



God, Schools, and Government Funding: First Amendment Conundrums

Laurence H. Winer, Nina J. Crimm

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In recent years, a conservative majority of the U.S. Supreme Court, over vigorous dissents, has developed circumventions to the Establishment Clause of the First Amendment that allow state legislatures unabashedly to use public tax dollars increasingly to aid private elementary and secondary education. This expansive and innovative legislation provides considerable governmental funds to support parochial schools and other religiously-affiliated education providers. That political response to the perceived declining quality of traditional public schools and the vigorous school choice movement for alternative educational opportunities provokes passionate constitutional controversy. Yet, the Court's recent decision in *Arizona Christian School Tuition Organization v. Winn* inappropriately denies taxpayers recourse to challenge these proliferating tax funding schemes in federal courts. Professors Winer and Crimm clearly elucidate the complex and controversial policy, legal, and constitutional issues involved in using tax expenditures - mechanisms such as exclusions, deductions, and credits that economically function as government subsidies - to finance private, religious schooling. The authors argue that legislatures must take great care in structuring such programs and set forth various proposals to ameliorate the highly troubling dissention and divisiveness generated by state aid for religious education.



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