



What Every Parent Should Know about the EAD

The ecclesiastical abstention doctrine (EAD) guides courts in deciding First Amendment, religious matters. While historically the EAD has been raised in cases relating to claims of wrongful termination, in recent years religious schools facing lawsuits involving allegations of child harm have pushed courts to interpret the EAD very broadly to [get cases dismissed](#). In one case, a school [was permitted](#) to ignore its own legal contracts with parents and the emotional harm suffered by a child never came to light.

Given these legal precedents, parents of children who have been harmed by private institutions could lose their right to seek relief in court, while the institutions might never be held accountable.

Parents and guardians across Texas and throughout the United States who have children enrolled in private, faith-based schools or are considering enrolling them should be aware of the potential harm posed by the EAD and ask themselves these 5 questions:

1. Could the institution my child is enrolled in (or might be enrolled in) claim to be faith-based?

Some private schools have stretched the meaning of “faith-based” as a way to be shielded by the EAD in court. Even if an institution seems to operate in a way that appears secular, as long as a facility, school, program, or daycare operation can claim that it has some sort of faith-based or spiritual component, it could convince a court that it should be protected by the EAD and cannot be sued for child abuse or neglect.

2. Have I read the school’s contract carefully? Many schools specify in their contracts how legal issues must be resolved. For example, some require parents to agree to mediation. It’s important to know what legal recourses you’re agreeing to. However, be aware that if a case goes to court, the EAD does have the potential to make contracts of religious schools moot.

3. Does the institution have effective child-abuse prevent policies in place? Ask to see a school’s abuse-prevention policies and procedures. Those that take abuse seriously and proactively develop and enforce comprehensive abuse-prevention policies are usually open to making these policies available and may even post them on their websites.

4. Does the school have a history of facing abuse allegations? Conduct an online search using the name of the institution and words such as *lawsuit*, *sued*, and *abuse* to see if it has been accused of abuse or of covering up cases in the past. Be extremely wary if you find a pattern of abuse allegations, even if you do not find information about final court decisions.

5. Have I explored the educational programs of secular private or public schools? Children can receive a high-quality education and experience at many different types of schools. Consider the offerings of private secular schools or public schools.

To learn more about the Child-Friendly Faith Project, please visit ChildFriendlyFaith.org.