

Response to Questions

Question 1:

Could you direct us to the legislative history materials that we should be drawing on in our brief? The majority opinion on page 16 seems to dismiss legislative comments, however, we do not have access to these comments in the packet and would like to know where they came from.

Reference:

“Plaintiffs do separately press their animus claim by analogizing certain statements that Hamilton legislators—made while the state legislature considered (and rejected) an attempt to repeal the “nonsectarian” requirement ...”

Canon v. Williams, 979 F.3d 1, 13 (12th Cir. 2020)

Response:

The statement regarding legislative comments is found on page 13, not 16, of the opinion. The statements referred to on p.13 of the opinion were made by a legislator while considering, and ultimately rejecting, a repeal of the exclusion. The statement is found in the Hamilton (Maine) Legislative Record from the May 14, 2003 debate on LD 182. The following statement is attributed to Senator Martin in opposition to the bill:

Because we retain a responsibility of a publicly funded education, we must look carefully at what we believe is an appropriate form of education for our children. I submit that our publicly funded education system works best when the education is one of diversity and assimilation. An educational system that promotes tolerance and assimilation by educating all of our children together, without regard to religious affiliation and without promoting religious viewpoints, is preferred. Non-religious publicly funded education has been the norm in Hamilton and elsewhere in our country, and the ‘melting pot’ effect of this, on our children is what makes this state and this country great. Religious neutrality in the classroom is best.

Bringing all of our children together, no matter what their religious affiliation or background, promotes democracy, tolerance, and what is best in all of us.

The alternative offered by this bill, I submit, is contrary to that preferred approach. The bill could create and promote ‘separate and sectarian’ educational systems.

Fifty years ago, the Supreme Court rejected as unconstitutional publicly funded ‘separate but equal schools,’ where the education system funded separate schools based on race. The bill would have us fund ‘separate and sectarian’ schools where the educational system funds separate schools based on religion.

While citizens most certainly have the right to attend those schools, I do not believe that we should spend our tax dollars to fund the schools. Rather, we should use our limited dollars for schools, whether the public or private under our tuition programs, that are non-religious and that are neutral on religion.