



To: Catholic school, college, and diocesan leaders
From: Patrick J. Reilly, President
Re: Supreme Court's *Espinoza* ruling on public benefits for Catholic education

The following summarizes the June 30th Supreme Court ruling in *Espinoza v. Montana Department of Revenue*. Educators should consult their attorneys for professional legal advice.

Bottom Line: The *Espinoza* ruling effectively nullifies “Blaine amendments” in state constitutions, ensuring that Catholic schools and colleges have equal access to public benefits. Caution is strongly urged to avoid entanglements that jeopardize the mission of Catholic education.

Ruling: “The application of [Montana’s] no-aid provision discriminated against religious schools and the families whose children attend or hope to attend them in violation of the... Constitution.”

Focus on religious character: The Court finds that Montana excluded schools from its tuition program “solely because of their religious character,” triggering strict scrutiny per *Trinity Lutheran Church of Columbia, Inc. v. Comer* (2017). Under strict scrutiny, “must advance ‘interests of the highest order’ and... be narrowly tailored in pursuit of those interests” (*McDaniel v. Paty*, 1978).

Not focused on religious use: The Court rejects Montana’s claim that its no-aid provision targets only the *use* of public benefits for religious education, per *Locke v. Davey* (2004). The Court questions the value of such a distinction, but it declines to resolve the matter. “None of this is meant to suggest that we agree with [Montana] that some lesser degree of scrutiny applies to discrimination against religious uses of government aid.” *Locke* prohibited funds only for clergy training, a narrow exclusion based on “historic and substantial” concerns.

Nullifies Blaine amendments: The Court rejects Montana’s appeal to its state constitution and no-aid provisions adopted by more than 30 states. It notes that many no-aid provisions were “born of bigotry” in the 1870s Blaine Amendment and were targeted against Catholics.

Recommendation:

Prioritize Catholic identity: As desperate as the need for funding may be, avoid entanglements that may jeopardize the mission of Catholic education. Accept no compromise with nondiscrimination provisions that violate Catholic teaching.

Prioritize Catholic formation: School choice and scholarship programs can be very helpful to schools and families in need, but admissions procedures should accept only students whose parents embrace the mission of Catholic education. Preserve strong Catholic formation.

Catholic Identity Standards Project: The Newman Society is working on policy standards to help Catholic schools and colleges protect and strengthen Catholic identity. This work depends on the assistance of a large number of expert reviewers. If you would like to assist, please contact Michael Kenney, director of Catholic Identity Standards Project, at mkenney@cardinalnewmansociety.org.