

Vermont discriminates against students of religious high schools, lawsuit claims

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Kristen K. Waggoner (C), a senior vice president with the conservative Christian organization Alliance Defending Freedom (ADF), reads the Supreme Court ruling on a California abortion issue outside the Supreme Court. (Photo: JIM LO SCALZO, EPA-EFE)

A group of Rice Memorial High School students, backed by one of the country's most influential conservative Christian legal nonprofits, accused Vermont education officials of religious discrimination in a federal lawsuit filed Tuesday.

The students are being represented by lawyers from the Alliance Defending Freedom, "an alliance-building legal ministry" that advocates for "for religious liberty, the sanctity of life, and marriage and family," according to their website. (<https://www.adflegal.org/>)

Their lawyers are behind (https://www.washingtonpost.com/lifestyle/style/inside-the-christian-legal-powerhouse-that-keeps-winning-at-the-supreme-court/2018/07/04/ffa6aa0-7adb-11e8-93cc-6d3becdd7a3_story.html?utm_term=.c0fe216316ff), some recent high-profile, controversial Supreme Court cases, including ([/story/news/nation/2014/06/30/hobby-lobby-excerpts-ruling-dissent/11790835/](https://www.washingtonpost.com/news/nation/wp/2014/06/30/hobby-lobby-excerpts-ruling-dissent/11790835/)) *Burwell v. Hobby Lobby*, ([/story/news/nation/2014/06/30/hobby-lobby-excerpts-ruling-dissent/11790835/](https://www.washingtonpost.com/news/nation/wp/2014/06/30/hobby-lobby-excerpts-ruling-dissent/11790835/)), which allowed companies to opt out of covering contraception for employees based on religious beliefs.

More: Ex-Rice High School teacher admits to upskirting student, gives up Vermont teaching license ([/story/news/local/2019/01/29/ex-teacher-admits-upskirting-student-gives-up-vermont-teaching-license/](https://www.washingtonpost.com/news/local/wp/2019/01/29/ex-teacher-admits-upskirting-student-gives-up-vermont-teaching-license/2019/01/29/ex-teacher-admits-upskirting-student-gives-up-vermont-teaching-license/))

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They were also the chief attorneys representing the Colorado baker (/story/news/politics/2018/06/04/supreme-court-rules-against-gay-wedding-exemptions/1052989001/), who refused to create a wedding cake for a same-sex couple.



Rice Memorial High School in Burlington seen on Sept. 29, 2015. (Photo: HALEY DOVER/ FREE PRESS)

The students—two juniors and a sophomore who were identified only by initials in the court papers—said they wished to take college classes under Vermont’s Dual Enrollment program, but were excluded because they attend a Catholic high school.

The parents of the students, Christopher and Jill Messineo of Georgia and Russell and Selena Senesac of Fairfax, are also plaintiffs in the lawsuit, as is the Diocese of Burlington.

At a news conference in Montpelier Tuesday, Vermont Secretary of Education Dan French, who was named as a defendant declined to comment.

Eligible high school students can take college classes on the state's dime under the 2013 initiative.

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Under Vermont law, home-schooled and public school students can take advantage. So can private school students, if the school is an approved independent school "to which the student's district of residence pays publicly funded tuition on behalf of the student."

But in 1999, the Vermont Supreme Court ruled that using public dollars to pay tuition to private religious schools violates the religious freedom clause of the state constitution.



Vermont Secretary of Education Dan French, left, and Gov. Phil Scott answer questions from journalists at a news conference at the Statehouse in Montpelier on Jan. 30, 2019. (Photo: APRIL MCCULLUM/FREE PRESS)

That means students at religious high schools like Rice Memorial, a Catholic school in South Burlington, lose the opportunity to participate in the program; this stipulation violates their civil liberties, the students' lawyers argued.

"The State is penalizing parents for exercising their constitutionally protected right to choose a religious education for their children, and is discriminating against the faith-based schools they choose," their lawyers wrote.

French said he was unaware of the number of schools in Vermont excluded from the program.

"I'm not fully familiar with it," he said about the Dual Enrollment program.

Free Press staff writer April McCullum contributed to this report.

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