

No. 26-237

In the
Supreme Court of the United States

JOHN WOOLARD, ET AL.,
Petitioners,

v.

TONY THURMOND, ET AL.,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

**BRIEF FOR THE BLUE RIDGE ACADEMY AND
VISIONS IN EDUCATION RESPONDENTS
IN OPPOSITION**

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QUESTION PRESENTED

California allows public schools to offer independent study programs in which students may pursue a public education outside of a brick-and-mortar classroom. But independent study programs are different in critical respects from private homeschooling, which California also permits families to pursue at their election. Most notably, while independent study programs offer greater flexibility in tailoring an education to a student's individual needs or interests, curricula must still align with state standards, and must be approved and supervised by state-credentialed teachers. State-credentialed teachers regularly meet with students, assess their progress, and assign final grades. And, like all education in public schools, California law requires independent study curricula to be secular. By contrast, families that select private homeschooling can pursue essentially any curriculum they wish—including one in which religion is taught as truth—without any involvement or supervision by a public school or state-credentialed teacher.

The question presented is whether petitioners' decision to enroll their children in California independent study programs offered by respondents Blue Ridge Academy and Visions in Education entitles petitioners to demand that the State pay for, oversee, and assess their children's mastery of a curriculum in which religion is taught as truth.

CORPORATE DISCLOSURE STATEMENT

Respondents Blue Ridge Academy and Visions in Education are nonprofit public benefit corporations. Neither has a parent company or issues stock.

Respondents Samantha Haynes, Lisa Sophos, Jessie Maron, Brian Albright, Steve Olmos, Jennifer Morrison, Micah Studer, and Mark Holman are individuals.

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INTRODUCTION

From the very beginning of their petition onward, petitioners pitch this case as involving a traditional private homeschooling program in which “parents choose the curriculum” and “teach it” without involvement from state-credentialed teachers. Pet.2; *see id.* at i, 8-9, 19-20, 22-23, 30. California does allow families to pursue such a private homeschooling model on their own, including to provide their children with a religious education. But petitioners chose, instead, to enroll their children in independent study programs offered by public schools. Such programs offer a way for families to pursue a public education outside of a brick-and-mortar classroom—including at home—where an education may be better tailored to a child’s individual needs or interests. But, unlike with private homeschooling, state-credentialed public school teachers must select and approve the curricula in independent study programs; they are directly involved in teaching students; and they assess students’ mastery of required concepts and grade their work. Petitioners’ attempt to recast this case as involving a conventional homeschooling program is alone reason to deny the petition. It is a catchy narrative, but it simply is not this case.

The reason petitioners strain to avoid the realities of this case is that it does not meet any of the traditional criteria for certiorari. Indeed, the most important factor this Court typically looks to is the existence of a circuit conflict. But petitioners do not seriously attempt to allege a conflict. They wait until page 25 of their 32-page petition even to make the argument. And none of the decisions they cite involve an independent study program operated by a public

school. Instead, what they describe as their best, or “[m]ost prominent[]” (Pet.25), case involved a voucher-type program with a religious test. *A.H. ex rel. Hester v. French*, 985 F.3d 165 (2d Cir. 2021). Here, any family in California is eligible to participate in an independent study program, regardless of their religion. Each of the few cases they cite is easily distinguishable. There is no conflict.

The petition also has major vehicle problems. As noted, it proceeds on the false premise that the case involves conventional private homeschooling where parents choose and teach any curriculum they want. Perhaps recognizing that strawman for what it is, some of petitioners’ amici attempt to transform this case into one about whether charter schools are “state actors.” *E.g.*, Manhattan Inst. & Notre Dame Educ. L. Project Amici Br. 5. But petitioners do not make, and so have waived, that “state actor” argument. Indeed, the phrase “state actor” is absent from the petition. While respondents are public charter schools, petitioners have waived any charter-school-specific arguments; instead, petitioners’ arguments, no doubt by design, logically apply to *all* California public schools that offer independent study programs—including traditional public schools.

Petitioners’ and amici’s claims as to the importance of this case are also based on the false premise that this case involves conventional private homeschooling, and so threatens the ability of millions of parents to provide a religious education to their children at home. *Infra* at 15-21, 32-33. That is incorrect. This case involves a challenge to independent study programs offered in accordance with California law. Only a tiny fraction of participants in such programs have sought a religious

education. And all of them remain free to leave the public school system and instead elect a traditional homeschooling model in which parents may teach religion as truth, or to provide religious instruction to their children outside of a public education program. This case will have no impact on the availability or form of private homeschooling in California.

Finally, petitioners' assault on the Ninth Circuit's decision is also a product of the false narrative that this case involves a private homeschooling model. This Court's *Trinity Lutheran* trilogy makes clear that if a State offers "tuition assistance that parents may direct to the public or private schools of their choice," it cannot exclude private schools because they are religious. *Carson ex rel. O.C. v. Makin*, 596 U.S. 767, 785 (2022) (emphasis omitted). But when it comes to public schools, *Carson* reaffirmed that States "may provide a strictly secular education." *Id.* And *Carson* itself recognized that a State may "expand the reach of its public school system" beyond the traditional brick-and-mortar model. *Id.* Petitioners repeatedly claim that the Ninth Circuit held that "*homeschools ... are actually public schools.*" Pet.4-5; *see id.* at 22. That is false. The court simply recognized—correctly—that independent study programs are "part of the state system of public education." Pet.App.8a; *see id.* at 15a-16a.

Nothing in this Court's precedents, or the Free Exercise Clause, requires California and its public schools to subsidize, implement, and assess student mastery of a curriculum that teaches religion as truth simply because the State has chosen to expand educational opportunities in its public schools by offering an independent study program to students who, for one reason or another, cannot attend a brick-

and-mortar classroom, or would excel in an alternative learning environment. Under the same reasoning, a State’s decision to offer a public education generally would require a State to fund and oversee religious education, too. Ultimately, petitioners do not insist on the application of this Court’s precedents—they want this Court to radically overhaul them. The petition should be denied.

STATEMENT OF THE CASE

A. Background

1. California’s School System

California’s constitution, like that of most States, requires a system of free public schools. Cal. Const. art. IX, § 5. For decades, that system has included not only traditional public schools, but also charter public schools, which are “part of California’s single, statewide public school system.” *Wilson v. State Bd. of Educ.*, 89 Cal. Rptr. 2d 745, 752 (Ct. App. 1999), *review denied* (Jan. 25, 2000); *see* Cal. Educ. Code § 47615(a)(1). Like traditional public schools, California’s charter schools “are under the jurisdiction of the Public School System and the exclusive control of the officers of the public schools.” Cal. Educ. Code § 47615(a)(2). Like traditional public schools, charter schools “shall meet all statewide standards.” *Id.* § 47605(d)(1). They must conduct the same student assessments required in traditional public schools. *Id.* And as public schools, charter schools must provide a strictly secular education. Cal. Const. art. IX, § 8; *see* Cal. Educ. Code § 47605(e)(1).

California also has thousands of private schools.¹ Most California students who attend a traditional private school attend a religiously affiliated school.² Unlike public schools, private schools in California are subject to very little state regulation. The minimal requirements to which they must adhere include using instructors “capable of teaching,” teaching in English, “offer[ing] instruction in the several branches of study required to be taught in the public schools,” keeping attendance records, and filing an annual affidavit with the Superintendent of Public Instruction. Cal. Educ. Code § 48222. But private schools “function outside the jurisdiction of the California Department of Education (CDE) and most state education regulations.”³

In California, traditional homeschooling falls under the umbrella of private schooling. *Jonathan L. v. Superior Ct.*, 81 Cal. Rptr. 3d 571, 578 (Ct. App.

¹ Cal. Dep’t of Educ., *Private School Counts & Enrollment by Year* (Oct. 2, 2026), <https://www.cde.ca.gov/ds/si/ps/psastatcountsbyyear.asp> (indicating that the State contained nearly 3,000 private schools with more than five students in 2025-2026).

² Letter from Legis. Analyst’s Off., Cal. Legislature, to Rob Bonta, Att’y Gen., at 4 (Nov. 2, 2023), <https://oag.ca.gov/system/files/initiatives/pdfs/fiscal-impact-estimate-report%2823-0026%29.pdf> (indicating that “approximately 70 percent” of students attending the State’s 3,007 private schools attend religiously affiliated schools); *see also* Cal. Dep’t of Educ., *Private School Counts & Enrollment by Year*, *supra* (indicating there were 3,007 private schools with more than five students in 2022-2023).

³ Cal. Dep’t of Educ., *Private Schools Frequently Asked Questions*, What is a private school? (Sept. 3, 2025), <https://www.cde.ca.gov/sp/ps/psfaq.asp#a1>.

2008) (explaining that California’s “compulsory education statutes permit home schooling, as a species of private school education” (emphasis omitted)). As a result, California parents who wish to homeschool their children can do so by simply filing an affidavit with the State.⁴ For parents who do so, the State does not review curriculum, require teacher credentials, mandate particular testing, or grade students. Parents who homeschool their children as part of the system of private school education are free to adopt a curriculum that teaches religion as truth. Parents, not schools, issue their own diplomas to homeschooled children under this model.⁵ In 2025-2026, there were over 33,000 private schools in California serving fewer than six students.⁶

2. Independent Study In California Public Schools

California embraces educational innovation within its public school system. Indeed, the state legislature has “f[ound] and declare[d] that by offering a range of quality educational options, including classroom-based, hybrid, and nonclassroom-based programs, local educational agencies can better tailor instruction to pupils, thereby improving academic outcomes while

⁴ See Cal. Dep’t of Educ., *Schooling at Home* (Sept. 3, 2025), <https://www.cde.ca.gov/sp/ps/homeschool.asp>.

⁵ Cal. Dep’t of Educ., *Schooling at Home Frequently Asked Questions*, How do I issue a diploma or produce a transcript for my homeschooled child? (Sept. 3, 2025), <https://www.cde.ca.gov/sp/ps/schoolingathomefaq.asp>.

⁶ Cal. Dep’t of Educ., *Private School Counts & Enrollment by Year*, *supra*.

maximizing enrollment.” Cal. Educ. Code § 51744(a). Consistent with those views, the State has for decades allowed its public schools—including charter schools—to offer “independent study” programs, which can differ from traditional brick-and-mortar classrooms. But crucially, “independent study is permissible only when offered *by the public school system.*” *Jonathan L.*, 81 Cal. Rptr. 3d at 583 n.19.

Public schools—both traditional and charter—can choose to offer independent study as “an alternative to classroom instruction consistent with the district’s course of study.” Cal. Code Regs., tit. 5, (“5 CCR”) § 11700(c); 5 CCR § 11700.1(c) (including “charter school” within meaning of “district”); 5 CCR § 11700(d)(1)(A). This program permits students who are unable to, or do not wish to, attend school in person for various reasons—including a disability, unique athletic, artistic, or professional commitments, or other reasons—to secure a public education in a more accommodating setting.

“The curriculum and methods of study” specified in an independent study program “shall be consistent” with the school district or charter school’s “policies and procedures for curriculum and instruction.” 5 CCR § 11702(b). Content must be “aligned to grade level standards” and “substantially equivalent to in-person instruction.” Cal. Educ. Code § 51747(c). A school need not allow independent study for a given student “if school officials ... determine that independent study is not an appropriate alternative for the pupil.” 5 CCR § 11700(d)(1)(B). And if a student is not making “satisfactory educational progress” or misses too many assignments, the school will conduct “an evaluation ... to determine whether it is in the best

interests of the pupil to remain in independent study, or whether the pupil should return to the regular school program.” Cal. Educ. Code § 51747(b)(1).

A student’s independent study “shall be coordinated, evaluated” and “under the general supervision” of a state-credentialed teacher. *Id.* § 51747.5(a). “General supervision” encompasses “the supervising teacher’s ... continuing oversight of the study design, implementation plan, allocation of resources, and evaluation of pupil ... progress.” 5 CCR § 11700(b)(1). Among other things, the supervising teacher determines whether a student is “[l]earning required concepts” and “[p]rogressing toward successful completion of the course of study or individual course.” Cal. Educ. Code § 51747(b)(2)(C)-(D). And a school must provide daily or weekly opportunities for synchronous instruction, depending on a student’s grade level. *Id.* § 51747(e).

The supervising state-credentialed teacher (in addition to the student and their parent) must sign a written agreement governing a student’s independent study. *Id.* § 51747(g)(9)(A). The agreement must lay out the “methods of study for the pupil’s work,” *id.* § 51747(g)(2)—defined to mean the “activities *selected by the supervising teacher* as the means to reach the educational objectives set forth in the written agreement,” 5 CCR § 11700(f) (emphasis added). Before signing the agreement, parents can request a meeting to discuss “educational options, including which curriculum offerings ... will be available to the pupil in independent study, before making the decision about enrollment or disenrollment in the various options for learning.” Cal. Educ. Code § 51747(h)(2). But it is the written plan—to which the supervising state-credentialed teacher must agree—

that governs the “manner, time, frequency, and place for submitting a pupil’s assignments” and “reporting [their] academic progress”; “[t]he objectives and methods of study for the pupil’s work, and the methods used to evaluate that work”; “[t]he specific resources, including materials and personnel, that will be made available to the pupil,” and so on. *Id.* § 51747(g).

3. Blue Ridge and Visions

Blue Ridge Academy and Visions in Education are public charter schools that offer independent study programs governed by the same provisions of California law described above. Blue Ridge serves students from Transitional Kindergarten through twelfth grade. 2-ER-74.⁷ It offers a wide variety of instructional options, including approved online courses and curricula, approved textbook curricula, and approved in-person vendor courses, classes, projects, and activities. 2-ER-79. While families can help design a learning plan, it is the *state-credentialed teachers* employed by public schools who ultimately “select and approve curriculum, tutoring services, technology items, and enrichment classes to fit each student’s goals.” 2-ER-80. Blue Ridge does not disburse state funds directly to families to purchase materials; rather, the school first approves and then pays for all materials or resources. 2-ER-242; *see* 3-ER-512. Any materials or other non-consumable items used by a student also “must be returned to the charter school upon disenrollment or graduation from the school.” 2-ER-80; *see* 3-ER-512.

⁷ “x-ER-xx” citations refer to petitioners’ Ninth Circuit Excerpts of Record.

Blue Ridge “is dedicated to providing students and families with an online learning environment that can meet an individual student’s unique needs.” 2-ER-74. To that end, the school works with families to develop individualized instruction from approved curriculum options. 2-ER-79, 2-ER-84, 2-ER-87–90. Supervising teachers meet regularly with students, “provide instruction and support either in person or online,” 2-ER-84, and “have the first responsibility for measuring and monitoring student progress and performance,” 2-ER-125. Supervising teachers meet with students and parents at least once a month to review student work, and supervising teachers and parents “are in regular communication between learning period meetings.” 2-ER-84, 2-ER-128. Blue Ridge assigns grades and issues report cards to all students. 2-ER-128. And it conducts the state-mandated tests required in California public schools (charter and non-charter alike). 2-ER-24, 2-ER-126.

Like Blue Ridge, Visions serves students from Transitional Kindergarten through twelfth grade. 3-ER-349. Its state-credentialed teachers ensure that the curricula used in its relevant independent study program are aligned to state standards. 3-ER-370–71. Like at Blue Ridge, students can use a “prescribed curriculum pre-qualified by Visions” or a “personalized curriculum”—so long as it is “aligned to California State Standards.” 3-ER-371. Like Blue Ridge, Visions must approve parental requests for particular curricular materials. *See* 3-ER-481. Visions’ supervising teachers also “measure[]” “[s]tudent progress toward meeting individual learning objectives throughout the school year,” including by providing report cards. 3-ER-418–19.

And “[a]ll Visions students are required to participate in state-mandated testing.” 3-ER-418.

Blue Ridge and Visions at times refer to their independent study programs as offering “homeschooling.” And, for most students, that shorthand describes the physical location where learning takes place. But as discussed, traditional private homeschooling is fundamentally different than public schooling that takes place in the home as part of independent study programs in California.

B. This Litigation

1. Petitioners are parents or guardians who opted to enroll their children in public schools rather than enrolling them in religious private schools or undertaking private homeschooling. *See* Pet.App.10a-11a. Petitioners enrolled their children and grandchildren in independent study programs at Blue Ridge and Visions. Petitioners then requested that the schools purchase various religious materials, including a “[w]orldview shaping” curriculum that teaches that “the Bible is God’s Word, and it is true.” Pet.App.11a (alteration in original). Respondents denied those requests; as is true for all public schools in California—and public schools across the country—Blue Ridge and Visions cannot provide or fund curricula in which religion is taught as truth.⁸

⁸ Petitioners quarrel about the nature or degree of religious content in some of the materials they requested. Pet.3, 11. But their complaint makes clear that what they demand is for California to purchase and assess student mastery of “instructional materials that incorporate a faith-oriented worldview” and “faith-based curricul[a],” 3-ER-486–87; *see* 3-ER-501—not merely materials that touch on religious themes

Petitioners sued Blue Ridge, Visions, and various officials, alleging violations of the First Amendment. 3-ER-472–503. They claimed that California’s decision to offer an independent study option at public schools requires the State to fund a religious curriculum for any families that wish to pursue one as part of a public education. Among other relief, they sought an injunction requiring Blue Ridge and Visions to purchase “faith-based curricula and other instructional materials that reflect a religious viewpoint” and to accept student “work samples that derive from a faith-based curriculum or reflect a religious viewpoint.” 3-ER-501.⁹

2. The district court dismissed the complaint. Pet.App.78a. It explained that, in contrast to “a private homeschool setting,” where parents “may be the curriculum decisionmaker,” curricula in Blue Ridge’s and Visions’ independent study programs “are strictly monitored,” such that neither school “allows parents or guardians to be the unilateral decisionmaker of a student’s curriculum.” *Id.* at 75a. “[S]upervising teachers review student-work” and “ensure that the independent study programs meet state guidelines.” *Id.* at 66a. A “supervising teacher’s general supervision requires, among other things, continued oversight of the study design,

incidentally or as a matter of historical fact. Likewise, their petition underscores that they want to use respondents’ independent study programs “to instill their faith in their children,” Pet.10—not merely to teach *about* religion, which California law expressly permits, *see* Cal. Educ. Code § 51511.

⁹ Petitioners also alleged that requiring them to use non-religious materials in independent study programs violated their free speech rights under the First Amendment. They do not present that question to this Court. Pet.i.

implementation plan, allocation of resources, and evaluation of student progress.” *Id.* at 70a; *see id.* at 72a-73a. Indeed, the court explained, “Visions and Blue Ridge’s publicly funded independent study programs do not, and cannot under California law, provide a private choice of curriculum.” *Id.* at 75a.

The district court rejected petitioners’ claim that the First Amendment nevertheless requires California to allow, and fund, a religious education of petitioners’ own choosing. The court explained that *Carson* “confirmed” that a State may “provide a strictly secular education in its public schools.” Pet.App.75a-76a. And the court rejected petitioners’ reliance on *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 582 U.S. 449 (2017), *Espinoza v. Montana Department of Revenue*, 591 U.S. 464 (2020), and *Carson*, explaining that this case “involves California’s laws and regulations for state funded public schools, not private schools.” Pet.App.76a-77a.

3. A panel of the Ninth Circuit affirmed. *Id.* at 1a-19a.¹⁰ Like the district court, the Ninth Circuit emphasized that the independent study programs at issue in this case are fundamentally different than “private homeschooling” in California. *Id.* at 17a. For example, “independent study programs must be coordinated and evaluated by, and ‘under the general supervision of,’ state-certified teachers.” *Id.* (quoting Cal. Educ. Code § 51747.5(a)). “Those teachers,” moreover, “must provide ‘continuing oversight of the study design, implementation plan, allocation of resources, and evaluation[s].’” *Id.* (alteration in original) (quoting 5 CCR § 11700(b)). “[P]rivate

¹⁰ Citations are to the panel’s amended opinion.

homeschooling programs ... are subject to none of those requirements.” *Id.* Beyond teaching certain “general principles,” they “do not need to follow any curricular requirements”; they do not need to require students “to take any statewide tests”; and they do not require state-credentialed teachers. *Id.* at 17a-18a.

Applying this Court’s precedents, the Ninth Circuit affirmed the dismissal of petitioners’ free exercise claim. The court concluded that the independent study programs at issue here “share the features of public education that the Court emphasized in *Carson*.” *Id.* at 16a. California’s public charter schools “must be free to attend and accept all students for which they have capacity”; the independent study programs they run must be aligned to state content standards; and their students “must take state assessments that test their ability to meet those standards.” *Id.* Moreover, independent study programs must be coordinated, supervised, and evaluated by state-credentialed teachers. *Id.* at 17a.

The Ninth Circuit accepted that Blue Ridge and Visions offer parents “flexibility to choose which pre-existing curricula to use to educate their children, or to create their own.” *Id.* at 18a. “But with that flexibility,” the panel explained, “comes substantial legal constraints not applicable to private schools.” *Id.* And, “in contrast to private homeschooling,” independent study programs are “supervis[ed] [by] state employees.” *Id.* In sum, the panel held, “[t]he extensive legal requirements applicable to the defendant charter schools’ independent study programs make them public school programs,” defeating petitioners’ free exercise claim. *Id.*

The Ninth Circuit denied rehearing en banc, over the dissent of five judges. *Id.* at 9a, 20a-48a.

REASONS FOR DENYING THE WRIT

I. THE PETITION RESTS ON A FUNDAMENTAL MISCHARACTERIZATION OF INDEPENDENT STUDY PROGRAMS

The petition rests on a fundamental distortion of the programs at issue. Petitioners pitch this case as if it involves traditional private “homeschooling” in which parents choose and teach the curriculum on their own. Pet.i, 2; *see also*, e.g., Pet.App.29a (Bumatay, J., dissenting from denial of rehearing en banc). The notion that parents choose the curriculum is baked into the question presented. Pet.i (describing programs as “homeschooling using parents’ chosen curricula”). But, while the independent study programs at issue are sometimes referred to as involving “homeschooling”—given that students learn outside of brick-and-mortar classrooms, typically in their homes—they are fundamentally different from the kind of private homeschooling petitioners invoke.

California allows families that wish to pursue traditional private homeschooling to do so. *See Jonathan L. v. Superior Ct.*, 81 Cal. Rptr. 3d 571, 581-92 (Ct. App. 2008). A family must file an affidavit with the State and keep attendance records; but so long as they “provide English-language instruction in broadly framed ‘areas of study,’” Pet.App.17a (citation omitted), parents are free to adopt any curriculum for their child—including a religious one—free of virtually any state involvement.¹¹ As the Ninth

¹¹ For example, for seventh to twelfth grade math, a curriculum satisfies private-school content standards if it includes “instruction designed to develop mathematical

Circuit explained, private homeschooling is not subject to the requirements that govern curriculum, assessment, and teacher credentialing and supervision in public schools' independent study programs. Pet.App.16a-18a. California caselaw thus specifically distinguishes private "home schooling" from "independent study ... offered *by the public school system* and supervised *by a certified teacher*." *Jonathan L.*, 81 Cal. Rptr. 3d at 583 n.19.

In their attempt to conflate the independent study programs at issue here with traditional private homeschooling, petitioners advance a series of false or misleading assertions that are contradicted by California law and the record in this case.

1. Petitioners claim that "it's ... the parents—not the schools—who choose what curriculum to use" in California's independent study programs. Pet.23; *see id.* at 2 ("[P]arents choose the curriculum."); *id.* at 8 ("Parents select the curriculum."); *see also* Pet.App.29a (Bumatay, J., dissenting from denial of rehearing en banc) (independent study involves "a curriculum of [parents'] own choosing"). According to petitioners, "[c]redentialed teachers" "play *no role* in selecting the curriculum." Pet.7-8 (emphasis added). And petitioners' question presented is built on the premise that the programs "us[e] parents' chosen curricula." *Id.* at i. That is simply false.

In fact, California law provides that the "methods of study" in an independent study program, Cal.

understandings, operational skills, and insight into problem solving procedures." Pet.App.17a (quoting Cal. Educ. Code § 51220(f)). In contrast, the state standards for Kindergarten to twelfth grade math "are laid out in a 151-page document that gives detailed descriptions of the skills and content that students should master at each grade level." *Id.* at 16a.

Educ. Code § 51747(g)(2), are the “activities *selected by the supervising teacher* as the means to reach the educational objectives set forth in the written agreement” governing a student’s independent study, 5 CCR § 11700(f) (emphasis added). Parents can ask to discuss “educational options, including ... curriculum offerings” before making a “decision about enrollment or disenrollment in the various options for learning.” Cal. Educ. Code § 51747(h)(2). But it is ultimately a student’s written independent study agreement that governs “[t]he objectives and methods of study for the pupil’s work” and “[t]he specific resources, including materials and personnel, that will be made available to the pupil.” *Id.* § 51747(g)(2)-(3). And a state-credentialed teacher must approve that written agreement. *Id.* § 51747(g)(9)(A).

Consistent with those requirements, Blue Ridge and Visions offer parents a menu of pre-approved curricular options. 2-ER-76–80, 2-ER-215–31 (Blue Ridge); 3-ER-371 (Visions). Curricular offerings can be customized, including with parental input. 2-ER-79 (Blue Ridge); 3-ER-371 (Visions). But ultimately, “*teachers* select and approve curriculum.” 2-ER-80 (Blue Ridge) (emphasis added); *see* 3-ER-371 (“*Credentialed teachers* [at Visions] will work with families to develop a personalized learning plan and to ensure that curriculum meets California State Standards.” (emphasis added)). The same goes for textbooks and other educational materials: Parents can choose among options from a pre-approved menu. *E.g.*, 2-ER-79–80, 3-ER-512 (Blue Ridge). But as petitioners’ own allegations illustrate, requests for particular educational materials can be denied. *See* 3-ER-482–88. In short, as the district court recognized, neither school “allows parents or

guardians to be the unilateral decisionmaker of a student's curriculum." Pet.App.75a.

2. In an effort to fit the mold of *Trinity Lutheran* and its progeny, petitioners further claim that parents "direct state funds" to curricular materials, as though they receive a stipend or voucher. Pet.8; *see also id.* at 19. That is incorrect, too. As explained, *state-credentialed teachers* have the ultimate authority to select curriculum for use in an independent study program. *Supra* at 16-18. Indeed, petitioners' own complaint alleges that a state-credentialed teacher "must approve all requests to use" state funds. 3-ER-480 (Blue Ridge); *see also* 3-ER-481 (Visions). At Blue Ridge, "[p]arents and students are not given access" to the funds used to purchase curricular materials; they must make requests for "educational items and services," which must be approved by the supervising teacher and the school's Executive Director before any funds are spent. 2-ER-242; *see also id.* (school approval required before purchasing "any educational items or service"). Likewise, at Visions, the state-credentialed teacher "review[s] and approve[s] all expenditures of instructional budget funds" before any funds are expended. 3-ER-481 (citation omitted).

3. Petitioners likewise claim that a curricular "choice doesn't have to 'resemble that taught in the [California] public schools.'" Pet.23 (alteration in original) (quoting Pet.App.28a-30a (Bumatay, J., dissenting from denial of rehearing en banc)). Wrong again. Under California law, independent study programs must provide "content aligned to grade level standards that is substantially equivalent to in-person instruction." Cal. Educ. Code § 51747(c). Independent study is "an alternative to classroom

instruction,” but it must be “consistent with the district’s course of study.” 5 CCR § 11700(c). Consistent with state-law requirements, Blue Ridge and Visions make clear that curricula in their independent study programs must be aligned to state standards. *See* 2-ER-121, 2-ER-243 (Blue Ridge); 3-ER-371 (Visions). Any claim that California’s independent study program need not “offer an education that is equivalent—roughly or otherwise—to that available in the [California] public schools,” Pet.App.29a-30a (Bumatay, J., dissenting from denial of rehearing en banc) (alteration in original) (citation omitted), is thus contradicted by California law and the actual practices of Blue Ridge and Visions.

4. Petitioners also mischaracterize the programs in claiming that state-credentialed teachers “play no role in ... teaching” the selected curriculum. Pet.8. Supervising teachers can, and do, provide direct instruction to students, both online and in person. *See* 2-ER-83–84, 2-ER-88–89 (Blue Ridge); 3-ER-370 (Visions). And independent study students can access teacher-led support beyond their supervising teachers, too. A school offering independent study must provide daily or weekly opportunities for synchronous instruction, depending on a student’s grade level. Cal. Educ. Code § 51747(e). And schools often exceed those minimal requirements. Blue Ridge, for example, provides high school students with daily opportunities for virtual instruction and office-hour support from state-credentialed content specialist teachers. 2-ER-90, 2-ER-95, 2-ER-140.

Likewise, petitioners err in stating that parents “grade their own children.” Pet.22. Although parents may provide initial feedback on assignments, state law requires *supervising teachers* to “evaluat[e]” a

student's "progress," 5 CCR § 11700(b)(1); *see* Cal. Educ. Code § 51747.5(a), and determine whether a student is "[l]earning required concepts" and "[p]rogressing toward successful completion of the course of study or individual course," *id.* § 51747(b)(2)(C)-(D); *see also id.* § 51747(g)(2) and 5 CCR § 11700(e) (together indicating that a state-credentialed teacher will "*personally assess[]* the extent to which achievement of the pupil ... meets the objectives of an assignment" (emphasis added)).

Respondents follow that state requirement. At Blue Ridge, state-credentialed teachers "have the first responsibility for measuring and monitoring student progress and performance," and the *school* issues report cards. 2-ER-125; *see* 2-ER-128. And at Visions, state-credentialed teachers "assess[] assignments" and "issu[e] final grades." 3-ER-370–71. While formal meetings must occur at least every twenty school days, *see* 2-ER-128 (Blue Ridge); 3-ER-428 (Visions), that is hardly the extent of teacher oversight or involvement. Supervising teachers and parents "are in regular communication between learning period meetings," 2-ER-128, with one supervising teacher noting that "[m]any parents reach out ... almost daily for guidance," 2-ER-309.

All this is fundamentally different than private homeschooling, where parents can choose their own curriculum without limitation, parents alone assess and grade their children's progress, and no state-credentialed and funded teachers are involved. The fundamental mismatch between the strawman program petitioners attack and the independent study programs Blue Ridge and Visions actually administer in accordance with California law is

reason enough to deny the petition. Petitioners’ own question presented is based on a false premise.

II. NONE OF THE TRADITIONAL CRITERIA FOR CERTIORARI ARE MET

The petition also flunks the traditional criteria for certiorari. There is no conflict among the circuits—indeed, petitioners barely even allege one. This case is a poor vehicle on multiple levels. Contrary to petitioners’ rhetoric, the decision below does not invite intrusion on parents’ constitutional rights—at home or school—or threaten parents’ ability to adopt a traditional private homeschooling model in which parents truly choose the curriculum and teach it, including a religious curriculum. And the Ninth Circuit’s application of this Court’s precedents to the particular circumstances here was correct.

A. There Is No Circuit Conflict

Tellingly, the petition does not even attempt to allege a split until page 25, and then offers only a cursory discussion of a few readily distinguishable cases. Pet.25-27. Neither petitioners nor their amici cited any of those cases below—even when petitioners sought rehearing en banc—and for good reason: None remotely involve the question presented here, let alone demonstrate a conflict on it.

Petitioners describe *A.H. ex rel. Hester v. French*, 985 F.3d 165 (2d Cir. 2021), as their “[m]ost prominent[]” case. Pet.25. There, Vermont provided tuition assistance for dual-enrollment college courses to students at certain secular high schools, but withheld such assistance from students at certain religious high schools. The plaintiff was denied tuition assistance for science classes at the University

of Vermont because she attended a religious high school. *A.H.*, 985 F.3d at 173. The Second Circuit held that this denial—“solely because of her school’s religious status”—violated the Free Exercise Clause. *Id.* at 179-80. Nor was there any Establishment Clause concern: “Vermont fund[ed] the [dual enrollment program] by paying tuition directly to Vermont colleges—not religious high schools,” and “only as a result of Vermont students or families ‘independently choosing’ where they wish to dual-enroll.” *Id.* at 177 (citation omitted).

This case is readily distinguishable. *A.H.* did not involve an independent study program run through a public school, or anything like it. It involved a voucher-type program with a religious test to participate in it. But no one is denied access to California’s independent study program because of their faith; all California families are eligible regardless of their faith. *A.H.* also concerned public funding for secular dual-enrollment courses. By contrast, petitioners seek to compel California to fund, supervise, and assess student mastery of a curriculum that teaches religion as truth. And as explained, the curricula at issue here are not independently chosen by students or parents. *Supra* at 16-18. There is no conflict between the cases.

Petitioners’ other cases are even further afield. *Hartmann v. Stone*, 68 F.3d 973, 975-78 (6th Cir. 1995), struck down a regulation forbidding independent contractor childcare providers for Army personnel from participating in religious practices with the children. The policies challenged here do nothing like that. Caregivers, including parents of children enrolled in these independent study programs, are wholly free to engage in religious

practices at home with enrolled children—and to supplement approved curriculum with religious teaching of their own. California law simply requires that the curriculum that is funded, supervised, and assessed by public schools and state-credentialed teachers be secular.

Likewise, in *Colorado Christian University v. Weaver*, the court held that Colorado could not discriminate between religious institutions by deeming some too “pervasively sectarian” for their students to get scholarships. 534 F.3d 1245, 1250, 1257-60 (10th Cir. 2008). Petitioners’ suit does not allege discrimination between religions or religious curricula here, and there is none. California has simply chosen to maintain “a strictly secular education in its public schools,” *Carson ex rel. O.C. v. Makin*, 596 U.S. 767, 785 (2022), just like every other State in America, including the amici States.

Petitioners assert that the courts in these cases could have considered whether the schools involved were public or private. Pet.26-27. But the courts had no occasion to do so. *Hartmann* did not involve schools at all. And in *A.H.* and *Colorado Christian University*, there was no demand to provide religious curriculum or instruction such that the distinction between a public and private school would matter. *See Carson*, 596 U.S. at 785. As a result, none of these cases speak to the question presented, much less evince lower-court division on it.

Petitioners’ reliance (Pet.29-30) on *McMurry v. Weaver*, 142 F.4th 292 (5th Cir. 2025), is even more of a reach. *McMurry* held that, for Fourth Amendment purposes, a family’s apartment was not transformed “into the constitutional equivalent of a public school” merely because a student “attend[ed] virtual classes”

there. 142 F.4th at 301. That Fourth Amendment holding has no bearing on this case. And, in any event, the Ninth Circuit has long maintained the same position—that the doctrine governing “in-school searches” does not permit warrantless entry into the home to check on homeschooled children. *Calabretta v. Floyd*, 189 F.3d 808, 810, 816-17 (9th Cir. 1999).

The absence of any circuit conflict whatsoever is another independent reason to deny the petition.¹²

B. This Case Is A Poor Vehicle

Even putting aside the absence of a conflict, this petition is a poor candidate for review. To begin, there is a fundamental mismatch between the question described in the petition and the actual programs at issue in this case. As explained, while petitioners pitch this case as involving the exclusion of religion from a private homeschooling model where parents fully control and teach the curriculum, without the involvement of public schools and state-credentialed teachers, the independent study programs at issue here are fundamentally different. *Supra* at 15-21. This mismatch is reason alone to deny certiorari. The constitutional issues petitioners attack stem from a strawman version of the programs at issue.

Perhaps recognizing the problems with petitioners’ question presented, petitioners’ amici attempt to introduce a new question—whether Blue Ridge and Visions are “state actors,” the question in *Oklahoma Statewide Charter School Board v.*

¹² Petitioners also claim that the Ninth Circuit has “revivified a zombie *Lemon* test to stalk the Free Exercise Clause.” Pet.27. But the Ninth Circuit did not cite or rely on the *Lemon* test or anything like it below. This boogeyman is a figment of petitioners’ own imagination.

Drummond ex rel. Oklahoma, 605 U.S. 165 (2025). See Manhattan Inst. & Notre Dame Educ. L. Project Amici Br. 4-6 (arguing that the charter schools at issue “are not state actors”); U.S. Senators Budd *et al.* Amici Br. 4-5 (same); see also Religious Freedom Inst. Amicus Br. 11-12 (arguing that the charter schools here are not government entities); Association of Christian Schs. Int’l Amicus Br. 10 (arguing that charter schools are independent of state control). But petitioners did not raise that argument in their petition, the question presented, or even below, so the argument is not before the Court here.

Likewise, this case is an inapt vehicle to consider any broader issues concerning charter schools. Petitioners concede that California charter schools “operate under the auspices of the public school system.” Pet.2. (And, to be clear, charter schools are fully integrated into the public school system under California law. *Supra* at 4.) Moreover, petitioners’ arguments make no distinctions between independent study programs offered by traditional public schools and those offered by charter public schools—all of which are subject to the same requirements under California law. See *supra* at 6-9. And their question presented is similarly not specific to charter schools. See Pet.i. Nor were any charter-school-specific issues pressed or passed upon below. It is too late for petitioners to switch theories now.

Nor does this case present an opportunity to address any broader First Amendment questions concerning government speech or compelled speech. See Association of Christian Schs. Int’l Amicus Br. 5-19 (arguing that the “Court should grant certiorari to ensure that the government-speech doctrine does not swallow the First Amendment” (capitalization

normalized)); Foundation for Moral Law Amicus Br. 6 (discussing “government speech rationale”). Petitioners did raise this argument below. Pet.App.18a-19a. But neither the question presented nor the petition adequately raises such questions.

Amici’s attempt to introduce new arguments not raised by petitioners is itself a red flag that the question presented does not merit review.

C. The Ninth Circuit Correctly Applied This Court’s Precedents

Underscoring the absence of any circuit conflict, petitioners mainly argue a conflict with this Court’s precedents. But in actuality, much of the petition seems intent on *changing* this Court’s precedent. For example, petitioners essentially ask this Court to rewrite *Carson* to eliminate its discussion of the factors that traditionally characterize public schools. See Pet.4-5, 20-22. Yet, petitioners do not ask the Court to overrule *Carson* or any other case—making this case an inapt vehicle for doing so. Applying this Court’s precedents, the Ninth Circuit properly rejected petitioners’ free exercise claim.

1. Petitioners focus their argument on the *Trinity Lutheran* trilogy. Pet.16-17 (discussing *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 582 U.S. 449 (2017), *Espinoza v. Montana Department of Revenue*, 591 U.S. 464 (2020), and *Carson*). Those cases establish a clear line: If a State offers “tuition assistance that parents may direct to the public or private schools of their choice,” it cannot exclude private schools because they are religious. *Carson*, 596 U.S. at 785 (emphasis omitted). But when it comes to public schools, *Carson* reaffirmed that States “may provide a strictly secular education.” *Id.*

Public schools are distinct from private ones in being free, open to all, nondiscriminatory, and subject to State curricular control. *Id.* at 783. And this Court has long held—in seminal precedents unchallenged here—that a State “may not ... undertake religious instruction nor blend secular and sectarian education” in its public schools. *Zorach v. Clauson*, 343 U.S. 306, 314 (1952); *see Illinois ex rel. McCollum v. Board of Educ. of Sch. Dist. No. 71, Champaign County*, 333 U.S. 203, 226-31 (1948). In *Carson*, this Court thus recognized that, rather than “fund religious education,” a State may choose to “expand the reach of its public school system”—including by offering “tutoring, remote learning, and partial attendance” programs. 596 U.S. at 785.

Over three decades ago, California chose to expand its public education offerings through charter schools and independent study programs. *See* Pet.App.9a; Cal. Educ. Code § 51745(a). California law comprehensively incorporates both charter schools and independent study programs into its public school system. Charter schools are created, overseen, and (if warranted) shut down by school district governing boards. *Today’s Fresh Start, Inc. v. Los Angeles Cnty. Off. of Educ.*, 303 P.3d 1140, 1144 (Cal. 2013); *see* Cal. Educ. Code §§ 47605, 47604.32, 47607(f)(4). “Like other California public schools, charter schools cannot charge tuition”; “cannot discriminate”; “must provide instruction meeting the same statewide standards as other California public schools”; and “must hire state-certified teachers.” Pet.App.14a (quoting *Wilson v. State Bd. of Educ.*, 89 Cal. Rptr. 2d 745, 753 (Ct. App. 1999)). And charter schools are funded by the State using the same model as traditional public schools. *Id.* (citing *Today’s Fresh Start*, 303 P.3d at 1145-46).

California's independent study program seeks to expand public education opportunities to individuals who, for one reason or another, would benefit from a non-classroom model of learning. Yet, while the medium of learning is different, independent study programs are governed by the same curricular requirements as traditional public schools. Independent study programs must provide instruction that is "substantially equivalent to in-person instruction" and is supervised by a state-credentialed teacher. Cal. Educ. Code § 51747(c); *see id.* § 51747.5(a). This is true regardless of whether the program is operated by a traditional public school or charter public school. *See Wilson*, 89 Cal. Rptr. 2d at 750; *Anderson Union High Sch. Dist. v. Shasta Secondary Home Sch.*, 208 Cal. Rptr. 3d 564, 571 (Ct. App. 2016). The same requirements apply.

Ignoring those requirements, petitioners argue that the Ninth Circuit held that "homeschool is public school." Pet.4; *see id.* at 4-5, 22. But the Ninth Circuit made no such holding. Rather, the court held that, considering the features described above, independent study programs are "part of the state system of public education." Pet.App.8a; *see id.* at 15a-16a. Nor did the Ninth Circuit resort to mere "label[s]." *Contra* Pet.4, 14, 19-24. Its decision is carefully grounded in California law and the features of the programs at issue. Pet.App.16a-17a. At the same time, there is no basis to conclude that public schools somehow cease to provide public education when they operate through virtual classrooms or offer alternative learning models, as an increasing number of public schools do across the country.

California's "private homeschooling programs," by contrast, "are subject to none of th[e] requirements"

imposing significant state control over public schools and the independent study programs at issue. *Id.* at 17a. It is thus petitioners who hang their hat on a label—“homeschool.” Pet.2-5, 8-9, 12, 15, 17, 19, 22, 24, 25 n.1, 28-29. The programs at issue here are fundamentally different than the traditional homeschool model on which the petition rests.

2. Petitioners’ primary contention is that the element of any “parental choice” means that parents must be able to choose a state-funded public education in which religion is taught as truth. Pet.8, 21-23. But as explained above, that contention rests on a false premise. While parents may provide *input* into the selection of a student’s curriculum, California law vests the ultimate decision on what curriculum is appropriate with the schools and their state-credentialed employees. *Supra* at 16-18. The funds and materials for independent study programs are likewise controlled, disbursed, and owned by the public school, rather than placed at parents’ disposal. *Supra* at 18. The programs here are thus unlike the scholarships in *Espinoza* or the tuition assistance in *Carson*, where parents had fully “independent choices” of where to direct state funds. *Carson*, 596 U.S. at 781; *see Espinoza*, 591 U.S. at 469. Here, California’s public schools and state-credentialed teachers retain control over the public education and materials that the State has decided to provide.

Petitioners claim that this Court’s cases establish a “simple rule”: “Once a State subsidizes education *outside the walls of its public schools*, it can’t disqualify an otherwise-eligible choice because the State deems it religious.” Pet.17 (emphasis added); *see id.* at 3, 23. But this Court has never adopted such an innovation-stifling rule, and it would make no

sense. Nothing in *Carson* limited the meaning of public education to “conventional government-owned and operated schools.” *Id.* at 21. To the contrary, *Carson* itself identified several general characteristics of public education and then identified “remote learning” as one way States might choose to deliver public education more broadly. 596 U.S. at 785. And petitioners themselves admitted below that the physical location of the instruction is not dispositive. CA9 Appellants’ Opening Br. 58 n.2 (acknowledging that public schooling can include “a program where a teacher leads a virtual classroom”).

Petitioners’ reliance on *Mahmoud v. Taylor*, 606 U.S. 522, 547 (2025), is also misdirected. Pet.18-19. There, the Court held that a State “burdens the religious exercise of parents when it requires them to submit their children to instruction that poses ‘a very real threat of undermining’ the religious beliefs and practices that the parents wish to instill.” 606 U.S. at 530 (quoting *Wisconsin v. Yoder*, 406 U.S. 205, 218 (1972)). Respondents follow *Mahmoud* and permit accommodations that exempt students from instruction that would undermine their religious beliefs and practices. And of course, parents are free to supplement the school-provided independent study curriculum with their own religious teachings.

But what petitioners seek here goes far beyond the common-sense accommodations required by *Mahmoud*. Petitioners would transform the “limits on the government’s ability to interfere with a student’s religious upbringing in a public school setting,” 606 U.S. at 547, into an entitlement to a religious education in that setting, and ultimately a diploma backed by the State. That is not only a misreading of *Mahmoud*, but is also fundamentally

out of step with this Court’s precedents. To safeguard “the free exercise of religion,” the Constitution does not permit a State to “utilize its public school system to aid any or all religious faiths or sects in the dissemination of their doctrines and ideals.” *McCullum*, 333 U.S. at 211-12; see Margaret F. Brinig & Nicole Stelle Garnett, *Lost Classroom, Lost Community: Catholic Schools’ Importance in Urban America* 149 (2014) (“[I]f the Supreme Court’s Establishment Clause canon establishes anything clearly, it is that public schools cannot teach religion as the truth of the matter.”). A public school’s decision to offer an independent study program as a means of providing a public education does not flip that prohibition into an obligation to offer and fund an education in which religion is taught as truth.

3. Petitioners’ arguments about “parental choice” (Pet.22-23, 27) mischaracterize the record here. *Supra* at 16-18. But it is also notable that the same arguments could be made about numerous aspects of the public school system. Families seeking a public education routinely choose between district, charter, and magnet public schools; and between STEM programs, vocational programs, and other educational options. Parent input into curriculum is also commonplace. For example, parents regularly choose between electives, languages, advanced-placement courses, field trips, and the like. If offering multiple options or entertaining curricular proposals equates to “extending public benefits that flow through private choices,” then all of those features of public schools “discriminate against the religious” unless public schools also offer to teach religion as truth. Pet.27. That cannot be right.

At the same time, adopting the religious curricula petitioners demand as part of California’s independent study program would force state-credentialed teachers within the public school system—who meet with students to discuss curriculum, assess assignments and progress, and “issu[e] final grades,” 3-ER-370–71—to evaluate and score student work premised on a curriculum that teaches religious doctrine as truth. The end result would place States in the role of funding and superintending religious doctrine in California’s public schools—exactly what *McColum*, *Zorach*, and a host of other longstanding precedents forbid.

D. Petitioners’ Claim Of National Importance Is Overblown

Petitioners and their amici suggest that the Ninth Circuit’s decision in this case threatens the ability of parents to pursue a purely religious curriculum through traditional private homeschooling, observing that “[m]ore than one-third of families who homeschool their children do so to provide a religious education.” Pet.28 (quoting CA9 National Council of Young Israel Amicus Br. 6). The amici States likewise observe that, “[a]s of 2022, more than 3 million K-12 students were reported to be homeschooled.” State of Utah et al. Amici Br. 12. But, as the cited articles underlying these claims make clear, these statistics refer to traditional private homeschooling.¹³ This

¹³ See Aug. 1-10, 2023, *Washington Post-Schar School home schooling poll* at 5, Wash. Post (Sept. 25, 2023), <https://tinyurl.com/2s4ark99> (cited in CA9 National Council of Young Israel Amicus Br. 6); Brian D. Ray, Braden Hoelzle & Douglas Pietersma, *A Systematic Review of the Empirical*

case does not remotely threaten the use of a religious curriculum in traditional private homeschooling, because it involves a challenge to independent study programs that are fundamentally different. *Supra* at 15-21. And, to be clear, families that elect to pursue private homeschooling in California are perfectly free to choose a religious curriculum for their children.

Petitioners note that respondents' independent study programs serve some 15,000 students. Pet.5-6, 28. But of those 15,000 students, only a tiny fraction have demanded approval and funding for a religious curriculum, as petitioners have here. And those families remain free to pursue a private homeschooling model in which they may teach religion as truth. Moreover, any family can always supplement their children's state-funded and superintended public education with religious teachings *not* paid for and assessed by the State.

Petitioners go further in claiming that the decision below "opens the door to myriad other intrusions on individual liberty," including the prospect of police officers taking children from their homes. Pet.29. That is scaremongering. As explained, the Ninth Circuit has long rejected any such intrusion on the grounds that schooling can happen at home. *Supra* at 24; *Calabretta*, 189 F.3d at 810, 816-17. Nor is there any basis to grant certiorari here because California has reportedly engaged in unconstitutional discrimination in *other* areas, as some amici urge. *E.g.*, Manhattan Inst. & Notre Dame Educ. L. Project

Research on Selected Aspects of Homeschooling: Updated 2017-2026 (May 21, 2026), <https://www.tandfonline.com/doi/epdf/10.1080/0161956X.2025.2605900> (cited in State of Utah et al. Amici Br. 12).

Amici Br. 12-18. Amici’s litany of *other* alleged wrongs just underscores that the question actually before the Court here does not warrant review.

Petitioners’ appeal to *Mirabelli v. Bonta*, 607 U.S. 492, 501 (2026), is likewise misguided. Pet.6, 31. That case involved a challenge to state policies requiring schools to keep information about students’ gender transitioning confidential from parents unless the students consented, and to use students’ self-identified names and pronouns regardless of their parents’ wishes. *Mirabelli*, 607 U.S. at 492-93. This case has nothing to do with those issues, and therefore is hardly an “ideal vehicle” for providing the “course correction” that some members of this Court applauded in *Mirabelli*. Pet.31. Moreover, the “course correction” this Court referred to in *Mirabelli* has already occurred: It was the Court’s decision vacating the stay order *in that case*.

Finally, petitioners’ and amici’s attempt to frame California’s requirement that independent study programs offered by public schools be secular as a “shameful” outgrowth of the Blaine Amendments is a red herring. Pet.20 (citation omitted); see CatholicVote.org Education Fund Amicus Br. 3-21; Pioneer New England Legal Foundation Amicus Br. 4-17. Every State in America—including each of the amici States here—limits its public schools to providing a secular education. As this Court itself has long recognized, this practice is not “at war” with the First Amendment. *McCullum*, 333 U.S. at 211. Rather, “the First Amendment rests upon the premise that both religion and government can best work to achieve their lofty aims if each is left free from the other within its respective sphere.” *Id.* at 212; see *id.*

at 216 (opinion of Frankfurter, J., joined by Jackson, Rutledge, and Burton, JJ.).

CONCLUSION

The petition should be denied.

Respectfully submitted,

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October 23, 2026