

Supreme Court Steps In After Colorado Denies Catholic Pre-K Schools

The Supreme Court agreed Monday to hear a challenge from a Denver-area Catholic parish after Colorado officials barred its schools from participating in the state's universal preschool program because the schools require families to support Catholic beliefs on sex and gender.

Oral arguments in *St. Mary Catholic Parish v. Roy* are expected this fall. The case has the potential to redefine how states can apply anti-discrimination laws to religious institutions that participate in publicly funded programs.

The Archdiocese of Denver oversees 34 Catholic preschools and argues that each is an extension of the church's ministry, not simply a child-care provider. To preserve that religious environment, the Archdiocese requires participating families to affirm Catholic teachings, including the church's position on biological sex and gender identity.

Colorado's Universal Preschool Program is designed to give families public funding to send their children to the preschool of their choice: public, private, or faith-based. State officials say faith-based providers are welcome to participate, but they must follow the same non-discrimination rules as secular schools.



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The state's position is that the Archdiocese's enrollment policies make its schools unavailable to all children regardless of their background or family identity. That, Colorado argues, disqualifies them.

The Archdiocese calls the exclusion a violation of its First Amendment right to freely exercise religion. The church says it is not asking to discriminate against anyone. It is asking the state not to penalize it for operating schools consistent with its own doctrine.

The Supreme Court has ruled in favor of religious institutions in several recent clashes over public funding. In 2022's *Carson v. Makin*, the court held that Maine could not exclude religious schools from a tuition assistance program simply because they provided religious education. In 2020's *Espinoza v. Montana Department of Revenue*, the court struck down a state rule barring religious schools from scholarship programs. Both cases were decided in favor of the religious plaintiffs.

St. Mary Catholic Parish v. Roy presents a related but distinct question: whether a state can condition access to a universal funding program on a religious school abandoning its admissions standards.

The case was filed by the Becket Fund for Religious Liberty on behalf of St. Mary Catholic Parish in Littleton, Colorado. The Archdiocese argued in lower courts that the state's exclusion was not neutral or generally applicable and therefore violated the Free Exercise Clause. Lower courts ruled against the parish, leading to the appeal before the Supreme Court.

The justices agreed to hear the case without comment, as is standard practice when granting certiorari.

Colorado's Universal Preschool Program launched in 2023 after voters approved a measure directing the state to fund preschool for four-year-olds. The program distributes state funds through a voucher-like system, letting families choose which provider receives the money. Thousands of providers across the state participate.

The outcome of the case will likely affect not only Colorado

but every state running similar publicly funded preschool programs where faith-based providers are involved. Religious schools in dozens of states participate in pre-K funding programs and could face similar challenges under state anti-discrimination statutes.

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