

Ninth Circuit Upholds Charter School Ban on Religious Curriculum

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The Ninth Circuit Court of Appeals has ruled that charter schools can refuse to purchase religious curricular materials for their independent study programs. The decision in *Woolard v. Thurmond*, No. 24-4291 (9th Cir. 2025) 152 F.4th 1050, affirms that charter schools remain public in nature, even when instruction occurs in the home setting.

The ruling resolves a constitutional challenge brought by parents who argued that charter school independent study programs are essentially homeschooling and that denial of the parents' request for faith-based instructional materials violated their First Amendment rights. The federal Appeals Court disagreed, finding that charter schools' extensive state oversight distinguishes them from private homeschooling.

Background

Parents and guardians of children enrolled in independent study programs at two California charter schools requested the charter schools purchase faith-based instructional materials for use in the programs. These materials included, for example, Bob Jones University's "Focus on Fives" curriculum, which teaches, among other things: "God is great, and God is good; God created me and all things; the Bible is God's Word, and it is true; and I learn in order to serve God and others."

The charter schools denied the requests, citing California's prohibition on teaching sectarian or denominational doctrine in public schools, including charter schools. The parents sued in federal district court, arguing the charter schools' actions violated the Free Exercise and Free Speech clauses of the First Amendment. The trial court dismissed the complaints, primarily on the grounds that the First Amendment does not prohibit states from providing strictly secular curriculum in public schools, and charter schools are public schools.

Ninth Circuit Affirms

The Ninth Circuit affirmed the trial court decision and likewise rejected the parents' arguments that the charter schools violated the First Amendment. As to the Free Exercise clause, the court acknowledged recent Supreme Court decisions requiring states to provide equal access to generally available public benefits regardless of religious use. However, the panel distinguished those cases, emphasizing that charter schools' independent study programs retain essential characteristics of public education. These include:

1. The programs must be free to attend and accept all students for which they have capacity.
2. The programs must be of the same rigor, quality, and challenge substantially equivalent to classroom-based instruction.
3. The programs must be aligned to local and state content standards.
4. Students must take state assessments.
5. The programs must be coordinated, evaluated by, and under the general supervision of state-certified teachers.

These characteristics differ considerably from private schools, which need only to file basic registration affidavits, keep attendance, and provide English-based instruction in broadly framed subject areas.

The court also rejected the compelled speech claim under the Free Speech clause, which argued that requiring parents to use state-approved materials in independent study programs that do not reflect their religious views compelled parents to endorse speech contrary to their beliefs. Even though parents select instructional materials and provide direct instruction in their homes, the court held that the schools' curricular requirements constitute government speech, which is not subject to First Amendment scrutiny.

Takeaways

This decision clarifies that charter school independent study programs, despite their home-based instruction model, remain public education subject to the same or similar constitutional scrutiny as applied to other public schools. Extensive state and local oversight and standardization requirements distinguish these programs from private homeschooling, allowing schools to maintain secular curriculum requirements.

If you have any questions about this Ninth Circuit decision, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcast](#), follow us on [Facebook](#) and [LinkedIn](#), or download our [mobile app](#).

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