

No. 25-581

IN THE
Supreme Court of the United States

ST. MARY CATHOLIC PARISH, LITTLETON, COLORADO,
ET AL.,
Petitioners,

v.

LISA ROY, IN HER OFFICIAL CAPACITY AS
EXECUTIVE DIRECTOR OF THE COLORADO DEPARTMENT
OF EARLY CHILDHOOD, ET AL.,
Respondents.

*On Writ of Certiorari to the
United States Court of Appeals for the Tenth Circuit*

**BRIEF OF AMICI CURIAE
FORMER CATHOLIC SCHOOL SUPERINTENDENTS
TIMOTHY UHL AND JEANNIE RAY-TIMONEY
IN SUPPORT OF RESPONDENTS**

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INTEREST OF *AMICI CURIAE*¹

Amici are former Catholic school superintendents who have devoted their careers to Catholic schools. Between them, they have administered Catholic school systems serving tens of thousands of students across multiple states and dioceses. Their schools have participated in publicly funded programs that include nondiscrimination conditions while maintaining their Catholic mission, identity, and fidelity to Church teaching.

Timothy Uhl served as Superintendent of Montana Catholic Schools (2014–2021) and Secretary of Education for the Diocese of Buffalo, New York (2021–2024), navigating compliance with a broad range of federal, state, and local program requirements. His career in Catholic school administration spans over two decades and six states, including principal positions in Louisiana, Washington, and California. Dr. Uhl currently serves as Director of Mission & Ministry at Notre Dame High School in San Jose, California. He is also the author of two books on Catholic school leadership.

Jeannie Ray-Timoney served as Superintendent of Catholic Schools for the Archdiocese of Portland in Oregon (2019–2023) and Associate Superintendent (2014–2019), overseeing 51 schools — 10 high schools and 41 Pre-K–8 schools — serving about 15,000 students. She administered Catholic schools in a state

¹ No counsel for a party authored this brief in whole or in part, and no entity or person, other than *amici curiae* and their counsel, made a monetary contribution intended to fund the preparation or submission of this brief.

where Catholic schools participate in programs and associations carrying nondiscrimination conditions. Dr. Ray-Timoney currently serves as Dean of the School of Education at Warner Pacific University. She continues to support Portland Catholic schools through professional development. Three of her adult children work in Portland Catholic schools, and twelve of her grandchildren attend them.

Amici are not policy advocates. They are practitioners reporting on their professional experience. They file this brief because Petitioners and their supporting *amici* advance a factual premise: that nondiscrimination conditions on publicly funded programs will devastate Catholic institutions nationwide. *Amici*'s professional experience bears directly on that prediction. Catholic schools across the country participate in nondiscrimination-conditioned public programs while maintaining Catholic identity, religious instruction, and liturgical practice. The Court should have the benefit of these perspectives in assessing the claims before it.

SUMMARY OF ARGUMENT

Petitioners and their supporting *amici* assert that Colorado's equal-opportunity requirement forces Catholic schools to choose between their faith and participation in the Universal Pre-K (UPK) program, and that conditions of this kind will drive Catholic institutions out of publicly funded programs across the country. That is a factual prediction about how nondiscrimination conditions operate in practice. *Amici* have spent their careers administering the very programs and conditions at issue, and their experience does not bear that prediction out.

Across every system that *amici* have administered, Catholic schools have participated in nondiscrimination-conditioned programs as a matter of routine professional practice. They have continued to teach Catholic doctrine, celebrate the sacraments, and form children in the Catholic faith. None withdrew from a program over its nondiscrimination condition, and none altered its religious instruction to remain in one.

ARGUMENT

I. Catholic schools across the United States participate in publicly funded programs with nondiscrimination conditions while maintaining Catholic identity.

Catholic schools in the United States have long participated in federal, state, and local programs that attach nondiscrimination conditions to public funding and program participation. *Amici* have administered Catholic school systems under these conditions across multiple states and decades. In *amici*'s experience, Catholic schools have navigated the applicable requirements while maintaining their Catholic identity, religious instruction, and liturgical practice. The programs, conditions, and outcomes are described below from *amici*'s direct professional experience and are intended to give context to that experience.

A. Federal, state, and local programs with nondiscrimination conditions.

1. Montana (2014–2021)

As Superintendent of Montana Catholic Schools, *amicus* Uhl administered a Catholic school system in a predominantly rural, conservative state. Catholic

schools participated in the federal school lunch program, Title I, Title II, and Individuals with Disabilities Education Act (IDEA), each of which carries nondiscrimination conditions as a requirement of participation.²

Participation never required Catholic schools to alter their religious instruction, liturgical practices, or doctrinal commitments. Schools continued to teach Catholic doctrine, celebrate Mass, and form students in the Catholic faith. The nondiscrimination conditions governed the operation of the funded programs, not the religious identity of the institutions participating in them.

2. Diocese of Buffalo, New York (2021–2024)

As Secretary of Education for the Diocese of Buffalo, *amicus* Uhl administered a Catholic school system in which many Catholic elementary schools applied for and entered New York’s UPK program.

To qualify, Catholic schools were required to follow state guidelines covering safety, staffing qualifications, and a requirement that participating classrooms remain secular during funded program hours. Catholic schools in the Diocese of Buffalo sought that participation and viewed the program as a financial lifeline and a recruitment opportunity. Schools saw UPK as a means of bringing new families into their buildings and inviting them into the K–8 program. No school in the Diocese withdrew from the program during *amicus* Uhl’s tenure, and none raised the condition as a reason to exit. Catholic schools

² See, e.g., 42 U.S.C. § 2000d.

treated participation as an ordinary professional and financial decision.

Amici describe New York’s program solely as a matter of operational experience. They express no view on its conditions. Catholic school leaders treated the decision to participate as an ordinary matter of professional and financial judgment.

3. Archdiocese of Portland, Oregon (2014–2023 and continuing)

As Superintendent of Catholic Schools for the Archdiocese of Portland, *amicus* Ray-Timoney administered 51 Catholic schools in a state where Catholic schools participate in various programs and associations carrying nondiscrimination conditions.

Multnomah County Preschool for All. In 2020, Multnomah County voters approved Preschool for All (PFA), directing the County to build toward universal access to free preschool for every three- and four-year-old in the County by 2030.³ The program enrolled its first children in 2022. Catholic schools in the County became eligible to participate in 2024. One Catholic school has operated in PFA for two years; additional Catholic schools are applying this fall.

Participating providers must commit to welcoming and supporting all children and families, including children with delays or disabilities, children not fully potty trained, families who speak other

³ *Preschool for All*, Multnomah County, <https://multco.us/programs/preschool-all> (last visited Aug. 21, 2026).

languages, and families experiencing homelessness.⁴ Providers must use the online PFA application and enrollment systems, accept and enroll matched families, and use curriculum aligned with Oregon’s Early Learning and Kindergarten Guidelines.⁵

A preschool participating in PFA must be licensed by the State of Oregon. Licensed preschools operate under Oregon civil rights requirements, which prohibit discrimination against any child based on “race, religion, color, national origin, gender, [or] marital status of parent”⁶

The Catholic preschool in PFA continues to thrive while operating through a Catholic worldview. The most recent Catholic school to apply serves a multicultural Catholic community with several families facing socioeconomic challenges. PFA shares the structural features at issue here. Families apply through a centralized county system and are matched to participating providers, and participating providers must accept the children placed with them. A Catholic school operates within that structure today while maintaining Catholic identity and mission.

Oregon School Activities Association. Catholic schools in the Archdiocese participate in the Oregon School Activities Association (OSAA), which maintains a nondiscrimination policy covering race, color, religion, sex, sexual orientation, national origin,

⁴ *Preschool for All Provider Requirements*, Multnomah County, <https://drive.google.com/file/d/1PJLCns4RiGdK106r3dsqMsv01iRtKXAD/view> (last visited Aug. 21, 2026).

⁵ *Id.*

⁶ OAR 414-305-0200(5).

marital status, age, and disability, and which encourages member schools, personnel, participants, and spectators to adopt the same policy.⁷ Across *amicus* Ray-Timoney's nine years in the Archdiocese, OSAA's nondiscrimination requirements did not impede Catholic schools' participation. Oregon's nondiscrimination requirements operate to protect students' right to participate. Catholic schools comply with them while maintaining Catholic identity.

Title I, Title II, and IDEA. Catholic schools in the Archdiocese participate in Title I small-group tutoring for reading and math and in Title II professional development for teachers and school leaders. As Associate Superintendent, *amicus* Ray-Timoney worked directly with Catholic school leaders and local education agencies to secure access to these funds. Participation in these programs strengthened the teaching force and supported students within a faith-filled community. The Catholic intellectual tradition was maintained throughout.

Catholic schools in the Archdiocese also support families in accessing IDEA funds. Students receive speech therapy, tutoring for dyslexia and dysgraphia, and one-on-one social-emotional support. Some services are provided on the Catholic school campus; others at adjacent public schools. In one instance, a preschool child was assigned a one-on-one paraeducator through a state-funded Early Intervention program. That publicly funded support allowed the child to succeed in the Catholic preschool

⁷ 2026-2027 *Handbook*, Or. Sch. Activities Ass'n, <https://www.osaa.org/demo/docs/handbooks/osaahandbook.pdf> (last visited Aug. 21, 2026).

and remain in the Catholic community as the child's parents desired. Participation in IDEA and Early Intervention has not compromised the Catholic identity of a school or a student.

National School Lunch Program. Several Catholic schools in the Archdiocese participate in the National School Lunch Program, serving families experiencing food insecurity. As a principal, *amicus* Ray-Timoney oversaw this program in coordination with the school's lunch program director. It has served Catholic school families and communities without affecting Catholic identity or the practice of the faith.

B. Participation does not require alteration of religious instruction, liturgical practice, or doctrinal commitment.

The pattern is consistent across every program and diocese that *amici* have administered. Catholic schools that participate in Title I still teach Catholic doctrine. Catholic schools that accept IDEA funds still hold Mass. Catholic schools that participate in state athletic associations with nondiscrimination policies covering sexual orientation still teach Catholic doctrine on human sexuality. Catholic schools in Multnomah County's PFA continue to operate through a Catholic worldview. Catholic schools in Buffalo that participated in New York's UPK maintained their Catholic identity.

The nondiscrimination conditions attached to these programs govern enrollment and service delivery. They do not govern theology. They do not govern pedagogy. They do not govern worship. The distinction between enrollment nondiscrimination and institutional religious identity is not a theoretical

construct. It is the operational reality of Catholic schools across the country, confirmed by *amici*'s combined decades of professional experience.

C. The operational reality of compliance.

1. *Amici*'s experience in their dioceses.

In *amici*'s experience, Catholic schools have always served families beyond the Catholic community. They routinely enroll children of non-Catholic families and children from families of other religious traditions. None of this has been understood as incompatible with Catholic identity or mission. Indeed, it is an expression of that mission — an opportunity for evangelization and community building, consistent with the Catholic commitment to serve all people.

During *amicus* Ray-Timoney's tenure and continuing to the present, Catholic schools in the Archdiocese of Portland have enrolled children from a wide range of family structures, including families headed by same-sex parents. These same schools have accessed IDEA funds, Title services, and Early Intervention services. They have also participated in OSAA-sponsored activities subject to nondiscrimination requirements covering sexual orientation. This has not required the schools to alter their religious instruction or to abandon their Catholic identity. The schools continue to teach through a Catholic lens, to celebrate the sacraments, and to form children in the Catholic faith.

2. How enrollment operates in mixed-delivery preschool programs.

Publicly funded mixed-delivery preschool programs of the kind at issue here typically match families to providers through a centralized application system rather than leaving each provider to assemble its own roster from scratch. *Amici* have administered Catholic school enrollment within such systems.

Within these systems, participating providers may identify enrollment preferences: priority for siblings of currently enrolled children, for children of employees, or for families within a defined geographic area. *Amici's* experience is that these preferences operate as ordering rules among families eligible for a seat. They determine which eligible family is matched first when demand exceeds capacity.

Amici's experience is consistent with the Department's Universal Preschool director's testimony. The director testified that school district-based providers operating programs resourced for particular needs serve all children, while directing a specialized program or location to the population it is designed to serve. Pet. App. 37a n.17. That is the distinction *amici* describe from their own administration of these systems. A specialized or preferred program allocates capacity among eligible children. It does not authorize a provider to decline a child based on a characteristic the program protects.

The distinction matters operationally and, in *amici's* experience, is well understood by Catholic school administrators. In the systems that *amici* have administered, eligibility to participate is set by the program. The program defines which children may

receive publicly funded preschool, families apply through the centralized system, and the system matches eligible children to participating providers. A preference operates only after that — on the order in which already-eligible children are matched when demand exceeds capacity. Administering a preference has never, in *amici*'s experience, carried with it authority to decline a family the system has matched to the provider on account of a characteristic the program protects. Catholic schools administer both simultaneously as a matter of routine practice.

II. Religious providers participate in Colorado's program under the same condition applicable to all providers.

Religious schools participate in Colorado's UPK program, and public funds flow to religious preschools under it. More than forty faith-based providers — including six Catholic Charities preschools that are part of the Archdiocese of Denver — participated in UPK's inaugural year. Pet. App. 62a, 115a.

The equal-opportunity requirement is a condition of participation applicable to all providers, secular and religious alike. *Amici*'s experience across three states demonstrates that nondiscrimination conditions do not function as proxies for religious identity. They apply on identical terms to every provider regardless of religious character.

From *amici*'s experience, these partnerships depend on program design. A State or locality may deliver publicly funded preschool entirely through public providers or may build a mixed-delivery system where community-based, private, and religious providers serve children alongside public ones.

Colorado built a mixed-delivery system. New York and Multnomah County did the same. Catholic schools have been substantial beneficiaries of that design. *Amicus* Uhl describes New York's UPK as a financial lifeline for Catholic schools in the Diocese of Buffalo. *Amicus* Ray-Timoney describes PFA as providing critical financial support for Catholic families in Multnomah County.

Amici express no view on what the Constitution requires of a government that chooses to fund private providers. They describe only how the programs that they have administered operate in practice.

III. *Amici's* experience provides context for the Court's analysis.

Petitioners' supporting *amici* predict that nondiscrimination conditions will drive Catholic and other religious institutions out of publicly funded programs. The United States Conference of Catholic Bishops warns that upholding the Tenth Circuit's decision will devastate Catholic social services and the communities that depend on them. Br. of USCCB as *Amicus Curiae* in Support of Pet'rs 15–20. West Virginia and twenty other States warn that it threatens the broader system of partnerships between governments and faith-based providers. Br. for West Virginia, et al. as *Amici Curiae* in Support of Pet'rs 21–22. *Amici's* experience confirms the opposite.

In every system that *amici* have administered, Catholic schools participated in publicly funded programs carrying nondiscrimination conditions. Those schools taught Catholic doctrine, celebrated the sacraments, and formed children in the Catholic faith. None withdrew from a program over its

nondiscrimination condition, and none altered its religious instruction to remain in one.

CONCLUSION

The Court should affirm the judgment of the Court of Appeals for the Tenth Circuit.

Respectfully submitted,

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AUGUST 2026