

IN THE SUPREME COURT OF THE UNITED STATES

No. 24-394
OKLAHOMA STATEWIDE CHARTER SCHOOL BOARD,
ET AL., PETITIONERS
v.
GENTNER DRUMMOND, ATTORNEY GENERAL OF
OKLAHOMA, EX REL. OKLAHOMA

No. 24-396
ST. ISIDORE OF SEVILLE CATHOLIC
VIRTUAL SCHOOL, PETITIONER
v.
GENTNER DRUMMOND, ATTORNEY GENERAL OF
OKLAHOMA, EX REL. OKLAHOMA

ON WRITS OF CERTIORARI
TO THE SUPREME COURT OF OKLAHOMA

MOTION OF THE UNITED STATES
AS AMICUS CURIAE SUPPORTING PETITIONERS
FOR LEAVE TO PARTICIPATE IN AND FOR DIVIDED ORAL ARGUMENT

Pursuant to Rules 21, 28.4, and 28.7 of the Rules of this Court, the Solicitor General, on behalf of the United States as amicus curiae supporting petitioners, respectfully moves that the United States be granted leave to participate in the oral argument in this case, and that the time be allotted as follows: 20 minutes for petitioners, 10 minutes for the United States, and 30 minutes for respondent. Petitioners in No. 24-394 (the Oklahoma Statewide Charter School Board et al.) and petitioner in No. 24-396 (St.

Isidore of Seville Catholic Virtual School) have agreed to an allocation of ten minutes of argument time to the United States and therefore consent to this motion.

1. This case presents the question whether Oklahoma may, consistent with the First Amendment's Religion Clauses, exclude a school from the State's charter-school program because of the school's religious exercise. The United States has filed a brief as amicus curiae supporting petitioners, arguing that Oklahoma cannot exclude a school from the charter-school program based solely on religious character.

The United States has a substantial interest in this case. The Oklahoma Supreme Court sided with the State in the decision below because it believed that an entity that contracts with the State to provide publicly funded education cannot assert free exercise rights. The United States has a substantial interest in the interpretation and application of the legal principles that establish, for constitutional purposes, when an ostensibly private entity is considered part of the government or engaged in state action. The United States also has a substantial interest in the preservation of the constitutional right to the free exercise of religion. The United States previously presented oral argument as an amicus curiae in other recent cases involving the application of the Religion Clauses of the First Amendment to various school-related questions. See, e.g., Carson v. Makin, 596 U.S. 767

(2022); Espinoza v. Montana Department of Revenue, 591 U.S. 464 (2020); Our Lady of Guadalupe School v. Morrissey-Berru, 591 U.S. 732 (2020). Participation by the United States could therefore materially assist this Court in its consideration of this case.

2. All petitioners have consented to this motion, including to the United States' request that petitioners cede 10 minutes of their collective oral-argument time to the United States. Petitioners have also filed a motion to further divide the balance of petitioners' argument time between petitioners in No. 24-394 (the Oklahoma Statewide Charter School Board et al.) and petitioner in No. 24-396 (St. Isidore of Seville Catholic Virtual School). Regardless of how the Court resolves that pending motion, petitioners' consent to the United States' divided-argument motion and the reasons above provide good cause for granting the United States' request to participate in, and to divide, oral argument.

Respectfully submitted.

D. John Sauer
Solicitor General
Counsel of Record

APRIL 2025