

No. 20-1088

IN THE
Supreme Court of the United States

DAVID AND AMY CARSON, AS PARENTS AND
NEXT FRIENDS OF O.C., AND TROY AND ANGELA NEL-
SON, AS PARENTS AND NEXT FRIENDS OF A.N. AND R.N.,

PETITIONERS,

v.

A. PENDER MAKIN, IN HER OFFICIAL CAPACITY AS
COMMISSIONER OF THE MAINE DEPARTMENT OF
EDUCATION,

RESPONDENT.

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

**BRIEF OF THE LIBERTY JUSTICE CENTER AND
AMERICAN FEDERATION FOR CHILDREN AS
AMICI CURIAE IN SUPPORT OF PETITIONERS**

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QUESTION PRESENTED

Does a state violate the Religion Clauses or Equal Protection Clause of the United States Constitution by prohibiting students participating in an otherwise generally available student-aid program from choosing to use their aid to attend schools that include religious elements in their educational programs?

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INTEREST OF THE *AMICI CURIAE*¹

The Liberty Justice Center is a nonprofit, nonpartisan, public-interest legal aid firm that seeks to protect economic liberty, private property rights, free speech, and other fundamental rights. The Liberty Justice Center pursues its goals through strategic, precedent-setting litigation to revitalize constitutional restraints on government power and protections for individual rights. *See, e.g., Janus v. AFSCME*, 138 S. Ct. 2448 (2018) (representing petitioner Mark Janus). The Liberty Justice Center advocates for parents and schools in a number of cases supporting educational choice. *See, e.g., Adams v. McMaster*, 2020 S.C. LEXIS 154; *Metro. Gov't of Nashville v. Tenn. Dep't of Educ.*, 2020 Tenn. App. LEXIS 434 (appeal granted); Okla. Atty. Gen. Op. No. 2020-13, 2020 OKLA. AG LEXIS 83.

The American Federation for Children is a leading national advocacy organization promoting school choice with a specific focus on school vouchers, scholarship tax credit programs, and Education Savings Accounts (“ESAs”). The American Federation for Children seeks to improve our nation’s K-12 education by advancing public policy that empowers parents, particularly those in low-income families, to choose the education they determine is best for their children.

¹ Rule 37 statement: No counsel for any party authored any part of this brief, and no person or entity other than amici funded its preparation or submission. All parties received timely notice more than 10 day before of intent to file this brief and all parties consented to the filing of this brief.

INTRODUCTION AND SUMMARY OF THE ARGUMENT

“Today many of our inner-city public schools deny emancipation to urban minority students.” *Zelman v. Simmons-Harris*, 536 U.S. 639, 676 (2002) (Thomas, J., concurring). Sadly, the State of Maine has taken the initiative to erect regulatory barriers that also deny emancipation to thousands of rural students across the Pine Tree State. It does so in a misguided attempt to enforce a mistaken view of the Establishment Clause, providing that children may only use tuition assistance to attend “a nonsectarian school in accordance with the First Amendment of the United States Constitution.” 1981 Me. Laws 2177 (codified at Me. Stat. tit. 20-A, § 2951(2) (App. 80)).

The heartbeat of the school choice movement is compassion for children in difficult circumstances: not just minority children stuck in failing inner-city schools, but students who may have access to generally good public schools but find themselves with an individual need for an alternative educational setting. When it comes to education, one size does not fit all. Students with special physical or intellectual challenges, victims of bullying, children of active-duty military, religious minorities, girls or boys who do best in a single-sex learning environment—all benefit from the multitude of options created by school choice. Their stories, recounted below, not only inspire, but demonstrate the compelling need for these options and the integral nature of religious institutions in these programs.

Our states and nation benefit as well, as the panoply of distinctive educational institutions expands and reinforces the rich mosaic of diversity. These values of diversity, pluralism, and the freedom to choose one's associations lie at the heart of our social order. Maine's decision to undermine those values and deny these opportunities to thousands of its children calls for the Court's intervention.

ARGUMENT

I. **This case can open doors of opportunity for millions of students nationwide.**

The exclusion of faith-based schools from choice programs severely curtails the educational options available to families. Across our nation, approximately two-thirds of private schools are religious in character or background. *Private Universe School Survey, 2015-16*, U.S. Dept. of Ed., National Center for Education Statistics (Sept. 2017) (C-62)². See *Zelman*, 536 U.S. at 656-57 (recounting data showing substantial majorities of private schools in Cleveland's choice program were religiously affiliated). In state after state, efforts to give children educational options beyond the traditional public school have run into restrictions that prevent worthy schools from serving children in need. See, e.g., *Bush v. Holmes*, 919 So. 2d 392 (Fla. 2006); *Duncan v. New Hampshire*, 102 A.3d 913, 916-17 (N.H. 2014); *Schwartz v. Lopez*, 382 P.3d 886, 890 (Nev. 2016) (en banc). Just last year, this Court recognized that this sort of discrimination against religious

² Available online at <https://nces.ed.gov/pubs2017/2017160.pdf>.

schools was unconstitutional. *Espinoza v. Mont. Dep't of Revenue*, 140 S. Ct. 2246 (2020). This Court should take this case to clarify that a school's religious exercise is no less constitutionally protected than its religious status.

As this Court has recognized, educational choice is a lifeboat for children from “low-income and minority families [... who lack...] means to send their children to any school other than an inner-city public school.” *Zelman*, 536 U.S. at 644. Excluding schools that actually live out their religious faith from participating in a choice program slams the door shut on the substantial majority of options for those families. *See id.* at 657 (noting that 82 percent of Cleveland's participating private schools are religious schools). But educational choice benefits more than just urban, low-income, or racial-minority students; as this brief demonstrates, many other children choose to learn through private religious schools made possible by state-sponsored programs.

A. Students with physical or intellectual needs

One child with special physical or intellectual needs who exemplifies how such children benefit from school choice is John. In the words of his mom Cristin, John is “talented, he's brilliant, he's loving, and he's autistic.” His mom explains, “We recognized very early on that John was not like all of the other kids. By the time he was three, he had taught himself to read. He was already displaying photographic memory abilities. He could tell you, for hours and hours, all you ever wanted to know about space, weather phenomena, and dinosaurs.”

Unfortunately, even with an individualized education plan (IEP) in place, John did not fit in at a series of local public schools. His parents reached the point of exasperation until they discovered that the Nevada Opportunity Scholarship program made possible a different choice: a school where, his mom says, “[t]hey encourage patience, kindness, and that every child is important. And better yet? He was happy again. He loved school again. He believed in himself again. Everything went from being ‘I can’t’ to ‘I can.’” For John, school choice and private, faith-based Far West Academy made all the difference. “John Balsamo,” Am. Fed. for Children, “Voices for Choice.”³

The scholarship program in Nevada, where John lives, includes 93 participating private schools, including many from diverse faith backgrounds (Baptist, Catholic, Lutheran, Islamic, Jewish, and many more). “2018-2019 Registered Schools Opportunity Scholarship,” Nevada Dept. of Ed.⁴ Nevada is not unique. The John McKay Scholarships for Students with Disabilities Program in Florida is the oldest and largest of the school choice programs serving students with special needs. Approximately 56 percent of the schools participating in the McKay Scholarship program are religious, including schools identifying as Baptist, Catholic, Jewish, Islamic, Pentecostal, and Seventh Day Adventist. Florida Private Schools Directory, Florida

³ Available online at <https://www.federationforchildren.org/voices-for-choice/john-balsamo/>.

⁴ Available online at http://www.doe.nv.gov/uploaded-Files/ndedoenvgov/content/Private_Schools/Scholarship_Grants/RegisteredSchoolsrev1.pdf.

Dept. of Ed.⁵ (approximately 1070 of 1900 schools accepting the McKay Scholarship are religiously affiliated). If Florida were to implement the sort of restriction Maine has adopted, parents of children with special needs would have seen their options literally cut in half.

B. Victims of bullying

Walter is a victim of bullying who exemplifies how such children can survive and thrive with school choice. Walter started school with an Attention Deficit Hyperactive Disorder (“ADHD”) diagnosis and quickly fell two grades behind in reading and math. He says he had to focus on just surviving rather than learning: “I remember coming home from school multiple times with ripped clothing and bruises from other students bullying me. My grades were as low as my motivation, and there didn’t seem to be any signs of change.” Then Walter’s mom applied for an EdChoice Ohio scholarship so he could attend Tree of Life Christian School, where he thrived, taking part in sports, music and drama, and student council. He graduated and is now a senior studying journalism at Mount Vernon Nazarene University. “Walter Blanks,” Am. Fed. for Children, “Voices for Choice.”⁶

Another victim of bullying is Emily. Her mom, Annie, says the verbal and physical abuse began as soon as

⁵ Available online at <https://www.floridaschool-choice.org/Information/privateschooldirectory/default.aspx?prgtype=2>.

⁶ Available online at <https://www.federationforchildren.org/voices-for-choice/walter-blanks/>.

she enrolled at her local public high school: “On a daily basis, male students called her derogatory names and groped her in hallways.” Complaints to school authorities went nowhere, and her grades started sliding. Then Annie secured a tax-credit scholarship for Emily to enroll at John Carroll Catholic High School. She writes, “The harassment ended, students treated each other with respect, and my child blossomed.” Annie Bullins-Jones, “Bullying victims should have education options,” *The Stuart News* (Jan. 3, 2018).⁷

Parents like Walter’s mom and Emily’s mom often find that school choice is their only alternative when their child has been consistently, even violently, bullied at school. Kevin Currie-Knight & Jason Bedrick, “Can School Choice Keep Children Safe from Bullying?” *EdChoice* (Sept. 26, 2017).⁸ A national survey of students in private and public schools found that the students in private schools felt greater enforcement of the school’s anti-bullying policy, greater acceptance of students from minority groups, and greater social inclusivity. “School Bullying Report Card,” *Niche* (2015)⁹ (aggregating responses from over 185,000 student users). Students at religious schools also report lower levels of bullying than students in public schools. *2015 School Crime Supplement (SCS) to the National Crime*

⁷ Available online at <https://www.stepupforstudents.org/published-opinion/annie-bullins-jones-bullying-victims-should-have-education-options/>.

⁸ Available online at <https://www.edchoice.org/blog/can-school-choice-keep-children-safe-from-bullying/>.

⁹ Available online at <https://rvsd-outliers.com/school-bullying-report-card-public-vs-private/>.

Victimization Survey (NCVS), U.S. Dept. of Ed. (Dec. 2016) (Table 2.2).¹⁰ Foreclosing these options by allowing discrimination against schools that live out their religious identity would trap bullied students in schools that are failing to protect them.

Florida recently enacted legislation to extend school choice specifically to students who have been bullied. Arianna Prothero, “In Florida, Bullied Students Will Get Vouchers to Attend Private School,” *Educ. Week* (March 8, 2018).¹¹ Just over 900 schools accept this “Hope Scholarship.” Over 550 of them are religious. *Florida Private Schools Directory*, Florida Dept. of Ed.¹² As in Florida’s scholarship for special needs, students who are victims of bullying would lose more than half their options if on-mission religious schools were excluded as they are in Maine.

C. Religious minorities

Schools like the Muslim Academy of Greater Orlando are often a refuge for Muslim students fleeing harassment, bullying, and isolation at their public schools. Once there, students find a welcoming community with high academic standards. Low-income students enrolled through the Florida scholarship program

¹⁰ Available online at <https://nces.ed.gov/pubs2017/2017015.pdf>.

¹¹ Available online at <https://www.edweek.org/policy-politics/in-florida-bullied-students-will-get-vouchers-to-attend-private-school/2018/03>.

¹² Available online at <https://www.floridaschool-choice.org/Information/privateschooldirectory/default.aspx?prgtype=2>.

make significant learning improvements compared to other similarly situated students. Principal Jameer Abass says, “[W]hat I am trying to teach the kids is you are part of a larger society. You are American. We do fundraising for the Leukemia society and try to be as much as possible part of the community. We have kids involved in Jewish Boy Scouts.” Livi Stanford, “Muslim schools share concerns about security,” *RedefinED* (May 22, 2017).¹³

Our nation’s private, religious schools are a wonderful reflection of our country’s diverse religions. Not only Catholic and Lutheran, but Amish, Quaker, Islamic, Jewish, Seventh Day Adventist—all these faiths sponsor private schools that offer parents additional choices for their children’s education. *See Private Universe School Survey, 2015-16*, U.S. Dept. of Ed., National Center for Education Statistics (Sept. 2017) (C-63)¹⁴ (listing the religious affiliations of private schools). For some parents from minority religious faiths, especially recent immigrants, a choice scholarship is the only way they can send their child to a school that reinforces, rather than undermines, that faith. In other circumstances, school choice may be essential to safeguard children from a hostile environment where they are targeted for wearing unusual head-gear or not cutting their hair like most of their classmates. *See* Nadia S. Ansary, “Religious-Based Bullying: Insights on Research and Evidence-Based

¹³ Available online at <https://www.redefine-online.org/2017/05/muslim-schools-refuge/>.

¹⁴ Available online at <https://nces.ed.gov/pubs2017/2017160.pdf>.

Best Practices from the National Interfaith Anti-Bullying Summit,” Institute for Social Policy and Understanding (2018)¹⁵ (finding young “Muslims and Jews experience disproportionately high rates of hate speech and bullying”). Yet Maine’s policy would exclude these schools precisely because they serve minority religious communities.

D. Tribal students

Former Arizona Democratic State Senator Carlyle Begay of Ganado represented nine tribal communities. In his words, expanding Arizona’s Empowerment Scholarship Accounts to children from reservations “means so much to families living in my district and throughout all of Arizona’s tribal communities. Native American parents went from having almost no options to having a mechanism to build their child’s education around their child’s learning needs. It is an exciting first step toward fixing education on tribal lands!” “Gov. Ducey signs Empowerment Scholarship Account law benefiting all Native American students on tribal lands,” Am. Fed. for Children (April 7, 2015).¹⁶

Senator Begay’s tribal constituents can use their Arizona scholarships at any private school in Arizona willing to accept the tuition rate. 72 percent of Arizona

¹⁵ Available online at <http://icnacsj.org/wp-content/uploads/2018/11/ISPU-AMHP-Religious-Based-Bullying.pdf>.

¹⁶ Available online at <https://www.federationforchildren.org/gov-ducey-signs-empowerment-scholarship-account-law-benefiting-native-american-students-tribal-lands/>.

private schools are religious in character (166 of 230 schools). Andrew D. Catt, *Exploring Arizona's Private Education Sector*, EdChoice (Dec. 2016), at 42.¹⁷ If Arizona had adopted the rule in Maine, Native American students would lose three-quarters of their ESA options. The historical geography of these religious schools makes the loss of options all the more compelling: “One reason the Catholic Church is still running schools like St. Labre is that in many Indian communities, the Church is the only game in town.” Naomi Schaefer Riley, “Catholic schools for Native Americans, known for abuse and assimilation, try to do good,” *Wash. Post* (Aug. 12, 2016).¹⁸ See American Indian Catholic Schools Network.¹⁹

E. Children in military families

Samuel exemplifies the children of military parents who benefit from school choice. His father, Daniel, defends our nation in the United States Navy. While Daniel was deployed to the Middle East, Samuel was getting bullied on the bus and at school. Daniel says hearing reports from home about his son’s difficulties was “very hard for me because while I was fulfilling

¹⁷ Available online at <https://www.edchoice.org/wp-content/uploads/2016/12/2016-12-AZ-Private-School-Survey.pdf>.

¹⁸ Available online at https://www.washingtonpost.com/news/acts-of-faith/wp/2016/08/02/catholic-schools-for-native-americans-known-for-abuse-and-assimilation-try-to-do-good/?utm_term=.815ed2327e02.

¹⁹ Available online at <https://ace.nd.edu/american-indian-catholic-schools-network/about-the-network>.

my commitment to protect the nation, my family needed protection as well.” He says the “ESA program has been a huge relief” for their family. Samuel is now enrolled in a school with a zero-tolerance policy on bullying. He and his three siblings all attend private schools thanks to Arizona’s ESA program. Daniel finds them “a better fit because the schools we have chosen have more of a small community atmosphere with heavy structure,” which are essential attributes to support a military family through a deployment.

Hundreds of students enrolled in Arizona’s empowerment savings accounts are dependents of service personnel stationed in Arizona. Rob O’Dell & Yvonne Wingett Sanchez, “Arizona taxpayer-funded vouchers benefiting students in more-affluent areas,” *Arizona Republic* (March 30, 2017)²⁰ (13% of the 3,360 enrolled in the program came from military families). The program offers an important alternative for families who live near bases; a nationwide 2016 study by the Rand Corporation found that public schools near stateside military installations tend to be low-performing districts. Charles A. Goldman, et al., “Options for Educating Students Attending Department of Defense Schools in the United States,” Rand Corp. (2016).²¹ As noted above, three-quarters of the schools military families can choose in Arizona would be excluded based on the Maine rule.

²⁰ Available online at <https://www.azcentral.com/story/news/politics/arizona-education/2017/03/30/arizona-taxpayer-funded-vouchers-benefiting-students-more-affluent-areas/99707518/>.

²¹ Available online at https://www.rand.org/pubs/research_reports/RR855.html.

F. Children in single-sex schools

Dominique is one of many children who use school choice to select a single-sex learning environment. She attended the historically black, all-girls St. Mary's Academy in New Orleans. Thanks to Louisiana's Student Scholarships for Educational Excellence Program, she says, "I formed bonds that I'm not sure I would have made had I gone somewhere else. . . . My school offers a very familial atmosphere. The people here truly care for me, and they motivate me rather than try to change or discourage me." "Dominique Hagens," Am. Fed. for Children, "Voices for Choice."²²

Though academics argue about the value of single-sex schools, the U.S. Department of Education concluded after an exhaustive literature review that "single-sex schooling can be helpful, especially for certain outcomes related to academic achievement and more positive academic aspirations." "Early Implementation of Public Single-Sex Schools: Perceptions and Characteristics" U.S. Dept. of Ed. (2008).²³ As single-sex, religious schools deliver results, more and more are opening, especially in urban and minority communities. Lisa Eliot, "Single-sex schools are on the rise for kids

²² Available online at <https://www.federationforchildren.org/voices-for-choice/dominique-hagens/>.

²³ Available online at <https://files.eric.ed.gov/fulltext/ED504174.pdf>.

of color,” *The Atlantic* (Jan. 8, 2017)²⁴; Denisa Super-ville, “Single-Gender Schools Prove Best for Some Students,” *Educ. Week* (Sept. 30, 2016).²⁵ Many of these single-sex schools would be excluded by Maine’s policy because of their religious character. *See* National Coalition for Girls Schools²⁶ (listing over 200 members in the United States, many of which are private and religious); International Boys School Coalition²⁷ (listing just under 100 members in the United States, many of which are private and religious).

G. Children in Alternative Educational Settings

There are also educational options that may be less generally available, but still may be the best choice for certain students. Some students may wish to use a voucher or scholarship towards tuition at a boarding school, with its immersive nature that combines the

²⁴ Available online at https://www.salon.com/2017/01/08/single-sex-schools-are-on-the-rise-for-kids-of-color_partner/.

²⁵ Available online at <https://www.edweek.org/ew/articles/2016/10/05/single-gender-schools-prove-best-for-some-students.html>.

²⁶ Available online at https://ncgs.memberclicks.net/index.php?option=com_mcsearchresults&view=search&uuid=41eee324-c1b7-4772-9945-fdc850acad76#.

²⁷ Available online at <https://www.theibsc.org/page.cfm?p=38&max=1000>.

social, athletic, educational, and religious. *See* Association of Boarding Schools²⁸ (listing over 200 members, many of which are religious). Others may prefer to enroll at a military academy. *See* Association of Military Colleges & Schools of the United States²⁹ (listing 27 junior and high school-level military academies, several of which are private and religious). Yet other young people may be best served by a faith-based recovery high school, which focuses on serving students struggling with heroin, opioids, and other addictions. *See, e.g.*, Perry West, “Pennsylvania diocese opening faith-based addiction recovery high school,” Catholic News Agency (Dec. 17, 2018).³⁰ These options, though less common than other types of schools, may be the right fit for children from troubled families, children dealing with discipline issues, or children struggling to maintain sobriety. These options would also see schools pushed out of the program by Maine’s policy writ large.

There is “no one way to school” in this country. ASHLEY BERNER, *PLURALISM AND AMERICAN PUBLIC EDUCATION: NO ONE WAY TO SCHOOL* (2017). While everyone agrees that all children should have equal access to education, virtually no one thinks the way we educate all children should be absolutely uniform, as though we were putting children on an education assembly line.

²⁸ Available online at <http://www.boarding-schools.com/media/148588/tabs2018memberssubscriberlist.pdf>.

²⁹ Available online at <https://amcsus.org/schools/>.

³⁰ Available online at <https://www.catholicnewsagency.com/news/pennsylvania-diocese-opening-faith-based-addiction-recovery-high-school-18179>.

People understand that different children have different needs, preferences, strengths, and weaknesses. School choice is a tool to provide children equal access to education while recognizing that all children are unique in the way they learn. Putting barriers to the access that children have to diverse learning experiences, by prohibiting children from using public money for on-mission religious schools, denies these children the ability to have their unique educational needs met.

Each of the children whose stories are included above personify in their own way the underlying reality that every child has their own individual educational needs. Each of them learns best and thrives socially and personally in a particular setting. And each of them relies on the state to support their education through some version of school choice. Maine has denied its children that opportunity through its decision to exclude schools that actively live out their religious mission from its tuition assistance program. By resolving the question presented in this case, the Court can provide certainty to millions of students and parents nationwide, reassuring them that they can continue in the school setting they think is best. And the Court can open the possibility for many more families to find a school that is a better fit for their one-of-a-kind kid.

II. Educational pluralism promotes core democratic values.

The stories above are not simply feel-good anecdotes about school choice. They also represent a deeper, broader reality about diversity among our educational institutions and the need for a pluralism to protect minorities. When institutions are given the space to be

unique, to serve particular populations, to establish internal cohesion through a shared vision or affiliation, then our broad spectrum of institutions taken together are wonderfully diverse. This diversity serves the students drawn to particular types of institutions, especially vulnerable and minority students like those described above, but it also contributes to a broader array of voices and ideas within our society and communities as a whole. It is pluralism between and among institutions that brings its only kind of diversity. See Paul Horwitz, *Institutional Pluralism and the (hoped-for) effects of candor and integrity in legal scholarship*, 101 MARQ. L. REV. 925, 925 (2008).

Education may well be “the most important function of state and local governments.” *Brown v. Bd. of Educ.*, 347 U.S. 483, 493 (1954). But that has never meant that it is the exclusive responsibility of government to provide every child’s education. *Pierce v. Soc’y of Sisters*, 268 U.S. 510, 535 (1925). Rather, Americans rightly recognize that “private education has played and is playing a significant and valuable role in raising national levels of knowledge, competence, and experience.” *Bd. of Educ. v. Allen*, 392 U.S. 236, 247 (1968). This court has witnessed a “persistent desire of a number of States to find proper means of helping sectarian education,” *Wolman v. Walter*, 433 U.S. 229, 262 (1977) (Powell, J., concurring/dissenting), from *Cochran v. Louisiana State Bd. of Educ.*, 281 U.S. 370 (1930), to *Espinoza* (2018). The score of cases in this category all stem from the fact that legislators and citizens wish to see their states support parents and children who choose private, religious schools in their communities.

This pluralism of educational institutions in our nation finds deep roots in our past: it is a practice both historic and healthy for our polity. “School systems in the United States used to be plural, too, funding Catholic, Congregationalist and de-facto Jewish schools alongside nonsectarian ‘common schools’ until the end of the 19th century, when several factors converged to create the impetus for uniform, district schools — including anti-immigrant (and anti-Catholic) political movements, local control, and the professionalization of teachers.” Ashley Berner, *Pluralism in American School Systems*, Johns Hopkins School of Educ. Institute for Educ. Policy (Jan. 2018).³¹ Though John Dewey’s disciples pushed nationwide for uniform schools, the resilience of our diverse schools, including private and religious schools, carries through to this day.

These schools are a blessing to many within our communities. Institutional pluralism in education works. It works for all the children whose stories are shared above, children who needed a school as unique as they are. It works according to the research: “Evidence from around the world suggests that studying within ‘distinctive educational communities in which pupils and teachers share a common ethos’ vastly increases the odds of students’ acquiring academic and civic knowledge, skills, and sensibilities.” *Id.* It works for more than test scores and graduation rates; these distinctive educational institutions are the bulwarks of order and civil society in many neighborhoods and

³¹ Available online at <http://edpolicy.education.jhu.edu/wp-content/uploads/2018/01/PluralismBrief-Jan2018.pdf>.

communities. Margaret F. Brinig & Nicole S. Garnett, *Catholic Schools, Urban Neighborhoods, and Education Reform*, 85 NOTRE DAME L. REV. 887 (2010).

CONCLUSION

We are an incredibly diverse people, and our education systems reflect the many religions, cultures, and populations that have sought the sanctuary of these shores over the centuries. When our states embrace the diversity of our schools, when they celebrate and empower rather than punish distinctive educational institutions, they embrace the best of our country, its heritage and its hope for the future. This pluralism of local schools is as important to our social order as a pluralism of distinctive institutions in the press, higher education, or the political process. It's important to children like John, Walter, Emily, Dominique, the students of the Muslim Academy of Greater Orlando, and the children on Senator Begay's reservations because it offers them schools that let them be their best. For all their sakes, the Court should grant certiorari in this case.

Respectfully submitted,

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