

IN THE SUPREME COURT OF WYOMING

NICOLETTE and TRAVIS LECK and
VICTORIA HAIGHT,

Appellants
(Intervenor-Defendants),

v.

S-25-0204

WYOMING EDUCATION ASSOCIA-
TION, a Wyoming nonprofit membership
Corporation; JENY GARDNER,
individually and on behalf of her minor
child; CHRISTINA HUTCHISON,
individually and on behalf of her minor
children; KATHRYNE PENNOCK III,
individually and on behalf of her minor
children; KATHARINE and ZACHARY
SCHNEIDER, individually and on behalf
of their minor children; CHAD SHARPE
and KIMBERLY LUDWIG-SHARPE,
individually and on behalf of their minor
child; and CHRISTINA VICKERS and
BRANDON VICKERS, individually and
on behalf of their minor children

Appellees
(Plaintiffs).

***AMICI CURIAE* BRIEF OF APRIL BATEMAN,
AMERICANS FOR PROSPERITY FOUNDATION, AND
THE AMERICAN CENTER FOR LAW & JUSTICE
IN SUPPORT OF APPELLANTS AND REVERSAL.**

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INTEREST OF *AMICI CURIAE*

Amici are a Wyoming parent along with nonprofit organizations who represent the interests of Wyoming parents who share a commitment to defending constitutional liberties and parental rights in education. *Amicus* parent is a resident of Wyoming and intended recipient of educational savings account (“ESA”) funds whose children need, and have benefited from, a quality education outside of the public school system and who have been harmed by the district court’s injunction to withhold ESA funding.

Amicus April Bateman is a daycare provider and mother of five from Laramie, Wyoming, who exemplifies the parents and families the Legislature intended to assist through the education savings account program (“ESA Program”) created by the Steamboat Legacy Scholarship Act. Her oldest son, Josiah, who suffers from ADHD, depression, and anxiety, endured relentless bullying in public school until his parents withdrew him. Her younger children also struggled in the rigid public system but now thrive academically, emotionally, and spiritually at Laramie Christian Academy (“LCA”) a faith-based school offering individualized instruction, small classes, and moral formation consistent with the family’s beliefs. The ESA Program funds would help cover tuition, which represents over thirty percent (30%) of their income, but the lower court’s injunction has forced them into severe financial hardship. While Plaintiffs in this case continue to thrive in public schools and are not in any way harmed by the Act, April’s family, whose tax dollars will continue to go toward supporting Plaintiffs’ education in the public school system, have had to take out a second mortgage on their home just to cover the education costs necessary to ensure their children receive an equal opportunity to a suitable education that is consistent with their family’s values.

Amicus Americans for Prosperity Foundation (“AFPF”) is a 501(c)(3) nonprofit organization that operates a state chapter in Wyoming committed to educating and empowering Americans to be courageous advocates for the ideas, principles, and policies of a free and open society. As part of this mission, AFPF appears regularly as *amicus curiae* before federal and state courts. *See, e.g., Carson v. Makin*, 596 U.S. 767 (2022); *Mahanoy Area Sch. Dist. v. B.L.*, 594 U.S. 180 (2021); *Uzuegbunam v. Preczewski*, 592 U.S. 279 (2021); *Young Americans for Liberty v. Brock*, Case No. 47-cv-21-900878.00 (Ala. 2022). For several reasons, AFPF is well-positioned to assist this Court in considering this case. *Amicus* has interacted with Wyoming families who have been approved to participate in the Act’s scholarship program and are therefore able to offer the perspective of those families. At the same time, *amicus* has deep experience nationally with the law and policy of school choice and can help situate this case in that broader context.

Amicus the American Center for Law & Justice (“ACLJ”) is a nonprofit organization dedicated to the defense of constitutional liberties secured by law, including the defense of religious liberty and parental rights. Counsel for the ACLJ have presented oral argument, represented parties, and submitted *amicus curiae* briefs before the Supreme Court of the United States and numerous state and federal courts in cases involving a variety of issues, including parental rights in education. *See, e.g., Pleasant Grove City v. Summum*, 555 U.S. 460 (2009); *Lamb’s Chapel v. Center Moriches Union Free Sch. Dist.*, 508 U.S. 384 (1993); *Espinoza v. Mont. Dep’t of Revenue*, 591 U.S. 464 (2020); *Carson v. Makin*, 596 U.S. 767 (2022); *Mahmoud v. Taylor*, 145 S. Ct. 2332 (2025).

INTRODUCTION

The question this Court must answer is whether the State can provide scholarships to expand educational options beyond the public system. The answer is undisputedly yes.

The Steamboat Legacy Scholarship Act (“the Act”) represents Wyoming’s legislative judgment to ensure that educational opportunity is not rationed by income or restricted by hostility to religion. The Act expands educational options for Wyoming families without interfering with the public school system—every public school remains open, every dollar of public funding preserved, every student welcome. The Act renamed the existing Education Savings Account (ESA) program and expands eligibility, adjusts funding mechanisms, increases maximum scholarship awards, and revises program definitions and oversight requirements. *See* HB 0199, 68th Leg., 2025 Gen. Sess. (Wyo. 2025). For families whose children are thriving in public schools, nothing changes. For *amici* families and thousands of others in Wyoming, the Act offers a much-needed lifeline to ensure all children have an opportunity to receive a quality education.

Just over three months after the governor signed the bill into law in March 2024, Plaintiff Wyoming Education Association (“WEA”), together with nine parents whose children attend public schools, filed a lawsuit challenging the constitutionality of the Act and requesting a preliminary injunction against the enforcement of the law. Complaint for Declaratory and Injunctive Relief, *WEA v. Degenfelder*, Case No. 203-366 (Wyo. Dist. Ct., 1st Judicial Dist. June 13, 2025). Importantly, Plaintiffs make no claim that the education they currently receive in the public school system is in any way deficient or lacking. Nor do they assert any need for, or intention of using, ESA funding. Instead, Plaintiffs assert that *other*

families who have not been best served by the public education system and who need and/or intend to use ESA funding are not entitled to seek a quality education elsewhere. In support, Plaintiffs claim that the Act violates Wyoming’s Constitution that mandates a uniform system of public instruction and prohibits public funds to be issued to Wyoming taxpayers for use of non-public education. *Id.* at 4-5. The district court swiftly issued an injunction finding that Plaintiffs are likely to succeed on at least one of their claims, concluding that the Act’s appropriation of funding violated Article 3, Section 36 of the Constitution and that it did not satisfy the strict scrutiny standard. Preliminary Injunction Order, *WEA v. Degenfelder*, 2025-CV-0203366, Case No. 203-366 (Wyo. Dist. Ct., 1st Judicial Dist. July 15, 2025) [hereinafter “D.C. Order”].

By the time the injunction issued, 3,965 students had signed up for ESAs. Many families now face the hard choice between finding alternate funding to support their planned educational opportunities or returning their children to a traditional public-school setting that does not meet their educational needs. For some families, there is no choice at all: without the ESA, they cannot afford the education they know their children need. Neither Plaintiffs nor the district court have plausibly explained how the Steamboat Scholarship Program harms anyone. But the district court’s injunction inflicted concrete injury on nearly 4,000 real families and children the moment it issued.

The district court’s injunction rests on several fundamental errors, many of which are addressed by State and Intervenor Defendants in their briefing. Amici Curiae’s brief focuses on two errors touched on just briefly in Defendants’ briefing: (1) the misinterpretation of Wyoming’s Constitution to require religious discrimination – a reading that violates the Free

Exercise Clause under binding Supreme Court precedent, and (2) the misapplication of strict scrutiny analysis under the faulty assumption that the Act falls under uniform system of public instruction and fails to ensure a quality education for non-public school parents. This Court should reverse issuance of the injunction because the district court’s reasoning was severely flawed and the law makes abundantly clear that the State can provide scholarships to expand educational options beyond the public system.

ARGUMENT

I. The Wyoming Constitution Does Not Mandate Discrimination of Private or Religious Schools, and the Federal Constitution Prohibits It.

The district court’s declaration that the Act is unconstitutional is based in part on the erroneous assertion that “the legislature [is prevented] from using public funds to support private and religious schools.” D.C. Order, at 11. In support of this conclusion, the court noted that “[t]here is no dispute that the Act appropriates funds for educational purposes to persons who are not under the absolute control of the state and to denominational or sectarian institutions or organizations . . . [and] the Act prohibits the State Superintendent from requiring a Certified Provider to ‘alter its creed, practices, admission policy or curriculum.’” *Id.* at 10.¹

¹ Surprisingly and in contradictory fashion, the district court arrives at this conclusion even after acknowledging that the funds are first distributed to the State Superintendent, and then to each student’s ESA – not to any private or religious organization. *Id.* at 5 (noting “the funds appropriated by the legislature will be deposited in a student’s ESA to be paid directly to

(Footnote continues.)

The district court’s reasoning is based on a fundamental misunderstanding of religious freedom—one that transforms the federal constitutional guarantee of religious liberty into a state mandate for religious discrimination. The injunction treats Wyoming’s Article I, § 19 and Article 3, § 36 as requiring the exclusion of religious schools from receiving any and all public funds under the Act.² This decision flies in the face of a clear and uncompromising constitutional principle: “A State violates the Free Exercise Clause when it excludes religious observers from otherwise available public benefits.” *Carson*, 596 U.S. at 778 (2022). Wyoming’s constitutional provision, as applied by the district court, does precisely what the Constitution forbids—it excludes religious schools from a generally available educational benefit program solely because they are religious. This exclusion operates as “a penalty on the free exercise of

Certified Providers of the student’s parent’s choosing. Neither the parents, the students, nor the Certified Providers are under the absolute control of the state”).

² It should be noted that no school receives any funding directly. As even the court acknowledges, the funds are placed in a student’s ESA account, see D.C. Order, at 5 (citing Wyo. Stat. § 21-2-903(a)-(c)), and can be used for various educational services including homeschool curriculum and tutoring services. The court apparently deemed this distinction irrelevant, ignoring binding Supreme Court precedent. *See Zelman v. Simmons-Harris*, 536 U.S. 639, 652 (2002) (the decision whereby funds reach schools “is reasonably attributable to the individual recipient, not to the government, whose role ends with the disbursement of benefits”).

religion,” *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 582 U.S. 449, 466 (2017), and such discrimination “is odious to our Constitution.” *Id.* at 467.

The district court’s preliminary injunction order creates an unconstitutional system of religious discrimination by interpreting Wyoming’s constitutional provisions to exclude religious educational options from public benefits. The Supreme Court’s recent decisions in *Trinity Lutheran Church of Columbia, Inc., Espinoza v. Montana Department of Revenue*, 591 U.S. 464 (2020), and *Carson*, have definitively established that excluding otherwise eligible religious institutions from generally available public benefit programs violates the Free Exercise Clause. The Court’s instructions are clear: states cannot circumvent their constitutional obligations by invoking their own constitutional provisions as justification for religious discrimination. When Maine attempted to exclude “sectarian” schools from its tuition program, the Supreme Court rejected that exclusion as a Free Exercise violation. *Carson*, 596 U.S. at 787. When Montana invoked its no-aid provision to bar religious schools from participating in a scholarship program, the Court struck down that application as unconstitutional. *Espinoza*, 591 U.S. at 488; *see e.g., id.* at 474 (“We have repeatedly held that the Establishment Clause is not offended when religious observers and organizations benefit from neutral government programs.”) Article I, § 19 of the Wyoming Constitution, as applied by the district court, creates precisely the kind of “no churches need apply” policy that the Supreme Court has repeatedly condemned.

Wyoming cannot accomplish through its state constitution what these states could not accomplish through theirs. A state’s own constitutional provisions cannot qualify the text of the Free Exercise Clause. *Espinoza*, 591 U.S. at 482. A plain reading of Article 3, § 36 of

Wyoming's Constitution does not require the invalidation of any and all legislation that fails to exclude religious organizations and/or schools from all public funding, but even if it did as the court erroneously held here, such a provision directly conflicts with the First Amendment and must yield under the Supremacy Clause. *See id.* The question is not whether Wyoming's Constitution permits religious discrimination, but whether the federal Constitution allows Wyoming to engage in it. The answer is no.

For April Bateman's family and many other families, the Act finally allows parents to utilize their hard-earned taxpayer money to realize their fundamental right and choose the right education for their children. April and her husband's Christian convictions are central to their family life and to their choice of school. They believe that God created the world, that humanity is made male and female, and that marriage is a covenant between one man and one woman. In public school, April often had to counter lessons that contradicted those beliefs, particularly concerning human origins, gender, and sexuality. As this Court has long recognized, the freedom of conscience protected by Article 1, § 18 of the Wyoming Constitution extends to parents directing the moral and spiritual formation of their children. To deny families that right is to burden the free exercise of their faith itself.

The lawsuit brought by opponents of Wyoming's school-choice program threatens to strip families of the opportunity to provide their children an education consistent with their faith and deny children like Josiah Bateman, and the children of other parents similarly situated, the chance to learn in an environment that safeguards their dignity and well-being. Neither the Wyoming Constitution nor the U.S. Constitution require such hostility. They protect freedom of religion, WYO. CONST. art. 1, § 18, and recognize the primary role of

parents in the upbringing of their children. *See Pierce v. Soc’y of Sisters*, 268 U.S. 510 (1925); *Wisconsin v. Yoder*, 406 U.S. 205 (1972).

If the challengers prevail, parents of faith will once again be forced to choose between their convictions and their children’s education. Denying families the freedom to select nurturing and faith-consistent educational settings would strip children of the environments in which they can heal, grow, and thrive. The Wyoming Constitution does not compel that choice, and this Court should not require it.

II. The Act Does Not Trigger Strict Scrutiny Because it Does Not Violate Equal Protection Principles and Is Not Related in Any Manner to the Uniform Public School System.

The district court’s injunction is also premised on flawed reasoning that the Act is an extension of the uniform *public* education system and thus subject to a line of cases applying strict scrutiny that are inapplicable here. D.C. Order at 11 (concluding that the Act must still satisfy strict scrutiny based on a “series of cases involving challenges to the *public* school finance” program and swiftly declaring that “the Act does not satisfy the strict scrutiny standard”). As explained below, the series of cases cited by the court apply only to equal protection challenges to the funding of the uniform *public* school system. *See Washakie Cnty. Sch. Dist. No. 1 v. Herschler*, 606 P.2d 310 (Wyo. 1980); *Campbell Cnty. Sch. Dist. v. State*, 907 P.2d 1238 (Wyo. 1995) (*Campbell I*); and *State v. Campbell Cnty. Sch. Dist.*, 19 P.3d 518 (Wyo. 2001) (*Campbell II*); *see also Hardison v. State*, 507 P.3d 36, 39 (Wyo. 2022) (explaining that equal protection violations trigger strict scrutiny and the normal presumption of constitutionality does not apply).

A. Funding for the act does not come from the statutorily created public school funding model and is thus not part of the State’s system for financing schools.

The district court acknowledged that “the funding for the Act and its ESAs [do] not come directly from the statutorily created public school funding model,” yet somehow concluded that “there can be no serious dispute that the Act is an aspect of the State’s system for financing schools.” D.C. Order at 13. This reasoning inverts constitutional analysis. A program is either part of the statutory school funding system, or it is not. The court cannot simultaneously admit the Act uses separate funding and then treat it as part of the system it does not touch.

The Act is not, in any sense of the term, a legislative school financing reform within the school finance system. Under the Act, the funding for the ESA accounts is appropriated directly from the state’s general fund—not the school finance system. The Act appropriates funds from the general treasury to create scholarships parents may use at certified private schools. WYO. STAT. ANN. § 21-2-903(d) (“The ESA program shall not be funded with county, city or school district tax revenues.”). No public school loses a dollar. No student loses access to public education. The uniform system of public instruction continues unchanged.

The money is then transferred to ESA accounts of parents to be distributed to certified participating schools as directed by parents. WYO. STAT. ANN. §§ 21-2-903 through -906. No part of the money comes from public school funds, and the act in no way implicates public school funding. *See* Biennium Budget Request 2025-2026, Agency 205: Education - School Finance, and Agency 206: Department of Education, <https://edu.wyoming.gov/transparency/finance/>. The Plaintiffs themselves admit there is no funding taken or redirected from

public schools. Plaintiffs’ Brief in Support of Motion for Preliminary Injunction, *WEA v. Degenfelder*, Case No. 203-366 (Wyo. Dist. Ct., 1st Judicial Dist. June 13, 2025), at 9.

In reaching its conclusion, the court appears to rely upon a single quote from *Campbell II* which explained that: “[A]ll aspects of the school finance system are subject to strict scrutiny, and statutes establishing the school financing system are not entitled to any presumption of validity.” D.C. Order at 11 (quoting *State v. Campbell Cnty. Sch. Dist.*, 19 P.3d 518, 535 (Wyo. 2001) (*Campbell II*)). The district court ignores, however, the preceding sentence in *Campbell II* which clarifies that “[b]ecause the right to an equal opportunity to a *proper public education* is constitutionally recognized in Wyoming, any state action interfering with *that* right must be closely examined before it can be said to pass constitutional muster.” *Id.* at 535-36 (emphasis added). The school funding cases apply strict scrutiny because they address the constitutional mandate to provide equal educational opportunity *through the public school system*. *Campbell II* and the cases preceding it (which the lower court also cites) addressed only the constitutionality of Wyoming statutes establishing “the method for financing the operation and construction of *public schools*.” 19 P.3d at 526 (emphasis added).

In summary, these cases ask: Does every public school student have equal access to a quality public education? The Act challenged here poses a different question: May the State provide scholarships to expand educational options beyond the public system? Nothing in *Campbell II* or *Washakie* suggests the answer is no.

B. The Act finally provides Wyoming families an equal opportunity to obtain a quality education that best suits their children.

In yet another attempt to fit a square peg into a round hole, the lower court found that the Act must also satisfy strict scrutiny because “[t]he Act does not assure that the students

using an ESA to be educated outside the school system will receive the education required by the constitution.” D.C. Order at 14. According to the district court, families who opt out of the public school system might not receive a quality education because the State does not have absolute control of all non-public school options. *Id.* (opining further that the certification requirements for private schools or Certified Providers are “a very simple bare minimum standard” insufficient to ensure quality education).

As an initial matter, the Plaintiffs have never stated any intention of utilizing ESA funding or of sending their children to a school outside the public school system, and thus the court cannot assert an equal protection claim of this nature on their behalf. By doing so here, the court allows public school parents to misrepresent the purported interests of *amici* and other private school parents. Notwithstanding this obvious deficiency, and assuming for a moment that the constitutional provision applies to education provided outside the public school system (which it does not), the experiences of *Amici* families, together with statistical data and research, disprove any notion that the families receiving ESA funding will not receive a quality education.

As *Amici* families’ stories demonstrate, it is not true that “the Act does not assure that students using an ESA to be educated outside the public school system will receive the education required by the constitution.” D.C. Order at 14.

- i. Amici families are all receiving a quality education and the injunction issued by the district court threatens to interrupt that education.**

Amicus April Bateman

Amicus, April Bateman, and her husband are the parents of five children, ages three through seventeen. April’s oldest son, Josiah, has ADHD, depression, and anxiety. In public

school, he endured relentless bullying because of his learning struggles—he was told daily that he was worthless and should take his own life. Despite repeated reports to administrators, the abuse continued until he became suicidal and required hospitalization. For his safety, his parents withdrew him from public school. Josiah now studies independently while preparing for his high-school equivalency, but the damage left by those years remains profound.

April's younger children face their own challenges. Gabriel, age fifteen, is academically gifted and needed an environment that allows him to advance at his own pace. Zac, twelve, and Timothy, seven, exhibit ADHD-like tendencies and depend on small classes and individualized instruction to succeed. At Laramie Christian Academy (LCA), a faith-based private school, these children have flourished—academically, emotionally, and spiritually—supported by teachers who nurture both mind and character.

Financially, April's story underscores the importance of the Legislature's reform. With a combined income of roughly \$80,000 and annual tuition of nearly \$27,000—one-third of their income—she cannot afford private education without assistance. Despite working long hours, relying on scholarships, and borrowing against their home, the family remain under enormous financial strain. April, who serves on LCA's Board of Directors, reports that the school must raise more than \$160,000 this year simply to keep its doors open because most families depend on aid the new law was designed to provide and were left without options when that funding was subsequently denied to them. April's family had to leave the public school system to find a quality education.

Amicus Americans for Prosperity Foundation –
stories from families with whom AFPP has spoken directly

*Catherine and Nadia H.*³

Catherine H. lives in Natrona County with her five children, aged eleven to twenty. Catherine homeschooled her children prior to placing them in public school. But Catherine now works full-time, earning under \$100,000 per year, and cannot homeschool her children anymore. Many of her children have enjoyed their time in public school. But Catherine’s 14-year-old daughter Nadia had a different experience.

Nadia did well in elementary school but her transition to middle school was difficult—far beyond what most others experience during those awkward, formative years. Nadia was subjected to extreme bullying from girls in her class. Girls in Nadia’s class threatened Nadia that if she showed up to school, they were going to beat her and kill her. Nadia began experiencing extreme anxiety about going to school. School administrators brushed off Nadia’s parents’ concerns, suggesting that “Oh, this is sixth-grade girls every year. They outgrow it.”

Nadia’s father removed her from school over Christmas break and placed her in an online program. This alternative option did not go well either. The online program had some technical difficulties that made Nadia lose a semester’s worth of work. Nadia struggled with math in the online learning format, and the online program essentially dropped Nadia because she could not catch up. In short, Catherine describes Nadia’s sixth-grade year as “disastrous.”

³ Pseudonyms, per the family’s request.

The following year, Nadia tried a public charter school, but Nadia still struggled with anxiety and felt like she didn't fit in. Nearly every day she would tell her mom, "I hate school. When can you pull me out?" Nadia started to get sick a lot and miss school often. Because of this, she had failing grades.

Then Catherine found a school for Nadia that worked: Casper Christian School. While Casper Christian requires students to have semester averages of 80 or higher on report cards and be in good standing on previously attended schools, the principal made an exception for Nadia and admitted her for the second half of her seventh-grade year. Once admitted, Nadia thrived. Where she had been too anxious to attend public school, she loved Casper Christian and told Catherine, "Mom, this is the best school I've ever been at." Nadia's report card for the second half of her seventh-grade year was straight A's.

Tuition costs at Casper Christian average \$6,500 a year. Catherine needed assistance to pay Nadia's tuition for her upcoming eighth-grade year. While Catherine was in the process of applying for scholarship funding through a nonprofit organization, the Steamboat Scholarship Program came online. Catherine applied for and received the full \$7,000.

Catherine learned about the injunction prohibiting the distribution of ESA funds just weeks before the school year began. Catherine pivoted and tried to reapply for the outside nonprofit scholarship to help her pay Nadia's tuition but the scholarship money was gone. And without it, Catherine could not afford Casper Christian. Just two weeks before this school year began, through private generosity, Catherine received a \$4,000 scholarship for Nadia, lowering her tuition to \$2,500. While this gift has helped close the gap financially for this year,

Nadia's family is still struggling to cover the costs of tuition with a budget already strained by a house flood, inflation, and the expenses of a five-child family.

Catherine is surprised, and frankly upset, that an injunction issued in July did not consider her, and thousands of families like her, so close to the beginning of the school year. Catherine is not against public school. She's placed her children in public, private, and homeschool settings at various times. However, the experience with Nadia left a lasting impact: her twelve-year-old daughter suffered harm, and public-school officials failed to respond with the seriousness and diligence the situation required.

Given this experience, Catherine struggles to understand why the Plaintiff-Parents and Teachers' Union feel the need to deny other people's children funds that help them get the education they need. She understands why parents who may not share the values of Casper Christian School wouldn't choose to send their children there. What she cannot understand is why those families want to make it harder for Nadia to attend a school that meets her needs and shares her family's values. For Catherine and her family, because of the district court's injunction, "There's real harm that's been caused to real families like mine this year."

The L. Family.⁴

Kristin L. was born and raised in Wyoming. After moving away for a short period of time, she and her husband moved back to Wyoming two years ago. The L. family live in Natrona County with their three children, ages four, six, and nine.

⁴ Pseudonyms, per the family's request.

The L. family's nine-year-old-daughter, Clara, has been diagnosed with severe dyslexia and receives speech therapy and outside tutoring. These private treatment options for dyslexia can cost hundreds of dollars per session. Clara also struggles with anxiety. She has a private counselor who helps her, but her anxiety can interfere with her schoolwork. While Clara attended a public charter school through second grade with a phonetically based curriculum, the L. family started looking at other options for her because Clara struggled to keep up with the pace. In addition, the school's larger class size prevented Clara's teachers from providing one-on-one attention she often needed.

Further, it took the L.'s a year-and-a-half to get any special education services for Clara. This was frustrating for Kristen, a speech therapist by profession, who felt she had to fight simply to convince the school that her daughter needed extra support for a diagnosed learning disability. Once the school finally recognized Clara's dyslexia, the school's special education teachers did not have the necessary training to provide the targeted dyslexia rehabilitation therapies Clara needed. The speech therapy that the school did provide took place during recess – taking away one of the only exercise and mental breaks during the day that Clara had. This resulted in increased anxiety. At the end of the year, Clara was the victim of severe bullying, culminating in a classmate holding scissors up to her neck. Clara felt unsafe to return to the public school.

The L. family's six-year-old son Matthew has also been diagnosed with dyslexia and Tourette's Syndrome. Like Clara, Matthew attends private speech therapy and tutoring to help treat his dyslexia. As they planned for Matthew's entry into kindergarten this fall, his parents

felt that the class size at Clara's charter school would be too stressful for Matthew. They felt they had no alternative but to send Matthew to private school.

After the scissors incident, the L. family knew that they also needed to send Clara to private school. Two children's private school tuition, on top of the \$8,000 the L. family already paid for speech therapy and tutoring, was going to be a sacrifice: Kristen began working more and reduced the amount of tutoring both Clara and Matthew were doing outside of school. But the L. family knew it would be worth it.

And they were right: The private school has a well-trained special education teacher and a Title 1 tutor with specialized training in the Orton-Gillingham method for treating dyslexia. Both Matthew and Clara are receiving the targeted, evidence-based dyslexia therapies they need. Matthew loves kindergarten and is happy to go to school every day. He is in the 70th percentile for reading skills, so even though Kristen planned to get Matthew 1-on-1 individual support at the school, he doesn't currently need it. Kristen is grateful she didn't need to fight an uphill battle to get Matthew the support he needs.

Clara is also benefiting greatly from the private school's smaller classroom. When Clara experiences heightened anxiety, her teacher demonstrates exceptional attentiveness, often perceiving signs of distress through subtle changes in Clara's demeanor. Because Clara tends to internalize her emotions rather than exhibit outward behavioral concerns, it is particularly significant to Kristen that her child's teacher recognizes these indicators and responds with appropriate care and support. This individualized attention has been instrumental to Clara's emotional stability and overall educational well-being.

To mitigate the costs of dual tuition and therapy, Kristen increased the number of hours she works. The L.s also receive some financial help from extended family. But even with this extra income, the expenses of private school tuition were onerous, especially on top of the extra costs of therapy and tutoring the children need. The financial burden is real and has been stressful for the family.

Accordingly, the L. family applied for and were awarded ESA funds. These funds would have covered Matthew's and Clara's tuition and left the L. family with about \$1,300 that they planned to use for tutoring and speech therapy. That funding is no longer available to them.

Kristen has expressed frustration with the rhetoric surrounding this case that suggests that the Steamboat Program would not give children a chance at a quality education. *Cf.* Compl. ¶ 103. As a trained speech therapist, and a mother of two dyslexic children, Kristen well understands the evidence-based practices for treating dyslexia. These practices are very time-consuming and require repetition and close, individual attention. She believes that public schools simply do not have the time and resources to provide students with this level of individualized support. Moreover, her experience has taught her that while there are many individuals in the public school system who want to help kids like hers, the system as a whole does not.

While the district court viewed ESA recipients like the L. family as siphoning “taxpayer funds to pay for [their] private religious school of choice,” Stay Order at 3, it isn’t about religious education for the L. family. Their main goal is “for [their] kids to be able to go

somewhere that gives them the right kind of special education. I mean, that’s like the biggest gift you can give to a kid.” That school just happens to be a private Catholic school.

Kristen balks at the idea that parents using the Steamboat funds feel that their “kid deserves something better than others.” She explains, “No, I think my kid deserves a chance. My kid deserves to have a good education that is actually meeting their needs. My kids don’t deserve something *better*. They just deserve a shot.”

*The Z. Family*⁵

Lee and Jason Z. live in Natrona County with their eight-year-old daughter, J.Z. J.Z. has had a speech delay since she was a baby and has worked with a speech therapist since she was eighteen months old. Her speech delay can lead to behavioral issues when J.Z becomes frustrated due to her inability to communicate, especially with peers. Last year, J.Z. was also diagnosed with a nonspecific neurodevelopmental disorder. To support J.Z.’s development, the Z. family spend thousands of dollars each year on therapies—including speech, occupational, behavioral, and counseling services.

When the Z. family moved to Natrona County three years ago, Lee and Jason looked closely at all education options for J.Z. They weren’t opposed to the public school system, but after careful review, they felt that St. Anthony, a local private Catholic School, had the best structure for J.Z.’s needs.

St. Anthony welcomes students of all faiths, academic needs, and financial backgrounds. While its foundation is Catholic, St. Anthony’s mission is inclusive. For instance,

⁵ Pseudonyms, per the family’s request.

thirty-five percent of its students are not Catholic. Many students receive free or income-reduced lunches. St. Anthony features a smaller classroom with a low student-to-teacher ratio. It also provides students with independent tutoring tailored to specific needs. This individual focus is everything to the Z. family: J.Z. is included in the classroom setting with the rest of her peers and offered individual tutoring, which helps her feel like she isn't left out or different.

J.Z.'s ability to verbalize is improving, but she still struggles to express herself. The staff at St. Anthony provide the right blend of structure and encouragement. As Lee says, "[J.Z.] did need the structure of a school like St. Anthony's, but with love, not with an iron fist. And Saint Anthony's has given that to her." St. Anthony also provides J.Z. with tools and support to better cope with emotions and to be able to push through them and still focus on her classwork. Lee explains that St. Anthony is the best fit for J.Z. because the school "adapts to her special needs. There's a lot of kids there that are different and they don't try to fit them into one simple box. They take that difference and they expand on it and they let them be the children and the humans that they are meant to be."

The school principal, Dr. Melissa Whelan, has been an especially strong advocate for J.Z. When Lee and Jason expressed concerns and some guilt that J.Z.'s behavior might potentially disrupt other students, Dr. Whelan responded by encouraging Lee and Jason and insisting that J.Z. was exactly where she needed to be. The support at St. Anthony is making a difference: J.Z. has been doing very well with math and graduated out of the extra tutoring. She's working hard on reading and improving every day but still requires additional therapy and services.

When the Z.s learned that the ESA program could help cover J.Z.’s therapies and summer learning—crucial services that help J.Z. keep growing behaviorally and academically – they applied for and received ESA funds from the program. The Z. family planned to use the ESA funds to pay for J.Z.’s behavioral therapy, speech and reading therapy, and occupational and physical therapy, as well as for summer tutoring sessions to make sure J.Z. stayed on track and didn’t regress academically. Relying upon ESA funding, the Z. family decided to place J.Z. in extra tutoring and services, and J.Z. lost her place on the list for speech and behavioral therapy services. This has been a major setback for J.Z.

Jason is baffled as to why anyone would object to funds that help J.Z. receive the support she needs. He explains that “[S]he has learning disabilities just like any other child does and we’re doing our best to give her what she needs. It’s not like we’re using that money to go travel and spend on ourselves to do things. We’re doing it solely for her education and for her betterment and giving that money back into services that are in the community, that benefit the community.”

The Z. family feels like this lawsuit sends a clear message: public schools “want the parents to stay out of it and let the school system raise your kid.” For the Z. family, this lawsuit represents an effort by some public educators to take away services that students like J.Z. need “simply for the fact that we’re not using their program.”

The Plaintiffs alleged below that the Act “does nothing to ensure that the quality of education participating students receive benefits the public as a whole,” and fails to prepare “students for secondary education, for careers, for employment, or for becoming functional citizens of Wyoming.” Compl. ¶ 103. But the Z. family can’t comprehend this perspective.

Making sure that J.Z. grows up to become not just a “functional citizen,” but a good person with the same pluck, character, and determination they embody is Lee’s and Jason’s singular mission in life. Jason explains, “It’s up the parents to be involved with their children’s academics and success. Kids cannot be successful if their parents aren’t involved.” The Z. family are trying their best to “to show her that in spite of her difficulties and her learning disabilities, that as long as she gives me 100%, wherever she falls in after that, that is all I can ask for.” Lee describes the district court’s injunction as “disheartening because it made me think that not all children in Wyoming are considered the same. Some have priorities over others.” She knows the ESA program “benefits Wyoming as a whole, not just a specific group.” Lee adds that she loves St. Anthony because “the children are thought of first and they are going to make them be the best humans that they can be. And that’s what the Steamboat Legacy [Program] really meant to me when we applied for it, was giving my child the ability to do the things that we know she needs and grow to be the human that we know she can be.”

***Amicus American Center for Law & Justice –
story from a family with whom the ACLJ has spoken directly***

***J.L.’s family*⁶**

J.L. is a teacher and mother of four children. She and her family reside in Natrona County, Wyoming. All four of her children have attended Natrona County public schools from kindergarten onward. Her two oldest children remain in public school—a senior and a

⁶ Pseudonyms, per the family’s request.

junior—while her younger two, now in seventh and ninth grades, recently transferred to a private Christian school.

J.L.'s children have historically participated in advanced classes and school activities. The younger two now benefit from smaller class sizes, stronger collaboration between families and teachers, and the opportunity to take Bible as an elective alongside a rigorous core curriculum.

J.L. and her husband's decision to move their younger children out of the public system was based on the need for a more positive and faith-aligned environment. Their third child wanted a setting where mistakes are treated as learning opportunities, and character is valued as much as talent. Their fourth child often felt invisible in the larger public-school environment and struggled to express emotional needs. The family desired a smaller, more attentive school culture where both children would be seen, supported, and encouraged to grow. Their children frequently witnessed fights and other disruptive behavior in public school that was difficult to manage in such a large setting.

Since transferring to private school, both children have flourished academically, socially, and emotionally. They are excelling in their studies, engaged in their classrooms, and more joyful and confident. The parents described the environment as one where their children feel they belong—supported by teachers, surrounded by positive peers, and motivated to learn. The athletic department promotes good sportsmanship and character, while a before-school program provides teacher assistance with homework and extra support. At home, the parents have noticed a calmer atmosphere and renewed excitement about school life.

J.L. has always been active in her children's education, but the new school environment has allowed for an even closer partnership between teachers and families. She feels that parents are viewed as an integral part of the educational team and that communication with and access to staff are exceptional.

J.L. is an elementary-school teacher with eight years of experience in the public system, and her husband is a full-time electrician. Both work long hours and rely on friends and family for transportation for their children to and from school and extracurricular activities. Funding from the ESA program was vital to the family's financial stability and decision to move forward with private school for the two youngest children. With four children and rising costs of living, paying full private-school tuition for two students creates significant strain. All of their beginning-of-year bonuses, which are typically used to pay down debt or add to savings, have been redirected toward tuition. Both parents have taken on overtime and side work to meet monthly payments. The district court's injunction, which was entered days before the start of the school year, has placed J.L. and her husband in an extremely difficult financial situation.

For J.L.'s family, educational choice is essential to maintaining accountability and balance within the state's education system. In their view, the lack of competition in public education has led to large systems prioritizing political decisions over what is best for children. They are not opposed to public schools, but they believe parents must have the freedom to choose the best educational setting for their children. They also emphasized the need for reasonable testing requirements and safeguards to ensure quality education across all school types.

For J.L. and her family, restoring the ESA program is critical—not only for their own children’s academic and emotional well-being but also for the many Wyoming families striving to give their children a safe, faith-affirming, high-quality education.

ii. Independent studies demonstrate that school choice programs improve the educational quality for *all* students.

The district court’s postulations supporting application of the strict scrutiny standard that there is no guarantee that students will receive an “education of a quality that is both visionary and unsurpassed” is not only disproven by *amici* families’ experiences above, but also by multiple independent studies demonstrating that educational quality improves for all students – those in public school students and those in school choice programs.

School choice programs have been proven to improve the quality of education for private *and* public schools. See Corey A. DeAngelis & Heidi Holmes Erickson, *What Leads to Successful School Choice Programs? A Review of the Theories and Evidence*, CATO J. (Winter 2018), <https://www.cato.org/cato-journal/winter-2018/what-leads-successful-school-choice-programs-review-theories-evidence>. When parents opt for schools that more appropriately cater to the needs of their children, public schools are encouraged to create programs that address the particular needs of students; in turn “lead[ing] to competitive pressures that alter the quality levels of current and future schools existing in the market.” *Id.* This means that, under school choice, public schools improve for their students as well as private institutions potentially receiving more funding. DeAngelis and Corey compiled the research of numerous studies and experiments documenting the benefits of school choice programs that “make it less costly for parents to opt out of their residentially assigned public school.” These benefits include:

- “Private school choice improves student math and reading test scores (Shakeel, Anderson, and Wolf, 2016).”⁷
- “One notable experiment (Wolf et al. 2013) shows that the D.C. voucher program increased the likelihood of high school graduation by 21 percentage points and one quasi-experiment (Cowen et al. 2013) finds that the Milwaukee Parental Choice Program (MPCP) increased high school graduation rates by 3percentage points.”
- “[A] review of 12 studies suggests that private and public school choice has a positive effect on student attainment. (Foreman, 2017).”
- “U.S. private school choice programs reduce criminal activity, increase civic engagement and increase tolerance of others. (DeAngelis, 2017b).” “Another review of the evidence shows that seven out of eight voucher studies conclude that private school choice improves racial integration (Swanson, 2017).”
- “Egalite’s (2013) review finds that twenty out of twenty-one empirical studies indicate that competitive pressures from school choice programs improve test scores for students that remain in traditional public schools.”
- “[M]ore than 20 evaluations (Forster 2016) have found that all of these benefits result in state (e.g., Costrell 2010, Spalding 2014, Trivitt and DeAngelis 2016) and district-level (Scafidi 2012) financial savings.”

Id.

The evidence above demonstrates that the district court’s issuance of an injunction was premature and the legal reasoning behind the injunction is severely flawed.

⁷ Out of the twenty experimental evaluations of private school choice in the U.S., only two find negative impacts on student math and reading test scores (Abdulkadiroglu, Pathak, & Walters, 2015; Dynarski et al., 2017).

CONCLUSION

For the reasons set forth above, this Court should reverse the judgment of the lower court.

DATED this 23rd day of October 2025.

/s/ D. Stephen Melchior

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CERTIFICATE REGARDING ELECTRONIC FILING AND SERVICE

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The undersigned also certifies that all required privacy redactions have been made and, with the exception of those redactions, every document submitted in digital form or scanned pdf is an exact copy of the written document filed with the Clerk, and that the document has been scanned for viruses and is free of viruses.

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