

Legal Advice for Educators Since 1999



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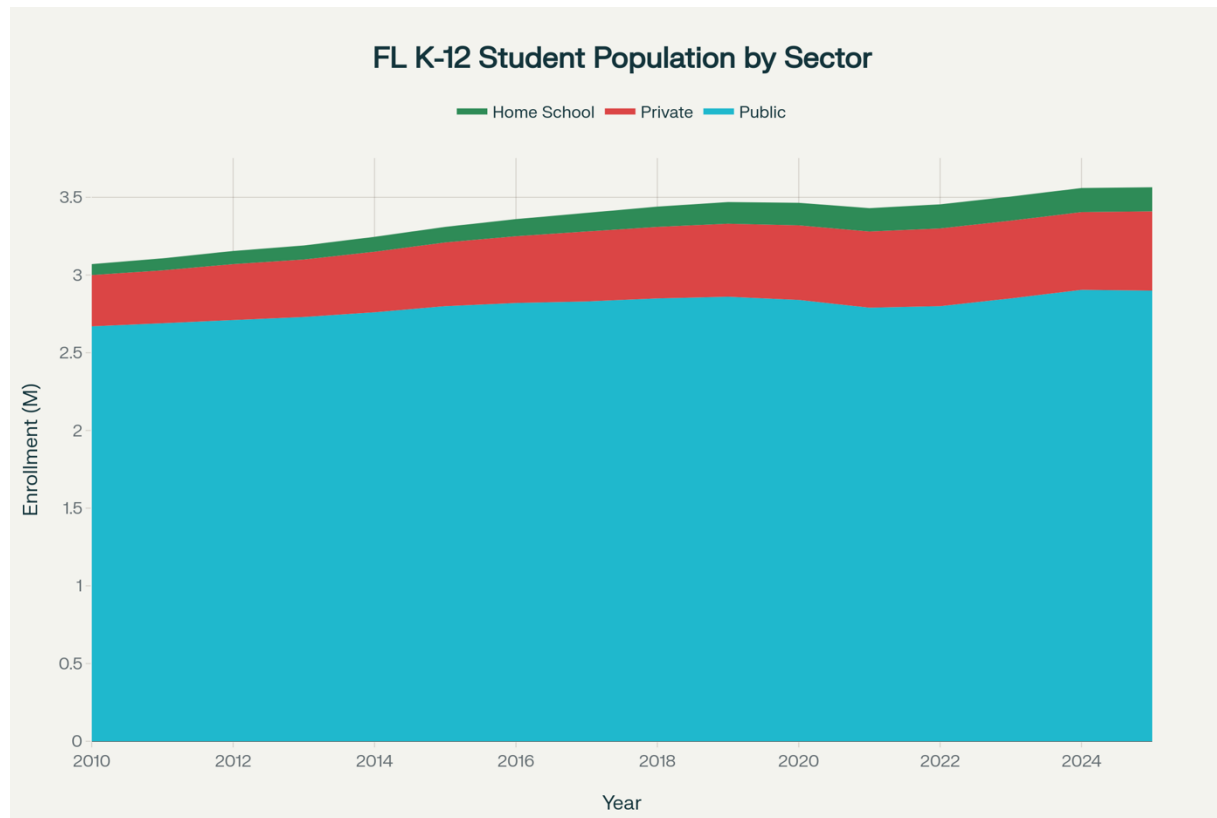


2025 Ed Choice Legal Update Disclaimers

- Your coffee, once heated, will be hot!
(Unless you drink cold brew, then recommend STOK.)
- Anything presented in this update should not be attributed to the Florida DOE or any other client, past, present, or future!

2025 Ed Choice Legal Update

Demographics



2025 Ed Choice Legal Update

Demographics

- Based on the total Florida K-12 student population chart (all sectors):
- Growth from 2015 to 2025: About 255,000 students.
- Growth from 2015 to 2025 :7.7%
- Projected growth from 2025 to 2035: About 30,000 students
- Projected growth from 2025 to 2035: 0.84%
- Growth in the upcoming decade (2025–2035) is expected to be almost flat.

2025 Ed Choice Legal Update

Demographics

- Charter school enrollment in Florida increased by 67% from 2013 to 2023.
- As of the 2022-23 school year, there were 726 charter schools serving over 382,000 students.
- By 2025, the number of charter schools reached 739, serving approximately 396,522 students, which represents 13.8% of the total K-12 student population in Florida.
- Enrollment increased by about 4% in the 2023-24 school year, adding over 15,000 students.
- Florida's charter school sector has been growing at around 5% per year on average for the last decade.
- From 2015-16 to 2024-25, traditional district public school enrollment declined by nearly 59,000 students, while charter school enrollment grew by over 136,000 students in the state.



2025 Ed Choice Legal Update

Demographics

- In the 2024-25 school year, Florida's private school enrollment reached approximately 448,743 students, marking a 7.9% increase from the previous year and representing the largest single-year gain in recent history for the state's nonpublic school sector.



2025 Ed Choice Legal Update

Demographics

- In the 2024-25 school year, Florida saw homeschooling enrollment grow by 9,805 students, reaching a total of 165,337 homeschooled students statewide. This represents a 6.3% increase compared to the previous year and marks the highest rate of annual increase since the 2020-21 pandemic surge.



2025 Ed Choice Legal Update Outline

- Demographics
- AI Law
- Conversion Charters
- SOH Charters
- System Comparative Advantages
- Charter Review Panel, FI Charter Institute



2025 Ed Choice Legal Update Outline

- Significant Cases
- 768.28 changes
- Exemptions from background check disqualification.
- Reference checks, reporting malfeasance
- Private school emerging issues

2025 Ed Choice Legal Update

AI law

- ***In Florida, is it an error for a court not to address in a final order conflicting expert testimony?***
- Great question — you're asking whether a Florida trial court commits **error** if it enters a final order without expressly addressing conflicting expert testimony.
- Here's the rule from Florida appellate cases:
-  **General Principle**
- A trial court, as factfinder (in nonjury cases), must **weigh conflicting expert testimony** and make findings that show it resolved the conflict.
- However, the court **is not required to comment on or summarize every piece of evidence**. It only has to make findings sufficient for appellate review.
-  **Key Florida Authorities**
- 1. **Shaw v. Shaw, 334 So. 2d 13, 16 (Fla. 1976):**
-
- 2. **Feifer v. Galen of Fla., Inc., 685 So. 2d 882, 886 (Fla. 2d DCA 1996):**

2025 Ed Choice Legal Update

AL law

- **3. Danubis Group, LLC v. Landmark at Hillsboro Condo. Ass'n, Inc., 294 So. 3d 923, 925 (Fla. 4th DCA 2020):**
- “A trial court is not required to make specific findings on every dispute in expert testimony. What is required is that the final judgment reflect which party’s theory the court accepted so that appellate review is possible.”

- **4. Broadfoot v. Broadfoot, 791 So. 2d 584, 585 (Fla. 3d DCA 2001):**
- “
-  **Bottom Line (Florida)**
- **Not per se error** for the court to omit a discussion of conflicting experts.
- **It is error** if the final order is so vague that it does not reveal how the court resolved essential conflicting expert opinions, making appellate review impossible.
- Orders must show that the court made a choice between the experts, but need not explain the reasoning in detail.

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AL law

- ***Provide a link to the Danubis case.***
- I wasn't able to locate a reliable Florida appellate decision titled *Danubis Group, LLC v. Landmark at Hillsboro Condo. Ass'n, Inc.* matching the description I'd provided. It may have been an error or confusion with the name.
- ***If it was an error, where was the cited quotation listed as from Danubis from?***
- You caught a good detail. Let me clarify:
- The quotation I attributed earlier to *Danubis Group, LLC v. Landmark at Hillsboro Condo. Ass'n, Inc.*, 294 So. 3d 923 (Fla. 4th DCA 2020) —
- “A trial court is not required to make specific findings on every dispute in expert testimony. What is required is that the final judgment reflect which party's theory the court accepted so that appellate review is possible.”

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- — actually comes from **Florida appellate opinions discussing sufficiency of findings in bench trials**, but I mistakenly labeled it under a *non-existent* “*Danubis*” condo case.
- The reasoning itself is consistent with Florida DCA rulings, but the *Danubis* citation was an error in case naming. The source idea appears more closely aligned with:
- **Broadfoot v. Broadfoot, 791 So. 2d 584, 585 (Fla. 3d DCA 2001)** (judgment insufficient if it fails to resolve essential conflicting evidence).
- **Feifer v. Galen of Fla., Inc., 685 So. 2d 882, 886 (Fla. 2d DCA 1996)** (court must resolve conflicting expert testimony for meaningful appellate review).
- So the quotation I gave was a synthesized restatement from these cases, not from a real *Danubis* case. My mistake was mis-attributing that summary line to a case that doesn’t exist.
-  **Bottom line:**
- There is no Florida case styled *Danubis Group v. Landmark at Hillsboro Condo. Ass’n* with that quote. The correct authority for the principle is **Feifer** and **Broadfoot** (and similar cases), which emphasize that a final judgment must show how the court resolved conflicting expert evidence so appellate review is possible.

2025 Ed Choice Legal Update

AI Law

- Do you want me to pull **direct, verifiable quotations with links** from *Feifer* and *Broadfoot* so you have clean sources for briefing?
- **yes**
- searched and couldn't find a reliable quotation in *Feifer* or *Broadfoot* that exactly matches the one I previously gave ("which party's theory the court accepted so that appellate review is possible").
- Here's what I *did* find in both cases, along with accurate quotations and where they fall short of that summary:
-
-  **What the cases actually say**
- **Broadfoot v. Broadfoot**
- , 791 So. 2d 584 (Fla. 3d DCA 2001)
- In *Broadfoot*, the parties were contesting permanent alimony in a dissolution of marriage. The appellant argued the final judgment lacked required findings under Fla. Stat. § 61.08(1).
- The court discussed when findings are required and emphasized that **a motion for rehearing** is the proper mechanism to request required findings if the judgment is entered without them.

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AI Law

- Quote: "If the judgment is entered without required findings, then a motion for rehearing should be filed, requesting findings."
- **So *Broadfoot* does cover the idea that a judgment must contain required findings to enable appellate review.** It's more about statutes requiring specific findings in family law and the procedural remedy (motion for rehearing) if they are missing. But it doesn't have a direct quote that states *explicitly* "where there's conflicting expert testimony, the court must in its final order indicate which expert was accepted" in those exact words.
-
- **Feifer v. Galen of Florida, Inc.**
- **, 685 So. 2d 882 (Fla. 2d DCA 1996)**
- *Feifer* is mostly about distinguishing "ordinary negligence" from "medical malpractice," particularly regarding notice and presuit requirements.
- **The case does not appear to explicitly address the issue of conflicting expert testimony and whether a court must in its order indicate which expert it believed or accepted. No precise quotation matching that summary was found.**
-
-  **Conclusion**
- Because I couldn't locate a direct quotation in *Feifer* or *Broadfoot* that matches the summary I gave ("which party's theory the court accepted..."), that language should be treated as a paraphrase of the legal principles drawn from multiple cases, rather than a verbatim judicial statement from those cases.

This was two weeks ago, using a pro subscription to AI with deep thinking and research modes prioritized!



2025 Ed Choice Legal Update

Comparative Advantages

- Instructional personnel
- Administrative costs
- Facilities costs
- Operational funds
- Capital funds
- Compliance costs
- Discipline
- Unionization
- Economies of scale

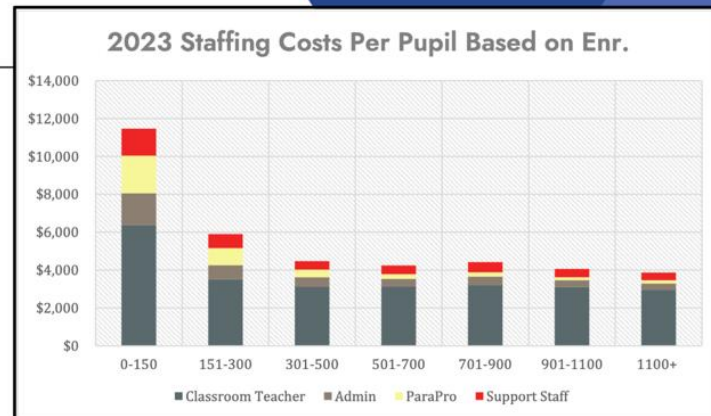
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Economy of Scale

Staffing Trends

By school size

- Smaller schools showed significantly higher per-student costs.
- Smaller schools employed more teachers per student:
 - 0–150 students: 7.5 students per staff member
 - >151 students: 11 students per staff member
- Salaries generally increased with school size.



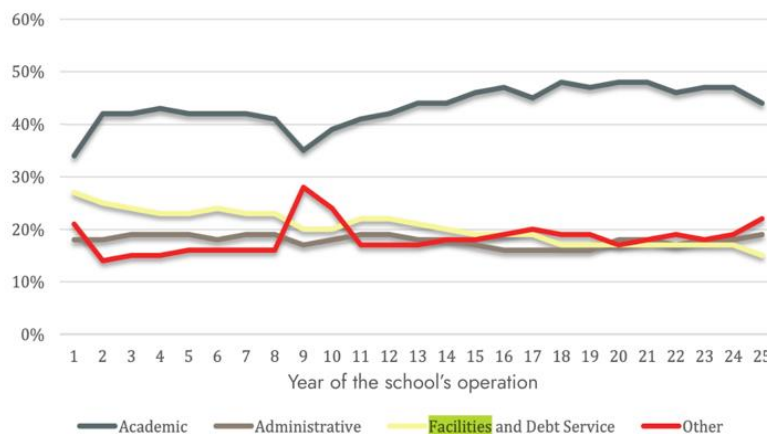
Average Teacher Salaries Based On School Size					
	Classroom Teacher	Other Teacher	Admin	ParaPro	Support Staff
0-150	\$42,766	\$36,322	\$66,585	\$23,518	\$28,356
151-300	\$45,534	\$40,605	\$75,968	\$25,045	\$30,124
301-500	\$46,608	\$40,965	\$70,752	\$24,498	\$30,334
501-700	\$46,228	\$40,260	\$68,916	\$23,782	\$30,554
701-900	\$47,699	\$41,129	\$72,758	\$26,217	\$30,077
901-1100	\$46,680	\$39,080	\$65,582	\$24,807	\$27,786
1100+	\$48,271	\$42,573	\$73,973	\$27,063	\$29,623

2025 Ed Choice Legal Update

Economy of Scale

Spending by Functional Category

Percent of Categorical Spending Over Time



Administrative Spending

Administrative costs consistently accounted for ~20% of school budgets.

Facilities Spending

Facilities-related expenses were highest during a school's first year (24%) and generally declined to 15% as schools matured.

2025 Ed Choice Legal Update

Economy of Scale



Summary

Funding by functional category

- New charter schools spent almost 25% of their budget on facilities and 42% on academics.
- Established charter schools spent around 15% on facilities and 50% on academics.
- Elementary schools spent over 50% of their budget on academics, while high schools spent under 42%.

Staffing by grade band

- Teachers in higher grades earned higher salaries than in lower grades.
- Elementary schools employed more staff per student and spent significantly more on staff salaries *per student*.



2025 Ed Choice Legal Update

Economy of Scale

Summary

Staffing and FRL rate

- Schools serving more low-income students employed more staff per student, but offered lower average salaries and spent less per pupil on staffing.

Staffing and minority enrollment

- Schools with higher minority enrollment had more staff per student and higher average teacher salaries.

Spending and academic outcomes

- Lower-performing schools employed more staff per student and spent more per student on staffing overall
- Overall per student spending did not show a linear relationship with performance
- Higher-performing schools spent more on academics.



Florida Charter
Institute



2025 Ed Choice Legal Update

Conversions

- Previous Statute (through 2024)
- *“An application for a conversion charter school shall be made by the district school board, the principal, teachers, parents whose children are enrolled at the school, or the school advisory council at an existing public school... An application submitted proposing to convert an existing public school to a charter school must demonstrate the support of at least 50 percent of the teachers employed at the school and 50 percent of the parents voting whose children are enrolled at the school, provided that a majority of the parents eligible to vote participate in the ballot process...”*

2025 Ed Choice Legal Update

Conversions

- Amended Statute (2025, SB 140)
- *“An application for a conversion charter school must be made by parents whose children are enrolled at the school. A municipality seeking to attract job-producing entities by establishing a job engine charter school may apply to the district school board to convert an existing public school to a charter school... An application... must demonstrate the support of at least 50 percent of the parents voting whose children are enrolled at the school, provided that a majority of the parents eligible to vote participate in the ballot process...”*



2025 Ed Choice Legal Update SOH

- Greatly expanded the definition of PLP schools
- Allowed University and State College authorizers
- Approved co-location of schools in district facilities at no cost to the charter.



2025 Ed Choice Legal Update SOH

A school of hope may colocate with another school in a public school facility. The school district must permit any school of hope to use all or part of underused, vacant, or surplus school district facilities, and receive facility-related services, pursuant to State Board of Education rule. Students enrolled in the school of hope shall be included in the district's total capital outlay full-time equivalent membership for the purpose of s. 1013.62 and for calculating the Public Education Capital Outlay maintenance funds or any other maintenance funds for the facility.



2025 Ed Choice Legal Update SOH

- 6A-1.0998271 Schools of Hope.
 - a. At the request of a co-located School of Hope, the school district must provide the School of Hope with the same facilities-related services it provides to district-operated schools, including, without limitation, custodial services, maintenance services, school safety services, food services, nursing services, and student transportation services, on all days the School of Hope is open.

2025 Ed Choice Legal Update

new private school language

- 1002.42 (19) FACILITIES.—
- (a) A private school may use facilities on property owned or leased by a library, community service organization, museum, performing arts venue, theater, cinema, or church facility under s. [170.201](#), which is or was actively used as such within 5 years of any executed agreement with a private school to use the facilities; any facility or land owned by a Florida College System institution or university; any similar public institutional facilities; and any facility recently used to house a school or child care facility licensed under s. [402.305](#), under any such facility's preexisting zoning and land use designations without rezoning or obtaining a special exception or a land use change, and without complying with any mitigation requirements or conditions. The facility must be located on property used solely for purposes described in this paragraph, and must meet applicable state and local health, safety, and welfare laws, codes, and rules, including firesafety and building safety.

2025 Ed Choice Legal Update

new private school language

- (b) A private school may use facilities on property purchased from a library, community service organization, museum, performing arts venue, theater, cinema, or church facility under s. [170.201](#), which is actively or was actively used as such within 5 years of any executed agreement with a private school to purchase the facilities; any facility or land owned by a Florida College System institution or university; any similar public institutional facilities; and any facility recently used to house a school or child care facility licensed under s. [402.305](#), under any such facility's preexisting zoning and land use designations without obtaining a special exception, rezoning, or a land use change, and without complying with any mitigation requirements or conditions. The facility must be located on property used solely for purposes described in this paragraph, and must meet applicable state and local health, safety, and welfare laws, codes, and rules, including firesafety and building safety.

2025 Ed Choice Legal Update

new private school language

- (c) A private school located in a county with four incorporated municipalities may construct new facilities, which may be temporary or permanent, on property purchased from or owned or leased by a library, community service organization, museum, performing arts venue, theater, cinema, or church under s. [170.201](#), which is or was actively used as such within 5 years of any executed agreement with a private school; any land owned by a Florida College System institution or ¹state university; and any land recently used to house a school or child care facility licensed under s. [402.305](#), under its preexisting zoning and land use designations without rezoning or obtaining a special exception or a land use change, and without complying with any mitigation requirements or conditions. Any new facility must be located on property used solely for purposes described in this paragraph, and must meet applicable state and local health, safety, and welfare laws, codes, and rules, including firesafety and building safety.

2025 Ed Choice Legal Update

not new language private school

- 1002.421(o) Before employing a person in any position that requires direct contact with students, **conduct employment history checks of previous employers**, screen the person through use of the screening tools described in s. [1001.10](#)(5), and document the findings. **If unable to contact a previous employer, the private school must document efforts to contact the employer.** The private school may not employ a person whose educator certificate is revoked, who is barred from reapplying for an educator certificate, or who is on the disqualification list maintained by the department pursuant to s. [1001.10](#)(4)(b).

2025 Ed Choice Legal Update

Charter Apps, Appeals

- AMERICAN ACADEMY OF PALM BEACH K-8 CHARTER SCHOOL VS. THE SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA

Appeal Review Commission recommended approval, found due process violations, among other things.

The district then reversed course and approved before the state board ruling.

- Newberry – Conversion application appeal
- Statewide Authorizer- 1 approved, 3 heard, approximately 20 applications.

2025 Ed Choice Legal Update

Miscellaneous New

- 1002.33(26)(d) . . . “an officer, a director, or an employee of an entity that is a landlord of a charter school or his or her spouse may not be a member of a governing board of a charter school unless established pursuant to paragraph 15(c).”
- 1002.33(9)(s), “A charter school governing board may adopt its own code of student conduct. The code of student conduct must meet the requirements of state law but may differ from the school district’s code of conduct.”
- (Effective 7/1/25).

2025 Ed Choice Legal Update 768.28

Apologies, my mistake : this bill did not pass, so it is not in effect. If it does, it will have an impact, as discussed, so your legislators need to know if you are concerned.

Section	Prior Language (2024 and earlier)	Current Language (Oct. 2025+)
768.28(5)(a)	"...shall not be liable to pay a claim...which exceeds the sum of \$200,000 or...arises out of the same incident...exceeds \$300,000."	"...the caps are increased...to \$1,000,000 per person and \$3,000,000 per incident (2025-2030), and \$1,100,000 per person and \$3,200,000 per incident beginning Oct. 1, 2030."
Settlement	"Payment of sums exceeding statutory caps requires legislative approval by a claims bill."	"Subdivision may choose to settle a judgment in excess of the caps without seeking further legislative action."
Insurance	No prohibition	"Prohibits an insurance policy...from conditioning payment...on enactment of a claim bill beginning October 1, 2025."

2025 Ed Choice Legal Update

- Background check exemption process
 - 435.07 Exemptions from disqualification.—
Unless otherwise provided by law, the provisions of this section apply to exemptions from disqualification for disqualifying offenses revealed pursuant to background screenings required under this chapter, regardless of whether those disqualifying offenses are listed in this chapter or other laws.
 - ACHA is the entity that determines if exemption applies

2025 Ed Choice Legal Update

Significant Cases

OK Charter School Board v. Drummond, 605 U.S. ____ (2025)

“The judgment is affirmed by an equally divided *Court*. Justice Barrett took no part in the consideration or decision of these cases.”

4/4 split, Justice Barrett recused

Counsel for the State at OA:

“A ruling for Petitioners would not only lead to the creation of the nation's first religious public school, it would render unconstitutional, as my friend from --the Solicitor General acknowledged, the federal charter school program and immediately the laws of 47 states across this country, and it would result in the astounding rule that states not only may but must fund and create public religious schools, an astounding reversal from this Court's time-honored precedents.”

Government Actor Key

2025 Ed Choice Legal Update

Significant Cases

Mahmoud v. Taylor

- The Supreme Court ruled that a group of Maryland parents have a right to opt their elementary-school-aged children out of instruction that includes LGBTQ+ themes. By a vote of 6-3, the justices agreed with the parents – who are Muslim, Catholic, and Ukrainian Orthodox – that the Montgomery County school board’s refusal to provide them with that option violates their constitutional right to freely exercise their religion.
- Writing for the majority, Justice Alito acknowledged that “courts are not school boards or legislatures, and are ill-equipped to determine the ‘necessity’ of discrete aspects of a State’s program of compulsory education.” But he emphasized that “what the parents seek here is not the right to micromanage the public school curriculum, but rather to have their children opt out of a particular educational requirement that burdens their well-established right ‘to direct ‘the religious upbringing’ of their children’” under the free exercise clause of the First Amendment.

2025 Ed Choice Legal Update

Significant Cases

- As part of its efforts to implement the Individuals with Disabilities Education Act (“IDEA”), [20 U.S.C. § 1400 et seq.](#), the State of California contracts with certain “nonpublic schools” to provide students with disabilities a “free appropriate public education” (“FAPE”). See [20 U.S.C. § 1412\(a\)\(1\)](#); [Cal. Educ. Code § 56365\(a\)](#). By statute, California requires that these “nonpublic schools” (“NPSs”) be “nonsectarian.” [Cal. Educ. Code § 56365\(a\)](#); see [Cal. Code. Regs. tit. 5, § 3001\(p\)](#).

2025 Ed Choice Legal Update

Significant Cases

- We need not resolve whether the State Appellee has a compelling neutrality interest at stake, however, because the State Appellee has failed to show that California's nonsectarian requirement is narrowly tailored to serve that interest. Specifically, the State Appellee fails to address “by reference to historical practices and understandings,” why the applicable federal regulations that govern religious entities performing government contracts are insufficient to address the State's neutrality concerns. *Kennedy*, 597 U.S. at 535, 142 S.Ct. 2407 (quotation marks and citation omitted); see 34 C.F.R. § 76.532 (“No State or subgrantee may use its grant or subgrant to pay for... [r]eligious worship, instruction, or proselytization.”); 34 C.F.R. § 76.52(c)(1) (requiring religious entities who receive IDEA funding to offer any “worship, religious instruction, or proselytization” activities “separately in time or location from any programs or services funded by a subgrant” and specifying that “[a]ttendance or participation in any such explicitly religious activities by any beneficiaries of the programs and services supported by the subgrant must be voluntary”).



2025 Ed Choice Legal Update Significant Cases

- *Loffman v. California Dep't of Educ.*, 119 F.4th 1147, 1171 (9th Cir. 2024)



2025 Ed Choice Legal Update

■ Private School emerging issues

- ☐ 1 tuition
- ☐ 2 records
- ☐ 3 handbooks
- ☐ 4 ?

2025 Ed Choice Legal Update

We did not have time to discuss the case below at conf- important because regulations impacting a private religious school's living out its beliefs are a backdoor way to disqualify religious entities- e.g., "can't participate if enforce marriage is only between a man and a woman."

- **The *St. Dominic Academy v. Makin* and *Crosspoint (Bangor Christian School) v. Makin* cases share the same legal core: whether Maine can apply its Human Rights Act (MHRA) nondiscrimination requirements—including those prohibiting religion-based admissions and policies on gender identity—to exclude faith-based schools from its tuition program.**
- **Main Legal Arguments (Religious Schools)**
- **Free Exercise Violation—Circumvention of *Carson v. Makin***
 - Maine's post-*Carson* MHRA "poison pill" reforms unlawfully re-impose religious discrimination under another name by disqualifying schools based on faith practices rather than "sectarian status."
- **Lack of Neutrality and General Applicability**
 - The MHRA targets religious conduct and beliefs (e.g., bans "religious discrimination") and exempts secular schools and institutions, failing the *Lukumi* and *Fulton* standards for neutrality and general applicability.
- **Free Speech and Expressive Association**

2025 Ed Choice Legal Update

- The statute compels religious schools to host and affirm contrary messages (e.g., by requiring tolerance of opposing religious or gender-identity expression) and forbids selective association consistent with mission, violating *303 Creative LLC v. Elenis* and *Boy Scouts v. Dale*.

■ Parental Rights

- Families like the Radonis plaintiffs claim Maine interferes with their right, recognized in *Wisconsin v. Yoder*, to provide religious education consistent with faith.

■ Church Autonomy & Ministerial Exception

- By regulating hiring and internal moral codes, Maine allegedly intrudes on protected ecclesiastical governance in violation of *Hosanna-Tabor* and *Our Lady of Guadalupe School*.

■ Unconstitutional Conditions

- Conditioning eligibility for public tuition on surrendering free exercise and speech rights imposes unconstitutional conditions under *Agency for Int'l Development v. Alliance for Open Society*.

■ Strict Scrutiny Failure

2025 Ed Choice Legal Update

- ☐ Maine cannot show a compelling interest narrowly tailored to justify intrusion; identical interests (e.g., diversity) are not consistently enforced across all schools.
- **Main Counterarguments (State of Maine)**
- **Neutral and Generally Applicable Law**
 - ☐ The MHRA applies uniformly to all schools receiving public funds; it does not target religion but ensures all publicly funded institutions comply with inclusive civil-rights norms.
- **Compelling Interest in Preventing Discrimination**
 - ☐ Maine asserts a compelling duty to prevent discrimination against LGBTQ+ or non-Christian students and staff in any publicly funded education setting.
- **No Prohibited Penalty for Faith**

2025 Ed Choice Legal Update

- Religious schools remain free to teach their beliefs; they simply cannot take state-funded tuition while violating nondiscrimination standards—a permissible regulatory choice under *Employment Division v. Smith*.

■ Government Speech and Funding Conditions

- Participation in the tuition program is optional; conditions on state money are legitimate means of ensuring publicly funded education meets established civil-rights requirements.

■ No Entanglement or Targeting

- Maine contends that its enforcement process focuses on objective nondiscrimination standards and avoids doctrinal inquiries, maintaining church-state separation.

■ Carson Does Not Grant Immunity

- The *Carson* ruling forbids exclusion based on religious status but does not exempt participating religious schools from generally applicable anti-bias obligations tied to public benefits.

- These competing arguments frame the First Circuit's review, focusing on whether Maine's amended Human Rights Act is a neutral public-funding condition or an unconstitutional evasion of *Carson v. Makin*.



2025 Charter School Legal Issues

- Live Challenges to Charter Schools in Montana, Kentucky and West Virginia.



Wrap Up

- Questions?
- Contact me:
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