

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. RES. 547

Expressing the sense of the House of Representatives that the United States Court of Appeals for the Ninth Circuit deplorably infringed on parental rights in *Fields v. Palmdale School District*.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 10, 2005

Mr. MURPHY (for himself, Mr. PITTS, Mr. POE, Mr. RYUN of Kansas, Mrs. MYRICK, Mr. GINGREY, Mr. KING of Iowa, Mr. GARRETT of New Jersey, Mr. KUHLMAN of New York, Mr. PRICE of Georgia, Mr. MCHENRY, Mr. JINDAL, Mr. ISSA, Mr. DOOLITTLE, Mr. CHOCOLA, Mr. BARRETT of South Carolina, Mr. GOHMERT, Mr. ADERHOLT, Mr. KLINE, Mr. WESTMORELAND, Mr. TIAHRT, Mr. COLE of Oklahoma, Mr. WAMP, Mr. FORTENBERRY, Mr. RYAN of Wisconsin, Mr. BARTLETT of Maryland, Mr. ROHRBACHER, Mrs. MUSGRAVE, Mr. NEUGEBAUER, Mr. FEENEY, Mr. PENCE, Mr. HENSARLING, Mr. HOSTETTLER, Mr. SULLIVAN, Mr. MCKEON, Ms. HART, Mrs. BLACKBURN, and Mr. FRANKS of Arizona) submitted the following resolution; which was referred to the Committee on the Judiciary

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## RESOLUTION

Expressing the sense of the House of Representatives that the United States Court of Appeals for the Ninth Circuit deplorably infringed on parental rights in *Fields v. Palmdale School District*.

Whereas the Palmdale School District sent parents of elementary school students at Mesquite Elementary School in Palmdale, California a letter requesting consent to give

a psychological assessment questionnaire to their first, third, and fifth grade students;

Whereas without the informed consent of their parents, the young students were instead administered a questionnaire that contained sexually explicit and developmentally inappropriate questions;

Whereas seven parents subsequently filed a complaint against the Palmdale School District in a Federal district court;

Whereas on November 2, 2005, a 3-judge panel of the Ninth Circuit Court of Appeals affirmed the decision of the United States District Court for the Central District of California in the case (*Fields v. Palmdale School District*) and held that parents “have no constitutional right . . . to prevent a public school from providing its students with whatever information it wishes to provide, sexual or otherwise, when and as the school determines that it is appropriate to do so”;

Whereas the Ninth Circuit stated, “once parents make the choice as to which school their children will attend, their fundamental right to control the education of their children is, at the least, substantially diminished”;

Whereas in *Meyer v. Nebraska*, 262 U.S. 390, 401 (1923), the Supreme Court recognized that the liberty guaranteed by the 14th amendment to the Constitution encompasses “the power of parents to control the education of their [children]”;

Whereas the Supreme Court in *Pierce v. Society of Sisters*, 268 U.S. 510, 534–35 (1925), highlighted the Meyer doctrine that parents and guardians have the liberty “to direct the upbringing and education of children under control” and emphasized that “[t]he child is not the mere

creature of the state; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations”;

Whereas in *Wisconsin v. Yoder*, 406 U.S. 205, 232–33 (1972), the Supreme Court acknowledged that “[t]he history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition. . . . The duty to prepare the child for ‘additional obligations’, referred to by the Court [in *Pierce*] must be read to include the inculcation of moral standards, religious beliefs, and elements of good citizenship”;

Whereas a plurality of the Supreme Court has stated, “it cannot now be doubted that the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children” (*Troxel v. Granville*, 530 U.S. 57, 66 (2000) (plurality opinion));

Whereas the Ninth Circuit’s decision in *Fields v. Palmdale School District* presupposes that “parents make the choice as to which school their children will attend” when, in fact, many parents do not have such a choice;

Whereas the decision in *Fields* establishes a dangerous precedent for limiting parental involvement in the public education of their children; and

Whereas the rights of parents ought to be strengthened whenever possible as they are the cornerstone of American society: Now, therefore, be it

1       *Resolved*, That it is the sense of the House of Rep-  
2 representatives that—

3           (1) the fundamental right of parents to direct  
4 the education of their children is firmly grounded in  
5 the Nation’s Constitution and traditions;

6           (2) the Ninth Circuit’s ruling in *Fields v.*  
7 *Palmdale School District* undermines the funda-  
8 mental right of parents to direct the upbringing of  
9 their children; and

10          (3) the United States Court of Appeals for the  
11 Ninth Circuit should agree to rehear the case en  
12 banc in order to reverse this constitutionally infirm  
13 ruling.

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