

IN THE SUPREME COURT OF THE UNITED STATES

No. 25-581

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

v.

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

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

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

Pursuant to Rule 28 of the Rules of this Court, the Solicitor General, on behalf of the United States, 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 respondents, and requests leave to file this motion out of time. Counsel for petitioners consents to this motion.

This case concerns the Free Exercise Clause's application to a state benefits program under which funding recipients can give preferential treatment to beneficiaries based on certain characteristics (income and disability) and other individualized,

state-approved criteria, but not religiously-motivated preferential treatment based on other characteristics. At the certiorari stage, the United States filed a brief as amicus curiae arguing that this Court should grant review. Now, at the merits stage, the United States has filed a brief arguing that the challenged benefits program is subject to strict scrutiny and violates the Free Exercise Clause.

The time to file a motion for divided argument expired on August 24, 2026. Sup. Ct. R. 28.4. The United States did not file a motion by that date. The government regrets that oversight and does not lightly make this request out of time. But because the Court's consideration of the case would be materially assisted by hearing argument from both the United States and petitioner, we respectfully request that the Court grant this motion, which may still be considered at a scheduled Conference prior to the date of oral argument.

The United States has substantial interests in protecting religious exercise and in enforcing rules prohibiting discrimination by government funding recipients. The United States previously presented argument in many of this Court's Free Exercise Clause cases. See, e.g., Mahmoud v. Taylor, 606 U.S. 522 (2025) (No. 24-297); Fulton v. City of Philadelphia, 593 U.S. 522 (2021) (No. 19-123); Espinoza v. Montana Dep't of Rev., 591 U.S. 464 (No. 18-1195). The United States' participation in oral

argument would materially assist the Court in its consideration of this case.

Respectfully submitted.

D. JOHN SAUER
Solicitor General
Counsel of Record

AUGUST 2026