

Montana Violates Religious Freedom of Disabled Preschooler

Alliance Defending Freedom attorneys filed a complaint Friday with the Montana superintendent of Public Instruction on behalf of a hearing-impaired preschooler denied disability benefits for tuition payments because her parents chose to enroll her in a Columbus faith-based preschool. The state allows the benefits to be used for tuition at private schools but singles out religious students and parents for exclusion if they attend a faith-based school.

“Parents should be able to choose what’s best for their own children. When the government provides funds to help disabled children at private schools, it cannot favor non-religious schools over religious ones,” said Senior Legal Counsel Jeremy Tedesco, who filed the complaint together with local counsel Matthew Monforton, one of nearly 2,200 allied attorneys with ADF.

“Depriving government benefits to students with special needs simply because their parents choose to send them to a faith-based school exhibits precisely the type of hostility toward religion that the **First Amendment** forbids,” Tedesco said. “The state is hurting disabled children because of its complete misunderstanding of the Establishment Clause.”

In September, a 4-year-old preschooler with hearing and speech impairments began attending the faith-based ABC-123 University in Columbus. Earlier, the state-run Stillwater/Sweet Grass Special Services Cooperative agreed to pay for her schooling three days a week.

Later that month, the cooperative informed the preschooler’s parents that the Office of Public Instruction had revoked the

tuition aid due to a newly adopted practice of prohibiting parents from selecting private religious preschools to provide for their children's special education services. In order for the child to continue receiving special education tuition assistance, she would have to be moved to a non-religious private preschool, the agency said.

According to the due process complaint filed with Superintendent of Public Instruction Denise Juneau, "the United States Supreme Court has explained that the Establishment Clause does not bar public funds becoming available to religious schools as a result of the private choices of individual parents."

Moreover, "preventing the parents of children with special educational needs from independently enrolling their children at a private religious preschool, as opposed to a nonreligious one, also fosters a pervasive state bias or hostility to religion."

"The state must distribute special education funds in a manner that complies with the First Amendment and doesn't favor certain views over others," added Tedesco. "The Office of Public Instruction needs to provide these benefits to all students, regardless of whether their parents choose to send them to a religious or non-religious school."