

Nos. 26-193, 26-240

IN THE

Supreme Court of the United States

BETHANY M. HALL,

Petitioner,

v.

A. SCOTT FLEMING, in his official capacity as Director
of the State Council of Higher Education for Virginia,
Respondent.

(For continuation of caption, see inside cover)

**On Petitions for Writ of Certiorari (26-193) and
Writ of Certiorari Before Judgment
(26-240) to the United States Court of Appeals
for the Fourth Circuit**

**BRIEF OF *AMICI CURIAE* THE COUNCIL FOR
CHRISTIAN COLLEGES & UNIVERSITIES
AND THE ASSOCIATION OF PRESBYTERIAN
COLLEGES & UNIVERSITIES IN SUPPORT OF
PETITIONERS**

Robert D. Capodilupo
Hector Pagan
SIDLEY AUSTIN LLP
60 State Street
Boston, MA 02109

Miranda A. Cassidy
SIDLEY AUSTIN LLP
2323 Cedar Springs
Dallas, TX 75201

Daniel J. Hay*
Jeremy D. Rozansky
Sydney A. Volanski
SIDLEY AUSTIN LLP
1501 K Street, N.W.
Washington, D.C. 20005
(202) 736-8000
dhay@sidley.com

September 14, 2026

* Counsel of Record

CAMERON JOHNSON, LUKE THOMAS, TRACE STEVENS,
Petitioners,

v.

A. SCOTT FLEMING, in his official capacity as Director
of the State Council of Higher Education for Virginia,
JOHN JUMPER, in his official capacity as the Chair of
the State Council of Higher Education for Virginia;
JAMES W. RING, in his official capacity as the Adju-
tant General of Virginia; and DONALD L. UNMUSSIG,
in his official capacity as the Chief Financial Officer
of the Virginia Department of Military Affairs,
Respondents.

TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES	ii
INTRODUCTION AND INTERESTS OF <i>AMICI CURIAE</i>	1
SUMMARY OF ARGUMENT	3
REASONS FOR GRANTING THE PETITIONS	5
I. <i>LOCKE</i> AUTHORIZES DISCRIMINATION AGAINST RELIGIOUS STUDENTS FOR CHOOSING RELIGIOUS INSTRUCTION .	5
A. Many States Enforce Funding Exclusions Premised on <i>Locke</i>	5
B. These Exclusions Penalize Religious Students and Burden the Institutions that Serve Them.....	7
II. WHAT’S LEFT OF THE RULE IN <i>LOCKE</i> IS UNWORKABLE	10
A. <i>Locke</i> Cannot Be Reconciled with <i>Trinity Lutheran</i> and Its Progeny.....	11
B. The <i>Locke</i> Line Between Vocational and Non-Vocational Degrees Is Arbitrary.....	14
1. A Degree Label Is Not a Reliable Proxy for State-Supported Clergy ..	14
2. The <i>Locke</i> Rule Produces Arbitrary Distinctions.....	16
III. <i>LOCKE</i> AUTHORIZES STATES TO DECIDE INTERNAL RELIGIOUS QUESTIONS.....	18
A. Deciding Whether a Degree Is Vocational Requires Differentiating Between Religious Functions	18

TABLE OF CONTENTS—continued

	Page
B. Applying the Lay-Clergy Distinction to Many Minority Religions Necessarily Forces Religious Conformity	20
CONCLUSION	22
APPENDIX	

TABLE OF AUTHORITIES

CASES	Page
<i>Carson as next friend of O. C. v. Makin</i> , 596 U.S. 767 (2022)	2, 3, 10, 12, 13, 18
<i>Cath. Charities Bureau, Inc. v. Wisconsin Lab. & Indus. Rev. Comm’n</i> , 605 U.S. 238 (2025)	19, 20
<i>Colo. Christian Univ. v. Weaver</i> , 534 F.3d 1245 (10th Cir. 2008)	19
<i>Dobbs v. Jackson Women’s Health Org.</i> , 597 U.S. 215 (2022)	14
<i>Ellis v. United States</i> , 922 F. Supp. 539 (D. Utah 1996)	21
<i>Espinoza v. Mont. Dep’t of Rev.</i> , 591 U.S. 464 (2020)	2, 4, 10, 12, 13
<i>Friends of Ahi Ezer Congregation, Inc. v. City of Long Branch</i> , 16 N.J. Tax 591 (N.J. Tax Ct. 1997)	20
<i>Goldman v. Weinberger</i> , 475 U.S. 503 (1986)	20
<i>Green Haven Prison Preparative Meeting of Religious Soc’y of Friends v. New York State Dep’t of Corr. & Cmty. Supervision</i> , 16 F.4th 67 (2d Cir. 2021)	21
<i>Hall v. Fleming</i> , 175 F.4th 510 (4th Cir. 2026)	13, 16

TABLE OF AUTHORITIES—continued

	Page
<i>Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC</i> , 565 U.S. 171 (2012)	18, 22
<i>Locke v. Davey</i> , 540 U.S. 712 (2004)	2, 5, 7, 8, 11, 14, 22
<i>Loe v. Jett</i> , 796 F. Supp. 3d 541 (D. Minn. 2025).....	13
<i>Mendham Methodist Church v. Morris Cnty., New Jersey</i> , 2024 WL 4903677 (D.N.J. Nov. 27, 2024) .	13
<i>Mitchell v. Helms</i> , 530 U.S. 793 (2000)	19
<i>Our Lady of Guadalupe Sch. v. Morrissey-Berru</i> , 591 U.S. 732 (2020)	18, 20, 22
<i>South Dakota v. Wayfair</i> , 585 U.S. 162 (2018)	14
<i>Trinity Lutheran Church of Columbia, Inc. v. Comer</i> , 582 U.S. 449 (2017)	2, 10, 11, 12
<i>Woolard v. Thurmond</i> , 170 F.4th 701 (9th Cir. 2026)	13

TABLE OF AUTHORITIES—continued

	Page
STATUTES & REGULATIONS	
Ala. Code § 16-33A-1(4)(f)	6
Ala. Admin. Code r. 300-4-3-.01.....	6, 9, 17
Colo. Rev. Stat. § 23-3.3-104.....	6
Conn. Gen. Stat. § 10a-173	7, 9
Fla. Stat. § 1009.89(4)(b)(2)	6
2025 Fla. Laws ch. 2025-198, § 2, Specific Appropriation 58	9
Ga. Code § 20-3-411(2)	7, 9
110 Ill. Comp. Stat. 920/8	6
Mich. Comp. Laws § 390.994(2)	6
Minn. Stat. § 135A.30, subd. 2(3)	6
Mo. Rev. Stat. § 173.1104	6
N.J. Stat. Ann. § 18A:71B-20(b)	6
N.M. Stat. § 21-21C-7.....	6
N.Y. Educ. Law § 661(6)	6
Or. Rev. Stat. § 348.260(8)	6
22 Pa. Code § 121.32(b)	7, 9
S.C. Code § 59-113-20(e)	6

TABLE OF AUTHORITIES—continued

	Page
Va. Code Ann. § 23.1-628	5, 15
8 Va. Admin. Code § 40-71-10.....	5, 6, 9
Wash. Rev. Code § 28B.92.100	5
 OTHER AUTHORITIES	
<i>Augustinian Friar and Villanova University Alumnus Elected Pope</i> , Villanova Univ. (May 8, 2025), https://perma.cc/974U-ABXE	4
<i>Boston University</i> , The Martin Luther King, Jr. Rsch. & Educ. Inst., Stan. Univ., https://perma.cc/99B4-JQZP (last visited Sept. 10, 2026).....	15
<i>Chapter 4: Boston University</i> , The Martin Luther King, Jr. Rsch. & Educ. Inst., Stan. Univ., https://perma.cc/MDT5- T3RX (last visited Sept. 10, 2026)	16
Nat'l Ctr. for Educ. Stat., Browse CIP Codes, https://perma.cc/E8KU-PV7V (last visited Sept. 10, 2026).....	3
Georgetown Univ. Sch. of Foreign Serv., Majors, https://perma.cc/4WPQ-HS6Q (last visited Sept. 10, 2026)	15
The Editors of Encyclopaedia Britannica, John Witherspoon, Britannica, https://perma.cc/TBP6-GHQ7 (last visited Sept. 14, 2026).....	15

TABLE OF AUTHORITIES—continued

	Page
Nicole Stelle Garnett & Tim Rosenberger, Unconstitutional Religious Discrimination Runs Rampant in State Programs, Manhattan Inst. (Dec. 14, 2023), https://perma.cc/792J-YKYQ (last visited Sept. 14, 2026).....	7
Collin Hansen, <i>The Global Evangelist & His Alma Mater</i> , Wheaton Mag. (Vol. 21, Spe- cial Ed.).....	15
Marcus Jastrow, <i>Dictionary of the Talmud</i> (1903), https://www.sefaria.org/Jastrow (last visited Sept. 14, 2026)	20
N.J. Higher Educ. Student Assistance Auth., Tuition Aid Grant (TAG), https://perma.cc/PWP5-ECQ9 (last visited Sept. 10, 2026).....	9
Samford Univ., Undergraduate Catalog: 2023–2024 Academic Year (2023), https://perma.cc/T234-QQCA (last visited Sept. 10, 2026).....	17
Virginia Tuition Assistance Grant (VTAG), Council of Indep. Colls. in Va., https://perma.cc/KKZ4-2FTQ (last visited Sept. 10, 2026).....	8

INTRODUCTION AND INTERESTS OF *AMICI CURIAE*¹

Amici curiae are the Council for Christian Colleges and Universities (“CCCU”) and the Association of Presbyterian Colleges and Universities (“APCU”). CCCU is a coalition of approximately 170 Christ-centered institutions of higher education. APCU is a coalition of more than 50 Presbyterian-related colleges and universities in the United States, in addition to several Presbyterian Church (U.S.A.) seminaries.

CCCU and APCU’s member institutions integrate faith into learning because they believe education should prepare students for their professions and for lives of service grounded in faith. Students at CCCU- and APCU-member institutions prepare for the full range of secular and religious vocations, and over the course of their careers, many of their students will hold both secular and religious employment. For that reason, CCCU- and APCU-member institutions train their students to live out their faith in all aspects of their personal and professional life. Doing so depends on the freedom to decide how faith informs their curricula and how they prepare those who will transmit the faith to the next generation.

Locke harms those missions and the students these institutions serve. Following *Locke*, roughly two-dozen States deny generally available scholarship funds to

¹ Pursuant to Supreme Court Rule 37, *amici* state that no counsel for any party authored this brief in whole or in part, and that no entity or person other than *amici*, their members, and their counsel made any monetary contribution toward the preparation and submission of this brief. Pursuant to Rule 37.2(a), on August 31, 2026, counsel of record for all parties received timely notice of *amici*’s intent to file this brief.

students who pursue “vocational religious” courses of study. *Locke v. Davey*, 540 U.S. 712, 725 (2004). Petitioners in these cases are students at Liberty University who major or desire to major in pastoral leadership, music and worship, or religion. There is no dispute that, had these students instead majored in entrepreneurship, music theory, or philosophy, they would be entitled to tens of thousands of dollars in tuition assistance. However, solely because they have opted to pursue a major that a Department of Education bureaucrat has designated “Theology and Religious Vocations” in a dense taxonomy manual, the Commonwealth of Virginia has excluded them from otherwise generally available programs. The *Locke* regime thus operates as a tax on students who decide to pursue a religious course of study, at a time when college affordability is top of mind for so many families.

The penalty is not only financial. *Locke* and the States that follow *Locke* tell students that answering a religious calling makes them less eligible for public support. It tells faith-centered colleges that their religious mission is a defect to be managed. That is not the “milder kind” of discrimination *Locke* seemed to think it was. *Locke*, 540 U.S. at 720. Rather, it is the last remaining way in which this Court permits state governments to require citizens to choose between the calling of their faith and an otherwise available benefit.

Since *Locke*, this Court has consistently and forcefully rejected the kind of use-based exclusion at issue here. See *Carson as next friend of O. C. v. Makin*, 596 U.S. 767 (2022); *Espinoza v. Mont. Dep’t of Rev.*, 591 U.S. 464 (2020); *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 582 U.S. 449, 462 (2017). Those decisions dismantled *Locke*’s premises: religious character

and religious use cannot be separated, and antiestablishment concerns do not justify excluding religious exercise from generally available benefits. They recognize the regime *Locke* permitted for what it is: a regime that “exclude[s] religious persons from the enjoyment of public benefits on the basis of their anticipated religious use of the benefits.” *Carson*, 596 U.S. at 789.

Stare decisis cannot justify *Locke*’s continued existence. *Locke* is an unworkable vestige of a bygone constitutional era. Far from protecting religious schools from the pernicious meddling of state authorities, *Locke* requires religious schools to squeeze their courses of study into certain preferred, Department of Education-designed categories,² or else subject their students to a steep financial penalty.

What remains of *Locke* also invites States to draw arbitrary lines between vocational and nonvocational religious study, then to decide what prepares someone *for* ministry. Those are vexing questions no State can consistently answer. And they are inherently religious questions no State *may* answer.

This Court should take these cases and overrule *Locke*.

SUMMARY OF ARGUMENT

Locke v. Davey has spawned a web of state exclusions. More than a dozen States strip generally available scholarship aid from students who pursue religious courses of study, and others exclude religious institutions outright. The rules reach majors, degree labels, individual credits, and even the semester-by-se-

² See Nat’l Ctr. for Educ. Stat., *Browse CIP Codes*, <https://perma.cc/E8KU-PV7V> (last visited Sept. 10, 2026).

mester balance between religious and secular coursework. Their costs are concrete. A student who moves from a secular major to a religious one, like Petitioner Bethany Hall did, stands to lose tens of thousands of dollars over her college career.

What remains of *Locke* after *Trinity Lutheran*, *Espinoza*, and *Carson* is doctrinally incoherent. Those decisions forbid discrimination based on religious status and religious use alike. Recognizing this, *Carson* confined *Locke* to exclusions based on the “vocational” character of a student’s course of study—but that phrase supplies no workable boundary. A degree’s label is never more than a proxy for a student’s future. Religious study can lead to a career in ministry, but it can also lead to scholarship, counseling, education, nonprofit work, or public service. By the same token, secular study can lead to the pulpit.³ Thus, even accepting that States have a legitimate interest in not extending generally available scholarship programs to future clergy, *Locke*’s carveout is both overinclusive and underinclusive.

Further, to implement a policy under the carveout, States must decide what constitutes preparation for clergy, which courses are “vocational,” and how different traditions define ministry. They must inspect curricula, syllabi, and program purposes; classify religious roles; and distinguish clergy from other religious workers. That inquiry forces government to evaluate doctrine and the religious significance of coursework.

³ For example, the minister-in-training in *Locke*, Joshua Davey, is now an attorney and one of Ms. Hall’s counsel. See Hall Pet. 2 n.1. By contrast, Pope Leo XIV studied mathematics at Villanova University. See *Augustinian Friar and Villanova University Alumnus Elected Pope*, Villanova Univ. (May 8, 2025), <https://perma.cc/974U-ABXE>.

It invades the church’s authority to decide who ministers and what training ministry requires—in direct conflict with this Court’s ministerial-exception cases. This is precisely the type of entanglement the First Amendment forbids and exists to prevent.

REASONS FOR GRANTING THE PETITIONS

I. *LOCKE* AUTHORIZES DISCRIMINATION AGAINST RELIGIOUS STUDENTS FOR CHOOSING RELIGIOUS INSTRUCTION.

A. Many States Enforce Funding Exclusions Premised on *Locke*.

Locke may stand alone in this Court’s doctrine, but its ripples have spread far and wide. Nearly two dozen States expressly exclude religious instruction from generally available scholarship funds, and three more (Connecticut, Georgia, and Pennsylvania) exclude religious institutions outright.⁴ Countless religious students, and the colleges that teach them, lose needed aid as a result.

The statute in *Locke* barred state scholarship funds from aiding “any student who is pursuing a degree in theology.” 540 U.S. at 716 (citation omitted). Washington still has that law. See Wash. Rev. Code § 28B.92.100. That law has become a model for other States designing and implementing otherwise generally applicable aid programs. For example, Virginia, whose programs are at issue in these cases, excludes “theological education” or “religious training” from four tuition assistance programs. Va. Code Ann. § 23.1-628; 8 Va. Admin. Code § 40-71-10. Other

⁴ State scholarship programs with *Locke*-based exclusions are collected in the Appendix to this brief, along with the operative, exclusionary statutory or regulatory text.

States bar students enrolled in courses leading to degrees in theology, divinity, or religious education. See, e.g., Mo. Rev. Stat. § 173.1104; Ala. Code § 16-33A-1(4)(f); Fla. Stat. § 1009.89(4)(b)(2); Mich. Comp. Laws § 390.994(2); N.J. Stat. Ann. § 18A:71B-20(b); Or. Rev. Stat. § 348.260(8); S.C. Code § 59-113-20(e). Colorado bars students “pursuing a professional degree in theology,” and Illinois bars students training to become a “professional person in the field of religion.” Colo. Rev. Stat. § 23-3.3-104; 110 Ill. Comp. Stat. 920/8. New York likewise bars academic-performance awards from funding “professional instruction in theology.” N.Y. Educ. Law § 661(6). Several States reach further. Minnesota withholds its academic-excellence scholarship from students in a sectarian “degree-granting program,” while New Mexico forbids its Student Choice Grant from being used for sectarian purposes. Minn. Stat. § 135A.30, subd. 2(3); N.M. Stat. § 21-21C-7.

The exclusions also police individual coursework. Alabama requires at least eight credit hours each term in courses *not* “in religion or theology” to qualify for the full-time enrollment required for the Alabama Student Grant Program, and it limits institutional eligibility to schools that award no primarily religious degrees and perform essentially secular functions. Ala. Admin. Code r. 300-4-3-.01(9). Virginia disqualifies a double-major student if, in any semester, the religious major carries more credits than the secular major. 8 Va. Admin. Code § 40-71-10. A student can thus lose aid by taking “too many” religion courses in one term, even while pursuing a non-religious major.

Finally, three States exclude funding at the institutional level. Connecticut’s Roberta B. Willis Scholarship bars funds to students at institutions whose pri-

mary function is preparing students for a religious vocation. Conn. Gen. Stat. § 10a-173. Georgia’s restricts its Tuition Equalization Grant from students at “Bible school[s] or college[s]” or at any “graduate level school or college of theology or divinity.” Ga. Code § 20-3-411(2). Pennsylvania disqualifies any institution that is “a school of theology or a theological seminary.” 22 Pa. Code § 121.32(b).

Absent *Locke*, these programs could not survive even passing constitutional review. See *infra* § II.A. Yet these programs persist as archipelagos in a sea of contrary First Amendment doctrine solely because *Locke* authorizes religious-use discrimination specifically and exclusively in this one context. It allows conditions to be permitted on generally applicable postsecondary tuition assistance that would not be permitted if this were about public secondary education (*Carson*), K-12 tuition tax credits (*Espinoza*), or playground surfacing material (*Trinity Lutheran*). And because *Locke* allows it to be so, exclusions of this kind “pervad[e]” state programs. Nicole Stelle Garnett & Tim Rosenberger, *Unconstitutional Religious Discrimination Runs Rampant in State Programs*, Manhattan Inst. (Dec. 14, 2023), <https://perma.cc/792J-YKYQ> (last visited Sept. 14, 2026).

B. These Exclusions Penalize Religious Students and Burden the Institutions that Serve Them.

The decision in *Locke* was premised in part on the notion that “the State’s disfavor of religion” in statutes like these is “of a far milder kind.” 540 U.S. at 720. But for *amici*, *amici*’s member institutions, and the students at those institutions, the discriminatory policies that follow *Locke* are anything but mild.

Each statute forces a student to choose between answering a religious calling (which may or may not be used to pursue a religious vocation) and keeping tens of thousands of dollars in aid available to classmates. Students arrive eligible for a grant, discern a call to ministry, and—like Petitioners in these cases—are put to the intolerable choice of following their religious calling or maintaining critical financial aid. Low-income students bear the brunt. The grant often makes enrollment possible, so keeping it means abandoning the calling. The injury is also dignitary: students bear “[t]he indignity of being singled out for special burdens on the basis of one’s religious calling.” *Locke*, 540 U.S. at 731 (Scalia, J., dissenting). That harm “can never be dismissed as insubstantial.” *Id.*

The financial stakes are not marginal. Virginia’s and Alabama’s grants run up to \$5,000⁵ a year; Florida’s reaches \$3,500; and Colorado subsidizes private-college tuition for every credit hour. Over four years, a student pursuing a religious degree or program may forfeit tens of thousands of dollars that classmates keep.

Nor is the affected population small. These programs are among each State’s largest sources of college aid. Virginia spends roughly \$100 million a year on its Tuition Assistance Grant and, since the program began, has made more than 800,000 awards totaling over \$2 billion. Virginia Tuition Assistance Grant (VTAG), Council of Indep. Colls. in Va., <https://perma.cc/KKZ4-2FTQ> (last visited Sept. 10, 2026). Florida’s EASE grant funds more than 37,000 undergraduates a year.

⁵ For the 2026 school year, the scholarship amount has increased to up to \$5,250. Virginia Tuition Assistance Grant (VTAG), Council of Indep. Colls. in Va., <https://perma.cc/KKZ4-2FTQ> (last visited Sept. 10, 2026).

2025 Fla. Laws ch. 2025-198, § 2, Specific Appropriation 58, at 15. New Jersey’s Tuition Aid Grant covers part of tuition for nearly one-third of full-time resident undergraduates. N.J. Higher Educ. Student Assistance Auth., *Tuition Aid Grant (TAG)*, <https://perma.cc/PWP5-ECQ9> (last visited Sept. 10, 2026). In each State, a student who answers a religious calling is cut out of a benefit that reaches a large share of her peers.

The exclusions burden *amici*’s institutions as well as their students. Faith-based colleges must police their students’ religious study—monitoring, semester by semester, the balance between “eligible” and “ineligible” coursework in Virginia and discounting religion courses when certifying full-time status in Alabama. See 8 Va. Admin. Code § 40-71-10; Ala. Admin. Code r. 300-4-3-.01(9). Religious colleges that seek to minimize the cost to their students may be forced to design degree programs and course maps to meet the preferences of regulators—which is contrary to both academic freedom and religious liberty.

Free Exercise violations like these also impose compliance costs and force religious institutions to count and report how much religion each student may study to keep their aid. Where the State policy excludes whole institutions on the basis of *Locke*, as in Connecticut, Georgia, or Pennsylvania, the injury is direct: a college is disqualified, and its students lose aid, because of its religious mission. See Conn. Gen. Stat. § 10a-173; Ga. Code § 20-3-411(2); 22 Pa. Code § 121.32(b). No secular institution or course of study faces that penalty. These institutions and their students are penalized precisely and exclusively because of religion.

II. WHAT'S LEFT OF THE RULE IN *LOCKE* IS UNWORKABLE.

Although this Court has not expressly overruled *Locke*, its post-*Locke* precedent has confined the decision to its precise facts. *Trinity Lutheran* and *Espinoza* rejected any general rule allowing States to discriminate against religious uses of public benefits. *Carson* removed the remaining doubt: “[T]he prohibition on status-based discrimination under the Free Exercise Clause is not a permission to engage in use-based discrimination,” and *Locke* cannot be read beyond its “narrow focus on vocational religious degrees.” 596 U.S. at 788–89.

But nothing in the text, history, or tradition of the First Amendment supports this distinction between postsecondary tuition assistance programs on one side of the line and every other governmental assistance program on the other. The only support left for *Locke* is Escherian: *Locke* survives because *Locke* exists. It cannot be squared with this Court’s Free Exercise doctrine, nor is it warranted by the Court’s Establishment Clause decisions. Excluding an otherwise eligible recipient “solely because of their religious character” penalizes free exercise and triggers the most exacting scrutiny. *Espinoza*, 591 U.S. at 475 (quoting *Trinity Lutheran*, 582 U.S. at 462). *Carson* confirmed that religious *use* is no less protected than religious *status*. 596 U.S. at 787–88.

Confining *Locke* to “vocational religious degrees” invites more questions than it answers. Policing the outer bounds of vocational religious degrees requires regulators to scrutinize what the degree prepares its students for, whether a course serves ministry or broader work, whether a religious tradition treats the relevant role as clerical at all, and how the school allo-

cates (both in number and in sequence) religious as opposed to non-religious coursework. The line between vocational and nonvocational is, accordingly, arbitrary—simultaneously overinclusive and underinclusive. *Locke*’s carveout allows States to exclude students who will never lead a congregation and fund students who will, simply because their majors bear different labels.

A. *Locke* Cannot Be Reconciled with *Trinity Lutheran* and Its Progeny.

Whatever force *Locke* once had, it has no place in a free-exercise doctrine that guarantees religious institutions and individuals equal access to public benefits. In *Locke*, the State of Washington offered scholarships for higher education but withheld them from students pursuing degrees in “devotional theology.” 540 U.S. at 716–17. Although the law discriminated on its face against religious instruction, *Locke* found this discrimination to be a permissible prophylactic against an impermissible establishment of religion. See *id.* at 720–25.

This Court has tried for the better part of a decade to distinguish without overruling *Locke*. But with each passing case, the features of *Locke* that made it different have eroded.

In *Trinity Lutheran*, this Court avoided *Locke* by making a distinction between withholding a public benefit because it would be put to religious uses (like taking devotional theology courses) and withholding a public benefit simply because of the religious status of the recipient. 582 U.S. at 465; see also *id.* at 464 (“Davey was not denied a scholarship because of who he was; he was denied a scholarship because of what he proposed to do—use the funds to prepare for the ministry.”) (emphasis omitted). In that case, the Court

reasoned, the playground resurfacing material would not be used for a religious purpose—it would cushion the fall of the religious and irreligious alike. The Court drew a similar distinction in *Espinoza*, emphasizing that Montana’s no-aid provision applied simply because the schools were religious, regardless of its actual instruction. See 591 U.S. at 479–80.

But that status/use line was doubted at its birth and abandoned in its maturity. Concurring in *Trinity Lutheran*, Justice Gorsuch expressed “doubts about the stability of such a line,” observing that it “blurs in much the same way the line between acts and omissions can blur when stared at too long.” 582 U.S. at 469 (Gorsuch, J., concurring in part). The First Amendment, he explained, “guarantees the free exercise of religion, not just the right to inward belief (or status).” *Id.* (emphasis omitted); see also *Espinoza*, 591 U.S. at 510 (Gorsuch, J., concurring) (The Free Exercise Clause “protects not just the right to be a religious person, holding beliefs inwardly and secretly; it also protects the right to act on those beliefs outwardly and publicly.”) (emphasis omitted).

The *Carson* majority followed Justice Gorsuch’s lead, holding that “the prohibition on status-based discrimination under the Free Exercise Clause is not a permission to engage in use-based discrimination.” 596 U.S. at 788. Rejecting Maine’s effort to recast its exclusion as merely “use-based,” this Court explained that *Trinity Lutheran* and *Espinoza* “never suggested that use-based discrimination is any less offensive to the Free Exercise Clause.” *Id.* at 787. Thus, while *Trinity Lutheran* had reserved the question, declining to address “religious uses of funding or other forms of discrimination,” 582 U.S. at 465 n.3, *Carson* answered it: use-based discrimination is equally “offensive to the Free Exercise Clause,” 596 U.S. at 787.

Despite abandoning *Locke*'s reasoning, this Court has not yet wholly abandoned *Locke*'s holding. Instead this Court explained that “*Locke* cannot be read beyond its narrow focus on vocational religious degrees to generally authorize the State to exclude religious persons from the enjoyment of public benefits on the basis of their anticipated religious use of the benefits.” *Id.* at 789. As a result, what is left of *Locke* is just a vestigial carveout allowing States to withhold generally available funds on the basis of religious use when that use is for training of clergy. See *Loe v. Jett*, 796 F. Supp. 3d 541, 572 n.48 (D. Minn. 2025) (“[T]he holding in *Locke* has been narrowly circumscribed to its facts.”); *Woolard v. Thurmond*, 170 F.4th 701, 717 (9th Cir. 2026) (VanDyke, J., dissenting from denial of rehearing en banc) (“To the extent that *Locke* remains good law, it has been cabined to its facts.”).

Lower courts recognize that *Carson* narrowed *Locke* but remain bound to apply the remnant, even as “the remains of *Locke* grow more distant.” See *Mendham Methodist Church v. Morris Cnty., New Jersey*, 2024 WL 4903677, at *7 (D.N.J. Nov. 27, 2024). But in so doing, lower courts lack guidance on how to draw the lines between what *Locke* permits and *Trinity Lutheran*, *Espinoza*, and *Carson* prohibit. As a result, lower courts are preserving *Locke* by reviving the status/use distinction *Carson* rejected. Indeed, in the decision below, the Fourth Circuit called *Locke*'s restriction fundamentally different from *Trinity Lutheran*'s status-based exclusion and said *Espinoza* turned “expressly on religious status and not religious use.” *Hall v. Fleming*, 175 F.4th 510, 514–15 (4th Cir. 2026) (quoting *Espinoza*, 591 U.S. at 477).

B. The *Locke* Line Between Vocational and Non-Vocational Degrees Is Arbitrary.

1. A Degree Label Is Not a Reliable Proxy for State-Supported Clergy.

Even accepting that States have a legitimate interest in not creating a class of “state-supported clergy,” *Locke*’s carveout of “vocational” courses of study from generally available scholarship funds is unworkable and leads to arbitrary enforcement. *Locke*, 540 U.S. at 722 (citation omitted). Where, as here, a precedent imposes an “unworkable” rule that “embroil[s] courts in technical and arbitrary disputes,” *stare decisis* loses much of its ordinary weight. *South Dakota v. Wayfair*, 585 U.S. 162, 185–86 (2018); see also *Dobbs v. Jackson Women’s Health Org.*, 597 U.S. 215, 286 (2022) (Where a “test has proved to be unworkable[,] . . . [c]ontinued adherence to that standard would undermine, not advance, the ‘evenhanded, predictable, and consistent development of legal principles.’” (quoting *Payne v. Tennessee*, 501 U.S. 808, 827 (1991))).

Here, *Locke*’s premise that “majoring in devotional theology is akin to a religious calling as well as an academic pursuit,” 540 U.S. at 721, was faulty from the start. As Justice Thomas pointed out in *Locke* itself, “the study of theology does not necessarily implicate religious devotion or faith.” *Id.* at 734 (Thomas, J., dissenting). The study of theology is an intellectual discipline as well as preparation for ministry, and education in a religious field can supply knowledge and skills useful far beyond congregational leadership. Both religious and non-religious persons study theol-

ogy for non-devotional reasons, such as to better understand moral philosophy, literature, and global affairs.⁶

The mismatch runs both ways. A theology student may become a scholar, educator, curriculum designer, nonprofit administrator, chaplain, musician, counselor, or lawyer. A philosophy, history, music, or business major may plan from the start to enter the ministry.⁷ Yet Virginia subsidizes the latter and excludes the former. See Va. Code Ann. § 23.1-628.

Higher education rarely serves one end. Students pursue knowledge, vocational preparation, and a credential at once. Religious study is no different. John Witherspoon was a minister and theologian before signing the Declaration of Independence.⁸ Martin Luther King Jr. earned a doctorate in systematic theology before leading a movement that transformed the Nation.⁹ The education that shaped Dr. King did not

⁶ See, e.g., Georgetown Univ. Sch. of Foreign Serv., *Majors*, <https://perma.cc/4WPQ-HS6Q> (last visited Sept. 10, 2026) (“Our multidisciplinary core curriculum spans key fields such as international affairs, government, economics, history, theology, philosophy and geography.”).

⁷ For example, the evangelist Billy Graham majored in anthropology at CCCU-member Wheaton College specifically to “give me empathy for people in social settings different from my own . . . , obliterating any condescending notions I might have toward people from backgrounds other than my own.” Collin Hansen, *The Global Evangelist & His Alma Mater*, *Wheaton Mag.* (Vol. 21, Special Ed.).

⁸ See The Editors of Encyclopaedia Britannica, *John Witherspoon*, Britannica, <https://perma.cc/TBP6-GHQ7> (last visited Sept. 14, 2026).

⁹ See *Boston University*, The Martin Luther King, Jr. Rsch. & Educ. Inst., Stan. Univ., <https://perma.cc/99B4-JQZP> (last visited Sept. 10, 2026).

lack secular value or threaten the Nation's interest in avoiding state-sponsored clergy; it informed one of the great moral and intellectual causes of history. Theology has prepared Americans not only for pulpits but for public leadership in some of the Nation's darkest hours.¹⁰

2. The *Locke* Rule Produces Arbitrary Distinctions.

To illustrate the arbitrary nature of the rule in *Locke*, consider Virginia's exclusion. Virginia implements *Locke* by excluding from the VTAG program all students majoring in a program listed in the Classification of Instructional Programs (CIP) Code 39, which is published by the National Center for Education Statistics within the Department of Education. CIP Code 39 "is an extensive list of majors that 'prepare individuals for the professional practice of religious vocations.'" *Hall*, 175 F.4th at 512. But a categorical ban on religious degrees like CIP 39 is necessarily overinclusive and underinclusive. It excludes students who will never serve as clergy and includes future clergy who pursue secular majors. It burdens religious study as such, while leaving identical skills—and even identical courses—untouched under another label.

The arbitrariness sharpens at the margins. Consider two students at the same religious university: one minors in biblical studies while majoring in nursing and keeps full funding; the other packages the same biblical-studies courses into a Religious Education major

¹⁰ See *Chapter 4: Boston University*, The Martin Luther King, Jr. Rsch. & Educ. Inst., Stan. Univ., <https://perma.cc/MDT5-T3RX> (last visited Sept. 10, 2026) ("The next stage of my intellectual pilgrimage to nonviolence came during my doctoral studies [in theology] at Boston University. Here I had the opportunity to talk to many exponents of nonviolence . . .").

and forfeits her grant. At this hypothetical school, a student majoring in “Religious Studies” (CIP Code 38, outside the exclusion) may take the very same courses in systematic theology, church history, and homiletics as a student studying Theology/Theological Studies classified under Code 39—yet only the theology student loses aid. The rule rewards catalog formatting, not educational substance or vocational purpose.

The examples could be multiplied indefinitely. A student studying church administration may go on to manage a nonprofit food bank. A missions major may become an international-development worker for a secular NGO. A worship-arts student may become a professional musician who never leads a service, or an accountant who volunteers as a youth group worship leader. In each case, the State excludes the student not because of what she does and will do but because of what her degree is called.

Other States make similarly picayune distinctions to implement *Locke*. In calculating whether a student is enrolled full-time for its Student Grant Program, Alabama will count no more than one religion or theology course per semester. Ala. Admin. Code r. 300-4-3-.01(9). Thus two students pursuing the same secular B.A. and carrying the same twelve-credit load can receive different treatment merely because one takes a single theology course while the other takes two.

One CCCU member institution reports that Alabama’s rule prevents students majoring in “Science and Religion” or “Philosophy and Religion” from accessing scholarship funds—even though the department promotes its major as “support[ing] a journey toward any career in business, health, law, education, media, and more.” Samford Univ., *Catalog: 2023–2024 Academic Year* (2023), <https://perma.cc/T234-QQCA>.

III. *LOCKE* AUTHORIZES STATES TO DECIDE INTERNAL RELIGIOUS QUESTIONS.

Locke also conflicts with the church-autonomy doctrine, which protects religious institutions' right "to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine." *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 591 U.S. 732, 737 (2020). The doctrine bars government interference in selecting ministers, teachers, and other religious leaders. *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 565 U.S. 171 (2012). Yet *Locke* permits a back door: officials controlling scholarship funds may decide what constitutes vocational religious training. That is an inherently religious question.

A. Deciding Whether a Degree Is Vocational Requires Differentiating Between Religious Functions.

Locke's permission to exclude "vocational religious degrees" collides head-on with the church autonomy doctrine. To apply it, a State must decide whether a program prepares students for "the ministry." That requires more than reading a degree title. The State must examine what the program teaches, why it teaches it, and how graduates are expected to use it. It must separate clergy functions from other religious functions and decide which religious roles count as ministry. Those are judgments about faith and doctrine, not neutral administration.

The inquiry reaches into motives and theology. Theology may be studied as an intellectual discipline, for private devotion, or for ministry. Even when a student's motive can be inferred, the State must compare it with the relevant tradition's account of a religious vocation. *Carson*, 596 U.S. at 789. It must ask whether

a worship leader, youth director, counselor, or campus minister is clergy; whether a religious educator is preparing ministers; and whether a degree's secular coursework changes the answer. The First Amendment does not permit government to decide these questions.

Colorado Christian University v. Weaver shows where that inquiry leads. Colorado excluded colleges deemed “pervasively sectarian” from a scholarship program and required officials to ask whether required theology courses tended to “indoctrinate or proselytize.” 534 F.3d 1245, 1249–51 (10th Cir. 2008). The Tenth Circuit called that scheme “fraught with entanglement problems.” *Id.* at 1261. Its most intrusive feature required Commission staff to demand theology-course syllabi and decide whether instruction indoctrinated students. *Id.* at 1261–62. Such inquiries, the court held, have long been condemned.

Locke requires the same forbidden examination, only under a different label. A State cannot determine whether a degree is vocational without reviewing course descriptions, syllabi, program purpose, and the religious roles the degree supposedly prepares students to perform. That review forces officials to evaluate doctrine and religious significance. It makes the State an auditor of ministry and the college a witness against its own religious mission. That exercise calls to mind the Court's decisions cautioning against “trolling through a person's or institution's religious beliefs.” *Mitchell v. Helms*, 530 U.S. 793, 828 (2000) (plurality opinion); see also *Cath. Charities Bureau, Inc. v. Wisconsin Lab. & Indus. Rev. Comm'n*, 605 U.S. 238, 250 (2025) (holding that a State's application of a tax exemption violates the First Amendment where

“eligibility for the exemption ultimately turns on inherently religious choices (namely, whether to proselytize or serve only co-religionists”).

B. Applying the Lay-Clergy Distinction to Many Minority Religions Necessarily Forces Religious Conformity.

The vocational inquiry is a line-drawing problem with special risks for minority religions. Many traditions have no precise lay-clergy divide. A State that applies its own model of “vocational religious training” therefore forces religious conformity. Cf. *Cath. Charities Bureau*, 605 U.S. at 250 (striking a denominational preference).

For example, “Judaism has many ‘ministers,’ that is, the term ‘minister’ encompasses an extensive breadth of religious functionaries in Judaism.” *Our Lady of Guadalupe*, 591 U.S. at 752 (quoting Brief for COLPA et al., as *Amici Curiae* i, 3 (quotation modified)). The title “rabbi” literally means “teacher” or “master” and denotes the depth of learning a person has undertaken in Jewish law, text, and tradition—not necessarily a vocational role. See *id.* at 759; Marcus Jastrow, *Dictionary of the Talmud* (1903), <https://www.sefaria.org/Jastrow> (last visited Sept. 14, 2026) (defining *rabbi* as “my teacher, my master” and a “title of scholars”). Many who earn the title go on to careers in law, academia, social work, or public policy rather than religious leadership. *E.g.*, *Goldman v. Weinberger*, 475 U.S. 503, 504–05 (1986) (describing an “ordained rabbi” who worked as an Air Force “clinical psychologist”); *Friends of Ahi Ezer Congregation, Inc. v. City of Long Branch*, 16 N.J. Tax 591, 597–98 (N.J. Tax Ct. 1997) (holding that a rabbi whose duties principally involved public chanting of the Torah was not an “officiating clergyman”). A State that regards a program of

rabbinic study as inherently preparation for clergy imposes a Christian framework on a Jewish concept. It demands that rabbinic education be something it is not.

The Religious Society of Friends (Quakers) does not have formal clergy but rather “believe[s] that a person can convene directly with God without a mediator (such as a priest, minister, or other member of the clergy) and that a group of individuals form a congregation when they worship together and submit their independent religious revelations and insights to collective discernment at periodic meetings for worship.” *Green Haven Prison Preparative Meeting of Religious Soc’y of Friends v. New York State Dep’t of Corr. & Cmty. Supervision*, 16 F.4th 67, 72–73 (2d Cir. 2021). For a tradition that rejects ordained clergy, the vocational/non-vocational distinction is incoherent. A Quaker who studies religion is not preparing for the ministry in any sense the State can recognize, because the Religious Society of Friends has no ministry to prepare for. Yet under *Locke*, a State may still strip that student’s aid based on the label attached to her course of study—penalizing her for pursuing religious knowledge even though her tradition assigns no clerical significance to it.

In the Church of Jesus Christ of Latter-day Saints, leaders are typically lay members. See *Ellis v. United States*, 922 F. Supp. 539, 541 (D. Utah 1996) (“The LDS Church officials are lay clergy.”). Because virtually all leadership positions in the LDS Church are filled by lay members who serve without professional training or compensation, a program of religious study at a Church-affiliated university like Brigham Young University is no more preparation for clergy than a business degree. The clergy/laity distinction that *Locke* presupposes does not map onto a tradition in

which every member may be called to serve in a leadership capacity regardless of formal education.

The ministerial-exception cases confirm the problem. *Hosanna-Tabor* and *Our Lady of Guadalupe* use a functional test to determine whether a position is ministerial and therefore protected from certain government interference. *Hosanna-Tabor*, 565 U.S. at 192 (a teacher’s duties conveyed the Church’s message and carried out its mission); *Our Lady of Guadalupe*, 591 U.S. at 753 (“What matters, at bottom, is what an employee does.”). The Court downplayed degrees and credentials because formal titles create line-drawing problems, especially for minority religions. It makes no sense to use function when protecting a minister from government interference but to rely on formal labels when denying an aspiring minister a public benefit—especially when *Locke* itself recognized that scholarships for devotional theology degrees would not violate the Establishment Clause. 540 U.S. at 719 (citing *Witters v. Washington Dep’t of Servs. for Blind*, 474 U.S. 481, 489 (1986)).

To protect the private sphere of church autonomy and maintain consistency with the Court’s ministerial-exception cases, *Locke* must be overruled.

CONCLUSION

For the foregoing reasons and those set forth by the Petitioners, the Court should grant the petitions for certiorari.

Respectfully submitted,

Robert D. Capodilupo
Hector Pagan
SIDLEY AUSTIN LLP
60 State Street,
36th Floor
Boston, MA 02109

Daniel J. Hay*
Jeremy D. Rozansky
Sydney A. Volanski
SIDLEY AUSTIN LLP
1501 K Street, N.W.
Washington, D.C. 20005
(202) 736-8000

Miranda A. Cassidy
SIDLEY AUSTIN LLP
2323 Cedar Springs
Suite 2600
Dallas, TX 75201

Counsel for Amici Curiae

September 14, 2026

* Counsel of Record

APPENDIX

APPENDIX TABLE OF CONTENTS

	Page
APPENDIX: State Scholarship Programs That Exclude Theology And Religious Study (By State).....	1a

**State Scholarship Programs that Exclude
Theology and Religious Study (By State)***

Program	Exclusionary Provision
Alabama	
Student Assistance Program	Excludes any student “enrolled in a course of study leading to a degree in theology, religion, or other field of preparation for a religious profession.” Ala. Admin. Code r. 300-4-2-.04(8)(e).
Student Grant Program	Eligibility requirement: “Is not enrolled and does not intend to enroll in a course of study leading to an undergraduate degree in theology or divinity.” Ala. Code § 16-33A-1(4)(f). Excludes a “course of study leading to an undergraduate degree in theology, divinity, or other field of preparation for a religious vocation.” Ala. Admin. Code r. 300-4-3-.01(7)(g). Caps number of religion credit hours on determining eligibility: “[N]o more than one course [with a maximum of four (4) credit hours] per academic term for courses in religion or theology shall be considered when calculating a student’s full-time status.” Ala. Admin. Code r. 300-4-3-.01(9).

* Excludes Blaine Amendments and other general no-aid provisions.

Program	Exclusionary Provision
Alabama (cont'd)	
(Re)Engage Alabama Grant Program	Student must be “[n]ot enrolled in a course of study leading to an undergraduate degree in theology, divinity, or field of preparation for a religious vocation.” Ala. Admin. Code r. 300-4-13-.06(1)(c)3.(x); see also Ala. Code § 16-33D-3(8) (limited to “nonsec-tarian, secular educational program”). Religion credit-hour caps for part-time and full-time students. <i>Id.</i> r. 300-4-13-.03(11), (13).
Colorado	
College Opportunity Fund	Prohibits awarding financial assistance to a student “pursuing a professional degree in theology.” Colo. Rev. Stat. § 23-3.3-104(1); see also <i>id.</i> § 23-18-102(5)(a)(II)(C.5).
Colorado Student Grant	
Colorado Graduate Grant	
Colorado National Guard Tuition Assistance Program	

Program	Exclusionary Provision
Connecticut	
Roberta B. Willis Scholarship	Excludes institutions “whose primary function is . . . the preparation of students for religious vocation.” Conn. Gen. Stat. § 10a-173(4)(D).
Florida	
Effective Access to Student Education (EASE) Grant	Excludes a student “enrolled in a program of study leading to a degree in theology or divinity.” Fla. Stat. § 1009.89(4)(b)(2). Eligible institutions must have “a secular purpose, so long as the receipt of state aid by students at the institution would not have the primary effect of advancing or impeding religion or result in an excessive entanglement between the state and any religious sect.” <i>Id.</i> § 1009.89(3).
Georgia	
Tuition Equalization Grant	A nonproprietary “approved school” is one “which is not a graduate level school or college of theology or divinity.” Ga. Code § 20-3-411(2)(A). A proprietary “approved school” is one “which is not a Bible school or college (or, at the graduate level, a school or college of theology or divinity).” <i>Id.</i> § 20-3-411(2)(B)(i).

Program	Exclusionary Provision
Hawaii	
Hawaii Student Incentive Grant	Excludes students that are “enrolled in or intend[] to use the grant to enroll in a program of study involving religious or theological training which leads to the degree of bachelor of divinity.” Haw. Code R. § 20-41-6(4).
Idaho	
Work Study Program	“[A] student whose academic course of study is sectarian in nature or who is pursuing an educational program leading to a baccalaureate degree in theology or divinity may not participate in this program.” Idaho Code § 33-4403(6).
Illinois	
College Savings Bonds	Excludes “any educational organization used for sectarian instruction, as a place of religious teaching or worship or . . . the training of ministers, priests, rabbis or other professional persons in the field of religion.” 110 Ill. Comp. Stat. 920/3(b). Excludes students “(i) in a school or department of divinity for any religious denomination or (ii) pursuing a course of study consisting of training to become a minister, priest, rabbi or other professional person in the field of religion.” <i>Id.</i> 920/8.

Program	Exclusionary Provision
Kentucky	
Kentucky Tuition Grant	Student must be enrolled at an institution “whose institutional programs are not composed solely of sectarian instruction.” Ky. Rev. Stat. § 164.785(1)(b)1., 2.; see also <i>id.</i> § 164.785(7)(a)-(c).
Louisiana	
Payment to Institutions of Higher Learning	The state reimburses universities that educate Louisiana residents, but excludes “[s]tudents majoring in theology or divinity.” La. Stat. Ann. § 17:2053(E).
Michigan	
Tuition Grant	Excludes a “program of study leading to a degree in theology, divinity, or religious education.” Mich. Comp. Laws § 390.994(2).
Minnesota	
Minnesota Academic Excellence Scholarship	Student must be enrolled in “a nonsectarian, baccalaureate degree-granting program.” Minn. Stat. § 135A.30, subd. 2(3).

Program	Exclusionary Provision
Missouri	
A+ Scholarship Program	Excludes a “course of study leading to a degree in theology or divinity.” Mo. Rev. Stat. § 173.1104(4); see also 6 Mo. Code Regs. 10-2.190(3)(A)11 (A+); <i>id.</i> 10-2.170(3)(E) (Kids’ Chance); Mo. Rev. Stat. § 173.250 (Bright Flight).
Higher Education Academic Scholarship (Bright Flight)	
Kids’ Chance Scholarship Program	
Nevada	
Governor Guinn Millennium Scholarship	Eligibility for “nonsectarian college or university.” Nev. Rev. Stat. § 396.916(2).
New Jersey	
Tuition Assistance Grant (TAG)	A student “enrolled in a course leading to a degree in theology or divinity shall not be eligible for a tuition aid grant.” N.J. Stat. Ann. § 18A:71B-20(b).
New Mexico	
Student Choice Grants	No funds appropriated “shall be used for sectarian purposes.” N.M. Stat. § 21-21C-7.

Program	Exclusionary Provision
New York	
Tuition Assistance Program	“All general and academic performance awards . . . no such awards shall be used to obtain professional instruction in theology.” N.Y. Educ. Law § 661(6). Section 661 reaches the Excelsior Scholarship and Enhanced Tuition Awards by regulation. 8 N.Y.C.R.R. §§ 2201.18(b) (Excelsior), 2201.19(b) (Enhanced).
Enhanced Tuition Awards	
Excelsior Scholarship	
Ohio	
Ohio College Opportunity Grant	“[N]o grant shall be made to any student in a course of study in theology, religion, or other field of preparation for a religious profession unless such course of study leads to an accredited bachelor of arts, bachelor of science, associate of arts, or associate of science degree.” Ohio Rev. Code § 3333.122(E).
Instructional Grant Program	Excludes “ a course of study leading to a degree in religion or theology or other field of preparation for a religious profession unless the course of study leads to an accredited bachelor of arts, bachelor of science or associate of arts degree.” Ohio Admin. Code 3351-2-02(4).

Program	Exclusionary Provision
Oregon	
Opportunity Grant	Excludes “any qualified student enrolled in a course of study required for and leading to a degree in theology, divinity, or religious education.” Or. Rev. Stat. § 348.260(8).
Promise Grant	“No Oregon Promise Grant shall be made to any student enrolled in a course of study required for and leading to a degree in theology, divinity, or religious education.” Or. Admin. R. 575-039-0070(4).
Oregon National Guard Scholarship	“No scholarship shall be made to any student enrolled in a course of study required for or leading to a degree in theology, divinity or religious education.” Or. Rev. Stat. § 399.255(4).
Tribal Student Grant	“No Oregon Tribal Student Grant shall be made to any student enrolled in a course of study required for and leading to a degree in theology, divinity, or religious education.” Or. Admin. R. 575-105-0005(3).
Pennsylvania	
State Higher Education Grant Program	Excludes an institution that is “a school of theology or a theological seminary as determined by the Agency.” 22 Pa. Code § 121.32(b).

Program	Exclusionary Provision
South Carolina	
Tuition Grants	Requires that the student is not “enrolled in a course of study leading to a degree in theology, divinity, or religious education.” S.C. Code § 59-113-20(e).
LIFE Scholarship	“Institutions whose sole purpose is religious or theological training, or the granting of professional degrees do not meet the definition of ‘public or independent institution’ for purposes of this chapter.” S.C. Code § 59-149-10(B)(2); <i>id.</i> § 59-150-360(C); <i>id.</i> § 59-150-367(B).
HOPE Scholarship	
Lottery Tuition Assistance	
Virginia	
VTAG	Eligible institution’s “primary purpose is to provide collegiate, graduate, or professional education and not provide religious training or theological education.” Va. Code Ann. § 23.1-628(A) (see also § 23.1-631; § 23.1-610); 8 Va. Admin. Code § 40-71-10.
Two-Year College Transfer Grant	
Foster Care Tuition Grant	
National Guard State Tuition Assistance Program	

Program	Exclusionary Provision
Virginia (cont'd)	
<i>Brown v. Board</i> Scholarship	“No student pursuing a course of religious training or theological education or a student enrolled in any institution whose primary purpose is to provide religious training or theological education shall be eligible to receive scholarship awards.” Va. Code Ann. § 30-231.2(C).
Washington	
College Grant	“No aid shall be awarded to any student who is pursuing a degree in theology.” Wash. Rev. Code § 28B.92.100.
College Bound Scholarship	
Passport to College Promise	The student must not pursue “a degree in theology.” Wash. Rev. Code § 28B.117.030(3)(f).
Work Study	Funds are only available to students “not pursuing a degree in theology.” Wash. Rev. Code § 28B.12.060(2)(c).
Wisconsin	
Wisconsin Grant Program	“No grant may be awarded under this section to members of religious orders who are pursuing a course of study leading to a degree in theology, divinity or religious education.” Wis. Stat. § 39.30(2)(d).