

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

YAIR LEV, individually and as parent and Natural guardian of his children, <i>et al.</i> ,	:	CIVIL ACTION
	:	
	:	NO. 2:26-CV-06347
Plaintiffs,	:	
	:	HON. JOHN MILTON YOUNGE
v.	:	
	:	
LOWER MERION SCHOOL DISTRICT, <i>et al.</i> ,	:	
	:	
Defendants.	:	

DEFENDANTS' MOTION TO DISMISS PLAINTIFFS' COMPLAINT

Defendants Lower Merion School District, Frank Ranelli, Kerry Sautner, Todd Ridky, Jason Herman, Shayna Kalish, Juanita Kerber, and Anna Shurak (collectively, “Defendants”), by and through their undersigned counsel, Marshall Dennehey, P.C., submit the within Motion to Dismiss Plaintiffs Yair Lev, Eleanor Stanford, Joaquin Imaizumi, Erin Amini, Michael Amini, Meredith Brisco-Bacik, Bradley Bacik, Bertha Escobedo Barrondo, James Hausman, and Sara Moyn’s (collectively, “Plaintiffs”) Complaint (Doc. 1). Defendants respectfully request that this Court dismiss the Complaint for the reasons set forth in their Brief filed contemporaneously herewith, which is incorporated by reference.

Respectfully submitted,

MARSHALL DENNEHEY, P.C.

/s/ Casey Alan Coyle

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Attorneys for Defendants

Dated: September 21, 2026

CERTIFICATE OF SERVICE

I, Casey Alan Coyle, certify that on this 21st day of September, 2026, I electronically filed the foregoing DEFENDANTS' MOTION TO DISMISS COMPLAINT using the Court's CM/ECF System, that all participants in this case are registered CM/ECF users, and that service will be accomplished by the CM/ECF System, in accordance with Rule 5.7 of the Local Rules of Court for the Eastern District of Pennsylvania.

/s/ Casey Alan Coyle
Casey Alan Coyle, Esquire
Counsel for Defendants

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ORDER

AND NOW, this ____ day of _____, 2026, upon consideration of Defendants Lower Merion School District, Frank Ranelli, Kerry Sautner, Todd Ridky, Jason Herman, Shayna Kalish, Juanita Kerber, and Anna Shurak's Motion to Dismiss Plaintiffs' Complaint (ECF No. 26), and any response thereto, it is hereby **ORDERED** and **DECREED** that the Motion is **GRANTED** and Plaintiffs' Complaint (ECF No. 1) is **DISMISSED WITH PREJUDICE**.

John Milton Younge, J.

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DEFENDANTS’ BRIEF IN SUPPORT OF MOTION TO DISMISS COMPLAINT

I. INTRODUCTION

This is a 1983 action based on a nonexistent constitutional right. In their Complaint, Plaintiffs Yair Lev, Eleanor Stanford, Joaquin Imaizumi, Erin Amini, Michael Amini, Meredith Brisco-Bacik, Bradley Bacik, Bertha Escobedo Barrondo, James Hausman, and Sara Moyn (collectively, “Plaintiffs”) allege, in sum and substance, that Defendants Lower Merion School District, Frank Ranelli, Kerry Sautner, Todd Ridky, Jason Herman, Shayna Kalish, Juanita Kerber, and Anna Shurak (collectively, “Defendants”) are violating their constitutional rights “by requiring Plaintiffs’ children to use computers that are persistently connected to the internet and that expose them to all manner of online harms and risks to their health, safety, and privacy.” (Doc. 1 ¶ 9.) But no court has ever recognized a constitutional right for a parent to choose which technology their child uses in a public school, if any.

Cognizant of that reality, Plaintiffs urge a novel application of a parent’s constitutional right to make decisions regarding the care, custody, and control of their children, and to direct their education and upbringing. Per Third Circuit precedent, however, any alleged interference between the District’s new technology policy and a parent’s limited right to direct their child’s education does not rise to the level of a

constitutional violation. This Court should therefore dismiss the Complaint for failure to state a claim. In the alternative, this Court should dismiss Counts I–V to the extent that they are asserted against the Individual Defendants because they are entitled to qualified immunity.

II. BACKGROUND

On August 31, 2026, Plaintiffs filed a Complaint against the District, its Superintendent, and seven of the nine members of the Board of School Directors on behalf of themselves and/or their respective children. (*See* Doc. 1.) The Complaint stems from the repeal of a prior District technology policy that, according to Plaintiffs, “permitted parents to decline an internet-connected device for their child” and “required the superintendent to make the necessary accommodations to ensure their children’s education was not adversely affected.” (*Id.* ¶¶ 10, 15.)¹ Plaintiffs allege that, on June 15, 2026, the Board repealed the alleged prior technology policy, and on August 17, 2026, voted to enact a new technology policy which declining a District-issued electronic device “is no longer an option.” (*Id.* ¶¶ 15, 16.) Plaintiffs allege that, as a result, Defendants are “violating Plaintiffs’ constitutional rights by requiring Plaintiffs’ children to use computers that are persistently connected to the internet and that expose them to all manner of online harms and risks to their health, safety, and privacy.” (*Id.* ¶ 9.) According to Plaintiffs, “Defendants’ actions further violate Plaintiffs’ constitutional rights by thwarting Plaintiffs’ ability to protect their children from

¹ While Defendants’ Response and Brief in Opposition make clear that Defendants dispute Plaintiffs’ characterization of the District’s prior technology policy, Defendants acknowledge that this Court must accept all factual allegations in the Complaint as true and must consider them in the light most favorable to Plaintiffs for purposes of the Motion to Dismiss. *See, e.g., Doe v. Univ. of the Scis.*, 961 F.3d 203, 208 (3d Cir. 2020). Still, it is worth noting that the District’s new technology policy—which is appended as an exhibit to the Complaint—contradicts Plaintiffs’ hyperbolic allegations of children receiving “unfettered access to dangerous content” on their District-issued devices (Doc. 1 ¶ 34) by, among other things, not issuing individual devices to students in Kindergarten through Grade 2; prohibiting District-issued devices from leaving the classroom for students in Grade 3 and 4, while simultaneously only permitting “supervised, teacher-directed access to technology resources” for those devices in the classroom; and not requiring the use of a computer at home for students in Grade 5 and 6, while also only allowing for “supervised, teacher-directed access to technology resources” for District-issued devices in the classroom. (Doc. 1, Ex. E–03 at 3.)

those harms and risks of harm and by undermining Plaintiffs’ values, including how much time their children spend on computers and the internet and what they do on screens and online.” (*Id.*)

Based on the foregoing, Plaintiffs assert claims of “[s]ubstantive due process violation of Plaintiffs’ parental rights—care (health)” (Count I), “[s]ubstantive due process violation of Plaintiffs’ parental rights—care (safety)” (Count II), “[s]ubstantive due process violation of Plaintiffs’ parental rights—care (privacy)” (Count III), “[s]ubstantive due process violation of Plaintiffs’ parental rights—education” (Count IV), and declaratory judgment (Count V). (*See id.* ¶¶ 618–84.) Counts I–IV are all brought purportedly under 42 U.S.C. § 1983. (*See id.* ¶¶ 618–78).

III. STATEMENT OF THE QUESTIONS INVOLVED

- A. Whether this Court should grant Defendants’ Motion and dismiss Counts I–V of the Complaint in their entirety for failure to state a cognizable claim?

Suggested Answer: Yes, grant the Motion in its entirety.

- B. In the alternative, whether this Court should grant Defendants’ Motion and dismiss Counts I–V to the extent they are asserted against the Individual Defendants because the Individual Defendants are entitled to qualified immunity?

Suggested Answer: Yes, grant the Motion as to the Individual Defendants.

IV. ARGUMENT

- A. **This Court Should Grant Defendants’ Motion and Dismiss Counts I–V of the Complaint in Their Entirety Because Plaintiffs Fail to State a Claim Upon Which Relief May Be Granted**

Rule 12(b)(6) of the Federal Rules of Civil Procedure provides for the dismissal of a complaint for failure to state a claim upon which relief may be granted. *See* Fed. R. Civ. P. 12(b)(6). The purpose of a 12(b)(6) motion is to test the legal sufficiency of the complaint and to “streamline litigation by dispensing with needless discovery and fact finding.” *Neitzke v. Williams*, 490 U.S. 319, 326-27 (1989); *Holder v. City of Allentown*, 987 F.2d 188, 194 (3d. Cir. 1993). Therefore, when it appears from the face of the

pleading that a plaintiff can prove no set of facts that would entitle him to relief, the court must dismiss plaintiff's claims. *See Hishon v. King & Spalding*, 467 U.S. 69, 73 (1984).

“[A] complaint must contain sufficient factual matter, accepted as true, to state a claim [for] relief that is plausible on its face.” *Tatis v. Allied Interstate, LLC*, 882 F.3d 422, 426 (3d Cir. 2018) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)). “To state a cause of action under § 1983, Plaintiffs must allege the deprivation of a constitutional right under color of state law.” *Anspach v. City of Phila.*, 503 F.3d 256, 261 (3d Cir. 2007) (citations omitted). In Section 1983 cases, the proper approach is “to determine first whether the plaintiff has alleged a deprivation of a constitutional right at all.” *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 841 n.5 (1998). “Normally, it is only then that a court should ask whether the right allegedly implicated was clearly established at the time of the events in question[,]” and whether qualified immunity applies. *Id.* The Court views the allegations in the Complaint in the light most favorable to the Plaintiffs, but need not credit “bald assertions” or “legal conclusions.” *Anspach*, 503 F.3d at 260. “[L]egal conclusions masquerading as factual conclusions will not suffice to prevent a motion to dismiss.” *Id.* (citations omitted).

Here, Plaintiffs have not articulated a cognizable legal claim. Despite Plaintiffs’ repeated allegation that Defendants are “violating [their] constitutional rights,” (*see, e.g.*, Doc. 1 ¶ 9), the purported constitutional right asserted in this case—the right for a parent to choose which technology their child uses in a public school, if any—has never been recognized.

Evidently aware of this fact, Plaintiffs urge this Court to enshrine a novel application of a parent’s constitutional right to make decisions regarding the care, custody, and control of their children, and to direct their education and upbringing, based on a series of prior decisions. (*See id.* ¶ 7 (citing *Troxel v. Granville*, 530 U.S. 57 (2000), *M.L.B. v. S.L.J.*, 519 U.S. 102 (1996), *Santosky v. Kramer*, 455 U.S. 745 (1982), *Lassiter v. Dep’t of Social Services*, 452 U.S. 18 (1981), *Wisconsin v. Yoder*, 406 U.S. 205 (1972), *Prince*

v. Massachusetts, 321 U.S. 158 (1944), *Pierce v. Soc’y of Sisters*, 268 U.S. 510 (1925), *Meyer v. Nebraska*, 262 U.S. 390 (1923), *Miller v. Mitchell*, 598 F.3d 139 (3d Cir. 2010), *C.N. v. Ridgewood Bd. of Educ.*, 430 F.3d 159 (3d Cir. 2005), and *Gruenke v. Seip*, 225 F.3d 290 (3d Cir. 2000).) But none of the cases cited by Plaintiffs endorsed that view of the Fourteenth Amendment of the United States Constitution. In fact, they all stand for completely different propositions.²

Moreover, the Third Circuit has long held that a parent’s constitutional right to make decisions regarding the care, custody, and control of their children, and to direct their education and upbringing “is neither absolute nor unqualified.” *Ridgewood*, 430 F.3d 159, 182 (3d Cir. 2005). Rather, “it is a limited one.” *Combs v. Homer-Center Sch. Dist.*, 540 F.3d 231, 247 (3d Cir. 2008). Indeed, in *Gruenke*, the Third Circuit recognized that, notwithstanding the Supreme Court’s “near-absolutist pronouncements” concerning the right to familial privacy, a parent’s right to raise and nurture their child is necessarily qualified in a school setting where “the state’s power is ‘custodial and tutelary, permitting a degree of

² See *Troxel*, 530 U.S. at 67 (holding a Washington state statute allowing visitation by non-parents, as applied to permit grandparents more visitation than the parent desired, unconstitutionally infringed on the Fourteenth Amendment parental right to direct the upbringing of children); *M.L.B.*, 519 U.S. at 123 (holding indigent’s right to a transcript at state expense for purposes of appeal applied under the Fourteenth Amendment in context of proceedings to terminate parental rights); *Santosky*, 455 U.S. at 758 (holding that the “preponderance of the evidence” standard is inconsistent with due process in the context of termination of parental rights); *Lassiter*, 452 U.S. at 33 (holding that the refusal to appoint counsel for indigent parent in context of termination of parental rights proceeding did not violate the due process clause of the Fourteenth Amendment); *Wisconsin*, 406 U.S. at 234 (holding that Amish parents’ religious beliefs and their rights under the First and Fourteenth Amendments “prevent the State from compelling respondents to cause their children to attend formal high school to age 16”); *Prince*, 321 U.S. at 170 (affirming parent’s conviction for violating state child labor laws for engaging her child in street preaching); *Pierce*, 268 U.S. at 535 (holding state law requiring parents to enroll their children in public school and not permitting enrollment in religious private school violated the Fourteenth Amendment); *Meyer*, 262 U.S. at 399 (holding parents have the right to send their children to a private school that offers specialized training such as instruction in the German language); *Miller*, 598 F.3d at 151 (holding plaintiff was likely to succeed in showing that an education program required by the District Attorney regarding teen sexting violated parent’s fundamental right to raise her child without undue state interference); *Ridgewood*, 430 F.3d at 190 (holding administration of survey to middle and high school students did not infringe on privacy rights); *Gruenke*, 225 F.3d at 306 (holding swim coach’s alleged intrusion into “private family matter” involving teen’s pregnancy did not violate parent’s claim to familial integrity).

supervision and control that could not be exercised over free adults,” adding: “[T]here may be circumstances in which school authorities, in order to maintain order and a proper educational atmosphere in the exercise of police power, may impose standards on conduct of students that differ from those approved by some parents.” *Id.* at 304 (quoting *Vernonia Sch. Dist. v. Acton*, 515 U.S. 646, 655 (1995)). The Third Circuit reiterated that principle in *Ridgewood*, writing that “in certain circumstances the parental right to control the upbringing of a child must give way to a school’s ability to control curriculum and the school environment.” 430 F.3d at 182. More recently, in *Combs v. Homer-Center School District*, 540 F.3d 231 (3d Cir. 2008), the Third Circuit made clear that “[p]arents do not have a constitutional right to avoid reasonable state regulation of their children’s education.” 540 F.3d at 249.

Other federal Circuit Courts similarly have held that a parent’s right to direct their child’s education is limited in scope. *See, e.g., Mozert v. Hawkins Cnty. Bd. of Educ.*, 827 F.2d 1058, 1065 (6th Cir. 1987) (parents have no right to exempt their children from certain reading programs the parents found objectionable); *Fleischfresser v. Dirs. of Sch. Dist. 200*, 15 F.3d 680 (7th Cir. 1994) (same); *Murphy v. State of Arkansas*, 852 F.2d 1039, 1044 (8th Cir. 1988) (home-schooled children may be subjected to standardized testing to assess the quality of education the children are receiving, even over the parents’ objections); *Brown v. Hot, Sexy & Safer Prods., Inc.*, 68 F.3d 525, 533 (1st Cir. 1995) (finding in context of plaintiff parents’ claim that mandatory student attendance at sexually explicit AIDS awareness assembly that plaintiff parents had failed to demonstrate an intrusion of “constitutional magnitude” on the right to direct the upbringing and control of child); *Immediato v. Rye Neck School Dist.*, 73 F.3d 454, 462 (2d Cir. 1996) (no right for parents to exempt their children from a school’s community-service requirement); *Hill-Carrboro City Bd. of Educ.*, 89 F.3d 174 (4th Cir. 1996) (same); *Swanson v. Guthrie*, 135 F.3d 694, 700 (10th Cir. 1998) (a school policy against part-time attendance does not violate parent’s right to direct upbringing of child).

In short, “[t]he case law in this area establishes that parents simply do not have a constitutional right to control each and every aspect of their children’s education and oust the state’s authority over that subject.” *Swanson*, 135 F.3d at 699. The rationale behind this long line of cases is sound:

If all parents had a fundamental constitutional right to dictate individually what the schools teach their children, the schools would be forced to cater a curriculum for each student whose parents had genuine moral disagreements with the school’s choice of subject matter. We cannot see that the Constitution imposes such a burden on state educational systems, and accordingly find that the rights of parents as described by *Meyer* and *Pierce* do not encompass a broad-based right to restrict the flow of information in the public schools.

Brown, 68 F.3d at 534.

Plaintiffs nonetheless allege that their limited right to direct their child’s education is implicated here. (*See, e.g.*, Doc. 1 ¶ 9.) As the Third Circuit explained in *Ridgewood*, however, *Gruenke* “recognize[s] [] a distinction between actions that strike at the heart of parental decision-making authority on matters of the greatest importance and other actions that . . . are not of constitutional dimension.” 430 F.3d at 184; *accord Combs*, 540 F.3d at 249. The Third Circuit noted that “[o]ther Courts of Appeals have recognized a similar distinction” and cited favorably a series of decisions that stand for the proposition that state action which affects the parental relationship only incidentally is insufficient to establish a violation of a constitutional dimension. *Ridgewood*, 430 F.3d at 184 (citing *Hodge v. Jones*, 31 F.3d 157, 163 (4th Cir. 1994), *Pittsley v. Warish*, 927 F.2d 3, 8 (1st Cir. 1991), *Duchesne v. Sugarman*, 566 F.2d 817, 825 (2d Cir. 1977), and *Bohn v. County of Dakota*, 772 F.2d 1433, 1436 n.4 (8th Cir. 1985)).

Turning to the facts of *Ridgewood*, the Third Circuit concluded that, while the Supreme Court has extended constitutional protection to parental decisions regarding certain matters, “the decision whether to permit a middle or high school student to participate in a survey of [seeking information about students’ drug and alcohol use, sexual activity, experience of physical violence, attempts at suicide, personal associations and relationships (including the parental relationship), and views on matters of public interest] is not a matter of comparable gravity.” *Id.* at 185. The Third Circuit determined that “introducing a child

to sensitive topics before a parent might have done so herself can complicate and even undermine parental authority, but . . . the survey in this case did not intrude on parental decision-making authority in the same sense as occurred in *Gruenke*.” *Id.* “School Defendants in no way indoctrinated the students in any particular outlook on these sensitive topics,” the Third Circuit continued. *Id.* “[A]t most, they have introduced a few topics unknown to certain individuals.” *Id.* The Third Circuit thus held that the survey’s interference with parental decision-making authority did not amount to a constitutional violation. *Id.*

The same is true here. At most, based upon the facts Plaintiffs allege, the new technology policy only incidentally interferes with a parent’s limited right to direct their child’s education. Such indirect interference is insufficient to rise to the level of a constitutional violation. *See Ridgewood*, 430 F.3d at 184; *see also J.S. v. Blue Mt. Sch. Dist.*, 650 F.3d 915, 933–34 (3d Cir. 2011) (“the parents’ liberty interest will only be implicated if the state’s action ‘deprived them of their right to make decisions concerning their child,’ and not when the action merely ‘complicated the making and implementation of those decisions.’” (quoting *Ridgewood*, 430 F.3d at 184)). Therefore, under the Plaintiffs’ recitation of the facts, there has not been a deprivation of a recognized constitutional right—whether it is couched right to “health,” “safety,” “privacy,” or “education” (Doc. 1 ¶¶ 618–84). *See Lewis*, 523 U.S. at 841 n.5.

Accordingly, the Complaint should be dismissed for failure to state a claim, pursuant to Federal Rule of Civil Procedure 12(b)(6). Dismissal should be with prejudice because, due to the nature of the claims, Plaintiffs cannot plead additional facts to cure the foregoing deficiencies, making any amendment futile. *See, e.g., Shane v. Fauver*, 213 F.3d 113, 115 (3d Cir. 2000) (futility is an exception to the requirement to allow amendment upon granting a motion to dismiss).

B. In the Alternative, All Claims Against the Individual Defendants Should Be Dismissed Because They Are Entitled to Qualified Immunity

Qualified immunity “shields governmental officials from suit and from liability if their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have

known.” *Mack v. Yost*, 63 F.4th 211, 221 (3d Cir. 2023) (citation and internal quotation marks omitted). Qualified immunity “balances two important interests—the need to hold public officials accountable when they exercise power irresponsibly and the need to shield officials from harassment, distraction, and liability when they perform their duties reasonably.” *Peroza-Benitez v. Smith*, 994 F.3d 157, 164 (3d Cir. 2021) (citation and internal quotation marks omitted). The analysis of a qualified immunity claim is guided by a two-part test: (1) whether the facts show the violation of a legal right, and (2) whether that right was clearly established. *See, e.g., Davenport v. Borough of Homestead*, 870 F.3d 273, 280 (3d Cir. 2017). A court may address these steps in either order. *See Pearson v. Callahan*, 555 U.S. 223, 236 (2009); *see also Reichle v. Howards*, 566 U.S. 658, 664 (2012) (“courts may grant qualified immunity on the ground that the purported right was not ‘clearly established’ . . . without resolving . . . whether the purported right exists at all”).

With regard to the second step, courts conduct a two-part inquiry. First, a court must “define the right allegedly violated at the appropriate level of specificity.” *Sharp v. Johnson*, 669 F.3d 144, 159 (3d Cir. 2012). This requires us to frame the right “in light of the specific context of the case, not as a broad general proposition.” *Peroza-Benitez*, 994 F.3d at 165 (citation and internal quotation marks omitted). Second, a court must ask whether that right was “clearly established” at the time of its alleged violation, *i.e.*, its “contours . . . [were] sufficiently clear that a reasonable official would have understood” that his *particular* conduct “violates that right.” *Kendig v. Stolar*, 173 F.4th 466, 476 (3d Cir. 2026) (citation and internal quotation marks omitted). This is an “objective (albeit fact-specific) question.” *Anderson v. Creighton*, 483 U.S. 635, 641 (1987)). As the Third Circuit recently explained, a right is not clearly established unless “Supreme Court precedent, our own precedent, or a consensus of authority among the courts of appeals placed that right beyond debate.” *Otero v. Police Officer Christian Kane*, 161 F.4th 189, 194 (3d Cir. 2025). In the Third Circuit, “qualified immunity will be upheld on a 12(b)(6) motion only

when the immunity is established on the face of the complaint.” *Thomas v. Independence Twp.*, 463 F.3d 285, 291 (3d Cir. 2006).

Here, it is beyond cavil that the Individual Defendants are entitled to qualified immunity because not only did they not violate Plaintiffs’ constitutional rights for the reasons explained above, but this lawsuit appears to be the first of its kind nationwide. Thus, there is no authority—much less Supreme Court precedent, Third Circuit precedent, or a consensus of authority among other Courts of Appeals—that placed the alleged right at issue in this case beyond debate. *See Otero*, 161 F.4th at 194. The lack of authority supporting the claimed right in this action is apparent on the face of the pleading since none of the relied-upon caselaw supports this novel approach. *See supra* n.2; *Thomas*, 463 F.3d at 291. Thus, the Individual Defendants are shielded by qualified immunity.

V. CONCLUSION

For the reasons set forth above, this Court should grant Defendants’ Motion to Dismiss in its entirety.

Respectfully submitted,

MARSHALL DENNEHEY, P.C.

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Dated: September 21, 2026

CERTIFICATE OF SERVICE

I, Casey Alan Coyle, certify that on this 21st day of September, 2026, I electronically filed the foregoing DEFENDANTS' BRIEF IN SUPPORT OF MOTION TO DISMISS COMPLAINT using the Court's CM/ECF System, that all participants in this case are registered CM/ECF users, and that service will be accomplished by the CM/ECF System, in accordance with Rule 5.7 of the Local Rules of Court for the Eastern District of Pennsylvania.

/s/ Casey Alan Coyle
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Counsel for Defendants