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Summary:

Oral arguments in *Espinoza v. Montana* should become an important precedent for defending a family's right to choose an education consistent with their values, bringing a fairer understanding of what it means to provide equal access to education.

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“Ending a scholarship program which helped families across the state solely to prevent religious schools from benefiting is arguably a violation of the free exercise and equal protection clauses of the U.S. Constitution.”

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Supreme Court *Espinoza* Case Debates Parents' Freedom to Choose Religious Schools

By Miranda Bonifield

When Kendra Espinoza's husband suddenly left their small family, her two daughters' lives were thrown into chaos. Separation is never easy on kids. But on top of all the normal anxieties of the situation, Naomi and Sarah went from homeschooling with a stay-at-home mom to enrollment in the local public school while their mom worked. While this might be a smooth transition for some kids, Naomi was bullied and Sarah struggled in her classes.

Kendra knew it wasn't the right option for them. So, the Montana mother took a second job and pursued every financial avenue she could to send them to a Christian private school. There, her daughters flourished in an environment where Kendra felt they were learning good values.

Tuition became more burdensome when in 2017 Montana ended the tax credit scholarship that helped stabilize Naomi and Sarah's lives. The small program had [allowed Montana taxpayers to deduct up to \\$150 from their taxes when they voluntarily donated](#) to scholarship organizations that helped kids like the Espinozas.

Montana's tax credit scholarships could be used at any school, whether secular or religious, until the Montana Department of Revenue chose to interpret the state's prohibition against aid to religious organizations to include participation in this program. Though a trial court found in favor of families' free exercise, the Montana Supreme Court struck down the entire scholarship tax credit to avoid either benefiting or discriminating against religious schools. On January 22, [the Supreme Court heard oral arguments](#) in the case [Espinoza v. Montana Department of Revenue](#).

Ending a scholarship program which helped families across the state solely to prevent religious schools from benefiting is arguably a violation of the free exercise and equal protection clauses of the U.S. Constitution. Previous Supreme Court cases like [Trinity Lutheran v. Comer](#) (2017) established that a church's status as a religious organization may not be used to deny it benefits from an otherwise secular aid program.



Montana has argued, tenuously, that the precedent set in *Locke v. Davey* allows a state educational funding program to refuse funding explicitly religious options such as pastoral degrees. But even the scholarship program in *Locke* [included religious schools and religious classes](#), drawing the line only at explicitly religious purposes.

Montana's tax credit scholarship, which originally assisted school-aged children to attend any participating private school, could have legally and Constitutionally continued to help Kendra Espinoza and her kids without providing undue support to religious organizations. In fact, [out of 29 states with a total of 62 school choice programs](#), Montana's is the only program which chose to explicitly remove support for religious schools on the *basis* of their religion.

While school choice programs may allow funding to be directed to a variety of schools, the real beneficiaries are the families who can choose schools which help their unique children. The [real beneficiaries](#) are kids like Naomi and Sarah. *Espinoza v. Montana* is less a question about [public funding for private schools](#) and more an issue of equal access to education for American families. While striking down Montana's tax credit scholarship program removed options for *all* children, it disproportionately impacted the children of low-income families for whom private school tuition is at best a major sacrifice and at worst an impossibility.

For moms like Kendra, school choice isn't a distant political ideal. It's an immediate practical reality which means the difference between watching your child struggle through a one-size-fits-all system and choosing a school that can nurture your child's growth. This month's arguments in *Espinoza v. Montana* should become an important precedent for defending a family's right to choose an education consistent with their values, bringing a fairer understanding of what it means to provide equal access to education.

A favorable ruling in *Espinoza v. Montana* could help empower families who otherwise would be unable to attend private schools—a boon both to [public schools which would benefit from increased competition](#) and to students who could thrive with the education that best fits them.

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