



# PACIFIC LEGAL FOUNDATION

My name is Wen Fa and I am an attorney with the Pacific Legal Foundation, the nation's oldest and most successful freedom-based legal foundation. I'm here representing the Association of Christian Schools International, Foothills Christian Community School, and Helena Christian School. These entities provide quality educational options to thousands of Montana students.

The regulations proposed by the Department of Revenue violate the First and Fourteenth Amendments to the United States Constitution, because they overtly discriminate against religion. Pacific Legal Foundation will be submitting written testimony in the coming days explaining these arguments in more detail. With my time today, I want to emphasize how far the regulations have strayed from the intent of the Montana Legislature, and how these regulations will cause significant harm to Montana families. The law as enacted by the Legislature gave all Montana children between the ages of 5 and 19 the opportunity to go to any accredited private school, but the proposed regulations severely limit the choices for Montana families. For example, of the 139 private schools in Montana, only a third will still be eligible for scholarships. And many of those are Montessori, which rarely include students over the age of five anyway. Put another way, if these regulations go into effect, 88% of Montana's private school students would be ineligible for the tax credit scholarship. Worse, these regulations would prevent high school students from using scholarships at all. Technically, there are 8 high schools that remain eligible for the scholarships under the proposed regulation, but upon closer inspection the number is closer to zero. Of the eight eligible high schools, 2 are Native American schools, 3 are schools for troubled teens, and the remaining three enroll a total of 4 students. In essence, if you adopt these regulations, you'll be preventing Montana's high school students from using the scholarships; that certainly is not the intent of the Montana Legislature.

These regulations also have real detrimental effects on Montana's children. The public school monopoly, which provides the same sort of cookie cutter education to everyone, doesn't allow parents to choose the best education for their child. School choice recognizes that children have different strengths and different goals. Some children excel in math and want to be engineers. Others excel in science and want to be doctors. By providing students with a wide variety of schools to choose from, the Montana Scholarship Tax Credit is designed to allow parents to choose the school that best fits their child's learning style, and best tailored to their goals. The proposed regulations take those options away from parents.

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The regulations interfere with the ability of individuals to freely exercise their faith. Not everyone is religious. We understand that public school teachers shouldn't be forced to teach the book of Job, but religious learning is important for many Montana families. The Department of Revenue should not stop private dollars, funneled through a private scholarship organization, from being used in manner that the parents privately choose.

The proposed regulations also take away the ability of non-religious parents to choose top-tier schools for their children. We know many parents who send their children to these schools not because they want their children to learn about Adam and Eve, but because they want their children to learn math, reading, and writing. Some of the best schools in the State are affiliated with religion. Valley Christian School in Missoula, for example, is rated among the best Christian High Schools in America. The school has 14 teachers for 60 students. It offers AP classes in English, Science, and Math. Notably, students at Valley Christian score much higher than the state average in both math and reading. To me, that sounds like the type of school anyone, religious or non-religious, would want to attend. But the Department of Revenue is essentially saying that it is going to prevent students from going to a quality school like Valley Christian just because it has the word "Christian" in its name.

At the end of the day, I guess the question is why is the Department so brazenly ignoring the text of the statute and the will of the elected Legislature? These regulations aren't just unconstitutional, but they hurt so many people in the state. They hurt Montana students. They hurt Montana parents. They hurt Montana's future.

Thank you.