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Charter school movement divided over religious Oklahoma proposal

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The Catholic Archdiocese of Oklahoma City has created a schism in the charter school movement with its application for the nation's first openly religious charter school.

Activists and policy experts supportive of charter schools in general are divided over the St. Isidore of Seville Catholic Virtual School application currently under consideration by the Oklahoma charter school board, with a meeting on the subject set for Tuesday.

Charter school advocates have struggled for years to convince skeptics that the privately run, publicly paid-for institutions are equivalent to government-run schools.

“We don't think that you can have a religious charter school in place because charter schools are public schools and public schools cannot teach religion. So right now, as public schools, this is not a door that can be opened,” [Nina Rees](#), president of the National Alliance of Public Charter Schools, told The Hill this week.

While charter schools are publicly funded and have similar rules to follow as government-run public schools, there are other regulations they forgo, such as school board elections.

But those in favor of the Oklahoma application say charters are not directly comparable to public schools.

“Charter schools are called public schools by every state charter school law. I don't deny that,” said Nicole Garnett, a senior fellow at the Manhattan Institute who has been advising the

Catholic Archdiocese of Oklahoma City on their efforts. But, she added, “For the purposes of the Constitution, the federal Constitution, it doesn’t matter what the law calls them.”

“The question is, are they government actors, are they state actors, or are they acting on behalf of the government? Or are they private actors? They can be called public schools and still be private actors for purposes of the Constitution, and, in my view, that’s what they are,” Garnett said.

The Catholic Church was emboldened to submit its application after outgoing Oklahoma Attorney General John O’Connor said the charter school laws in the state were unconstitutional because they did not allow them to be run by religious organizations.

Although the current attorney general for the state has reversed that opinion, saying it would lead to “state-funded religion,” the archdiocese is moving forward with its proposal for St. Isidore despite the almost certain prospect of litigation.

“Undoubtedly, even if it were approved in one state, it would then be involved in a long court battle. So probably the real lifting of the lid on religious charter schools wouldn’t come until not only one state approved it, but it made it through court,” said Neil McCluskey, director for the Center for Educational Freedom at CATO Institute.

Charter school laws currently exist in 45 states across the country, with sometimes vastly different standards and regulations.

“For anyone to say, with a broad brush, that all charter schools are public schools is disingenuous because each state has a different program,” said Brett Farley, the executive director of the Catholic Conference of Oklahoma. “We believe in Oklahoma that charter schools are non-state actors because our framework is very loose.”

Religious institutions seeking to open education facilities typically go the private school route because it allows them more freedom to follow their religious doctrine without interference from the government. But charter schools open the door to public funding.

Derrell Bradford, president of 50CAN, an organization that advocates for high-quality education at the local level, says the constraints on charters, such as needing approval from the government to just expand, don’t combine well with the goals of private religious institutions.

“Independent schools and private schools and religious schools, they have their own role to play. They do their own thing and that thing, too, is important. And for me, the idea that we would substitute those things for, you know, what charter schools have in the process of starting religious charter schools is the worst of both of these worlds,” Bradford said.

A religious charter school would also be obligated to follow anti-discrimination laws, while private religious schools are known for not accepting students that don’t follow or believe their doctrine.

“For those types of individuals who really want to have a truly religious education in a school, you can’t do that in a public setting because our public schools are open to everyone and they cannot discriminate. And that is, to me, at least, the key hurdle to doing this in our schools. We have a commitment to serving all kids,” Rees of the National Alliance of Public Charter Schools said.

Bradford, however, said taxpayer funding could be too much for certain religious institutions to resist.

“Lots of private schools, religious schools are underwater, right? Constantly fundraising to, you know, just to break even in an environment that is more competitive, because charter schools are free, right? And some of them are spectacular at free,” he said.

“Even if you take the current conversation about religious charter schools off the table, the financial incentives around being a charter school are much better than being, you know, an independent school, a private school, a religious school that serves low-income kids, in particular,” he added.

Another potential incentive to get into the charter school space is because many people see charter schools as competition to privately run institutions rather than government-run public schools, even if that is not the intention.

“Charter schools are already more or less unfair competition for private schools,” McCluskey said “That’s not the intent. I don’t think people intended charter schools to do that. But many people see charter schools as private schools, only they don’t have to pay tuition for them. And so a private school is at a huge competitive disadvantage because they don’t get government money usually.”

The immediate question, however, is one of legality, and Garnett said the issue strikes her as more of a “religious liberty” case.

“I’m not a part of the charter school movement. I think it’s good to be inclusive. So I assume that when people in the charter school movement say it’s bad for the charter school movement, they’re not making a legal determination. They’re making a political one. ... But whether or not they’re right about being a better path, it doesn’t make it less concrete, unconstitutional to prohibit religious charter schools,” Garnett said.

While the national debate rages on, Farley says the church has seen much more support locally for the virtual religious charter school than expected.

“We anticipated that there would be some difference of opinion, even amongst the school choice ranks. ... I’ve actually been surprised at how much local support we have amongst the school choice camp, so there’s actually not as much dissension as I thought there would be. No, not everyone is saying that publicly, but I talked to people privately who are cheering us on because they recognize that this is going to be a game changer,” Farley said.