

Harvard University Debate Highlights Likelihood of U.S. Supreme Court Ruling Allowing Religious Charter Schools

CAMBRIDGE, MA, UNITED STATES, September 16, 2024

[/EINPresswire.com/](https://EINPresswire.com/) -- During a panel discussion and debate at Harvard University's Kennedy School of Government, Dr. William Jaynes presented legal and logical evidence from court cases over the last 60+ years that he asserts suggest that the U.S. Supreme court will likely eventually rule that religious charter schools are constitutional. Although Dr. Jaynes did not give a precise timeline regarding when such a ruling might take place, the other two academics on the panel agreed with Professor's Jaynes prediction, one of whom was a well-seasoned Harvard law Professor.



William Jaynes, Professor

Dr. Jaynes, a Harvard graduate, professor at California State University at Long Beach, and a Senior Fellow at the Witherspoon Institute in Princeton, New Jersey asserted that several developments in recent court cases over the last number of years have contributed to the eventual likelihood of religious charter schools. Moreover, Jaynes states that Bill Clinton's speech in 1995 in Vienna, Virginia stating that past U.S. Supreme Court decisions regarding faith were misinterpreted has also played an important role in the probable development of religious charter schools.

Professor Jaynes shared that, "The Carson v. Makim (2022) case, based in Maine, played a major role in increasing the momentum for religious charter schools. In that case, the state of Maine had provided vouchers for a good number of parents who desired to send their children to non-religious private schools. In contrast, however, Maine's government did not provide these vouchers for parents who wished to send their children to religious private schools. In a decision penned by Chief Justice Roberts, the U.S. Supreme Court voted 6-3 that the Maine voucher program was unconstitutional, because it discriminated against faith-based schools. This did not launch the momentum to rule in favor of religious charter schools, but it built on earlier debates and statements from earlier cases including Justice Stephen Breyer's question in the Espinosa vs. Montana Department of Revenue (2020) case, asking about religious charter schools?"

Dr. Jaynes notes that, "As important as the Carson v. Makim (2022) case is, there remain three issues that the U.S. Supreme Court needs to address in any decision on the constitutionality of

religious charter schools. First, are religious charter schools constitutional? Second, to what degree may state governments impose restrictions on religious private schools that may inhibit their religious freedoms or beliefs? For example, Adam Frey, the Attorney General of Maine, clarified the state of Maine's policy following the *Carson v. Makim* (2022) decision. Frey declared that in order for any private school to participate in the voucher program, it had to agree to follow Maine's Human Rights Act. The question that the U.S. Supreme Court needs to answer is to what extent may states initiate such actions? How far is it legally permissible for them to go? Where does one draw the line?"

"The third issue that the U.S. Supreme Court must address," continues William Jaynes, "is that it needs to determine whether those who run charter schools are state or private actors. This is because the vast majority of people who run charter schools are private groups. However, they are defined by law as public schools and are supported by tax-payer dollars. If the Court rules that those who operate the charter schools are state actors, then because they must be non-sectarian, religious charter schools will be ruled unconstitutional. However, if the Court rules that charter schools are private actors, then religious charter schools will be ruled constitutional."

"How the U.S. Supreme Court decides on this issue of whether those who run charter schools are state or private actors," Jaynes asserts, "will ultimately decide whether religious charter schools are ruled as constitutional. However, the problem is that determining whether those who run charter schools are state or private actors will not be easy. This is because the courts have often disagreed with each other in their conclusions. For example, the Ninth Circuit Court of Appeals in 2010 (in *Caviness v. Horizon Community Learning Center*), determined that charter schools were private actors when it came to firing educators. That is, no state hearings were necessary. The case is likely particularly salient, because it cited a U.S. Supreme Court case, *Rendell-Baker v. Kohn* (1982). This case involved a private school that was very similar to a charter school. It was created to help kids really struggling in school and received about 90% of its funding from the government. The U.S. Supreme Court also found the school to be a private actor in the case of an employee being fired. The Court might view the *Rendell-Baker v. Kohn* (1982) case the pivotal one in terms of helping establish precedent for its eventual decisions on religious charter schools, in part because it is a U.S. Supreme Court case. However, in a 2022 Fourth Circuit Court of Appeals case (*Peltier v. Charter Day School*), regarding school dress codes, the ruling was that those who ran charter schools were state actors.

Dr. Jaynes concludes that first, this private- or state- actor issue will determine whether the U.S. Supreme Court decides that religious character schools are permissible under the U.S. Constitution. Second, he believes that the U.S. Supreme Court will either provide a narrow context for its decision or a broader one. An example of a narrow context would be declaring that religious charter schools are constitutional, but it will be up to the states to determine the degree of implementation. An example of a broader context would be if the U.S. Supreme Court decides that if a state has charter schools, it must at least offer the possibility of having religious charter schools. Whatever the Court decides, it will have a

substantial long-term impact on schools and society.

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