "subject to . . . apparent danger or harm," *Mueller v. Auker*, 700 F.3d 1180, 1187 (9th Cir. 2012); *see also Parham*, 442 U.S. at 603 (noting that the state may override fit parents' decisions when the child's "health is jeopardized"); *Jensen v. Wagner*, 603 F.3d 1182, 1198 (10th Cir. 2010) (similar). But even then, parents have a "right to a judicial hearing" when the state seeks to provide healthcare treatment that parents do not want for their children, unless the state has "reasonable cause to believe that the child is in imminent danger of serious bodily injury," in which case the parents are entitled to post-deprivation notice. *Mueller v. Auker*, 576 F.3d 979, 995 (9th Cir. 2009); *see also Wallis*, 202 F.3d at 1141.

Here, PERB's decision precludes schools from requiring teachers to notify parents when their children are socially transitioned at school even in the absence of a particularized showing of harm. This prohibition violates parents' right to notice and consent when the state seeks to provide their children healthcare treatment.

B. PERB's Decision Usurps Parents' Right to Notice and Consent When the State Seeks to Make Important Decisions in their Children's Lives

Even if social transitioning were not healthcare treatment (and it is), PERB's decision infringes parents' right to make the "important decisions" in their children's lives. *Fields v. Palmdale Sch. Dist.*, 427 F.3d 1197, 1207 (9th Cir. 2005) ("*Fields I*"), *opinion amended on denial of reh'g sub nom. Fields v. Palmdale Sch. Dist. (PSD)*, 447 F.3d 1187 (9th Cir. 2006) ("*Fields II*") (cleaned up); *see also C.N. v. Ridgewood Bd. of Educ.*, 430 F.3d 159, 184 (3d Cir. 2005) (concluding that the parental right protects decisions going to the "heart of parental decision-making"). As relevant, courts have held that parents have the right to make decisions regarding: (1) child custody, *Stanley v. Illinois*, 405 U.S. 645, 652 (1972); (2) child visitation, *Troxel*, 530 U.S. at 57; (3) whether to send children to private school, *Pierce*, 268 U.S. at 510; (4) the subjects children can be taught at school, *Meyer*, 262 U.S. at 390; (5) whether children can go out in public at night, *Nunez by Nunez v. City of San Diego*, 114 F.3d 935, 952 (9th Cir. 1997); and (6) whether children have access to birth control at school, *Alfonso v. Fernandez*, 195 A.D.2d 46, 60 (N.Y. App. Div. 1993).

The decision to socially transition a child falls squarely within these precedents. As noted, that decision has significant consequences that are both immediate and that are likely to reverberate throughout the child's life course. Because of the consequential nature of this decision, and because children are too immature to make it on their own, the decision must

"reside first" in parents. *Troxel*, 530 U.S. at 65; *see also Mirabelli*, 146 S. Ct. at 803; *Tennessee v. Cardona*, 737 F. Supp. 3d 510, 556 (E.D. Ky. June 17, 2024) (holding that "parents retain a constitutionally protected right to guide their own children on matters of identity, including the decision to adopt or reject various gender norms and behaviors"); *Ricard v. USD 475 Geary Cnty., KS Sch. Bd.*, No. 5:22-cv-04015, 2022 WL 1471372, at *8 (D. Kan. May 9, 2022) (noting that parents "have [the right to] have a say in what [their] minor child[ren are] called" by their school).

Respondents may suggest that PERB's decision is valid because socially transitioning a child at school falls within schools' implied authority, but that suggestion is incorrect under our Nation's history and traditions. Under the *in loco parentis* doctrine, schools have "inferred parental consent" that gives them "a degree of authority . . . commensurate with the task that the parents ask the school to perform"—namely, to educate their children. *Mahanoy Area Sch. Dist. v. B.L.*, 594 U.S. 180, 200 (2021) (Alito, J., concurring); *see also Vernonia Sch. Dist. 47 v. Acton*, 515 U.S. 646, 654–55 (1995). Under that authority, schools generally have the freedom to (1) control "the information to which [students]" are exposed as part of the curriculum and (2) decide "how" students are taught, including things like "the hours of the school day, school discipline, [and] the timing and content of examinations." *Fields I*, 427 F.3d at 1200, 1206.

Socially transitioning students is not within the scope of that inferred delegation. Parents do not hand children off to schools to facilitate changing their gender identity. Instead, parents retain the right to

notice and consent when the State seeks to socially transition their children at school, just as parents retain the right to direct their children's religious upbringing despite sending them to public school. *Mahmoud*, 606 U.S. at 547 (noting that parents' rights "would be an empty promise if [they] did not follow . . . children into the public school classroom" (cleaned up)). As with Free Exercise rights, parents' rights do not stop at "the threshold of the school door." *C.N.*, 430 F.3d at 185 n. 26; *see also Mirabelli*, 146 S. Ct. at 803; *Fields II*, 447 F.3d at 1190–91 (deleting language from opinion stating otherwise). "It is not educators, but parents who have primary rights in the upbringing of children," *Gruenke v. Seip*, 225 F.3d 290, 307 (3d Cir. 2000), and the state's authority to educate children does not turn them into "mere creature[s] of the state." *Pierce*, 268 U.S. at 535.

C. PERB's Decision Infringes Parents' Right to Maintain the Integrity of Their Families

PERB's decision also infringes parents' rights to "family integrity." *Marsh v. Cnty. of San Diego*, 680 F.3d 1148, 1154 (9th Cir. 2012); *see also Moore v. City of E. Cleveland*, 431 U.S. 494, 499 (1977) (noting that "freedom of personal choice in matters of . . . family life" is constitutionally protected) (plurality op.). This right protects against state action that constitutes an unwarranted interference with parents' ability to "maintain[] a tight familial bond" with their children. *Smith v. City of Fontana*, 818 F.2d 1411, 1418 (9th Cir. 1987), *overruled on other grounds by Hodgers-Durgin v. de la Vina*, 199 F.3d 1037 (9th Cir. 1999); *see also Lee v. City of L.A.*, 250 F.3d 668, 686 (9th Cir.

2001); *Kelson v. City of Springfield*, 767 F.2d 651, 653–54 (9th Cir. 1985).

From the toys parents give their children, to the friends that parents allow their children to have, to the clothes parents dress their children in, the parent-child relationship is deeply shaped by the child's gender identity. By allowing schools to socially transition minor children without their parents' notice or consent, PERB's decision threatens to fundamentally alter the nature of the "familial bond" between them. *Smith*, 818 F.2d at 1418. In addition, PERB's decision will deprive parents of "the opportunity to counter influences on" their children that they disagree with, *Arnold v. Bd. of Educ. of Escambia Cnty.*, 880 F.2d 305, 313 (11th Cir. 1989), "obstruct[s] the parental right to choose the proper method of resolution" of the question of whether the child should undergo a social transition, *Gruenke*, 225 F.3d at 306, and creates "mistrust" in their children by causing them to view their parents as the enemy, *Patel v. Searles*, 305 F.3d 130, 134, 137 (2d Cir. 2002).

D. PERB's Decision Displaces Parents' Right to Name their Children

Finally, by allowing schools to socially transition children without their parents' notice or consent, PERB's decision also infringes parents' rights to name their children. *See Sydney v. Pingree*, 564 F. Supp. 412, 413 (S.D. Fla. 1982) (holding that parents have the right to name their children); *O'Brien v. Tilson*, 523 F. Supp. 494, 496 (E.D.N.C. 1981) (same); *Jech v. Berch*, 466 F. Supp. 714, 718–19 (D. Haw. 1979) (same). The name parents give their children is

indisputably "an aspect of speech." *Henne v. Wright*, 904 F.2d 1208, 1216 (8th Cir. 1990) (Arnold, J., concurring); *see also Salaam v. Lockhart*, 905 F.2d 1168, 1170 n.4 (8th Cir. 1990) (noting an individual's name change is an exercise of "first amendment speech" (*quoting Felix v. Rolan*, 833 F.2d 517, 518 (5th Cir. 1987))).

By allowing schools to change children's names at school without parental notice or consent, PERB's decision infringes on parents' rights to name their children. Children's names are an aspect of parental speech, and authorizing children to change that name—and to have state actors honor that change—violates parents' right to decide how their children are known.

* * *

In sum, if PERB's decision is permitted to stand, it will undermine parents' core constitutional protections long recognized by this Court. By giving schools, administrators, and teachers the leeway to facilitate student social transitions without parental notice and consent, the decision disregards parents' rights to direct their children's healthcare, make important life decisions for them, preserve the integrity of their family, and name their children. Each of these violations independently confirms that PERB's decision cannot stand.

III. PERB'S DECISION PURPORTS TO CREATE A LOOPHOLE IN PARENTS' CONSTITUTIONAL PROTECTIONS

This Court should grant review for an additional reason: the decision below permits the State to accomplish indirectly what the Constitution forbids directly. California may not, consistent with the Constitution, exclude parents from consequential decisions concerning their children's social transition at school. *Mirabelli*, 146 S. Ct. at 802–03. Yet by using PERB's administrative process to ensure local teachers' unions can handcuff school districts from even attempting to preserve parental involvement in their children's lives, the State has effectively achieved the same forbidden result. Constitutional guarantees cannot be displaced so easily.

This principle is well established. It is axiomatic that the state may not "produce a result which it could not command directly." *Perry v. Sindermann*, 408 U.S. 593, 597 (1972) (cleaned up). In *Bantam Books v. Sullivan*, for example, this Court held that a state commission could not use informal sanctions and threats of legal consequences to suppress protected expression through private distributors. 372 U.S. 58, 66–68 (1963). More recently, in *NRA v. Vullo*, this Court reaffirmed that principle, explaining that the government violates the Constitution when it uses official authority to coerce third parties into punishing the exercise of protected rights. 602 U.S. 175, 189–191 (2024). In other words, constitutional limits bind the State not only when it acts openly, but also when it acts through proxies, leverage, and procedural substitutions.

That is what happened here. The State may not adopt a regime that cuts parents out of decisions regarding their children's at-school social transition. *Mirabelli*, 146 S. Ct. at 803; *see also U.S. Department of Education Finds California Department of Education Violated Federal Law by Hiding Students' "Gender Transitions" from Parents*, U.S. Dept. of Educ. (Jan. 28, 2026), available at http://bit.ly/42iSFkV. But the decision below allows the State to reach materially the same end by a different route: not through a direct prohibition on parental notice, but through an administrative order that sides with teachers' unions and precludes school districts from adopting a policy that requires notice. The constitutional injury is the same. Parents are excluded, schools are prevented from honoring parental authority, and a state-created mechanism is used to prevent constitutional safeguards from taking effect. The Constitution does not tolerate that sort of shell game.

Nor does it matter that the mechanism here is framed as adjudication of a labor dispute. "[W]hat matters is the substance of the suit, not where it is brought, who brings it, or how it is labeled." *SEC v. Jarkesy*, 603 U.S. 109, 135 (2024). Here, the substance of the dispute is not merely a disagreement over bargaining procedure. It is the invalidation of a parental-notification policy at the behest of a teachers' union through an administrative forum, with the practical effect of preventing parents from receiving information this Court has now recognized they have a constitutional right to receive. A State cannot relabel a constitutional controversy as a labor dispute and thereby insulate the resulting constitutional deprivation from meaningful scrutiny. To hold otherwise

would invite States to reroute other family-governance questions through agency processes whenever direct regulation would be constitutionally vulnerable.

That danger is substantial and recurring. Questions concerning parental notice, school-facilitated social transition, and the relationship between school authority and parental authority have spread nationwide. If the decision below stands, it will provide a blueprint for evasion: States and state-aligned actors may leave parental rights nominally intact while using administrative and contractual mechanisms to make their exercise impossible in practice. School boards that seek to respect parents' constitutional role may be blocked not because parents lack rights, but because those rights have been procedurally displaced. This Court should grant review to make clear that constitutional protections for parents cannot be nullified through administrative or contractual workarounds any more than they can be abrogated outright.

CONCLUSION

For the foregoing reasons, the Court should grant the Petition for a Writ of Certiorari.

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