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The Supreme Court will hear landmark school choice case next session

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In *Espinoza v. Montana Department of Revenue*, the Montana Supreme Court upheld the state's Blaine Amendment, which prohibits public funding from going to religious schools. The decision was made in December 2018. This morning, the Supreme Court announced it will hear an appeal of the case, and the high court's conservative majority will have an opportunity to set the record straight on school choice.

Previously, Montana had a program that allowed people who donated to a private-school funding organization to receive tax credits, from which both religious and nonreligious private school donors benefited. The Montana Department of Revenue challenged this program, stating it violated the Establishment Clause in Montana's state constitution.

In its decision, the Montana Supreme Court didn't just hurt the religious schools, it ruled that the state's entire school choice program was unconstitutional. Evidently, this issue shouldn't just concern devoutly religious people. It negatively affects any parent who may not want to send all of their children to whatever school the government has chosen for them. In other words, this is bad news for almost everybody.

The Cato Institute, a libertarian think tank, has criticized the Montana Supreme Court's decision, and explained why the Montana's school choice program is perfectly constitutional.

“[I]n the modern world, where government is so involved in giving public benefits like tax credits, it is impossible to maintain a complete wall of separation without discriminating against religion (as Blaine Amendments do), which is not what the Framers intended. Instead, the government must remain neutral toward religion and not disfavor religious people or organizations,” Cato said.

This case is being litigated by the Institute for Justice, which has successfully defended school choice legislation before the Supreme Court twice before. Like Cato, the Institute for Justice is not a religious organization.

Friday morning, the organization issued a press release.

“We hope the Court will clarify that just as the government cannot force families participating in these programs to choose a religious school, the government also cannot ban these families from choosing a religious school. The First Amendment requires government neutrality, not hostility, toward religion.”