



CLERK OF THE COURT

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9 **DISTRICT COURT**
10 **CLARK COUNTY, NEVADA**

11 Ruby Duncan, an individual; Rabbi Mel
12 Hecht, an individual; Howard Watts III, an in-
13 dividual; Leora Olivas, an individual; Adam
14 Berger, an individual,

15 Plaintiffs,

16 vs.

17 State of Nevada *ex rel*, the Office of the State
18 Treasurer of Nevada and the Nevada Depart-
19 ment of Education; Dan Schwartz, Nevada
20 State Treasurer, in his official capacity; Steve
21 Canavero, Interim Superintendent of Public
22 Instruction, in his official capacity.

23 Defendants.

Case No. A - 1 5 - 7 2 3 7 0 3 - C
Dept. No. XX

24 **COMPLAINT**
25 **REQUESTING INJUNCTIVE AND**
26 **DECLARATORY RELIEF**

27 *(Exempt From Arbitration, Declaratory Relief*
28 *Requested)*

Plaintiffs Ruby Duncan, Rabbi Mel Hecht, Howard Watts III, Leora Olivas, and Adam Berger, through their attorneys, hereby complain and allege against the above named Defendants as follows:

I. INTRODUCTION

1. If allowed to proceed, Nevada's Education Savings Account Program (the "Program" or "Voucher Program") will unconstitutionally divert millions of dollars in public education funds to private schools—the majority of which are religious. This expansive Voucher Program, signed into law as Senate Bill 302 ("SB 302"), allows private religious schools to receive unlimited amounts of taxpayer

1 funds and to use those funds for religious education, indoctrination, and discrimination. While parents
2 have a right to send their children to religious schools, the Nevada Constitution prohibits them from do-
3 ing so at taxpayers' expense.

4 2. Nevada law provides robust protections against the use of public education funds for sectarian
5 purposes. Article XI, Section 10 of the Nevada Constitution states that “[n]o public funds of any kind
6 or character whatever, State, County or Municipal, shall be used for sectarian purpose.” The Nevada
7 Supreme Court has strictly enforced this provision, prohibiting any allocation of public funds that di-
8 rectly or indirectly support religious activities of religious educational institutions. *State v. Hallock*, 16
9 Nev. 373, 387 (1882). Indeed, in *Hallock*, the Nevada Supreme Court explained: “It does not matter
10 that Catholic parents desire their children taught the Catholic doctrines, or that Protestants desire theirs
11 to be instructed in Protestantism. The constitution prohibits the use of any of the public funds for such
12 purposes, whether parents wish it or not.” *Id.* at 386.

13 3. Nevada’s longstanding prohibition against the use of public money for religious education is fur-
14 ther reflected in Article XI, Section 2 of the Nevada Constitution, which provides that “any school dis-
15 trict which shall allow instruction of a sectarian character therein may be deprived of its proportion of
16 the interest of the public school fund during such neglect or infraction” And, echoing the Nevada
17 Constitution, NRS § 387.045 commands that “[n]o portion of the public school funds shall in any way
18 be segregated, divided or set apart for the use or benefit of any sectarian or secular society or associa-
19 tion.”
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22 4. Recognizing that the Voucher Program would allow public money to be used for sectarian pur-
23 poses, the Nevada Legislature specifically exempted the funding scheme from the restrictions of NRS §
24 387.045, which states, “[n]o portion of the public school funds shall in any way be segregated, divided
25 or set apart for the use or benefit of any sectarian or secular society or association.” *See* SB 302 § 15.9.
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1 5. But lawmakers cannot exempt the Voucher Program from the Nevada Constitution. The Program
2 establishes a system whereby, instead of enrolling their children in public schools, parents may obtain
3 and use public money to pay for enrollment in private religious institutions. This is exactly what the
4 Nevada Constitution forbids.

5 6. The private religious schools eligible to participate in the Voucher Program operate with sectari-
6 an missions and goals and impart sectarian curricula. Many are operated by churches or other religious
7 institutions, and many require students to engage in religious exercise and worship. In addition, many
8 private religious schools eligible to participate in the Voucher Program discriminate in both employ-
9 ment and admissions on the basis of religion, sexual orientation, and gender identity, among other
10 grounds. The use of taxpayer dollars for such “sectarian purpose” cannot be reconciled with Article XI,
11 Section 10 of the Nevada Constitution.
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13 7. Nor does the Voucher Program comply with Article XI, Section 2 of the Constitution, which re-
14 quires the legislature to “provide for a uniform system of common schools.” The Program violates this
15 constitutional requirement in two ways. First, it promotes a non-uniform system by providing public
16 funding to private and religious schools whose curricula, instruction, and educational standards diverge
17 dramatically from those in public schools. Second, it undermines the public school system that the State
18 is constitutionally required to support, both by diverting funds from the public schools and supporting a
19 parallel system of private schools, including religious schools, which teach a religious curriculum and
20 are not open to all on equal terms.
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22 **II. PARTIES**

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24 8. Plaintiff Ruby Duncan is a mother, grandmother, and longtime civil rights activist in Nevada.
25 She has long worked to ensure and protect the equal rights of all Nevadans. In 2008, a new public
26 school was named Ruby Duncan Elementary School in honor of her contributions to Nevada’s citizen-
27 ry. Plaintiff Duncan pays sales taxes in Nevada and resides in the State of Nevada. She objects to the
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1 use of her taxes to fund private and religious schools.

2 9. Plaintiff Rabbi Mel Hecht is a retired congregational rabbi and has worked throughout his career
3 to improve the lives of Nevadans and others. He pays sales taxes in Nevada and resides in the State of
4 Nevada, and he objects to the use of his taxes to fund private and religious schools.

5 10. Plaintiff Howard Watts III is a member of the Las Vegas community, and he was born and raised
6 in Nevada. He pays sales taxes in Nevada and resides in the State of Nevada, and he objects to the use
7 of his taxes to fund private and religious schools.

8 11. Plaintiff Leora Olivas is a member of the Las Vegas community. She pays sales taxes in Nevada
9 and resides in the State of Nevada, and she objects to the use of her taxes to fund private and religious
10 schools.

11 12. Plaintiff Adam Berger is a father of a student attending public school and is a special education
12 teacher in the Clark County School District. He pays sales taxes in Nevada and resides in the State of
13 Nevada, and he objects to the use of his taxes to fund private and religious schools.

14 13. Defendant Office of the State Treasurer of Nevada and Defendant Dan Schwartz in his official
15 capacity as Nevada State Treasurer, are responsible for creating regulations for the Voucher Program,
16 as well as implementing and overseeing the Program. The Treasurer is directly charged with depositing,
17 on a quarterly basis, State funds into Education Savings Accounts to be used for payment of private
18 school tuition and related expenses. *See* SB 302 §§ 7, 8, 10, 11, 13, 15.

19 14. Defendant Nevada Department of Education and Defendant Steve Canavero, in his official ca-
20 pacity as Interim Superintendent of Public Instruction, are charged with administering public school
21 funding, including allocating the basic per-pupil support rate from the State Distributive Account. NRS
22 § 387 *et. seq.* The Department is also charged with exercising general supervision over education pro-
23 grams maintained and operated by all state governmental agencies. NRS § 385.075. Under SB 302, par-
24 ticipating entities in the Voucher Program must provide the results of certain standardized tests to the
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1 Department, and the Department is responsible for aggregating and publishing the test results. *See* SB
2 302 §§ 12(1)-(2).

3 15. Defendants have already taken steps to implement the Voucher Program and will disburse tax-
4 payer dollars to be used in support of private and religious schools unless the Program is declared un-
5 constitutional and its further implementation enjoined by this Court.

6 **III. FACTUAL ALLEGATIONS**

7 **A. OVERVIEW OF THE VOUCHER PROGRAM**

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9 16. SB 302 was signed into law on June 2, 2015, establishing a voucher system that authorizes the
10 use of public education funds to pay for certain approved educational expenses at private schools, in-
11 cluding payment of tuition. *See* Senate Bill 302, as enrolled, <http://tinyurl.com/ozf9jk8>.¹

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13 17. The Voucher Program funds will be disbursed to parents by the Office of the Treasurer on a
14 quarterly basis through deposit into “Education Savings Accounts.” Under the Program, the parent of
15 any child “who has been enrolled in a public school in [Nevada] during the period immediately preced-
16 ing the establishment of an educations savings account . . . for not less than 100 school days without in-
17 terruption may establish an education saving account by entering into a written agreement with the
18 State Treasurer.” SB 302 § 7(1).

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20 18. Funds for the Voucher Program will be drawn from the State Distributive School Account
21 (“DSA”). SB 302 § 16(1).

22 19. The DSA, one of the primary sources of public school funding, is financed by legislative appro-
23 priations from the State General Fund, a tax on out-of-state sales, a slot machine tax, mineral land lease
24 income, and interest from investments of the State Permanent School Fund. *See* NRS §387.121 *et seq.*;
25 *see also* Research Div., Nev. Legislative Counsel Bureau, *Nev. Plan for Sch. Fin. & Educ. Revenues &*
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27 ¹ All websites cited in this Complaint were last visited on Aug. 25, 2015.
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1 *Expenditures* 75 (2013), <http://tinyurl.com/NevadaPlan>. The State General Fund comprises money
2 from various sources, including sales, use, business, and gaming taxes. *See id.* at 77; NRS § 387.121 *et*
3 *seq.*; Research Div., Nev. Legislative Counsel Bureau *Revenue & Budget* 3 (2014),
4 <http://tinyurl.com/ol37ksa>.

5 20. Each year, relying on a preset formula, a basic per-pupil support rate is calculated and is dis-
6 bursed from the DSA to each school district. *Nev. Plan for Sch. Fin.* 75, <http://tinyurl.com/NevadaPlan>.

7 21. Upon information and belief, the statewide average basic per-pupil support rate in Fiscal Year
8 2015 was \$5,676. Upon information and belief, the statewide average basic per-pupil support rate is es-
9 timated to be \$5,669 for Fiscal Year 2016. *See Exec. Budget – DSA & Related K-12 Budgets: 2015-*
10 *2017 Biennium*, Nev. Dep’t of Educ. presentation to Legis. Comm’n’s Budget Subcomm., Jan. 20,
11 2015, <http://tinyurl.com/ph28wgd>.

12 22. Under the Voucher Program, parents of children with disabilities, and parents of children with a
13 household income less than 185 percent of the federal poverty level are eligible to receive 100% of the
14 statewide average basic per-pupil support rate. SB 302 § 8(2)(a).

15 23. All other participating parents are eligible to receive 90% of the statewide average basic per-
16 pupil support rate. *Id.* § 8(2)(b).²

17 24. SB 302 provides that “all the funds deposited in education savings accounts established on behalf
18 of children who reside in the county” must be deducted from the DSA apportionment that would ordi-
19 narily be disbursed to a school district. SB 302 § 16(1).

20 25. There is no limit on the number of students or families who may qualify to receive voucher fund-
21 ing. Nor is there any limit on the total amount of public education funds that may be diverted to private
22 and religious schools under the Voucher Program.

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27 ² Every deposit of Voucher Program funds into an Education Savings Account is subject to an adminis-
28 trative fee totaling up to 3% of the awarded funds. SB 302 § 8(4).

1 26. Under the Voucher Program, any private school that is licensed pursuant to NRS Chapter 394, or
2 is exempt from such licensing pursuant to NRS § 394.211, is deemed a “participating entity.” SB 302 §
3 5. “Elementary and secondary educational institutions operated by churches, religious organization and
4 faith-based ministries” are exempt from licensing under NRS § 394.211 and are, thus, among those in-
5 stitutions eligible to take part in the Program. NRS § 394.211.

6 27. Once Voucher Program funds are paid to schools, there are no prohibitions on how the public
7 funds are used. Private religious schools are free to use the public funds for religious indoctrination or
8 other religious activities. They may even use the funds for activities entirely unrelated to students’ edu-
9 cation, such as buying Bibles for the school’s sponsoring church or renovating its chapel.

10 28. Religious schools that discriminate based on religion, sexual orientation, or gender identity in
11 admissions or employment are also eligible to receive public money and participate in the Voucher
12 Program.
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14 **B. CURRENT IMPLEMENTATION OF THE VOUCHER PROGRAM**

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16 29. The Nevada Treasurer and his Office have taken significant steps towards implementation of the
17 Voucher Program.

18 30. On or about June 23, 2015, the Treasurer announced the appointment of staff to draft guidelines
19 and administer procedures necessary to implement SB 302.

20 31. On or about July 9, 2015, the Treasurer devised a schedule for quarterly enrollment in voucher-
21 funded schools and estimated that the office would begin making deposits of Voucher Program funds
22 into Education Savings Accounts as early as April 2016.

23 32. On or about July 30, 2015, the Treasurer began accepting early applications for Voucher Pro-
24 gram funds.
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26 33. Although SB 302 requires a child to be “enrolled in a public school in this State during the peri-
27 od *immediately preceding the establishment of an education savings account . . .* for not less than 100
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1 school days,” SB 302 § 7(1) (emphasis added), the Treasurer has announced that students who attended
2 public school for the 2014-2015 school year will nevertheless be permitted to apply for the Voucher
3 Program provided that they submit their application before beginning private school in the 2015-2016
4 school year.

5 34. In August 2015, the Treasurer issued proposed regulations and proposed regulation supplementa-
6 tion. These regulations do not limit the ability of private sectarian institutions to receive public money.
7 See Nev. State Treasurer, *Adopted Regulations of the Office of the State Treasurer* (proposed Aug. 4,
8 2015), <http://tinyurl.com/okpmy2j>; *Summary of Revisions to R061-15*, <http://tinyurl.com/pxn5s5r>.

10 **C. THE SECTARIAN NATURE OF PARTICIPATING SCHOOLS**

11 35. Upon information and belief, there are at least 110 exempt and non-exempt private schools in
12 Nevada. Nearly two-thirds of these schools—66 in total—are religious.

13 36. Accordingly, private religious schools currently constitute the majority of private schools in Ne-
14 vada eligible to participate in the Voucher Program.

15 37. In Churchill County, Elko County, and Carson City, every private school is a religious school
16 imparting a religiously based curriculum. There are no non-religious, private school options in those
17 counties. In Nye County, there are only two private schools; one is religious, while the other is a resi-
18 dential program for juvenile offenders and is not open for general enrollment. Similarly, in Douglas
19 County, there are only three private schools; two are religious while the third offers only a program for
20 at-risk youth.
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22 38. Because the Voucher Program places no restrictions on how participating entities may expend
23 the public funds that are paid to them, private religious schools are free to use these funds for religious
24 purposes, including, for example, religious instruction, worship services, clergy salaries, the purchase
25 of Bibles and other religious literature, and construction of chapels and other facilities used for worship
26 and prayer.
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1. Private religious schools that function as ministries

39. Many of the private religious schools eligible to participate in the Voucher Program are owned, operated, sponsored, or controlled by churches or other religious institutions, and, therefore, effectively function as ministries of those religious institutions.

40. For example, Eagle Valley Christian School is a K-8 elementary school affiliated with the Nevada-Utah Conference of Seventh-day Adventists. *See* Eagle Valley Christian Sch., <http://tinyurl.com/ootbq9m>; *see also* *Philosophy of Eagle Valley Christian Sch.*, Eagle Valley Christian Sch., <http://tinyurl.com/pejxyz4>.

41. The Faith Christian Academy is a K-8 school run by Calvary Chapel in Carson Valley. *See* Faith Christian Acad., <http://tinyurl.com/p5dsphw>.

42. Bethlehem Lutheran School is a K-8 school in Carson City associated with a congregation of the Lutheran Church-Missouri Synod. *See* Bethlehem Lutheran Church & Sch., <http://tinyurl.com/p6efhw4>.

43. Word of Life Christian Academy, a K-12 school, is a ministry of Word of Life Christian Center. *See* Word of Life Christian Acad., <http://tinyurl.com/pn23jre>.

44. Lone Mountain Academy in Las Vegas operates as a ministry of Calvary Chapel Lone Mountain. *See* Lone Mountain Christian Acad., <http://tinyurl.com/olrerlb>; *see also* *Contact Us*, Lone Mountain Christian Acad., <http://tinyurl.com/qcdn45u>.

2. Sectarian missions and goals of private schools

45. Many private religious schools eligible to participate in the Voucher Program operate with mission statements and goals aimed at inculcating particular religious beliefs or promoting a particular religious sect.

46. For example, Liberty Baptist Academy's mission "is to equip leaders, train believers, and produce achievers for the cause of Jesus Christ." *Mission Statement*, Liberty Baptist Acad., <http://tinyurl.com/nosyf8e>. Specifically, the Academy's "primary goal is to produce and develop Chris-

1 tian young people who have instilled within them Christian character and servant leadership for the
2 work of the Lord. Students are motivated to develop the ‘mind of Christ’ (Philippians 2:5) in their own
3 lives, which is a key reason for the existence of Christian Education, an environment that should foster
4 the maturity of Christ-mindedness.” *Liberty Baptist Acad. Student Handbook: Ambassadors for Christ*,
5 Liberty Baptist Acad. 8, <http://tinyurl.com/ngfo9bf>.

6 47. Saint Gabriel Catholic School provides “a Catholic education based on the call of the Church to
7 ‘Teach as Jesus did.’ [The School] strive[s] to teach the message of Christ, to advance the building of a
8 Catholic Community and to encompass all people in love and service.” *Parent-Student Handbook*
9 *2014-2015*, Saint Gabriel Catholic Sch. 7, <http://tinyurl.com/pfngrng>.

10 48. St. Teresa Avila Catholic School seeks to ensure that its students “become active Christians and
11 have deep admiration and respect for the Catholic faith based on catechetical teachings . . . Students
12 learn and practice Catholic teaching by participating and planning in liturgies, praying daily, regularly
13 receiving sacraments and using sacramentals.” *Philosophy*, St. Teresa of Avila Catholic Sch.,
14 <http://tinyurl.com/nk5w5fd>.

15 49. Our Lady of Las Vegas Catholic School “is committed to the fundamental obligation to teach
16 and to live the Gospel message and foster Catholic identity, while promoting academic excellence. As
17 compassionate, ethical, and competent individuals, our students will be prepared for a lifetime of ser-
18 vice to God and a quest for knowledge.” *Mission & Philosophy*, Our Lady of Las Vegas Catholic Sch.,
19 <http://tinyurl.com/pueull4>.

20 50. Lone Mountain Academy seeks to “glorify God through academic excellence, discipleship in the
21 Word of God, and instilment of a Biblical worldview, thus equipping students to fulfill their role in the
22 Great Commission.” *Our Mission*, Lone Mountain Christian Acad., <http://tinyurl.com/q5wjz94>.

23 51. Bethlehem Lutheran School aims to “provide the opportunity for the children to grow in their re-
24 lationship with God, knowing the love and forgiveness our Lord Jesus Christ has for them through His
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1 words in Holy Scripture, so that they know and love our Lord as Savior and are able to grow in their re-
2 lationship with their Savior, their family, and their church; to provide an atmosphere where Christian
3 values are taught and where both parents and teachers work for a common goal—Christian nurturing in
4 the Word and Will of God; to provide an excellent academic program and life skills while developing a
5 personal relationship with God; and finally, to establish an outreach to the community where Christian
6 love and evangelism are present.” *Sch. Philosophy*, Bethlehem Lutheran Church & Sch.,
7 <http://tinyurl.com/oa5pgq7>.

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9 52. Spring Valley Christian Academy emphasizes “Christian Americanism.” *SVCA Student/Parent*
10 *Handbook*, Peace Way Christian Ctr. 13, <http://tinyurl.com/ph82fdy>. The student handbook also in-
11 cludes a “Pledge of Allegiance to the Christian Flag,” which reads: “I pledge allegiance to the Christian
12 flag and to the Savior for Whose kingdom it stands. One Savior, crucified, risen, and coming again,
13 with life and liberty for all who believe.” *Id.* at 14. The student handbook’s “Pledge of Allegiance to
14 the Bible” similarly states: “I pledge allegiance to the Bible, God’s Holy Word. I will make it a lamp
15 unto my feet and a light unto my path. I will hide its words in my heart that I might not sin against
16 God.” *Id.*

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18 53. Eagle Valley Christian School aims “[t]o present Jesus Christ as a personal Savior; [t]o lead stu-
19 dents to adopt scripturally based Seventh-day Adventist philosophy, objectives, and standards which
20 will become their mode of life; [t]o help students demonstrate a good understanding of the scriptures
21 and be conversant with the doctrines of the Church; [t]o see that students demonstrate understanding,
22 from a scriptural standpoint, of the historical perspective of the religious, political, social, scientific,
23 aesthetic, and economic forces which shape contemporary life; [and] [t]o encourage mastery of basic
24 academic skills in a Christ-centered classroom.” *Objectives*, Eagle Valley Christian Sch.,
25 <http://tinyurl.com/pfdoy57>.

3. Religious curricula at private schools

54. Consistent with these religious ends, most of the private religious schools across the State employ curricula that are thoroughly infused with religious doctrine and proselytizing. Many schools also require students to participate in prayer and worship.

55. At Little Flower Catholic School, “[t]he teaching of Christian Doctrine is given special emphasis in [the] educational program. Students engage in daily prayer, and have opportunities for initiation into the Sacrament of Reconciliation. Personal, family, local and global concerns and other issues are addressed from a Christian perspective.” *Parent-Student Handbook 2014-2015*, Little Flower Sch. 25, <http://tinyurl.com/pyd9spc>.

56. Faith Lutheran Middle School and High School requires high school students to take “a full year of Biblical theology each year they attend.” *2015-2016 Faith Lutheran MS & HS Curriculum Handbook*, Faith Lutheran Middle Sch. & High Sch., 30, <http://tinyurl.com/qbcw88g>.

57. Logos Christian Academy uses a Christ-centered curriculum, stating that the school “teach[es] all subjects as parts of an integrated whole with the Scriptures at the center (2 Timothy 3:16-17)” and “provide[s] a clear model of the biblical Christian life through [its] staff and board (Matthew 22:37-40).” *Academics*, Logos Christian Acad., <http://tinyurl.com/o6jd99y>. The school also “encourage[s] every student to begin and develop his or her relationship with God the Father through Jesus Christ (Matthew 28:18-20, Matthew 19:13-15).” *Id.*

58. Solomon Schechter Day School is aligned with the “[Jewish] Conservative Movement. [It] adopt[s] the guiding principles of [the] Movement for [the] school’s curriculum and program. As such [it] provide[s] learning and experiences that encourage: development of a personal relationship with God; centrality of Mitzvah and Torah Study; valuing and cherishing Jewish plurality and diversity, both within [the] school and the larger world around us; and identity with Jews in Israel and the world.” *Curriculum Overview, Third Grade*, Solomon Schechter Day Sch., <http://tinyurl.com/p5763pa>.

1 59. Liberty Baptist Academy uses textbooks from a Christian publisher, A Beka Book. The text-
2 books are “based on the truth of God’s word.” *Curriculum*, Liberty Baptist Acad.,
3 <http://tinyurl.com/p69av7p>. In its textbooks, this publisher “presents the universe as the direct creation
4 of God and refutes the man-made idea of evolution.” *The A Beka Difference*,
5 <http://tinyurl.com/osj38q5>.

6 60. Spring Valley Christian Academy teaches a “Christian Curriculum” and “the Biblically based
7 School of Tomorrow curriculum, which includes Scripture memory passages and references to God and
8 Jesus Christ.” *SVCA Student/Parent Handbook*, Peace Way Christian Ctr. 4, 6,
9 <http://tinyurl.com/ph82fdy>. Moreover, “[i]mmediately following opening exercises, the students will
10 read one Chapter of Scripture each morning,” and students take part in weekly chapel time during
11 which “students receive Biblical instruction from the Bible.” *Id.* at 13.

12 61. At Calvary Chapel Christian School, “Bible instruction is considered part of [the school’s] core
13 curriculum, and is given priority as the central focus of our school. Also, there is emphasis on Commu-
14 nity Outreach and Missions for every student.” *Secondary Gen. Info.*, Calvary Chapel Christian Sch.,
15 <http://tinyurl.com/plb25yg>.

16 62. Lamb of God Lutheran School requires Bible memorization and chapel attendance: “Religion
17 classes offer daily Christian lessons, weekly memorization of a scripture verse or selections from Lu-
18 ther’s Small Catechism, and a weekly chapel service in the church’s sanctuary. In addition, once per
19 year, each class presents a chapel service based on scripture.” *Christian Educ.*, Lamb of God,
20 <http://tinyurl.com/o6q2gx7>.

21 63. Calvary Chapel Green Valley Christian Academy teaches “a Christ-centered curriculum.” *K-12th*
22 *Student & Parent Handbook*, Calvary Chapel Green Valley Christian Acad., 5,
23 <http://tinyurl.com/pyh6tgj>. Moreover, the Academy believes that, “the Christian approach to learning
24 differs significantly from the secular viewpoint,” and thus “offers a curriculum rooted in a God-
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1 centered world view. This view recognizes that God’s Word is the standard for all truth. The curricu-
2 lum, taught by a qualified Christian faculty, allows parents to provide their children with academic in-
3 struction consistent with the Christ-centered teaching received at home and at church.” *Id.*

4 64. Green Valley Christian School’s curriculum teaches “Apologetics,” which “[a]ims to present a
5 rational basis for the Christian faith, defend the faith against objections, and attempt to expose the flaws
6 of other world views.” *7-12 Course Content—Bible*, Green Valley Christian Sch.,
7 <http://tinyurl.com/o4ugvgo>. The course uses “historical evidence, philosophical arguments, scientific
8 investigation, and arguments from other disciplines to teach students to defend their faith.” *Id.*

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10 65. Our Lady of the Snows Catholic School begins each day begins with “prayer and students learn a
11 variety of styles of prayer from [the] Catholic tradition.” *Religion*, Our Lady of the Snows,
12 <http://tinyurl.com/pntdxnx>. Students at the school are also expected to adhere to all Catholic teachings.
13 They must affirm that they “[c]hoose to have a personal relationship with God,” that they “know the
14 prayers, Traditions, and teachings of the Catholic church,” that they “make choices that reflect the Gos-
15 pel message,” and that they “honor Mary as our Blessed Mother.” *Schoolwide Learning Expectations*,
16 Our Lady of the Snows, <http://tinyurl.com/p573rht>.

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18 66. International Christian Academy uses Christian textbooks and teaches “a Biblical Christian per-
19 spective . . . in all areas of [the] curriculum, sports program, special classes, after care program, musi-
20 cal performances, and graduations.” *Registration Packet 2015-2016*, Int’l Christian Acad. 12,
21 <http://tinyurl.com/ojahukp>. Bible study is also a part of the “daily classroom schedule, each morning
22 classes begin with prayer from the approved Bible [and] each teacher prays with their class and indi-
23 vidual students as needed.” *Id.* The school promises that “each teacher will lead their students to a
24 knowledge of our Lord Jesus Christ, as their personal savior to be born again, sometime during the
25 school year.” *Id.*

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27 67. Omar Haikal Islamic Academy provides an Islamic religious education to all students. Students
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1 are required to attend daily afternoon prayer and “inattentive behavior, general disruption or interrup-
2 tion” of the prayer may result in detention, suspension, or expulsion. *Family Policy Guide*, Omar
3 Haikal Islamic Acad., <http://tinyurl.com/ocjk6r5>. Qur’an/Arabic and Islamic Studies classes are man-
4 datory for all students. *Id.* In addition, students are required to stay at school Friday afternoons for
5 prayer. *Id.* If they leave before the prayer, it is recorded as a half-day absence. *Id.* Parents “are ex-
6 pected to reinforce the tenets of Islam” at home. *Id.*

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8 68. Foothills Church Academy uses LIFEPAAC worktexts in which “Scripture passages are integrated
9 throughout worktexts to help students connect daily learning to biblical truth.” *Alpha Omega Curricu-*
10 *lum*, Foothills Church Acad., <http://tinyurl.com/ozhf5mc>.

11 **4. Many private religious schools discriminate in admissions and**
12 **employment.**

13 69. Although private religious schools will receive public money, many of the schools eligible to
14 take part in the Voucher Program discriminate in admissions and employment on the basis of religion,
15 overtly excluding or strongly disfavoring students of other faiths, requiring applicants and their parents
16 to sign Statements of Faith, or charging more in tuition for students of other faiths. Further, many of
17 these private religious schools engage in discrimination on the basis of sexual orientation and gender
18 identity.

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20 70. For example, Liberty Baptist Academy requires all faculty to “believe in the sovereignty of the
21 local church and in the doctrinal tenets which make [their] church Fundamental and Baptist.” *Liberty*
22 *Baptist Acad. Student Handbook: Ambassadors for Christ*, Liberty Baptist Acad. 7,
23 <http://tinyurl.com/ngfo9bf>. Parents must attend Liberty Baptist Church services. *Id.* at 11. The school
24 also requires students to “refrain from participating in worldly activities such as . . . homosexuality or
25 other sexual perversions . . .” *Id.* at 28. A violation of these requirements may subject the student to
26 “administrative withdrawal.” *Id.* at 29.
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1 71. Lone Mountain Academy employs only “born-again Christians who believe God’s Word to be
2 the basis for their professional and personal lives.” *About Us*, Lone Mountain Christian Acad.,
3 <http://tinyurl.com/nss5azy>. Members of the Calvary Chapel Lone Mountain congregation receive a
4 \$1,000 discount on tuition. *Lone Mountain Acad. Tuition Fee Schedule 2015-2016*, Lone Mountain
5 Christian Acad., <http://tinyurl.com/nou647j>.

6 72. Faith Christian Academy requires, as a condition of enrollment, at least one parent to be a Chris-
7 tian who does not participate in practices that violate the Calvary Chapel’s “Statement of Faith,” in-
8 cluding its provision on human sexuality. *Faith Christian Acad. 2014-2015*, Calvary Chapel of Carson
9 Valley 5-6, <http://tinyurl.com/qa39v8q>. The Statement of Faith proclaims: “This Church recognizes
10 marriage as exclusively the legal union of one man and one woman in which such union is a lifetime
11 commitment.” *Id.* at 29. Students enrolling in seventh and eighth grades must also submit an essay
12 about why they want to enter the school. The school will only consider admitting students who “desire
13 a distinctly Christian education and environment, who have become Christians themselves, . . . and who
14 are willing to live as Christian role models.” *Id.* at 5.

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17 73. International Christian Academy will reject an applicant or disenroll a student who is gay: The
18 school reserves the right, “within its sole discretion, to refuse admission of an applicant or to discontin-
19 ue enrollment of a student if the atmosphere or conduct within a particular home or the activities of the
20 student are counter to or are in opposition to the Biblical lifestyle the school teaches. This includes, but
21 is not necessarily limited to, participating in, supporting or condoning sexual immorality, homosexual
22 activity, [or] bisexual activity” *Registration Packet 2015-2016*, Int’l Christian Acad. 13,
23 <http://tinyurl.com/ojahukp>.

24
25 74. Mountain View Christian School requires teachers to be “born-again.” Applicants for teaching
26 positions must answer questions about their denomination, prayer, and Christian philosophy. *Teacher*
27 *Employment Application*, Mountain View Christian Schs. Leadership Inst., <http://tinyurl.com/o634mac>.

1 75. Bishop Gorman High School prioritizes Catholic students in admission and offers a tuition dis-
2 count for parishioners. *See Incoming Freshman Application Process*, Bishop Gorman High Sch.,
3 <http://tinyurl.com/nk23vu4>; *see also 2015-2016 Parent Student Handbook*, Bishop Gorman High Sch.
4 32, <http://tinyurl.com/pe94hdv>. In addition, “Bishop Gorman strongly opposes abortion, the deliberate
5 destruction of human life. . . . In the event the school becomes aware, despite its support, that one of its
6 students has willfully chosen to obtain an abortion the student is liable for dismissal from Bishop Gor-
7 man. For the same reason, other members of the Bishop Gorman student body, including the father, are
8 liable for dismissal if they have helped procure an abortion.” *Id.* at 27.

10 76. Our Lady of Las Vegas Catholic School requires student applicants to disclose their baptism date
11 and whether they have received their first communion, as well as their mother’s and father’s religions
12 on the application. *Application for Enrollment*, Our Lady of Las Vegas, <http://tinyurl.com/om5wh76>.
13 Parishioners of Our Lady of Las Vegas Church receive a \$500 - \$1250 discount on tuition depending
14 on the grade level and number of children enrolled. *School Admission Policy*, Our Lady of Las Vegas,
15 10, <http://tinyurl.com/nweorpw>.

17 77. St. Viator Parish School discounts parishioners’ tuition costs and gives them priority in admis-
18 sion. *See Admissions*, St. Viator Parish Sch., <http://tinyurl.com/npvze5t>; *Tuition Schedule 2015-2016*,
19 St. Viator Parish Sch., <http://tinyurl.com/p4chro4>. The school also lists a “Catechist Certification” as a
20 preferred qualification for employment. *Employment Opportunities*, St. Viator Parish Sch.,
21 <http://tinyurl.com/p6wa422>.

22 78. Sierra Lutheran High School discounts tuition for church members. *Tuition & Fees*, Sierra Lu-
23 theran High Sch., <http://tinyurl.com/pmxh5tf>. If a student becomes pregnant and fails to inform the
24 principal or refuses to follow the principal’s recommendations regarding the pregnancy, the student’s
25 actions “may jeopardize continued enrollment.” *2014-2015 Student/Parent Handbook*, Sierra Lutheran
26 High Sch. 14-15, <http://tinyurl.com/prshgq6>.

1 79. Logos Christian Academy students are disciplined with corporal punishment. *Admissions Pro-*
2 *cess*, Logos Christian Acad., <http://tinyurl.com/nbj6b74>. In addition, Logos advertises that “[a]ll staff at
3 Logos Christian Academy must profess themselves to be in full agreement with our statement of faith.”
4 *Frequently Asked Questions*, Logos Christian Acad., <http://tinyurl.com/nvbqznd>. Likewise, parents
5 must agree to have their children taught in accordance with the Logos faith statement and must indicate
6 on the admissions application if any parent, guardian or step-parent is opposed to a Christian education.
7 *Admissions Process*, Logos Christian Acad., <http://tinyurl.com/nbj6b74>.

8
9 80. The Voucher Program authorizes the diversion of public education funds from public school dis-
10 tricts to these sectarian schools and others throughout Nevada. Because the Voucher Program places no
11 restrictions on how participating entities may expend the public funds that are paid to them, the funds
12 will be used for a multitude of sectarian purposes, including, as described above, religious instruction
13 and indoctrination, the conduct of worship services, the purchase of Bibles and other religious texts,
14 and religious discrimination. The funds could even be used to pay for clergy salaries or construction of
15 chapels and other facilities used for worship and prayer.
16

17 81. If Voucher Program funds are disbursed, Plaintiffs will have no way to prohibit these unlawful
18 uses. Indeed, the law establishing the Voucher Program specifically states that “nothing in the provi-
19 sions of [this Act] shall be deemed to limit the independence or autonomy of a participating entity.” SB
20 302 § 14.
21

22 **IV. CAUSES OF ACTION**

23 **FIRST CAUSE OF ACTION**

24 **Violation of Article XI, Section 10 of the Nevada Constitution (No-Aid Clause)**

25 82. Plaintiffs re-allege and incorporate by reference all of the preceding paragraphs in this Com-
26 plaint.
27
28

1 83. Article XI, Section 10 of the Nevada Constitution provides that “[n]o public funds of any kind or
2 character whatever, State, County, or Municipal, shall be used for sectarian purpose.”

3 84. As detailed above, under the Voucher Program, public money will be taken from the public
4 treasury and used in support of sectarian purposes, in violation of this provision.

5 85. If public funds are transferred to private religious schools, Plaintiffs will suffer irrevocable and
6 irreparable harm to their rights under this provision of the Nevada Constitution.

7 86. Plaintiffs have no adequate remedy at law to prevent the violation of their constitutional rights
8 caused by the Voucher Program.

9 87. These violations cannot be remedied by any award of monetary damages, and require injunctive
10 relief under this Court’s equitable powers.

11
12 **SECOND CAUSE OF ACTION**
13 **Violation of Article XI, Section 2 of the Nevada Constitution**
14 **(Uniformity Clause)**

15 88. Plaintiffs re-allege and incorporate by reference all of the preceding paragraphs in this Com-
16 plaint.

17 89. Article XI, Section 2 of the Nevada Constitution provides, in relevant part, that “[t]he legislature
18 shall provide for a uniform system of common schools . . . and any school district which shall allow in-
19 struction of a sectarian character therein may be deprived of its proportion of the interest of the public
20 school fund during such neglect or infraction.”

21 90. The Voucher Program violates this clause by providing public funding to a non-uniform and
22 competing system of private schools whose curricula, instruction, and educational standards diverge
23 dramatically from those of public schools. Many of the private religious schools detailed above, for ex-
24 ample, filter their entire curricula through a religious worldview. History, science, and other core sub-
25 jects of instruction do not comport with the state educational standards that govern public schools.
26
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1 91. The Voucher Program further violates this clause by providing public funding to a non-uniform
2 and competing system of private and religious schools that is not open and accessible to all Nevada
3 children and teachers; as detailed above, many religious schools authorized to participate in the Vouch-
4 er Program discriminate in both employment and admissions on the basis of religion, sexual orienta-
5 tion, gender identity, and other grounds.

6 92. The Voucher Program further violates the “uniform system” clause by undermining the public
7 school system that the State is constitutionally required to provide, both by diverting funds from the
8 public schools and bolstering a system of competing private and religious schools.

9
10 93. If public funds are transferred to private and religious schools, Plaintiffs will suffer irrevocable
11 and irreparable harm to their rights under this provision of the Nevada Constitution.

12 94. Plaintiffs have no adequate remedy at law to prevent the violation of their constitutional rights
13 caused by the Voucher Program.

14 95. These violations of the Nevada Constitution alleged herein cannot be remedied by any award of
15 monetary damages, and require injunctive relief under this Court’s equitable powers.
16

17 **V. REQUEST FOR RELIEF**

18 WHEREFORE, Plaintiffs respectfully request that the Court issue the following relief:

19 (1) A declaration that the Education Savings Account Program is unconstitutional under (a) Arti-
20 cle XI, Section 10 of the Nevada Constitution, and (b) Article XI, Section 2 of the Nevada Constitution;
21

22 (2) A preliminary and permanent injunction enjoining Defendants, and all persons and entities
23 acting under their direction or in concert with them, from depositing public funds into Education Sav-
24 ings Accounts pursuant to SB 302;

25 (3) An award of attorneys’ fees, expenses, and costs incurred in prosecuting this lawsuit; and
26
27 ...
28 ...

1 (4) All further relief as this Court deems appropriate.
2

3 Dated this 27th Day of August, 2015

4 Respectfully submitted,

5 /s/ Amy Rose

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