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Leveling the Educational Playing Field: Parochial Schools and School Choice in Rhode Island

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EXECUTIVE SUMMARY

- Parochial schools have a long track record of delivering high quality education.
- K-12 education enrollment and funding as well as school choice are hot topics nationwide, and school choice policy remains pertinent to Rhode Island.
- The COVID-19 pandemic caused an exodus from traditional public schools to parochial schools in Rhode Island, highlighting questions about whether public funding can be allocated to parochial schools.
- The fact that Rhode Island students and families turned away from public schools and towards parochial schools demonstrates that they recognize that faith-based schools are effective and typically yield better outcomes than public schools. This is supported by graduation and college enrollment data.
- The rising costs of parochial school attendance threatens to shut middle- and lower-class students and families out of these high-performing schools. This funding vacuum can easily be filled with federal aid through school choice programs.
- The legal and judicial trend towards public funding for parochial schools that has emerged within the past ten years indicates growing support for including parochial schools in school choice.
- The history of charter schools in the U.S. reveals transition and change in what is acceptable when it comes to “public schools,” suggesting that parochial schools can potentially be considered “public” in some contexts.
- The history of charter schools in the U.S. also illustrates continued growth in school choice nationwide, demonstrating increasing demand for these programs that parochial schools can help meet.
- The long tradition of federal funding for faith-based community social services, such as hospitals, in the U.S. signposts Constitutional means by which the government can provide aid to religious institutions.
- The long tradition of federal funding for faith-based community social services in the U.S. also illuminates how religious organizations play an important role in providing critical public services.
- Traditional Education Savings Account (ESA) programs offer a policy solution that is legal, feasible, and reasonable. Favoring neither parochial schools nor non-religious private schools, ESAs level the educational playing field by granting complete freedom of educational choice to students and their families. They can help ensure that every child in Rhode Island has equitable access to quality education.

INTRODUCTION

The COVID-19 pandemic significantly affected K-12 education enrollment and funding in Rhode Island. Families removed their children from traditional public schools and pursued alternative education systems such as parochial schools (see Figure 1).¹ This shift raises questions about how public funding ought to be earmarked for parochial schools and whether these schools can even receive public dollars. Since all children deserve equitable access to excellent education that best suits their situation, fiscal support for school choice that incorporates parochial schools is key. This white paper will demonstrate how this policy solution is feasible, within the context of the separation of church and state. It draws upon historical, legislative, and judicial precedent for reconceptualizing the role of parochial schools in public education. It will also illustrate how including parochial schools in Rhode Island’s school choice program

levels the educational playing field by establishing total freedom of educational choice.

POLICY

Policy Issue and Context

In the wake of the COVID-19 pandemic, shifts in K-12 education enrollment patterns accentuated the issue of school choice. This forced policymakers to reconsider how public education funding ought to be disbursed. Consequently, the question of whether and how parochial schools can be incorporated into school choice programs became a pressing matter in Rhode Island and throughout the U.S.

K-12 education enrollment and funding as well as school choice are hot topics nationwide. An American Enterprise Institute policy report evaluated COVID-19's effects on public school enrollment in the U.S., cautioning that districts which remained remote for longer periods of time faced significant declines in funding as a result of their deteriorating enrollment.² Other policy reports, from the Reason Foundation, EdChoice, and the Cato Institute, extolled the benefits of school choice, contending that it facilitated educational equity and improved student performance.³ Some EdChoice reports have focused on the value of tax-credit scholarships for private school tuition, specifically, asserting their positive impact on low-income families and taxpayers alike.⁴ Related to these issues are two recent U.S. Supreme Court decisions, *Espinoza v. Montana Department of Revenue* (2020) and *Carson v. Makin* (2022), both of which were concerned with the constitutionality of including parochial schools in school choice programs. These decisions continue to inform discussions of parochial schools and school choice nationwide.⁵

School choice policy remains pertinent to Rhode Island. Local news outlet *WPRI 12* reported that 5% of students left public schools across the state for parochial and charter schools between fall 2019 and spring 2022. This trend, combined with a declining birth rate in the U.S. as reported by Education Next, brought the state's public school enrollment to its lowest rate in the last decade.⁶ In the 2021-2022 school year, as *Rhode Island Catholic* noted, Catholic school enrollment increased 2.8% statewide.⁷ Rhode Island Governor Dan McKee's January 2023 state budget proposal included a "Public Schools of Choice Supplemental Transition Fund" to offset this exodus from public schools by aiding districts who lose students to parochial schools and other alternative education systems.⁸

Overall, current discussions of COVID-19, funding, enrollment, and school choice demonstrate the

importance of these interrelated concerns nationwide and in Rhode Island. This illustrates that a policy change at the state level is necessary to provide every child with excellent educational opportunities. Looking at history can inform proposed policy revisions. Studies of Rhode Island's public and parochial schools, plus the longstanding tensions between them, are especially helpful. These histories include previous attempts to allocate public funding towards parochial schools in the state. Looking at legislative and judicial regulations can inform suggested policy changes, as well. From state and federal public laws to U.S. Supreme Court decisions, these directives provide the framework for funding, enrollment, and school choice policies in Rhode Island and nationwide. These historical and legal foundations demonstrate that barring parochial schools from school choice hinders equitable access to quality schooling.



Figure 1: La Salle Academy, a Catholic school in Providence, Rhode Island

Literature Review Overview

The body of policy literature on K-12 education in the U.S. is exhaustive (see Appendix A). Research professionals have discussed school choice and tax-credit scholarship programs, as well as the urgent, interrelated issues of funding, enrollment, and COVID-19. Some scholars and policy analysts focused on Rhode Island. This research provides a picture of the current educational challenges in the state and the entire country.

Several research professionals evaluated the current state of education in Rhode Island. Brown University Professor Kenneth Wong analyzed the state's new school funding formula in "The Design of the Rhode Island School Funding Formula."⁹ In "Mission, Faith, and Values," Thomas Keefe, Associate Professor of Humanities at Rocky Mountain College of Art and Design, examined how

Rhode Island Catholic high school graduates recognized the schools' academic strength and felt that the schools shaped their personal values.¹⁰ Another relevant report is *Rhode Island Jewish Day Schools and Scholarship Tax Credits*, published by the Pioneer Institute. The report emphasized how the state's tax-credit scholarship program's first non-profit scholarship-granting organization (SGO), The Foundation for Rhode Island Day Schools, provided low-income students with an education that yielded high test scores. However, it also argued that the SGO needed flexible means-testing requirements, a raised cap on the amount of tax credits issued to meet demand, and a stable supply of scholarship funding.¹¹

Other researchers treated the issues of school choice and tax-credit scholarships on the national stage. The Reason Foundation's *Annual Privatization Report* advocated for school choice by emphasizing how funding did not change the fact that zip codes and limited resources forced many students into failing systems.¹² Similarly, EdChoice's *The 123s of School Choice* contended that choice improves academic outcomes for participants and public school students alike, saves taxpayers money, increases integration in classrooms, makes schools safer, strengthens civic values, and increases parents' satisfaction with their children's education.¹³ A second EdChoice report, *The Tax-Credit Scholarship Audit*, elaborated upon these findings, concluding that tax-credit scholarships' fiscal impact on state governments, state and local taxpayers, and school districts was net positive.¹⁴ A third EdChoice report, *The ABCs of School Choice*, assessed what each state's school choice program(s) did well and how they can improve.¹⁵ Plus, the Pioneer Institute's *Modeling an Education Savings Account for Massachusetts* zeroed in on a tax-credit Education Savings Account (ESA) program as a means of improving access to educational opportunities statewide.¹⁶ *The Public Benefit of Private Schooling*, published by the Cato Institute, found that private education moderately affected student performance, advocating for decision makers to increase school choice.¹⁷

Lastly, some research professionals considered the interrelated issues of K-12 funding, enrollment, and COVID-19 nationwide. EdChoice's *2023 Schooling in America* contended that Americans were pessimistic about funding levels and the future of grade schooling.¹⁸ *Pandemic Enrollment Fallout*, published by the American Enterprise Institute, cautioned that districts which remained remote for longer periods of time faced significant declines in funding as a result of their deteriorating enrollment.¹⁹

A study of whether Rhode Island's parochial schools can be included in the state's school choice program contributes to this policy discussion. It expands upon existing policy literature about current challenges in K-12 education and school choice in the state by drawing comparisons to other states' policies and national trends in school choice as well as funding, enrollment, and COVID-19. While there is less policy literature on grade schooling in Rhode Island than grade schooling in the U.S. as a whole, reports on these topic areas offer insight critical to the study at hand.

LAW

Legal Overview

Though federal control over education is limited in the U.S., K-12 schools are subject to Constitutional law, federal public laws, and Supreme Court decisions. There are numerous federal public laws that govern parochial education, and various U.S. Supreme Court decisions pertaining to public funding for parochial K-12 schooling shaped by the First Amendment's Free Exercise and Establishment Clauses (see Appendix B).²⁰

Landmark legislation provides key insight into the legal history of parochial K-12 education in the U.S. The first relevant federal public law was the 1958 National Defense Education Act (NDEA). The Act offered aid at all levels of education to public and private institutions, setting a new precedent for federal involvement in general education funding.²¹ Seven years later, Congress passed the Elementary and Secondary Education Act (ESEA), which gave financial aid to educational agencies at the local level to support low-income children regardless of whether they attended a public school or a private school, but unlike NDEA, explicitly barred funding for religious instruction.²² No Child Left Behind (NCLB), a 2002 ESEA reauthorization, likewise stated that federal education funding did not apply to religious schooling. Notably, the Act did grant school districts flexibility in allocating federal funds for school choice programs.²³

U.S. Supreme Court cases also govern K-12 education in America, providing precedent for public funding of parochial grade schooling in accordance with the First Amendment's Free Exercise and Establishment Clauses. These Clauses protect the right to religious practice that does not impede upon the common good and prohibit state-sponsored religion, respectively.²⁴ One such case was *Everson v. Board of Education* (1947), where the Supreme Court ruled that a New Jersey law allowing local school boards to reimburse parents for the cost of transportation to public and private schools alike did not violate the Establishment Clause since it did not stipulate

payment to parochial schools.²⁵ A similar Supreme Court decision was *Locke v. Davey* (2004), which challenged a clause in the Washington state constitution that banned public funding for religious education intended to “cause belief.” The Supreme Court decided that Washington’s state Constitution did not violate free exercise, citing historical precedent of excluding religious institutions from public funding.²⁶ Three years ago, the issue of public funding for parochial education once again rose to the fore with *Espinoza v. Montana Department of Revenue*. The Supreme Court decreed that Montana’s constitutional ban on funding for religious education amounted to religious discrimination because it withheld public benefits exclusively on religious grounds, violating the Free Exercise Clause.²⁷ A closely related case, *Carson v. Makin*, emerged in Maine in 2022. The Supreme Court held that only supporting certain private schools solely on the basis of religion violated free exercise.²⁸

While federal control over American education is restricted, there are a number of federal public laws relevant to parochial K-12 education as well as a series of U.S. Supreme Court decisions concerning public funding for parochial grade schooling in relation to the First Amendment’s Free Exercise and Establishment Clauses. These laws and court cases provide the legal and judicial history of K-12 education and funding that is central to a study of how Rhode Island’s parochial schools can be incorporated into the state’s school choice program.

HISTORY

Historical Framework

In order to understand the factors at play when weighing whether Rhode Island’s parochial schools ought to be included in school choice, it is necessary to examine the state’s history of parochial schools and church-state partnership on education funding dating back to the 19th century. These histories underscore how a Constitutional challenge to the relationship between church and state is central to this policy issue. For this reason, the history of federal funding to faith-based community social services in the U.S. is also pertinent. In addition, the history of charter schools in the U.S. offers a valuable point of comparison.

Rhode Island’s first parochial schools were established in Providence in the mid-to-late 19th century. Most were created by the Roman Catholic church to support the state’s growing Catholic population. This was in response to anti-Catholic discrimination in the state’s Protestant-minded public schools. Records also indicate that at least one Jewish school was established in this time period.²⁹ Catholic schools soon proved to be popular

alternatives to their public counterparts, with many Catholic children enrolling. The state government tried to prevent this emerging system of parochial education from further expanding by revoking the schools’ tax-exempt status multiple times in the mid-to-late 19th century, but their efforts to mitigate this growing “Catholic school choice” movement were unsuccessful.³⁰ From 1890 to 1919, 14% of Providence children ages five to fifteen were enrolled in parochial school, with the percentages much higher for Irish and French Canadian youth.³¹ Enrollment numbers fluctuated throughout the 20th century and into the new millennium. However, the fact that nearly one-third of all Rhode Island children still attended Catholic schools during one of the most significant periods of enrollment decline, the early 1960s, indicates this education system’s staying power in the state.³² Though the passage of charter school legislation in Rhode Island in 1995 gave rise to a new, competing, education system, Catholic and other parochial schools remain prevalent today.³³ There are currently 59 religiously-affiliated private schools statewide, comprising 35% of all Rhode Island’s K-12 schools. Seventy-one percent of these schools are Catholic.³⁴

The history of church-state relations in the realm of education funding in Rhode Island also dates back to the 19th century. As early as the 1850s, Catholics floated the idea of public funding for Providence’s parochial schools, which drew Protestant public school proponents’ ire. Catholics reasoned that if their tax money supported Protestant-minded public schools, then it ought to also support parochial schools, since as they saw it, the only difference between these two systems of education was the sect of Christianity associated with them. The Catholics were unsuccessful in this pursuit.³⁵ However, the question of whether state aid can be directed to parochial schooling arose again in the mid-20th century. Rhode Island utilized private schools more than any other state, so in the late 1940s, the state government began permitting non-public schools to use the same busing services as public schools. In 1963, this church-state partnership extended to include mathematics, science, and foreign language textbooks for elementary and secondary school students.³⁶ Opposing this policy, five Cranston residents including Frederick E. Bowerman challenged the new textbook loan law in *Bowerman v. O’Connor* (1965), but the statute was ultimately upheld.³⁷ However, parochial schools still faced financial hardships. Consequently, the state chapter of Citizens for Educational Freedom (CEF), a national organization founded in 1959, lobbied for state funding for tuition for these non-public schools in order to create complete

freedom of educational choice in Rhode Island. A broad, non-denominational CEF coalition sponsored a tuition-grant bill to achieve this end in 1968, but the bill died in committee.³⁸

This policy issue intensified in the U.S. starting in the 1870s, when political leaders at the federal, state, and local levels attempted to prevent the use of public funds for faith-based education in order to counter the growing influence of parochial schools. President Grant suggested a constitutional Amendment to support this position, and Senator James Blaine of Maine drafted a proposal. Though the Blaine Amendment failed at the federal level, a majority of states incorporated Blaine Amendments into their constitutions during the final decades of the 19th century and into the 20th century. Many states still have Blaine Amendments today. While the language varies by state, each prohibits public funding for schools operated by religious groups.³⁹ Political leaders across all levels of government also used the Establishment Clause of the First Amendment as a way to bar parochial schools from receiving public funding throughout the 20th century. Consequently, the Establishment Clause took precedent over the Free Exercise Clause in numerous court decisions, and religious schools were largely excluded from education legislation into the early 21st century.⁴⁰ However, it is worth noting that in the 1990s, President George H.W. Bush endeavored to provide funding for parochial schools on a national scale with his “America 2000” plan. Congress rejected his attempt to do so despite public opinion that favored non-public school inclusion in school choice.⁴¹

The history of federal funding for faith-based community social services in the U.S. offers a valuable point of comparison to this history and insights into parochial school inclusion in Rhode Island school choice. Such funding originated in the 19th century, with increasing church-state partnership over time.⁴² When debate arose over early-21st-century policies that fostered more direct collaboration, government data affirmed that religious organizations were key social service providers nationwide and therefore deserved federal aid.⁴³ This history illuminates the legal roadmap for public funding to religious institutions and proves that they play a major part in supplying essential public services.

While not concerned with the relationship between church and state, the U.S. charter school movement is also pertinent to a discussion of whether Rhode Island’s parochial schools ought to be incorporated into school choice. This movement originated in the 1950s, but states and the federal government did not enact charter school

legislation until the 1990s and early 2000s. Since then, support for charter schools at all levels of government has grown considerably, and there is increasing evidence from long-term studies that these schools positively impact K-12 education in America.⁴⁴ This history demonstrates growth in school choice programs as well as how the definition of a “public school” can change.

Overall, the history of parochial schools and church-state partnership in the realm of education funding in Rhode Island provides valuable context for whether the state’s school choice program ought to expand to include parochial schools. This history shows that at the center of the policy issue is a Constitutional challenge about the relationship between church and state. With this in mind, considering the history of federal funding to faith-based community social services in the U.S. can help inform the issue. The history of charter schools in the U.S. also provides key insights.

Historiographical Overview

The historiographies of K-12 parochial education in Rhode Island, the U.S. charter school movement, and faith-based community social services in the U.S. all provide important context for the policy issues at play. The body of historical scholarship on K-12 parochial education in Rhode Island is sizable (see Appendix C). In the late 20th century, historians and other research professionals began to emphasize the origins of these schools as well as their tensions with Rhode Island’s public schools. The historiography of the U.S. charter school movement is much smaller, dominated by 21st-century studies of policy origins, evolution, and outcomes. The body of historical scholarship on faith-based community social services in the U.S. is comprehensive and dates back to the late 20th century. Major areas of focus include historical precedent for religious providers in the modern U.S., comparisons between secular and sectarian organizations, and legal and judicial parameters affecting faith-based groups.

The historiography of K-12 parochial school education in Rhode Island centers around two major themes: 1). The growth of parochial schools in the state and 2). The conflict between parochial and public schools. Some scholars looked at Catholic schools, specifically, explaining how they arose in the 19th century as a result of increasing Catholic immigration to Rhode Island. They also examined the Protestant ideology that dominated the state’s public schools.⁴⁵ Other research professionals considered the contemporaneous rise of Jewish schools in the state and how, similar to their Catholic counterparts, they presented an attractive alternative to

Protestant-minded public schools for Jewish families.⁴⁶ A major question that recurred throughout this historiography was whether Rhode Island's parochial schools can receive public funding. Erik J. Chaput, historian at Providence College, was a key figure in this debate. In one article, "Diversity and Independence in the Educational Marketplace: The Rhode Island CEF and the 1968 Tuition-Grant Debate," Chaput explored the proposed tuition-grant bill that purported to extend state aid to Rhode Island's parochial schools. He evaluated the extent to which religious freedom depends on less-than-complete separation between church and state.⁴⁷ In a second article, "Battle over the Books in Rhode Island: The Case of *Bowerman v. O'Connor*," Chaput analyzed the Rhode Island Supreme Court case concerning the constitutionality of loaning public school textbooks to Catholic school students free of charge.⁴⁸

The body of historical scholarship on U.S. charter schools focuses on the movement's origins, evolution, and effects. Scholars explained how the ideas that inspired charter schools originated in the mid-20th century, but charter school legislation did not emerge until the 1990s and early 2000s.⁴⁹ They also traced factors that determined whether states enacted charter school legislation and established charter schools, as well as who championed versus opposed the charter school movement and why.⁵⁰ These studies revealed how support for charter schools at all levels of government increased over time, despite sustained debate over whether these schools positively affected K-12 schooling in the U.S. Some scholars took up this debate.⁵¹ Most notably, in "Sociology and School Choice: What We Know After Two Decades of Charter Schools," Mark Berends examined studies on school choice conducted from the mid-2000s through the mid-2010s, demonstrating how these studies revealed positive results when it came to high school graduation and college enrollment rates.⁵²

The third area of historiography necessary to contextualize parochial school inclusion in school choice in Rhode Island is that of faith-based community social services in the U.S. Some scholars examined historical precedent for contemporary religious service providers, who operate under a set of guidelines introduced by President George W. Bush in 2001 as the "faith-based initiative," dating back to the 19th century. They discovered a growing church-state partnership and increasing federal aid to faith-based groups over time. Major milestones considered included the expansion of welfare programs during the Great Depression and initiatives in the 1960s, plus the creation of "charitable choice" in the 1990s.⁵³ Other scholars compared faith-

based social service providers with their secular counterparts, suggesting that there were strong ties between religious groups and social service provision.⁵⁴ In one key study, "Empirical Evidence on Faith-Based Organizations in an Era of Welfare Reform," David A. Reingold, Maureen Pirog, and David Brady discovered that faith-based groups were more likely to aid the most in-need clients than their non-religious counterparts.⁵⁵ The last major area of scholarly focus on the subject of faith-based community social services in the U.S. was the judicial and legal framework in which they operate. Key court decisions considered were *Bradfield v. Roberts* (1899), *Corporation of Presiding Bishop v. Amos* (1987) and *Bowen v. Kendrick* (1988). Major legal areas of contention examined were the Establishment and Free Exercise clauses, plus free speech.⁵⁶

A study of whether Rhode Island's parochial schools ought to be included in the state's school choice program builds upon these existing historiographies by weaving their major threads more closely together. Such an investigation requires an understanding of the history behind the state's parochial schools and their conflicts with public schools. Knowledge of the U.S. charter school movement's origins, evolution, and outcomes is also critical, as are insights into historical precedent for faith-based social service providers in the modern U.S., analyses of how they differ from their secular counterparts, and insights into the legal and judicial parameters that shape their operations. Though there is scarce historical scholarship on parochial school development, and no scholarship on the history of Rhode Island's charter schools, specifically, this historiographic discussion nonetheless provides a rich starting point. Furthermore, it is worth noting that there is a broader historiography of public schools and public school reform in Rhode Island that provides additional context for the educational landscape in which the state's parochial schools operate.⁵⁷

Trend Analysis

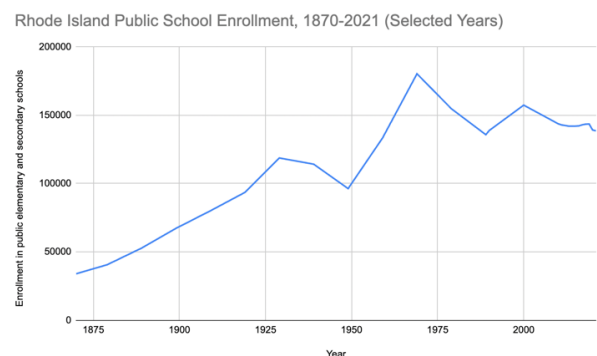


Figure 2: Rhode Island Public School Enrollment, 1870-2021 (Selected Years)

There are numerous trends that provide key background information and historical context for weighing religious education inclusion in Rhode Island's school choice program. Since Catholic schools comprise 71% of Rhode Island's parochial schools, most available data focuses on them, but the following analysis extends to other types of religious schools as the data permits.⁵⁸

Trends in Rhode Island's public and parochial school enrollment numbers are significant. As Figure 2 illustrates, the state's public school enrollment fluctuated over time, but held steady at 140,000+ students in the 2010s before declining slightly in the 2020s.⁵⁹ Records of parochial school enrollment in Rhode Island are less cohesive, but *Providence Journal* articles indicate that Catholic K-12 school enrollment rose significantly in the 1940s, slowed by the 1960s, and did not notably increase again until the 1990s.⁶⁰ Further, enrollment in these parochial schools rose from 15,935 to 19,022 between 1991 and 2000 (+19%).⁶¹ Then, according to *Rhode Island Catholic*, enrollment decreased to 13,102 by 2012 and further declined throughout the 2010s before increasing by 4.85% from 2020 to 2021 and 2.8% from 2022 to 2023.⁶² Statistics on non-Catholic parochial school enrollment in Rhode Island are harder to come by, but *WPRI* reported that nationwide private school enrollments followed similar patterns for the period 2020-2023.⁶³ Possible explanations for these trends include changes in birth rates, patterns of immigration to and emigration from Rhode Island, private education availability, and socio-economic circumstances favoring public versus private schooling. Specifically, the 2010s decline in Catholic school enrollment may be attributed to the Great Recession. The 2020s decline in public school enrollment and a rise in private school enrollment was likely caused by government-ordered restrictions on public schools such as remote or hybrid learning during the COVID-19 pandemic.

Patterns in public and parochial school graduation and college enrollment rates are also pertinent. As Figure 3 shows, Rhode Island's public school graduation rate gradually increased over time with a slight drop in recent years attributable to the learning challenges that COVID-19 presented.⁶⁴ The state's public school college enrollment rate followed a similar trajectory, which is shown in Figure 4.⁶⁵ Though there is less data to support trends in Rhode Island parochial school graduation and college enrollment rates, the national data is telling. As Figure 5 illustrates, the 2013 U.S. private school graduation rate exceeded that of Rhode Island's public schools.⁶⁶ Plus, the nation's Catholic schools significantly outperformed both Rhode Island's public schools and all

Rhode Island Public School Graduation Rate 2007-2022

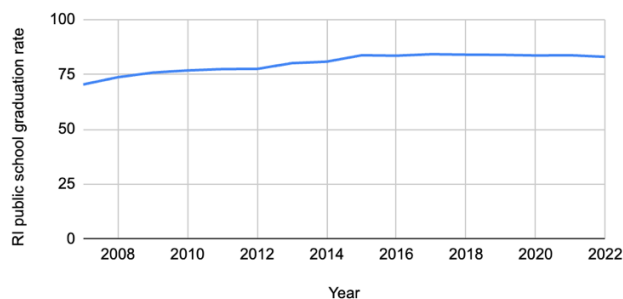


Figure 3: Rhode Island Public School Graduation Rate, 2007-2022

Rhode Island Public School College Enrollment Rate 2011-2022 (Selected Years)

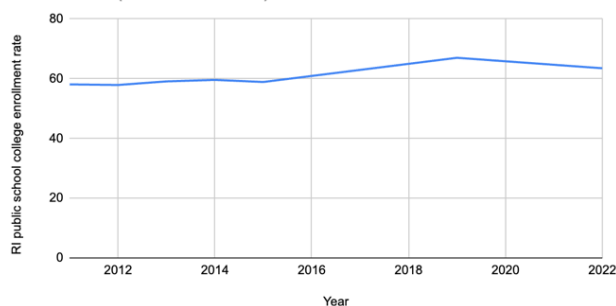


Figure 4: Rhode Island Public School College Enrollment Rate, 2011-2022 (Selected Years)

U.S. Private School Graduation and College Enrollment Rates 2013

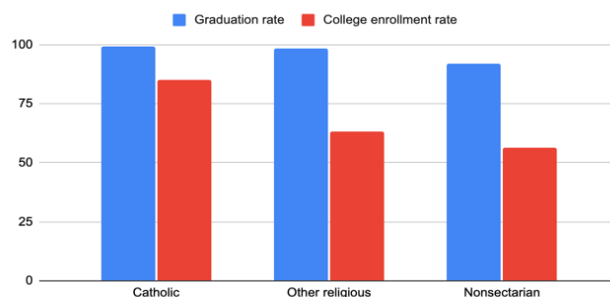


Figure 5: U.S. Private School Graduation and College Enrollment Rates, 2013

other types of private schools when it came to college enrollment. In 2019, the Catholic K-12 school graduation held steady at 98%, while the Catholic K-12 school college enrollment rate was still an impressive 85.2%.⁶⁷ The prolonged disparity between public and parochial school graduation rates might be attributed to differences in student demographics and school resources. The cost of parochial schooling versus free public schooling indicates that many parochial school students come from socioeconomic backgrounds with financial support for academic achievement, and they benefit from smaller class sizes and more individualized instruction.⁶⁸ The discrepancy between Catholic versus public and private school college enrollment rates is more difficult to

explain, but may be attributed to Catholic school prioritization of college enrollment.

Considering trends specific to parochial schools is also critical. According to *Education Next*, rising private school cost of attendance means that more students come from upper-class families. Catholic school cost of attendance, for example, increased more 670% over from 1970 to 2010. *Education Next* explained that fewer people are pursuing religious vocations, so parochial schools lost their low-cost labor source. In Catholic schools alone, the number of staff members belonging to a religious order decreased from 74% in 1960 to less than 3% in 2017.⁶⁹ A *Tablet* article detailing the decline of rabbis in the U.S. indicates that this trend was common across different religious schools.⁷⁰ At the same time, however, the nationwide trend towards public funding for parochial schools may start to offset this barrier to accessible religious schools. Historically, U.S. courts have restricted government funding for parochial schools, but have recently reversed course as illustrated by U.S. Supreme Court decisions in *Trinity Lutheran Church of Columbia, Inc. v. Comer* (2017) and *Carson v. Makin* (2020). *Trinity* ruled in favor of public funding for parochial school playground repairs, and *Carson* ruled in favor of including religious schools in a tax credit scholarship program.⁷¹ A possible explanation for this trend is the appointment of three conservative Supreme Court justices between 2017 and 2020: Neil Gorsuch, Brett Kavanaugh, and Amy Coney Barrett.

A final pattern to note is the presence of parochial schools in Rhode Island over time. Figure 6 shows that nearly a dozen Catholic schools closed over the past fifteen years statewide, though several have opened.⁷² The long stretch of closures likely owes to rising labor costs combined with a decline in private school enrollment amid the 2008 Great Recession. The 2007, 2009, and 2023 openings may be due to the 1990s-2000s and COVID-19-era enrollment spurts.

Rhode Island Catholic School Openings and Closings, 2007-2023

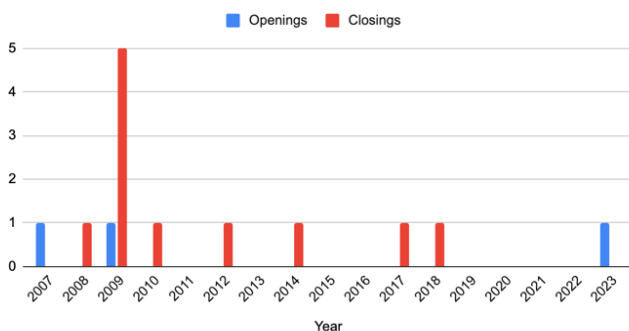


Figure 6: Rhode Island Catholic School Openings and Closings, 2007-2023

Trends offer important historical context and background information needed when considering how Rhode Island's parochial schools ought to be included in school choice. Though most parochial school data centers on Catholic education, it is nonetheless valuable as Catholic schools are Rhode Island's predominant type of K-12 religious education.

Analogue #1: The Rise of Charter Schools in the U.S., 1955-2023

The U.S. charter school movement originated in the 1950s, but states and the federal government did not enact charter school legislation until the 1990s and early 2000s. Support for charter schools at all levels of government has since grown considerably. However, charter champions and detractors still debate whether these schools positively impact K-12 education in America despite increasing evidence from long-term studies that they do. This history demonstrates growth in school choice programs as well as how the definition of a "public school" can change.

Historical precedent for U.S. charter schools began in the mid-20th century. In 1955, economist Milton Friedman contended that the government ought to fund K-12 education, but parents ought to decide where their children attended school.⁷³ Congress opened up this possibility with the 1958 National Defense Education Act (NDEA) and the 1965 Elementary and Secondary Education Act (ESEA). NDEA offered aid at all levels of public and private education, setting a new precedent for federal involvement in education funding, and ESEA gave financial aid to educational agencies at the local level to support low-income children regardless of whether they attended a public school or a non-religious private school.⁷⁴ With these legal guideposts, policymakers began to seriously consider Friedman's proposal. References to charter schools first appeared in a 1974 education conference paper advocating for schools to design their own policies. Then in 1988, five years after a National Commission of Excellence in Education report titled *A Nation at Risk* drew attention to public education's failings, Albert Shanker, president of the American Federation of Teachers (AFT), brought the idea of charters back to the fore, proposing that local school boards ought to be able to run schools with approval from teachers and their union.⁷⁵ However, this time period yielded no federal legislation supporting publicly-funded, privately-run schools. Though NDEA and ESEA, passed under Presidents Dwight D. Eisenhower (R) and Lyndon B. Johnson (D), suggested bipartisan backing for government funding of public and private schools alike,

this trend did not manifest. Although Presidents Richard Nixon (R), Gerald Ford (R), and Ronald Reagan (R), plus Congressional Republicans, supported this endeavor, President Jimmy Carter (D) and Congressional Democrats only championed federal aid to traditional public schools.⁷⁶

This federal inaction might suggest why support for charter schools took off at the state level in the 1990s and only reached the federal level in the new millennium.⁷⁷ The nation's first charter school law was enacted in 1991 in Minnesota. By 2000, 37 states codified charter school legislation, and there were 2,000 charter schools nationwide.⁷⁸ Publicly funded but privately run, they offered a viable solution to the debate over whether school choice ought to be limited to public schools or extended to nonpublic schools. This debate intensified during the presidency of George H.W. Bush (R), who supported federal funding for nonpublic schools through the Educational Excellence Act of 1989 and "America 2000" plan, but Congress defeated his initiatives.⁷⁹ Bush's successor, President Bill Clinton (D), signed the 1994 Improving America's Schools Act (IASA), an ESEA reauthorization that provided \$15 million for districts to create charter schools.⁸⁰ All the while, stakeholders began taking sides in a growing debate over charters. Religious groups, conservative think tanks, and influential business organizations such as the Chamber of Commerce were among charter school advocates, while teachers' unions were their leading opponents.⁸¹

Despite opposition, support for charter schools continued to build at the state and federal levels. As Figure 7 illustrates, MSNBC reported that by 2010, 41 states introduced charter school legislation, though charters comprised less than 10% of most states' public school enrollment.⁸² Federally, No Child Left Behind (NCLB), a 2002 ESEA reauthorization enacted under President George W. Bush (R), granted districts flexibility in allocating federal funds for school choice programs.⁸³ This policy also held charter schools accountable to state and federal education standards.⁸⁴ Since NCLB, federal education policy supported charter schools expansion as a means of restructuring failing traditional public schools.⁸⁵ Nonetheless, opposition to charters endured not only among teachers' unions, but also the public. In Rhode Island, residents were skeptical over how state financing for a new charter school might impact their taxes and the state's existing schools, according to a June 22, 2000 *Providence Journal* article written by reporter Sam Nitze titled "Charter school critics: Why burden taxpayers."⁸⁶ Rhode Islanders remained skeptical into the mid-2000s. In another *Providence Journal* article, titled

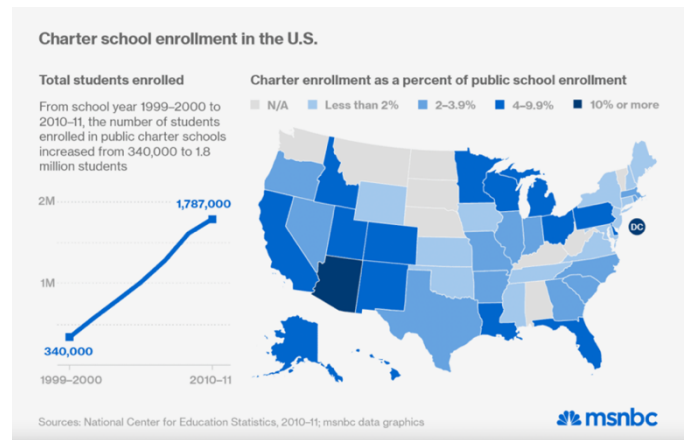


Figure 7: Percentage of U.S. public school students enrolled in public charter schools by state, 2010–2011

"Much success to celebrate - R.I. charter schools struggle bravely" and published on May 13, 2004, Robert Pilkington, the Director of the Rhode Island League of Charter Schools, touted charters' long waitlists and highlighted the ways they alleviated the state's overpopulated districts, but acknowledged that the schools needed to work towards credibility with the public.⁸⁷

The 2010s saw more federal and state support for charter schools, and the first long-term studies on charters and student achievement.⁸⁸ Charters started to enjoy bipartisan support.⁸⁹ President Barack Obama (D) was a major charter school champion. His Race to the Top program, part of the 2009 American Recovery and Reinvestment Act (ARRA), encouraged states to create and support charter schools by giving them the opportunity to compete for over \$4 billion in educational funding aimed at countering the economic woes of the Great Recession.⁹⁰ However, charters' effectiveness remained inconclusive even after the first studies

Figure 2: Percentage of all public school students enrolled in public charter schools, categorized into specific ranges, by state: Fall 2019

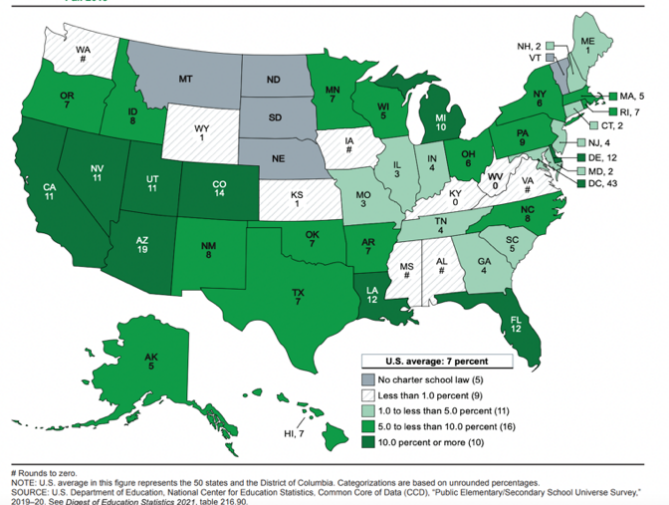


Figure 8: Percentage of U.S. public school students enrolled in public charter schools by state, Fall 2019

evaluating their impact on student achievement were released.⁹¹ In “Profits and Principles,” vocal charter school detractor and Professor of Education at New York University Diane Ravitch declared that few charters outperformed traditional public schools and many underperformed. Instead, she alleged their success lay in attaining autonomy and making a profit.⁹² In contrast, Mark Berends was more optimistic, observing varied results in academic achievement, but definitive positive outcomes in graduation and college enrollment rates among charter school students.⁹³ Data from Rhode Island suggests that Berends was more correct than Ravitch. A June 2021 Rhode Island Public Expenditure Council (RIPEC) report titled *An Analysis of Charter Public Schools in Rhode Island* used 2018-2019 Rhode Island Department of Education (RIDE) data to compare Rhode Island Common Assessment System (RICAS) and SAT proficiencies for charter schools versus the public schools in the districts where their students lived. RIPEC found that Rhode Island’s charter schools generally outperformed their sending district counterparts, indicating charters’ academic effectiveness.⁹⁴

America’s charter school movement continues to grow, and research increasingly indicates charters’ effectiveness. Figure 8 illustrates that as of the 2019-2020 school year 45 states allowed charter schools, and charters accounted for 7% of public school enrollment nationwide.⁹⁵ That same school year, as Figure 9 demonstrates, there were nearly four times as many charters nationwide as there were in 2000.⁹⁶ And in July 2023, nonpartisan think tank EdChoice synthesized the results of 187 studies on school choice published by educational research journals and think tanks in *The 123s of School Choice*. They reported positive findings on

Total number of charter schools in the United States, 2000 to 2020

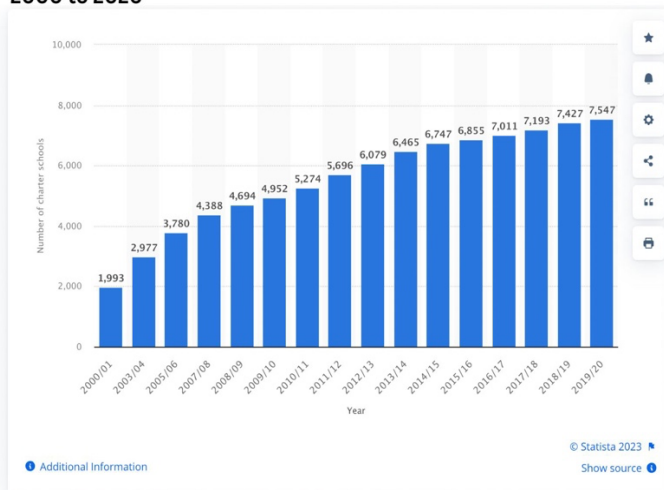


Figure 9: Total number of charter schools in the U.S. from 2000-2001 to 2019-2020

charter school students’ and other school choice participants’ test scores and likelihood of graduating high school and attending college.⁹⁷

The philosophy guiding the U.S. charter school movement emerged in the mid-20th century, with state and federal legislation arriving several decades later. Support for charter schools at all levels of government rose over time, though champions and detractors still debate whether these schools are impactful. Long-term studies are underway. This history offers insight into the expansion of school choice programs throughout the U.S. The definition of “public school” is not static. It has changed over time. This questions the continued exclusion of faith-based schools from public education.

Analogue #2: Federal Funding for Faith-Based Community Social Services in the U.S. in the 19th, 20th, and 21st Centuries

There is a long tradition of government funding of faith-based social services, such as hospitals, in the U.S. Analysts developed innovative policies for direct federal funding of faith-based community social services at the turn of the 21st century, but there is historical precedent for federal aid to these groups as well as church-state partnerships dating back to the 19th century. Historical and quantitative data shows that religious organizations were critical to the provision of social services. History offers insight into constitutional means of government aid to religious institutions and signifies that these institutions play an important role in delivering services for the public good.

In the early 1800s, religious organizations helped address social issues related to mistreated children, prisoners, and mental illness.⁹⁸ As the century progressed, the government also partnered with faith-based groups, allocating funds to Catholic and Protestant organizations to serve immigrants.⁹⁹ An 1899 U.S. Supreme Court case helped clarify the parameters of such aid. In *Bradfield v. Roberts*, the court ruled that federal funding for a Washington, D.C. hospital run by nuns did not violate the Establishment Clause of the First Amendment, which prohibits state-sponsored religion, because the hospital’s charter indicated that its purpose, caring for the sick and injured, was secular.¹⁰⁰

Federal funding for religious social service agencies further expanded in the 20th century through contracts and entitlement programs.¹⁰¹ When the government increased aid to social services supporting vulnerable people amid the Great Depression, it relied on faith-based groups to deliver these programs. The National Catholic Welfare Conference officially endorsed this church-state

partnership, and Catholic charities sought out additional opportunities to work with the government on social service initiatives.¹⁰² Another spike in federal funding to faith-based groups came in the 1960s, when the U.S. welfare state grew considerably.¹⁰³ Under Democratic President Lyndon B. Johnson's Great Society program, religious social service providers became key government contractors.¹⁰⁴ A 1965 survey found that 71% of Catholic, Protestant, and Jewish providers nationwide had agreements with the government.¹⁰⁵ Faith-based hospitals, specifically, benefitted from federal funding through Medicare and Medicaid, which allowed recipients to receive care from church-run systems.¹⁰⁶

By the late 1980s, growing church-state partnerships presented legal concerns, but the Supreme Court ruled in religious organizations' favor on two separate occasions, interpreting the Establishment Clause with increasing leniency.¹⁰⁷ In *Corporation of Presiding Bishop v. Amos* (1987), the court decided that faith-based non-profits can fire employees for religious reasons. This ruling extended religious organizations' hiring rights as codified in the Civil Rights Act of 1964 to their social service activities, signifying that they need not forfeit this protection to receive government aid.¹⁰⁸ Then, in *Bowen v. Kendrick* (1988), the court decreed that federal funding to faith-based groups providing sex education did not inherently violate the Establishment Clause. This decision raised questions about how the government ought to differentiate services with a secular purpose from faith-driven service methods and religious content.¹⁰⁹ It also prompted consideration of whether requiring religious groups to secularize their services to receive government aid was constitutional under the Free Exercise Clause, which protects the right to religious practices that do not threaten the common good.¹¹⁰ Notably, in a series of late-20th-century rulings, the Supreme Court attempted to address constitutional concerns by distinguishing between direct and indirect aid. They defined direct aid as that awarded to organizations directly by the government and indirect aid as that awarded to a third party who then disburses it to organizations of their choosing. Only direct aid constituted a church-state partnership.¹¹¹

These Supreme Court decisions brought renewed attention to faith-based welfare programming. Religious policymakers, lawyers, and academics at the Center for Public Justice, a Washington D.C. think tank, began advocating for increased federal partnership with faith-based groups, especially during the 1994 conservative Congressional resurgence.¹¹² They made headway in 1996 with the passage of the Personal Responsibility and

Work Opportunity Reconciliation Act (PRWORA) under President Bill Clinton. Though the movement originated with conservative policymakers, the fact that a Democratic president signed PRWORA into law suggests bipartisan support. Known as "charitable choice," the Act barred discrimination against religious social service providers.¹¹³ It encouraged state and federal agencies to work with faith-based groups and allowed them to receive Temporary Assistance for Needy Families (TANF) funds. Recipients were not permitted to use aid for proselytization, instruction, or sectarian worship, nor were they permitted to discriminate against clients for religious reasons. However, in keeping with *Corporation of Presiding Bishop*, they were allowed to consider religion when hiring employees.¹¹⁴

Charitable choice paved the way for President George W. Bush's faith-based initiative, which aimed to dramatically expand the government's use of faith-based organizations to provide social services with direct federal funding by removing regulatory and administrative barriers in the funding process.¹¹⁵ To facilitate a coordinated effort across all areas of social service, Bush signed two executive orders on January 29, 2001.¹¹⁶ One created the White House Office of Faith-Based and Community Initiatives, and the other created Executive Department Centers for Faith-Based and Community Initiatives in the Departments of Housing and Urban Development, Health and Human Services, Labor, Justice, and Education.¹¹⁷ That August, the newly-established White House office published its first major report. Titled *Unequal Playing Field: Barriers to Participation by Faith-Based and Community Organizations in Federal Social Service Programs*, it identified challenges that prevented faith-based and community social services from receiving federal aid.¹¹⁸ The office also published a second significant report, *Guidance to Faith-Based and Community Organizations on Partnering with the Federal Government*. It explained the process that faith-based groups must follow to apply for federal grants and reiterated "charitable choice" stipulations that any aid

	Republican		Democrat		Independent	
	September '00	March '01	September '00	March '01	September '00	March '01
Strongly favor	26%	35%	35%	28%	31%	28%
Favor	37%	46%	39%	42%	32%	46%
Oppose	20%	10%	16%	13%	17%	15%
Strongly oppose	13%	6%	7%	11%	17%	8%
Don't know	4%	3%	3%	6%	3%	3%

Figure 10: Democrats, Republicans, and Independents' stances on government funding for faith-based organizations, September 2000-March 2001

they receive cannot be used for “inherently religious” activity like “worship, instruction, or proselytization.”¹¹⁹

Bush’s initiative was controversial. Supporters included Muslims, Evangelical Christians, and other faith groups.¹²⁰ They contended that religious organizations’ faith-driven missions, social capital and community trust, ample supply of volunteers, and donation networks gave them advantages over secular social service providers.¹²¹ They also emphasized how their groups’ religious character facilitated caring, supportive attitudes among staff and volunteers.¹²² Detractors countered that there was a lack of empirical evidence to support these claims, and legal scholars posited that Bush may have threatened the separation of church and state under the Free Speech Clause, which protects the right to religious speech that does not impede upon the common good.¹²³ Moreover, Christian conservatives were concerned that increased partnership between the federal government and religious organizations impeded upon faith groups’ freedom and autonomy.¹²⁴ Nonetheless, as Figure 10 demonstrates, a bipartisan majority of the American

public favored federal funding to faith-based groups in the Bush era.¹²⁵

Studies also revealed that such funding was important and effective. *Guidance to Faith-Based and Community Organizations* found that religious groups operated 2/3 of elder care facilities that the federal government supported.¹²⁶ Plus, a 2007 study using data from Indiana collected in 1999 and 2000 discovered that welfare recipients with the greatest need were more likely to receive aid from religious groups than secular social service providers. The study also found that religious groups were more likely to have strong ties with their communities.¹²⁷ Furthermore, in the late 2000s, a Thomson Reuters study examined 255 health care systems across the nation and concluded that those run by churches outperformed their investor-owned and nonprofit counterparts in terms of efficiency and quality of care.¹²⁸ Such promising data led to continued bipartisan investment in federal funding for faith-based social service providers under Presidents Barack Obama (D), Donald Trump (R), and Joe Biden (D).¹²⁹ Though quantitative data across all areas of care is hard to come by, statistics on hospitals indicate the positive impact of this support for these critical social service providers. As Figure 11 illustrates, faith-based systems have accounted for an increasing percentage of total American hospitals over time, with Catholic systems especially prevalent, as Figure 12 demonstrates.¹³⁰

Federal funding for faith-based community social services in the U.S. originated in the 19th century, with increasing church-state partnership over time. When debate arose over early-21st-century policies that fostered more direct collaboration, social service data affirmed that religious organizations were key providers nationwide and thus deserving of this federal aid. This history illuminates the legal roadmap for publicly funding religious institutions. It also proves that these institutions play a major part in supplying essential public services. As such, this analogue is instructive when considering the role of faith-based organizations in public education.

APPLIED HISTORICAL ANALYSIS

The question of whether Rhode Island ought to incorporate parochial schools into its statewide school choice program is a pressing policy issue, and applied historical analysis is useful for understanding and addressing it. Applied history factors in legal and historical constraints. In the U.S, federal control over education is limited, but K-12 schools are subject to Constitutional law, federal public laws, and Supreme Court decisions. There are numerous federal public laws that govern

Percentage of faith-based hospitals as a proportion of total hospitals in the U.S. from 1995 to 2016

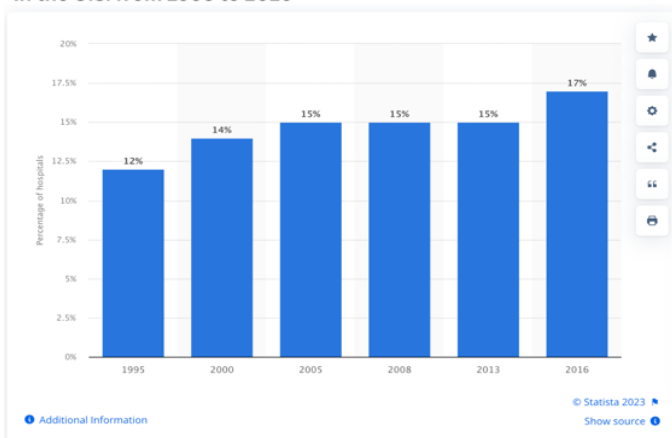


Figure 11: Percentage of faith-based hospitals as a proportion of total hospitals in the U.S., 1995 to 2016

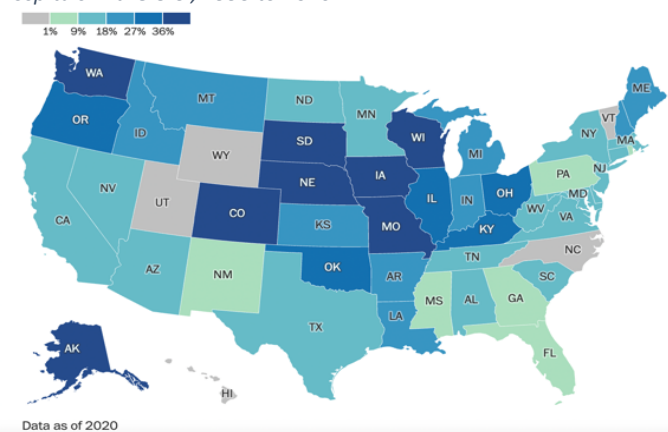


Figure 12: Percent of acute care beds belonging to Catholic hospitals by state, 2020

public and parochial education, and various U.S. Supreme Court decisions pertaining to public funding for parochial K-12 schooling shaped largely by the First Amendment's Free Exercise and Establishment Clauses.¹³¹ Federal laws include the 1958 National Defense Education Act (NDEA), the 1965 Elementary and Secondary Education Act (ESEA), and No Child Left Behind (NCLB), a 2002 ESEA reauthorization.¹³² Supreme Court decisions include *Everson v. Board of Education* (1947), *Locke v. Davey* (2004), *Espinoza v. Montana Department of Revenue* (2020), and *Carson v. Makin* (2022).¹³³ It is also necessary to examine both Rhode Island's history of parochial schools and church-state partnership on education funding dating back to the 19th century. These histories underscore how contextualizing the Constitutional challenge to the relationship between church and state is central to the parochial school policy issue. For this reason, the history of federal funding to faith-based community social services in the U.S. is pertinent to evaluating the issue. The history of charter schools in the U.S. also offers a valuable point of comparison. Trends and analogues that have emerged within this legal and historical framework yield key insights and perspectives on parochial schools and school choice in Rhode Island. Trends illuminate how factors shaping this policy area have held constant or evolved over time, and comparing this topic with relevant analogues presents helpful similarities and differences between parochial school inclusion in school choice and related historical phenomena.

There are four key trends that inform whether Rhode Island's parochial schools ought to be included in the state's school choice program. First, in Rhode Island, public school enrollment declined from the 2010s to the 2020s and parochial school enrollment declined from the early 2000s through the 2010s, but began rising in 2020. The COVID-19 pandemic was the inflection point in this trend.¹³⁴ Second, data from the 2010s shows how parochial school graduation rates nationwide exceed those of Rhode Island's public schools, and how college enrollment rates for Catholic K-12 schools, specifically, outperform those of Rhode Island's public schools and all other types of private schools.¹³⁵ Third, families who wish to send their children to parochial schools are facing rising attendance costs nationwide, owing in part to fewer people pursuing religious vocations and thereby diminishing parochial schools' low-cost labor source.¹³⁶ Fourth, amid a conservative resurgence on the Supreme Court, recent decisions such as *Trinity Lutheran Church of Columbia, Inc. v. Comer* (2017) and *Carson v. Makin* (2020) supported public funding for parochial schools.¹³⁷

These trends illustrate both continuity and change. In terms of continuity, parochial schools consistently outperform public schools when it comes to graduation and college enrollment rates. In terms of change, the decline in public school enrollment and simultaneous rise in parochial school enrollment in Rhode Island amid the COVID-19 pandemic reveals a shift in educational preference patterns of students and their families. Furthermore, the rising cost of parochial school attendance indicates a change in who can afford this type of education, and the recent Supreme Court decisions suggest a shift in legal and judicial understanding of public funding for parochial schools.

Two analogues that offer helpful insights when weighing whether Rhode Island's school choice program ought to incorporate the state's parochial schools are the rise of charter schools in the U.S. (1955-2023) and federal funding for faith-based community social services in the U.S. since the 19th century. Charter schools and religious social service providers share a key commonality. Both endured and overcame controversy, eventually receiving government funding and widespread public support. Charter schools presented an alternative form of education which public school proponents found threatening.¹³⁸ However, support for charters grew over time, and long-term studies indicate that this support was merited. Evidence suggests that charter school students outperform students enrolled in public schools.¹³⁹ Turning to faith-based community social services, debate arose over the extent to which these providers ought to receive federal funding, but studies illustrating how integral they have been to social services in the U.S. since the 19th century. They often outperformed their secular counterparts, demonstrating that increased government funding was justified.¹⁴⁰

The rise of charter schools and federal funding for faith-based community social services in the U.S. both share commonalities with the issue of parochial schools and school choice, as well as some important differences. Looking first at charter schools, they, like parochial schools, are education systems to which students and families turn when they become disillusioned with public schooling. Plus, both charters and parochial schools outperform their public counterparts. In terms of differences, the most obvious distinction between charter schools and parochial schools is that the former are secular, and the latter are religious. Another notable difference between these two types of schooling is that charter schools are a 20th and 21st-century phenomenon, whereas there is a long tradition of parochial schools in the U.S. In Rhode Island, Catholic and

Jewish schools date back to the 19th century.¹⁴¹ One less obvious dissimilarity between charter schools and parochial schools is that the leading controversy that charters faced was whether they adversely impacted public schools whereas the major debate concerning parochial schools is whether they can and ought to be included in the school choice programs that support charter schools.

Faith-based community social services likewise share similarities with parochial schools, plus a couple significant differences. For one, both religious social service providers and parochial schools are often more effective than their secular counterparts. Additionally, federal funding makes a difference in whether these groups are able to provide their services. Government-aided faith-based community social services thrive in the 21st century, but parochial schools, which lack federal support, are forced to shut out middle and lower-class students and families due to rising attendance costs. There are two major factors contributing to the disparate manner in which the government treats parochial schools versus religious social service providers. First, in any educational setting, there is an innate potential for indoctrination, or presenting ideas in a biased way that prevents students from developing objective perspectives, while with activities associated with social services, like caring for the sick and feeding the poor, this possibility is less inherent. As a result, federal funding for religious education is more intricate than federal funding for secular activities carried out by religious groups. In addition, while the federal government often directly partners with faith-based community social services, the process of granting aid to schools of all types is more complex, involving state and local governing institutions. This makes the legal nuances of funding for parochial schools more challenging to navigate.

This analysis of policy trends and analogues yields seven key insights. First, the fact that Rhode Island students and families turned away from public schools and towards parochial schools amid the COVID-19 pandemic demonstrates that they recognize that faith-based schools are effective and typically yield better outcomes than public schools. This is supported by graduation and college enrollment data. Second, the rising costs of parochial school attendance threatens to shut middle- and lower-class students and families out of these high-performing schools. This funding vacuum can easily be filled with federal aid through school choice programs. Third, the legal and judicial trend towards public funding for parochial schools that has emerged within the past ten years indicates growing support for

including parochial schools in school choice. Fourth, in revealing transition and change in what is acceptable when it comes to “public schools,” the history of charter schools in the U.S. suggests that parochial schools can potentially be considered public in some contexts. Fifth, this history also illustrates continued growth in school choice nationwide, demonstrating increasing demand for these programs that parochial schools can help meet. Sixth, looking at the long tradition of federal funding for faith-based community social services in the U.S. signposts Constitutional means by which the government can provide aid to religious institutions, with any points of contention that arise constituting impediments, rather than roadblocks. Seventh, this history illuminates how religious organizations play an important role in providing critical public services.

There are several ways in which these trends, analogues, and insights might shape or alter perspectives on Rhode Island parochial school public policy. First, redefining the concept of public education reveals how the criteria that differentiate “public schooling” from alternative systems of education are not fixed, but have evolved over time and may continue to do so. This calls into question public school proponents’ insistence that the public school status quo must be protected. Moreover, these trends, analogues, and insights demonstrate that federal funding for religious organizations is nothing new and thus not deserving of controversy. Rather, it is a fundamental part of how the government ensures that Americans receive essential public services nationwide. Lastly, data on student success suggests that if all religious elements were removed from parochial schools, rendering them non-religious private schools, there might be little hesitation about directing public dollars to them. This indicates that those who oppose public funding for parochial schools via school choice may be guilty of religious discrimination in violation of the First Amendment’s Free Exercise clause.

Applied historical analysis provides insights and perspectives necessary to weigh whether Rhode Island’s parochial schools ought to be included in the state’s school choice program. A number of critical trends and analogues have transpired within the broader legal and historical framework of K-12 schooling and church-state partnership in the U.S. and Rhode Island. The trends demonstrate how factors governing parochial schools and school choice have changed or remained constant over time. Juxtaposing this policy issue with the histories of charter schools and federal funding for faith-based community social services in the U.S. illuminates valuable similarities and differences among these topics. Some of

the most meaningful insights that this analysis presents are that high-performing parochial schools can serve students of all socioeconomic backgrounds if included in school choice; that federal funding to religious organizations is not only legal, but also essential to public service provision in the U.S.; and that the definition of “public schools” has changed before and can change again.

POLICY OPTIONS AND ANALYSIS

Policy Options Overview

There are three possible ways that policymakers can include Rhode Island’s parochial schools in the state’s school choice program. The first and most feasible option is to expand Rhode Island’s existing tax-credit scholarship program. The second, also viable option is to introduce an Education Savings Account (ESA) program in the state. These options are limited in that they only cover funding for tuition and only provide it directly to students and their families. The third, most transformative, and thus most controversial option is to treat Rhode Island’s parochial schools as faith-based community social service groups and provide aid not just for tuition, but for all their secular activities, essentially funding them like charter schools. Considering these options using relevant policy literature and by drawing comparisons to the histories of faith-based community social services and charter schools in the U.S. yields helpful insights.

Option 1: Expand Rhode Island’s Existing Tax-Credit Scholarship Program

The first avenue for incorporating parochial schools into school choice in Rhode Island is expanding the state’s current tax-credit scholarship program. Tax-credit scholarships grant individuals and businesses tax credits when they donate to nonprofit organizations that provide scholarships to private schools.¹⁴² Rhode Island enacted a statewide corporate tax-credit scholarship program in 2006, and while there is no publicly available data on which schools currently participate, there is record of two Jewish schools doing so as early as 2007.¹⁴³ In an EdChoice report, *The Tax-Credit Scholarship Audit*, director of fiscal policy and analysis Martin Lueken found that tax-credit scholarships’ fiscal impact on state governments, state and local taxpayers, and school districts was net positive.¹⁴⁴ Plus, according to the Orthodox Union Advocacy Center, U.S. Supreme Court decisions indicate that these programs are constitutional so long as funding is allocated for secular purposes and it does not favor religious or non-religious schools.¹⁴⁵ Catholic education leaders agree that tax-credit scholarship programs are

legal and effective means of including parochial schools in school choice. Bishop Thomas Daly, Chairman of the U.S. Conference of Catholic Bishops’ (USCCB) Committee on Catholic Education expressed this view when he advocated for a federal tax-credit scholarship program in a letter to members of Congress. He argued that in relying on private donations, such programs sidestep the Constitutional challenge to the relationship between church and state inherent in public funding for parochial education, including concerns over government encroachment upon parochial schools’ autonomy.¹⁴⁶

Rhode Island’s tax-credit scholarship program is currently limited. While there is no enrollment cap nor a scholarship cap, there is a donation cap of \$100,000 per donor and a participant income limit of 250% of the poverty level, or \$69,375 for a family of four. Consequently, only 1/3 of children statewide are eligible to participate, and fewer than 1% receive a scholarship. The number of recipients fluctuated between 278 and 576 per year from 2007 to 2021, and only 49 of the 171 private schools statewide are currently part of the program.¹⁴⁷ Furthermore, the average scholarship amount is only \$2,569, which is a mere 15% of the average expenditure per student in Rhode Island’s public schools, and the tax-credit scholarship program’s annual \$1.5 million budget cap is only 0.06% of the state’s entire K-12 education revenue. In a report titled *The ABCs of School Choice*, EdChoice suggested that Rhode Island ought to make more tax credits available to a greater number of students based on need.¹⁴⁸ In *Rhode Island Jewish Day Schools and Scholarship Tax Credits*, the Pioneer Institute similarly contended that policymakers ought to raise the cap on the amount of tax credits issued to meet demand and ensure a stable supply of scholarship funding.¹⁴⁹ Plus, Bishop George V. Murry, USCCB Chairman, called for greater tax-credit scholarship accessibility nationwide in letters to members of Congress, advocating for expanding income limits to 400% of the poverty level and raising donation caps to “allow for generous giving.”¹⁵⁰ Since Rhode Island legislators need only adjust these components of the state’s existing tax-credit scholarship program, this is the most viable option for advancing parochial school inclusion in school choice in Rhode Island. However, the fact that the program currently only serves a very small fraction of the state’s students and families suggests that it was not designed nor intended to provide aid on a large scale. This indicates that even increasing the number of available tax credits, expanding income limits, and raising donation caps may not serve all middle- and low-income families who face financial barriers to transitioning their

students from public schools to high-performing parochial schools.¹⁵¹

Option 2: Introduce an Education Savings Account (ESA) Program in Rhode Island

A second, feasible option is introducing an Education Savings Account (ESA) program in the state. ESAs enable families who wish to remove their students from traditional public schools or charter schools to receive public funds equivalent to their child's tuition costs in a government-authorized savings account. Parents can put these funds towards private schooling. First created in Arizona in 2011, ESAs are the most recently innovated type of school choice.¹⁵² Thirteen states currently offer ESA programs, more than half of which were established in response to greater demand for freedom of educational choice amid the COVID-19 pandemic. The majority of these programs are open to either all K-12 students or those from low-income families, though several exclusively serve students with special needs.¹⁵³ There has yet to be a successful legal challenge to ESAs, and research on these programs indicates parental satisfaction and positive fiscal impacts on public schools and local taxpayers.¹⁵⁴

In *The ABCs of School Choice*, EdChoice recommended that Rhode Island convert its current, limited tax-credit scholarship program into an ESA program so that all students and families statewide have complete freedom of educational choice.¹⁵⁵ Notably, some ESAs are funded by tax credits rather than public dollars. The Pioneer Institute's Cara Candal endorsed this option for Massachusetts in *Modeling an Education Savings Account for Massachusetts*, contending that a tax-credit ESA program presented a way to bypass the state's Blaine Amendment, which bars faith-based institutions from receiving public funding. Candal emphasized how all private schools permitted to operate in the Commonwealth, religious or not, can legally participate in these ESAs since they are privately-funded like tax-credit scholarship programs.¹⁵⁶ A tax-credit ESA might work for Rhode Island, since there is already a tax-credit scholarship program in place, but the fact that the current system has had limited impact indicates that a traditional, publicly-funded ESA may be a more effective means of including parochial schools in school choice. Given that Rhode Island does not have a Blaine Amendment and that recent U.S. Supreme Court decisions such as *Carson v. Makin* (2022) supported public funding for parochial school tuition on a level playing field with their non-religious counterparts, this path has merit.¹⁵⁷

Option 3: Treat Parochial Schools as Faith-Based Community Social Services and Fund Them as Charter Schools (Public Funding for Secular Activities)

The third, most transformative option for including Rhode Island's parochial schools in the state's school choice program is to treat them as faith-based community social services and fund them as charter schools. Like religious social service providers, parochial schools play an important role in delivering public services, so like those providers, these schools ought to receive funding for their secular operations. In a *National Catholic Reporter* article, Father Thomas Reese, a Jesuit priest, advocated for this policy option. Reese pointed out how many areas of parochial school operations, including building maintenance, nursing services, meal provision, and STEM education are all wholly secular and thus ought to be eligible for public funding. He emphasized that private funding must continue to be allocated for religious classes and services, reasoning that "if 10% of class time is devoted to religion, then at least 10% of the school costs must come from nonstate sources."¹⁵⁸ To incorporate parochial schools into school choice in this way, Rhode Island must enact legislation classifying them as public schools so they can receive state and local aid like privately-run charter schools. While this may seem far-fetched, the history of charter schools demonstrates that what constitutes "public" education has changed over time and can change again. Plus, a 2021 Rhode Island Public Expenditure Council (RIPEC) study found that from the 2015-2016 school year through the 2020-2021 school year, only between 9.5% and 14% of Rhode Island students who applied to enroll in the state's charter schools were able to do so, indicating high demand for complete freedom of school choice in Rhode Island that neither charters nor a tax-credit scholarship program can meet.¹⁵⁹ Utilizing the state's parochial schools on a large scale to meet this demand can help ensure that Rhode Islanders fully reap the benefits of choice. As EdChoice reported in *The 123s of School Choice*, these benefits include improved academic outcomes for choice participants and public school students alike, saving taxpayers money, increased integration in classrooms, safer schools, strengthened civic values, and increased parental satisfaction with their children's education.¹⁶⁰ There is precedent for this course of action in other states, such as Indiana. A 2013 Indiana Supreme Court decision recognized that non-public schools, like faith-based community social services, "serve the public good" and are thus eligible for public funding.¹⁶¹ While detractors may take the line of reasoning expressed by the National Parent Teacher Association (PTA), that

government funding for parochial schools requires regulation and thus threatens religious groups' autonomy, the long, successful history of church-state partnership on social service provision proves otherwise.¹⁶²

There are three potential avenues for policymakers to expand school choice in Rhode Island to incorporate the state's parochial schools. The first, most attainable option is making the state's existing tax-credit scholarship program more extensive. The second, also feasible option is to develop an Education Savings Account (ESA) Program in Rhode Island. However, these options only direct tuition funding towards students and their families. The third, most transformative, and most controversial option is to treat the state's parochial schools as faith-based community social service groups and fund all their secular activities in the manner of charter schools. Using policy literature and the histories of faith-based community social services and charter schools in the U.S. to evaluate these options presents valuable insights.

RECOMMENDATIONS

Rhode Island already offers tax-credit scholarships, which can be further expanded to increase the supply of available funding and the number of eligible participants (Option 1). However, these scholarships depend on private donations rather than public funding. This suggests that this policy option, the least transformative of the three, is inadequate to fully include parochial schools in school choice and thus achieve complete freedom of educational choice statewide. Option 3, to treat parochial schools as faith-based community social services, is certainly transformative. Historical analogues and legal precedent signpost ways to do so, and secular activity funding can draw precedent from charter school models. However, the separation of church and state is enshrined in the First Amendment. This principle shapes education funding in the U.S., including Rhode Island, and creates substantial roadblocks to the use of public funds for parochial schools. This indicates that this policy option, the most radical of the three, may not be practical. By contrast, traditional Education Savings Account (ESA) programs offer a middle-ground policy option that is legal, feasible, and reasonable (Option 2).

Traditional ESAs have a major advantage over tax-credit scholarship programs and similarly structured tax-credit ESAs. Rather than issuing a limited number of scholarships funded by private donations, they enable families who wish to remove their students from traditional public schools or charter schools to receive public funding comparable to their child's tuition costs in

a government-authorized savings account. Parents can put these funds towards private schooling.¹⁶³ Since tuition costs pose the chief barrier to parochial school attendance, this policy option can enable middle- and lower-income Rhode Island families turning away from public schools to enroll their children in these high-performing private schools.¹⁶⁴ Rhode Island already offers parochial school choice in the form of tax-credit scholarships.¹⁶⁵ Plus, recent U.S. Supreme Court decisions such as *Carson v. Makin* (2022) ruled that public funding for parochial school tuition on a level playing field with non-religious private schools was constitutional.¹⁶⁶ This indicates growing support for including parochial schools in school choice. Therefore, legislation enacting an ESA program in the state is desirable.

Despite this legislative and judicial trend, detractors may still allege that an ESA program directing public funds to parochial schools violates Constitutional separation of church and state. Recognizing how faith-based community social service providers have long partnered with the government and, like parochial schools, play an important role in delivering public services demonstrates that such allegations are unfounded. This church-state partnership signposts Constitutional means by which the government can provide aid to religious institutions. Points of contention that arise constitute impediments, rather than roadblocks. In a similar vein, detractors may also claim that such a program threatens the definition of a "public school." However, ESAs only render parochial education "public" in the sense that religious schools receive money otherwise allocated to traditional public schools or charter schools. To this end, as the history of charter schools in the U.S. proves, the meaning of "public schooling" has changed before and can change again. This means that parochial schools can potentially be considered public in some contexts. A third allegation that detractors may level at ESAs is that increasing freedom of school choice will adversely impact Rhode Island's public schools and taxpayers. Yet studies illustrate how choice and ESAs are beneficial. Plus, Rhode Island's charter schools faced the same accusations in the early 2000s. Today, the supply of charter school seats does not meet the demand.¹⁶⁷ Parochial schools can help meet school choice demand, and ESAs, which are growing in popularity nationwide and have survived all legal challenges, offer a workable mechanism for doing so.¹⁶⁸

Overall, traditional Education Savings Account (ESA) programs present a sensible and viable option when considering ways for Rhode Island's parochial schools to be incorporated into the state's school choice program. Favoring neither parochial schools nor non-religious

private schools, ESAs level the educational playing field by granting complete freedom of educational choice to students and their families. They can help ensure that every child in Rhode Island has equitable access to quality education.

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APPENDIX A – LITERATURE REVIEW

The body of policy literature on K-12 education in the U.S. is exhaustive. There are also a number of reports about grade schools in Rhode Island. In the past decade alone, dozens of scholars and other research professionals have conducted studies of pertinent issues in these thematic areas. Scholars and policy analysts focusing on Rhode Island wrote on the state's educational state of affairs, school choice, and the tax-credit scholarship program. Scholars and policy analysts examining K-12 education on a national level likewise considered school choice and tax-credit scholarship programs, as well as the urgent, interrelated issues of funding, enrollment, and COVID-19. Together, these research professionals have provided a comprehensive picture of the current educational challenges in Rhode Island and the country.

Some researchers evaluated the current state of education in Rhode Island, public and private. In *Providence Public School District: A Review*, the nonpartisan Johns Hopkins Institute for Education Policy advocated for improvements to Providence's public schools. They found that throughout the district, students learned below grade level, teachers felt demoralized, parents were left out of the loop, principals failed to model leadership, and buildings were in poor condition. The Institute relied on student and teacher demographics from Rhode Island's Department of Education as well as information about expenditures and buildings from the district's website. They also incorporated quotes from interviewed stakeholders, including students, teachers, parents, community members, City Council members, the Providence School Board, and Rhode Island Department of Education staff.¹ Additionally, in "Mission, Faith, and Values - A Study of 94 Voices from Rhode Island Catholic Secondary School Graduates," Thomas Keefe, Associate Professor of Humanities at Rocky Mountain College of Art and Design, highlighted the value of Catholic education in the state. Examining graduates of several Rhode Island Catholic high schools, he discovered that graduates recognized the schools' academic strength and felt that the schools strongly influenced their personal values, but that their perceptions of their faith formation experience were less unified. Nonetheless, he concluded that the Catholic secondary school graduates strongly grasped Church teachings. Keefe gathered his data using a limited qualitative study with 94 participants invited via social

media.² Lastly, Brown University Professor Kenneth Wong explored Rhode Island's new school funding formula's design and features in "The Design of the Rhode Island School Funding Formula: Developing New Strategies on Equity and Accountability." Citing how state leaders addressed political and fiscal obstacles after many fruitless attempts to enact a new formula, he championed their success as a case study for reform aimed at increasing accountability, transparency, and equity in a challenging fiscal environment. He also emphasized the importance of effective leadership and independent analysis. Wong compiled financial data from the Rhode Island House Fiscal Advisory Staff and the details of the formula's earlier iterations from the state's House Finance Committee and Public Expenditure Council as well as the Rhode Island Foundation.³

One research professional focused on school choice in Rhode Island. In *Rhode Island Jewish Day Schools and Scholarship Tax Credits*, published by the non-partisan Pioneer Institute, Jason Bedrick evaluated Rhode Island's tax-credit scholarship program's first non-profit scholarship-granting organization (SGO) called The Foundation for Rhode Island Day Schools. The Foundation was created in 2007 and serves the Providence Hebrew Day School (PHDS) and the Jewish Community Day School (JCDS). Bedrick argued that this SGO provided low-income students with an education that yielded high test scores, but he also acknowledged that it lacked flexible means-testing, operated under a restrictive credit cap, and relied on a lottery system to select aid recipients. Bedrick posited solutions to each of these issues: adopting flexible means-testing requirements, raising the cap on the amount of tax credits issued to meet demand, and ensuring a stable supply of scholarship funding. Bedrick's sources for tuition, aid, and expenditures data included JCDS and PHDS's websites and school officials as well as the Departments of Education and Taxation. Plus, he cited legislation from Rhode Island's General Laws.⁴

Additionally, some researchers treated the issue of school choice on the national stage. One such effort was the libertarian Reason Foundation's *Annual Privatization Report: Education*, compiled by analyst Christian Barnard. Barnard surveyed national education data to reveal the weak relationship between education spending and student success. Reviewing U.S. school choice policies including tax-credit scholarship programs and Education Savings Accounts (ESAs), he advocated for more choice, transparency, and innovation in the nation's schools,

emphasizing how funding did not change the fact that zip codes and limited resources forced many students into failing systems. He relied on funding, expenditures, and revenue data from the National Center for Education Statistics (NCES) as well as state legislatures.⁵ Similarly, in the nonpartisan EdChoice's *A Win-Win Solution: The Empirical Evidence of School Choice*, senior fellow Greg Forster used U.S. Census data to survey empirical research on school choice across five major topics: 1) school choice participants' academic outcomes; 2) public school participants' academic outcomes; 3) school choice's fiscal impact on public schools and taxpayers; 4) racial segregation in schools; and 5) civic values. He contended that choice improves academic outcomes for participants and public school students alike, saves taxpayers money, increases integration in classrooms, and strengthens civic values.⁶ EdChoice's *The 123s of School Choice*, which synthesized the results of 187 studies on school choice published by educational research journals and think tanks, affirmed Forster's work. The report also noted the studies' positive findings on parent satisfaction, school safety, and students' likelihood of graduating high school and attending college.⁷ Another EdChoice report, *The ABCs of School Choice: The Comprehensive Guide to Every Private School Choice Program in America*, introduced the various types of school choice programs in the U.S. The report offered expert feedback on each state's program(s), assessing what the states did well and how they can improve. This feedback included analyses of the number of students a program served and the types of families excluded from the program. EdChoice gathered data on these programs from state government agencies, particularly departments of Revenue and Education. They found information on income limits, governing statutes, and credit value as well as budget, voucher, and enrollment caps especially helpful.⁸

One research professional analyzed the value of private education as it relates to school choice. In *The Public Benefit of Private Schooling: Test Scores Rise When There Is More of It*, published by the libertarian Cato Institute, scholar Corey DeAngelis examined how private schooling impacted student test scores in 52 countries to see if the benefits associated with it held true. These benefits included increased competitive pressure to provide quality education and allowing families to select the type of schooling best for their children. He concluded that private education moderately affected performance

globally, advocating for decision makers to increase school choice. DeAngelis relied on the NCES for Programme for International Student Assessment (PISA) test-score data, and he also turned to the United Nations Data Retrieval System and the World Bank for countries' school enrollment, GDP, population, life expectancy, and infant mortality statistics.⁹

A number of researchers looking through a national lens explored tax-credit scholarship programs. In EdChoice's *School Choice Fallacies: Disproving Detractors' Allegations Against Tax-Credit Scholarship Programs*, director of fiscal policy and analysis Martin Lueken and research assistant Michael Shaw addressed allegations made by the School Superintendents Association (AASA) and the Institution on Taxation and Economic Policy (ITEP) that these programs were "for-profit" "get-rich schemes" that enabled "double-dipping" and acted as "tax shelters" for donors. They argued that such misguided allegations failed to put the programs into the context of U.S. taxation policies, reaching five major conclusions. First, it was inconsistent to take issue with school choice tax credits when states supported hundreds of other tax-credit policies. Second, understanding Alternative Minimum Tax (AMT) refuted allegations of "profit" and "double-dipping." Third, "profit" was not an issue limited to K-12 tax-credit scholarship programs. Fourth, most AMT filers who "profited" from "double-dipping" were middle-class. Fifth, Congress had the power to adjust the element of the federal tax code that led to the policy misunderstandings behind these allegations by making it illegal for taxpayers to deduct AMT filings from their federal taxable income. Lueken and Shaw compiled their data using IRS memorandums as well as the IRS's U.S. Tax Center, comparing tax credits and deductions.¹⁰ Lueken also wrote a related report for EdChoice, *The Tax-Credit Scholarship Audit: Do Publicly Funded Private School Choice Programs Save Money?* He examined tax-credit scholarship programs' fiscal impact, and estimated how such programs affect state governments, state and local taxpayers, and school districts. Evaluating ten different programs throughout the U.S., he concluded that each program's fiscal impact was net positive. Lueken turned to NCES and U.S. Census data to calculate items including tax support per scholarship as well as variable cost and net savings per student.¹¹ Furthermore, in the Pioneer Institute's *Modeling an Education Savings Account for Massachusetts*, Senior Fellow Cara Candal zeroed in on the Commonwealth, advocating for a tax-credit ESA

program as a means of improving access to educational opportunities statewide. Reviewing the challenges that such a program might face, she provided a roadmap for overcoming them. Candal utilized reports on the positive impact of school choice, including EdChoice's *The 123s of School Choice* and *A Win-Win Solution*, as well as information from the Massachusetts Department of Elementary and Secondary Education.¹²

Lastly, some research professionals considered the pressing, interrelated issues of K-12 enrollment, funding, and COVID-19 nationwide. One such effort was EdChoice's *2023 Schooling in America: What Do the Public and Parents Say about K-12 Education?*, which demonstrated how parents of school-aged children and the general public understand key education challenges such as funding. EdChoice contended that Americans were pessimistic about the future of grade schooling. They compiled their data from a survey that they administered online and over the phone. The survey's sample population was 1224 members of the American public and 1504 parents of school-aged children. All were over 18 and either spoke English or Spanish. EdChoice also utilized enrollment data from the NCES as well as previous EdChoice reports.¹³ Moreover, in *Pandemic Enrollment Fallout: School District Enrollment Changes Across COVID-19 Response*, published by the center/right-

learning American Enterprise Institute, Nat Malkus cautioned that districts which remained remote for longer periods of time faced significant declines in funding as a result of their deteriorating enrollment. Malkus, a senior fellow and the Deputy Director of Education Policy Studies at the Institute, argued that communities which voted for Joe Biden in the 2020 presidential election were more likely to utilize remote learning longer and consequently lose more students, whereas it was more probable for communities which voted for Donald Trump to return to in-person learning sooner and consequently retain students. Malkus drew his enrollment data from the NCES and the Return to Learn Tracker.¹⁴

A study of whether Rhode Island's parochial schools can be included in the state's school choice program contributes to this policy discussion. It expands upon existing policy literature about current challenges in K-12 education and school choice in the state by drawing comparisons to other states' policies and national trends in school choice as well as funding, enrollment, and COVID-19. While there is significantly less policy literature on grade schooling in Rhode Island than grade schooling in the U.S. as a whole, reports on these topic areas offer insight critical to the study at hand.

ENDNOTES

¹ *Providence Public School District: A Review* (Baltimore: Johns Hopkins Institute for Education Policy, 2019): 1-93, [URL](#).

² Thomas E. Keefe, "Mission, Faith, and Values - A Study of 94 Voices from Rhode Island Catholic Secondary School Graduates," *Journal of Catholic Education* 24, no. 2 (Fall 2021): 120-142, [URL](#).

³ Kenneth K. Wong, "The Design of the Rhode Island School Funding Formula: Developing New Strategies on Equity and Accountability," *Peabody Journal of Education* 88, no. 1 (2013): 37-47, [URL](#).

⁴ Jason Bedrick, *Rhode Island Jewish Day Schools and Scholarship Tax Credits* (Boston: Pioneer Institute Public Policy Research, 2012): 1-18, [URL](#).

⁵ Christian Barnard, *Annual Privatization Report: Education* (Los Angeles: Reason Foundation, 2019): 1-21, [URL](#).

⁶ Greg Forster, *A Win-Win Solution: The Empirical Evidence of School Choice* (Indianapolis: EdChoice, 2016): 1-45, [URL](#).

⁷ *The 123s of School Choice: What the research says about private school choice programs in America* (Indianapolis: EdChoice, 2023): 1-122, [URL](#).

⁸ *The ABCs of School Choice: The Comprehensive Guide to Every Private School Choice Program in America* (Indianapolis: EdChoice, 2023): 1-182, [URL](#).

⁹ Corey A. DeAngelis, *The Public Benefit of Private Schooling: Test Scores Rise When There Is More of It* (D.C.: Cato Institute, 2018): 1-12, [URL](#).

¹⁰ Martin F. Lueken and Michael Shaw, *School Choice Fallacies: Disproving Detractors' Allegations Against Tax-Credit Scholarship Programs* (Indianapolis: EdChoice, 2017): 1-12, [URL](#).

¹¹ Martin F. Lueken, *The Tax-Credit Scholarship Audit: Do Publicly Funded Private School Choice Programs Save Money?* (Indianapolis: EdChoice, 2017): 1-76, [URL](#).

¹² Cara Candal, *Modeling an Education Savings Account for Massachusetts* (Boston: Pioneer Institute Public Policy Research, 2022): 1-19, [URL](#).

¹³ *2023 Schooling in America: What Do the Public and Parents Say about K-12 Education?* (Indianapolis: EdChoice, 2023): 1-73, [URL](#).

¹⁴ Nat Malkus, *Pandemic Enrollment Fallout: School District Enrollment Changes Across COVID-19 Response* (D.C.: American Enterprise Institute, 2022): 1-14, [URL](#).

APPENDIX B – LEGAL FRAMEWORK

Federal

Though federal control over education is limited in the U.S., there are numerous federal public laws that govern grade schools. There are also various U.S. Supreme Court decisions pertaining to public funding for parochial K-12 schooling shaped by the First Amendment's Free Exercise and Establishment Clauses.¹ Among the key public laws are the 1917 Smith-Hughes Act, the 1958 National Defense Education Act (NDEA), the 1965 Elementary and Secondary Education Act (ESEA), the 1994 Improving America's Schools Act (IASA), the 2002 No Child Left Behind Act (NCLB), and the 2009 American Recovery and Reinvestment Act (ARRA). The Education Excellence Act for All Children (1999), which failed in the House of Representatives, is also pertinent. Four of the most relevant U.S. Supreme Court decisions include *Everson v. Board of Education* (1947), *Locke v. Davey* (2004), *Espinoza v. Montana Department of Revenue* (2020), and *Carson v. Makin* (2022). Of these public laws and Supreme Court cases, ESEA, NCLB, ARRA, and *Espinoza* received the most significant newspaper coverage in Rhode Island, and *Espinoza* and *Carson* garnered noteworthy press nationwide. The federal public laws offer key insight into the legal history of K-12 education in the U.S., and the Supreme Court decisions show how judicial rulings set parameters on government aid for parochial schooling. Furthermore, the newspaper coverage of these legislative and judicial regulations illustrates their impact on debates over school choice and funding at the state and national levels.

The 1917 Smith-Hughes Act separated vocational education from traditional education by appropriating and regulating federal funds for vocational schooling in cooperation with the states. These funds supported teacher training in trade, home economics, and industrial curriculums as well as facilities designed for vocational instruction. The Act also encouraged separate state boards for traditional and vocational education.²

Seeking to strengthen national security, the 1958 National Defense Education Act (NDEA) enhanced science, mathematics, and foreign language opportunities in elementary and secondary schools. Its provisions included loans to nonprofit private schools as well as funds for foreign language centers, research on educational media, and guidance, counseling, and testing

programs.³ Offering aid at all levels of education to public and private institutions, the Act set a new precedent for federal involvement in general education funding. State and local governments, however, retained control over school curriculum, operations, and personnel.⁴

Seven years later, Congress passed the Elementary and Secondary Education Act (ESEA). Intended to improve elementary and secondary schools in terms of quality and opportunities, its most significant provision was Title I funding for disadvantaged students. This legislation gave financial aid to educational agencies at the local level to support low-income children. The law also instituted grant programs for textbooks and library resources as well as centers and services in areas where schools did not meet student needs. In addition, it aided educational research and training as well as state departments of education, supporting leadership and helping departments identify which programs met their needs.⁵ The Act established federal authority to direct education funding towards public policy goals while also empowering states to administer funds and shape policy. This resulted in expanded state education departments. ESEA was later amended by acts such as Improving America's Schools and No Child Left Behind.⁶

The 1994 Improving America's Schools Act (IASA) extended ESEA's provisions by expanding aid for disadvantaged students, especially migratory and at-risk children. To receive funds, states and district teams composed of school officials, teachers, and parents needed to develop plans for school improvement in mathematics and English/language arts. The Act also allocated \$250 million for technology education, \$200 million for school infrastructure, and \$15 million for districts to create charter schools, plus additional funds for bilingual education, combating drug use in schools, and purchasing mathematics, science, and library media equipment.⁷ The law asserted that both advantaged and disadvantaged children ought to be held to the same levels of rigor, providing guidance for curriculum development and assessment.⁸

Five years later, the Education Excellence Act for All Children was introduced in the House of Representatives, but failed upon referral to the House Committee on Education and the Workforce. It purported to amend ESEA by reauthorizing and revising its programs. More specifically, it sought to extend ESEA's guidelines for disadvantaged children and rework existing programs for mathematic and scientific resources into a new

technology program.⁹ As a whole, it aimed to reassert the federal government's role in education.¹⁰

No Child Left Behind (NCLB) of 2002 was the second successful ESEA reauthorization. This law championed standards-oriented educational reform, declaring that challenging, quantifiable goals were key to students' success. In exchange for federal funding, it required states to conduct standardized reading, science, and mathematics testing at certain grade levels and establish performance benchmarks. The Act also granted school districts flexibility in allocating federal funds, especially for Title I and school choice programs. Overall, NCLB aimed to hold schools accountable for student success and incentivize strong performances. Congress repealed the law on December 10, 2015, and replaced it with the Every Student Succeeds Act.¹¹

Finally, Title VIII of the 2009 American Recovery and Reinvestment Act (ARRA) provided "emergency" funding to fill education budget gaps amid the great recession. It also established the Race to the Top program, which allocated \$4 billion in grants to states that created reform plans for student success standards and assessments as well as systems for measuring student achievement, cultivating personnel, and improving low-performing schools.¹² Additionally, the legislation earmarked funds for disadvantaged children and special education.¹³ To receive this funding for the 2009-2010 school year, states needed to revert to 2005-2006 funding levels.¹⁴

Of these federal public laws, ESEA, NCLB, and ARRA received the most extensive newspaper coverage in Rhode Island, demonstrating how they affected school choice and funding in the state. In 1965, the *Providence Journal* included several articles focused on ESEA. The January 24 issue featured a report by columnist William H. Young describing how President Johnson sought \$1.5 billion in funding for new programs to help low-income students. Young also emphasized that the plan set a new precedent for federal involvement in education because historically, education fell under state and local domain and federal aid was allocated for specific programs rather than general purposes.¹⁵ By the end of the year, Rhode Island districts began to obtain ESEA funds. A December 29 article reported that Warwick schools received \$90,000 for kindergarten classes under Title I. The district also applied for \$160,000 towards an elementary school library under Title III, which supported English language learners. The article emphasized that ESEA-financed programs were not part of local budgets, so district

leaders lacked financial control over them.¹⁶ Two days later, the *Journal* ran an article announcing that Barrington received \$27,000 in ESEA funds to improve their elementary special education program under Title I. The article also noted that Rhode Island schools obtained a total of \$5 million in ESEA funds, with \$4 million appropriated under Title I. It then explained that to receive some of this money, districts needed to submit proposals and apply for grants through the state's Department of Education, which assumed responsibility for disbursing the federal funds.¹⁷

A second education act which significantly affected Rhode Island was NCLB. A June 13, 2001 article discussed how President Bush's then-proposal was controversial because it allocated aid for private schools serving low-income children who left poor-performing public schools, but Rhode Islanders were chiefly concerned with bilingual education reform. State leaders sought to eliminate bilingual education, reasoning that hindering children from learning English set them up for failure.¹⁸ After NCLB passed, however, the state shifted its attention to the act's implications for school choice and performance. In the December 13, 2002 edition of the *Journal*, education journalist Linda Borg reported that 14 public schools across 5 districts did not meet performance expectations for two consecutive years, so under Title I of NCLB, children had the options of enrolling in higher-performing schools or receiving tutoring. Borg explained how this stipulation posed challenges because districts were unprepared to offer school choice and tutorial services. She additionally clarified that schools were not required to offer choice outside their districts and that under federal law, "choice" prioritized low-income students.¹⁹ Borg also authored a December 23, 2004 article evaluating NCLB's impact on Rhode Island schools. Reporting that 5 out of 11 districts marked as "needing improvement" the prior year had improved, she emphasized that the change came after several years of stagnation. Yet she also noted that urban districts still faced challenges, explaining that most Providence schools failed to meet benchmarks even as many of them saw double-digit increases in writing performance.²⁰

The third piece of federal legislation that especially impacted education in Rhode Island was ARRA. On January 24, 2009, prior to the act's passage, *Providence Journal* columnist Steve Peoples estimated that the state might receive \$1 billion to restore education funding to the previous year's levels and aid low-income districts as

well as special education programs.²¹ Then, on June 25, Robert G. Flanders, chairman of the Rhode Island Board of Regents for Elementary and Secondary Education, weighed in on school choice in relation to the Act. Explaining how its Race to the Top program allocated a minimum of \$100 million to deserving states, he cautioned against the General Assembly's latest draft of the state budget, which withdrew \$1.5 million in funding for two new charter schools intended to demonstrate the state's commitment to educational innovation.²² Additionally, in an October 25 article, Borg reported that 6 districts and 1 charter school in the state received a total of \$44.4 million in bonds allocated for construction, renovations, and technology upgrades under ARRA. She explained that 9 school systems applied for the aid, and that while the districts were responsible for issuing the bonds, the federal government was responsible for paying the interest.²³ Lastly, in the April 21, 2010 edition of the *Journal*, columnist Jennifer D. Jordan reported that state education leaders were concerned about the General Assembly's proposals to re-allocate federal stimulus funds for the following school year to the current school year. Leaders were worried because the following year, the state needed to spend as much money on education as they did in 2006 in order to meet the requirements for receiving this funding. Otherwise, they owed the federal government \$50 million, per ARRA's stipulations.²⁴

U.S. Supreme Court cases also govern K-12 education in America, providing precedent for public funding of parochial grade schooling in accordance with the First Amendment's Free Exercise and Establishment Clauses. These Clauses protect the right to religious practice that does not impede upon the common good and prohibit state-sponsored religion, respectively.²⁵ One such case was *Everson v. Board of Education* (1947), which originated with a New Jersey law that allowed local school boards to reimburse parents for the cost of school transportation regardless of whether their children attended a public school or a private school. In Ewing Township, Catholic schools comprised 96% of the benefiting private institutions, so taxpayer Arch R. Everson sued the Township's Board of Education, claiming that the law endorsed aid to religious organizations in violation of the state's Constitution as well as the Establishment Clause of the First Amendment. Everson lost his case in the state courts, so he appealed to the U.S. Supreme Court on constitutional grounds. In a

5-4 decision, the Supreme Court found that the New Jersey law did not violate the Establishment Clause since it did not stipulate payment to parochial schools nor directly aid them in any other manner. Rather, the court concluded that the law helped all parents secure school transportation for their children, regardless of religious affiliation.²⁶

A second Supreme Court decision concerned with public funding for parochial education was *Locke v. Davey* (2004). This case arose when Joshua Davey was unable to use his Washington State Promise Scholarship, awarded to talented students pursuing college education, because he wanted to study pastoral ministries and Washington's state Constitution barred public funding of religious education intended to "cause belief." Davey sued the state's governor, Gary Locke, on the grounds that this constitutional ban violated his right to free exercise of religion under the First Amendment of the U.S. Constitution. U.S. District Court dismissed his suit, but then the Ninth Circuit Court of Appeals reversed this dismissal, holding that Davey's right to free exercise of religion was in fact violated. Ruling 7-2, the Supreme Court decided that the scholarship program did not violate free exercise, but rather that Washington "'merely chos[e] not to fund a distinct category of instruction.'" The court also ruled that Washington's state Constitution did not violate free exercise, either. They found no discrimination against religious groups, only historical precedent of excluding religious institutions from public funding.²⁷

The issue of public funding for parochial education rose again recently with *Espinoza v. Montana Department of Revenue*. In 2015, Montana's state legislature created a tax-credit scholarship program with the stipulation that recipients were not allowed to put their scholarships towards religious schools because Montana's state Constitution barred public funding of religious education. Low-income families who applied for scholarships so that their children might continue attending a Christian school challenged this caveat in state court. The court ruled that the program did not need to exclude religious schools to be legal, but Montana's Department of Revenue appealed the decision. The state's Supreme Court concurred and reversed the lower court's ruling. In a 5-4 decision, the U.S. Supreme Court decreed that in this case, Montana's constitutional ban on funding for religious education amounted to religious discrimination because it barred families from public benefits exclusively

on religious grounds, violating the Free Exercise Clause. By extension, they ruled, Montana's Supreme Court lacked cause to reject the lawsuit using the "no-aid" provision.²⁸

A closely related case, *Carson v. Makin*, emerged in 2022. The state of Maine uses local school administrative units (SAUs) to make sure that all children in the state can obtain a free education. SAUs that do not run their own public secondary school must either contract with an existing one or pay students' tuition at a secondary school to which they are accepted. These schools must be public institutions or "approved" private ones. To be "approved," a private school must be accredited and not be affiliated with a religious group. Several families who wanted to enroll their children in accredited, but religiously affiliated private schools filed a lawsuit in federal court claiming that the "nonsectarian" component of the SAU program's guidelines violated the Constitution's Religion and Equal Protection Clauses. The district court sided with the state, and the U.S. Court of Appeals for the First Circuit agreed. However, ruling 6-3, the Supreme Court held that these guidelines did in fact violate the Free Exercise Clause. They cited two cases as precedent. First, under *Trinity Lutheran Church of Columbia, Inc. v. Comer* (2017), discriminating in the allocation of public benefits solely for religious reasons went against the Free Exercise Clause. Second, under *Espinoza*, state Constitutions withholding government aid from religious education violated the Free Exercise Clause by barring the use of "otherwise available" scholarship funds at religious schools. On these grounds, the Supreme Court concluded, it was unconstitutional for Maine to only support certain private schools exclusively on the basis of religion.²⁹

Of these four cases, Rhode Island newspaper coverage was most extensive for *Espinoza*, and national press was most substantial for *Espinoza* and *Carson*. Reports on *Espinoza* began prior to its hearing. In a December 24, 2019 *New York Times* article, columnist Adam Liptak reviewed the forthcoming case. He explained that the issue was whether states can sufficiently separate themselves from religious activity so as to deny religious groups government benefits. The First Amendment's Free Exercise Clause, he emphasized, was key to answering this question. Citing *Trinity* and *Locke v. Davey* as precedent, Liptak opined that *Espinoza* fell between the two, concerned with religious education and

school choice, but not government aid for "vocational" religious education.³⁰

Once the Supreme Court ruled on the case, columnists considered its implications at the national and state levels. The August 14, 2020 *Providence Journal* included an article written by the Pioneer Institute's Charles Cieppo and Jamie Gass contending that *Espinoza* marked a return to the Founders' vision of "pluralistic" K-12 education threatened by the "bigoted," anti-Catholic 19th-century Blaine Amendments, which sought to prevent parochial schools from receiving public funding. Pointing out that wealthy families achieve school choice by sending their children to private schools or moving to districts with esteemed public schools, they emphasized how tax-credit scholarships gave 300,000 impoverished and minority children across 18 states the same opportunity.³¹ Cieppo and Gass also theorized about *Espinoza's* impact at the state level. In a December 11, 2020 *Providence Journal* article, they reported that it enabled Massachusetts to support education tax credits at no cost to taxpayers, allowing more children to attend the state's Catholic schools. They explained how these schools are similar to the state's public schools demographically, but outperform them while spending less.³²

More recently, columnists have applied *Espinoza* as well as *Carson* to related legal issues in various states, including Wyoming, Oklahoma, and North Dakota. On September 14, 2022, *Rawlins Times* reporter Jasmine Hall explained how it was unclear whether a statewide school choice program in Wyoming violated the state's constitutional ban on public funding of religious education. Hall cited *Espinoza* and *Carson* as precedent suggesting that families who use school choice can send their children to religiously affiliated schools.³³ Plus, in a December 6, 2022 article, *Bartlesville Examiner-Enterprise* columnist Jana Hayes reported on whether an Oklahoma law preventing religious groups from running public charter schools violated the First Amendment. Similar to Hall, she cited *Espinoza* and *Carson* as precedent for faith-based charter schools.³⁴ On February 23, 2023, the *Grand Forks Herald* reported on a related case. Writer Ingrid Harbo described debates over whether a school voucher bill approved by North Dakota's House of Representatives to create a tuition remission program for children in private schools violated the state's Constitution, which stipulated that publicly funded schools must be under state jurisdiction and public funds

cannot be used for religious schools. Advocates believed that these stipulations were unconstitutional on the basis of *Espinoza* and *Carson*.³⁵

While federal control over American education is restricted, there are a number of federal public laws relevant to K-12 education as well as a series of U.S. Supreme Court decisions concerning public funding for parochial grade schooling in relation to the First Amendment's Free Exercise and Establishment Clauses. The laws include the Smith-Hughes Act, NEA, ESEA, IASA, the Education Excellence Act for All Children, NCLB, and ARRA, and the court cases include *Everson*, *Locke*, *Espinoza*, and *Carson*. Rhode Island newspaper coverage of ESEA, NCLB, and ARRA demonstrates how these laws impacted funding and school choice in the state, and Rhode Island press coverage of *Espinoza* and nationwide newspaper reports on *Espinoza* and *Carson* illustrate these court decisions' bearings on public funding for parochial education at the state and national levels. These laws and court cases, as well as their newspaper coverage, thus provide the legal and judicial history of school choice and funding that is central to a study of whether and how Rhode Island can incorporate parochial schools into its statewide school choice program.

Rhode Island

Title 16 of Rhode Island's General Laws contains the state's education legislation. The major areas covered include charter schools, public school funding, and public school performance standards. The Charter Public School Act of Rhode Island, composed of Chapters 16-77 and 16-77.1 through 16-77.4, is the state's most comprehensive charter school legislation.³⁶ Explaining that charter schools are more autonomous than traditional public schools with the tradeoff of more accountability, the Act states that charters facilitate innovative learning, encourage community involvement, and yield enhanced student performances. The legislation distinguishes charter schools from parochial and other private schools by classifying them as public for legal and regulatory purposes. It also decrees that parochial and other private schools cannot be charter schools and that charter schools cannot be religiously affiliated.³⁷ Additionally, these laws define different types of charter schools and stipulate the guidelines for establishing them, treating district charter schools, independent charter schools, and mayoral academies in turn. District charter schools are

defined as schools created by existing public school systems, independent charter schools are defined as schools created by nonprofit organizations or institutions of higher education, and mayoral academies are defined as schools created by a town or city's mayor with a nonprofit's support.³⁸ The legislation also stipulates that a school's charter can be revoked if it fails to meet its educational objectives or practice fiscal accountability.³⁹ Moreover, the Act establishes that charter school funding is to be shared between the state and pertinent school districts. It directs additional funding towards children who qualify for free or reduced-cost lunch, children with limited English skills, and special education students.⁴⁰ Lastly, the Act institutes a cap on the number of charter schools in the state, 35 in total. Half of these must serve at-risk youth.⁴¹

Title 16 also details funding guidelines for public schools. The legislation proclaims that the state's education funding system purports to close gaps in resources and academic performance among students irrespective of race, socio-economic background, or gender. For this reason, more funding is allocated to urban schools than non-urban schools.⁴² The system also aims to ease taxpayers' share of the financial burden, allowing school districts to accept monetary aid from public or private individuals, businesses, and government entities.⁴³ In addition, the General Laws lay out the categories of educational need that are state-funded as well as how the state calculates the aid that each district receives.⁴⁴

Public school performance standards are a third area of focus in Title 16. The Title gives the state's Board of Education the authority to create a system for evaluating public schools' performances annually to address gaps among different demographics.⁴⁵ Plus, it decrees that districts need to establish plans to meet statewide performance standards and benchmarks in order to receive state funding. In the event that schools do not meet these standards, the legislation requires state intervention.⁴⁶ Subchapters outline strategies for supporting Providence public schools and public middle schools statewide.⁴⁷

Overall, Title 16 of Rhode Island's General Laws provides legal guidelines for charter schools, public school funding, and public school performance standards. These laws are relevant to a study of how Rhode Island can incorporate parochial schools into school choice by laying out the parameters that govern how other

education systems in the state operate and receive government funding. There is less legislation related to parochial schools and other private schools, save for an Act which outlines their authority to grant degrees,

explains the grounds and process for revoking their approved status, and stipulates that they must register with the state and make an annual report to the Board of Regents.⁴⁸

ENDNOTES

- ¹ U.S. Constitution, amend. 1.
- ² The Smith-Hughes Act of 1917, Pub. L. No. 347 § 114 Stat. 703 (1917). [URL](#).
- ³ The National Defense Education Act of 1958, Pub. L. No. 85-864 § 101-1000 Stat. 72 (1958). [URL](#).
- ⁴ Ballotpedia, "National Defense Education Act (NDEA)," Ballotpedia, accessed March 24, 2023, [URL](#).
- ⁵ The Elementary and Secondary Education Act of 1965, Pub. L. No. 89-10 § 201, 301, 501 Stat. 79 (1965). [URL](#).
- ⁶ Ballotpedia, "Elementary and Secondary Education Act of 1965," Ballotpedia, accessed March 24, 2023, [URL](#).
- ⁷ The Improving America's Schools Act of 1994, Pub. L. No. 103-382 § 101, 522, 523, 525 Stat. 3518 (1994). [URL](#); EdWeek, "Summary of the Improving America's School Act," EdWeek, accessed March 24, 2023, [URL](#).
- ⁸ DigitalCommons@UNO, "Educational Excellence for All Children Act of 1999," DigitalCommons@UNO, accessed March 24, 2023, [URL](#).
- ⁹ The Education Excellence Act for All Children of 1999, H.R. 1960, 106th Cong. (1999). [URL](#).
- ¹⁰ DigitalCommons@UNO, "Educational Excellence for All Children Act of 1999."
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APPENDIX C – HISTORIOGRAPHICAL ESSAY

The historiographies of K-12 education in Rhode Island, the U.S. charter school movement, and faith-based community social services in the U.S. all provide critical context for the policy issue of parochial school inclusion in Rhode Island's school choice program. The body of historical scholarship on K-12 education in Rhode Island is substantial. In the late 19th century, historians and other professionals began contributing to this topic. Some focused on public schools' state of affairs and reforms or tensions resulting from the rise of parochial schools; others treated education more broadly in the context of sweeping state histories. All helped highlight the leaders, groups, institutions, initiatives, legislation, and other factors that shaped education in the state. The historiography of the U.S. charter school movement is much smaller, dominated by 21st-century studies of the movement's origins, evolution, and outcomes. The body of historical scholarship on faith-based community social services in the U.S. is comprehensive and dates back to the late 20th century. Major areas of focus include historical precedent for religious providers in the modern U.S., comparisons between secular and sectarian organizations, and legal and judicial parameters affecting faith-based groups.

Some scholars devoted attention to the history of Rhode Island's public schools. One late 19th century effort was *A History of Public Education in Rhode Island, From 1636 to 1876*. It was compiled by the Rhode Island State Board of Education and edited by the state's Public School Commissioner, Thomas B. Stockwell. The Board assembled a comprehensive record of the state's educational history. They examined the origin and evolution of Rhode Island's public school systems, taking an in-depth look at education in each city and town. They also covered the history of the state's academies.¹ Another such effort was "Who Stayed in School? Social Structure and Academic Achievement in the Determination of Enrollment Patterns, Providence, Rhode Island, 1880-1925" by Joel Perlmann, Levy Institute Research Professor at Bard College. Looking at children's lived educational experiences, Perlmann examined the relationship between father's occupation, enrollment rates, GPA, and graduation rates among Providence students in the late 19th and early 20th centuries, and weighed whether academic ability or social

status had a greater effect on a child's school experience. He was also concerned with examining whether schools' structures rewarded students on the basis of merit. Perlmann concluded that previous scholarship overstated the relationship between social status and the length of time that a child remained in school and overlooked the role of a child's individual characteristics when evaluating academic achievement.²

Other scholars writing on the history of Rhode Island's public schools focused on reform efforts. In "Francis Wayland: Political Economist as Educator," Theodore R. Crane, Professor of History at the University of Denver, detailed the Brown University president's early 19th century proposal for improvements to the Providence public school system. Crane insisted that a more in-depth understanding of Wayland's Christian moralist values of democracy, progress, and *laissez-faire* economics was necessary to fully appreciate his ideas.³ Another contribution was "The 'Working Class' and Educational Reform in Early America: The Case of Providence, Rhode Island" by William G. Shade, Director Emeritus of American Studies at LeHigh University. Shade argued that the Providence Association of Mechanics and Manufacturers (PAMM) played a key role in making public education in the state free in the early 19th century. He emphasized the significance of their activity from a socio-political and economic angle.⁴ In addition, Lawrence Grossman, former Director of Publications for the American Jewish Committee, evaluated Rhode Island educational reform in the context of race. He recounted the long, hard-fought battle for integrated schools in "George T. Downing and the Desegregation of Rhode Island Public Schools, 1855-1866." Grossman argued that while the shift in attitudes on race facilitated by the Civil War dealt the final blow to the state's segregated schools, Downing's years of advocacy laid the foundation for this success.⁵ In a complementary study titled "Developing an *Esprit de Corps*: Efforts to Reform the Teaching Profession in Rhode Island, 1870-1900," Brown University Ph.D. student David A. Farbman detailed how profound changes in attitudes among state education administrators significantly improved the quality of education. He cited the creation of the State Normal School, which enhanced teacher training, as a key development. Thanks to the Normal School, he argued, more dedicated and committed individuals became teachers, which led to less turnover. Farbman also considered the implications of teaching becoming an

increasingly female profession in Rhode Island over time.⁶ A final contribution to the educational reform theme was historical research consultant Patrick Harshbarger's "The Providence School Board Reform Movement, 1898-1924." Harshbarger challenged historians who posited that early 20th-century administrative progressives sought to restructure school boards to shut out workers and immigrants. He contended that the case of Providence indicates that the situation cannot be understood solely in terms of class conflict, but was much more nuanced. He cited a perceived need to ensure children's success as well as to preserve democracy and morality.⁷

The last major area of scholarly focus on the subject of Rhode Island's K-12 educational history is the rise of parochial schools and their tensions with public schools. Many scholars highlighted the advent of Catholic schools in the state. In "The Growth of a Catholic Educational System in Providence and the Protestant Reaction, 1848-1876," Professor of Law at Arizona State University David Gartner considered how Catholic education in Providence evolved over three decades in the mid-19th century. He underscored the tense, competitive relationship between the city's public and Catholic schools and their respective proponents. Gartner demonstrated how the public schools' Protestant ideology spurred a Catholic movement for educational autonomy that grew stronger as increasing numbers of Catholic immigrants came to Rhode Island. He also presented the debate over whether parochial schools can receive public funding, an issue that Erik J. Chaput, Professor of History at Providence College, later addressed in a pair of articles.⁸ In the first article, "Diversity and Independence in the Educational Marketplace: The Rhode Island CEF and the 1968 Tuition-Grant Debate," Chaput explored the Citizens for Educational Freedom's proposed tuition-grant bill of 1968, which centered on the legality of extending state aid to Rhode Island's parochial schools. He emphasized how the debate was ideological, considering the extent to which religious freedom depends on less-than-complete separation between church and state.⁹ And in the second, "Battle over the Books in Rhode Island: The Case of *Bowerman v. O'Connor*," he evaluated a Rhode Island Supreme Court case concerning the constitutionality of loaning public school textbooks to Catholic school students free of charge. Chaput considered both sides' arguments as well as similar cases such as *Cochran v. Board of Education* (1930) and *Everson v. Board of*

Education of Ewing (1947). He also emphasized how debates over public funding of parochial school expenses continued into the 21st century.¹⁰

Other books and articles about the history of public-parochial school tensions in Rhode Island focused on Jewish schools. One such effort was "Jewish Schools and Teachers in Metropolitan Providence: The First Century" by Beryl Segal, a member of the Rhode Island Jewish Historical Association. Segal provided a comprehensive overview of Providence area Jewish schools from their inception in the middle of the 19th century up through the middle of the 20th century. He claimed that the schools all worked towards similar goals, but lacked unity and coordination.¹¹ Another such effort was "The Bureau of Jewish Education of Rhode Island: The Early Years" by Geraldine S. Foster, president of the Rhode Island Jewish Historical Association and the state's Bureau of Jewish Education. To commemorate the Bureau's 40th anniversary, Foster reflected on its major milestones. She evaluated how the Bureau enhanced the prestige and effectiveness of Rhode Island's Jewish schools, illuminating how the schools attracted students and thus became a popular alternative to public schools. She also analyzed how Jewish leaders navigated Rhode Island's educational landscape, emphasizing their tense relationship with public school leaders.¹²

Lastly, some scholarly books and articles, while not exclusively focused on the history of K-12 education in Rhode Island, offered overviews of the state's larger history. William G. McLoughlin, Professor of History at Brown University, touched upon everything from the advent of free public education to racial segregation in public schools and the rise of Catholic schools in his sweeping volume, *Rhode Island: A History*. Dividing the state's history into six major eras, McLoughlin interwove those educational milestones with major socio-political and economic events to form a general narrative.¹³ Charles Carroll, a Harvard Law graduate who also received a Ph.D. in education from Brown University, likewise surveyed the state's notable developments in "Six Decades in These Plantations." He examined the period from 1870 to 1930, placing issues such as illiteracy, school funding, and attendance laws as well as teacher certification, pensions, and training into broader historical context. Similar to McLoughlin, he touched on themes such as transportation, immigration, and political strife in addition to education.¹⁴ In *Ballots and Bibles: Ethnic Politics and the Catholic Church in Providence*,

which explored the Catholic experience in Providence in the late 19th and early 20th centuries, Evelyn Sterne, Professor of History at the University of Rhode Island, detailed tensions between public and parochial schools from the Catholic perspective as well as the significance of the Peck and Smith-Towner Acts. She emphasized the struggle between public schools and parochial schools as places where American values were formulated as especially critical.¹⁵

Though there is much less historical scholarship on the U.S. charter school movement, scholars nonetheless provided key insight into the movement's origins and expansion. In *Public Policy: Continuity and Change*, Professor of Political Science and Public Administration at Northern Michigan University, Carter A. Wilson introduced the idea of school choice and defined concepts like charter schools and vouchers. He explained who was in favor of these educational innovations and who opposed them, as well as the reasoning behind supporters' and detractors' respective positions.¹⁶ Also, in "Choosing 'Choice': George Bush and Federal Aid to Nonpublic Schools," Lawrence McAndrews, Associate Professor of History at St. Norbert College, recounted how economic and political issues hindered President George H.W. Bush's advocacy for federal aid to nonpublic schools and thus prolonged these schools' exclusion from school choice. He contended that Bush's struggles demonstrate this policy's status as a major issue in American education and reveal how federal partisanship prevented its resolution.¹⁷ A third effort was "Charter School Policy, Implementation, and Diffusion Across the United States" by Linda A. Renzulli, Professor of Sociology at Purdue University, and Vincent J. Roscigno, Professor of Sociology at the Ohio State University. Evaluating how intrastate attributes and interstate dynamics shaped how states enacted charter school legislation and established charter schools, Renzulli and Roscigno believed that the factors behind charter school expansion nationwide shed light on how innovation drives changes in education policy.¹⁸ A final contribution to this topic area was "The Elementary and Secondary Education Act at Fifty: Aspirations, Effects, and Limitations" by David A. Gamson, Associate Professor of Education at the Pennsylvania State University, Kathryn A. McDermott, Professor of Education and Public Policy at the University of Massachusetts, Amherst, and Douglas S. Reed, Associate Professor of Government at Georgetown University. The authors reviewed the ideals and assumptions about

government and education that determined the course and evolution of the Elementary and Secondary Education Act of 1965 (ESEA), highlighting key ESEA reauthorizations that involved charters.¹⁹

Other scholars focused on the outcomes of the charter school movement. In "Profits and Principles," Professor of Education at New York University Diane Ravitch argued that 21st-century federal education policies that supported charter schools like No Child Left Behind (NCLB) and Race to the Top adversely impacted traditional public schools. She contended that while charter school champions claimed that school choice provided disadvantaged students with an alternative to inadequate public schools, studies gave no clear indication that this claim was true.²⁰ However, "Sociology and School Choice: What We Know After Two Decades of Charter Schools" by Professor of Sociology at the University of Notre Dame Mark Berends challenged Ravitch's assertion. Berends examined studies on school choice conducted from the mid-2000s through the mid-2010s, demonstrating how while these studies revealed mixed results when it came to academic achievement, they showed positive results when it came to high school graduation and college enrollment rates.²¹

The third area of historiography necessary to contextualize parochial school inclusion in school choice in Rhode Island is that of faith-based community social services in the U.S. Some scholars examined historical precedent for contemporary religious social service providers. For instance, Professor of Public Administration at the University of Central Florida, Dorothy Norris-Tirrell published an article titled "The Changing Role of Private, Nonprofit Organizations in the Development and Delivery of Human Services in the United States." She reviewed the historical roots of nonprofit social service organizations in the U.S., emphasizing how agencies established by Protestants, Catholics, and other religious groups accounted for the majority of the nation's earliest providers. Norris-Tirrell contended that this context was critical to understanding the far-reaching impact that nonprofit social service organizations had in the early 21st century.²² Additionally, Lew Daly, Senior Fellow at Demos: A Network for Ideas & Action, wrote an essay titled *European Dream: The Political Theology of George W. Bush's Faith-Based Initiative*. Reviewing President George W. Bush's faith-based initiative that facilitated federal funding for religious organizations, Daly treated the history of federal

aid to such groups in the U.S. He highlighted developments such as the expansion of welfare in the 1960s and the “charitable choice” provisions of the Personal Responsibility and Work Opportunity Act of 1996.²³ Similarly, in “Purchasing Faith-Based Social Services: Constitutional, Philosophical, and Practical Challenges,” Professor of Social Work at Yeshiva University, Margaret Gibelman claimed that Bush’s faith-based initiative “redefine[d] and redirect[ed]” the long-standing relationship between church, state, and welfare in the U.S. Gibelman cited a long history of welfare “service agreements” from the end of the 19th century through the end of the 20th century, revealing how the federal government consistently partnered with faith-based organizations.²⁴ Lastly, in “Public and Private Partnerships: Accounting for the New Religion,” Harvard Law School Professor Martha Minow used historical context to answer the question, “what happens to the scope and content of public values when public commitments proceed through private agents?” Minow found that Bush’s faith-based initiative and other 21st-century policies in favor of private social service providers like faith-based groups yielded both continuity and change in the tradition of privatization dating back to the early 1800s, when religious organizations helped address social issues related to mistreated children, prisoners, and mental illness.²⁵

Other scholars compared faith-based social service providers with their secular counterparts. Helen Rose Ebaugh, Professor of Sociology at the University of Houston, Paula F. Pipes, Project Director of the Coalition Ministries and Congregations Project at the University of Houston, Janet S. Saltzman, Professor of Sociology at the University of Houston, and Martha Daniels, Development Coordinator with the Harris County Department of Education, published an essay titled “Where’s the Religion? Distinguishing Faith-Based from Secular Social Service Agencies.” The authors defined the term “faith-based agency” and delineated how such an agency differed from a secular one. They found significant disparities between faith-based and secular groups in terms of funding sources, decision-making processes, organizational makeup, and staff demographics.²⁶ Furthermore, David A. Reingold, Professor of Sociology at Purdue University, Maureen Pirog, Professor of Policy Analysis at Indiana University—Bloomington, and David Brady, Professor of Sociology and Public Policy at Duke University evaluated the characteristics of people who

utilized aid from faith-based groups in “Empirical Evidence on Faith-Based Organizations in an Era of Welfare Reform.” They discovered that faith-based groups were more likely to aid the most in-need clients than their non-religious counterparts and that these social service providers were subject to tighter “service eligibility criteria” than secular providers.²⁷

The last major area of scholarly focus on the subject of faith-based community social services in the U.S. is the legal and judicial framework in which they operate. In “Government Aid to Religious Social Services Providers: The Supreme Court’s ‘Pervasively Sectarian’ Standard,” legal scholar Timothy S. Burgett examined the late-20th-century separability standard, which permitted aid to such organizations so long as they did not use it for religious purposes. Burgett contended that the distinctions between religious and non-religious activity that the standard required were unclear and thus resulted in an unconstitutional stipulation on religious organizations’ eligibility for funding in violation of Free Exercise.²⁸ Moreover, in “Faith-Based Providers Partnering with Government: Opportunity and Temptation,” Abigail Lawlis Kuzma, executive director and president of Mapleton-Fall Creek Legal Clinic, analyzed major legal and judicial challenges facing faith-based social service organizations. She considered historical and contemporary understandings of the Establishment and Free Exercise Clauses as well as free speech as they related to religious groups, advocating for interpretations of these clauses that respected faith-based social service providers’ constitutional rights.²⁹ A final contribution to this topic area was legal scholars Elbert Lin, Jon D. Michaels, Rajesh Nayak, Katherine Tang Newberger, Nikhil Shanbhag, and Jake Sullivan’s “Faith in the Courts? The Legal and Political Future of Federally-Funded Faith-Based Initiatives.” The authors explained how President Bush’s policies favoring increased federal funding to faith-based social service organizations might yield three potential challenges: an Establishment Clause challenge, a free speech challenge, and a “statutory-based anti-discrimination” challenge.³⁰

A study of whether Rhode Island’s parochial schools ought to be included in the state’s school choice program builds upon these existing historiographies by weaving their major threads more closely together. Such an investigation requires an understanding of the history behind the state’s public-parochial school tensions as well as the history behind the schools themselves. Insights into

public school reforms that were previously effective or ineffective are helpful, too. Knowledge of the U.S. charter school movement's origins, evolution, and outcomes is also critical, as are evaluations of historical precedent for faith-based social service providers in the modern U.S., analyses of how they differ from their secular counterparts, and insights into the legal and judicial

parameters that shape their operations. Though there is scarce historical scholarship on parochial school reform efforts, and no scholarship on the history of Rhode Island's charter schools, specifically, this historiographic discussion nonetheless provides a rich starting point.

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