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FILE - The Oklahoma Supreme Court is pictured in the state Capitol building in Oklahoma City, May 19, 2014. The Oklahoma Supreme Court ruled Tuesday, June 25, 2024, that the approval of the nation's first state-funded Catholic charter school, St. Isidore of Seville Catholic Virtual Charter School, is unconstitutional. (AP/Sue Ogrocki, File)

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Oklahoma City — June 25, 2024

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The Oklahoma Supreme Court on Tuesday stopped what would have been the first publicly funded religious charter school in the U.S., turning back conservatives and the state's GOP governor who have welcomed religious groups into public education.

The high court determined the Statewide Virtual Charter School Board's [3-2 vote last year](#) to approve an application by the Catholic Archdiocese of Oklahoma for the St. Isidore of Seville Virtual Charter School violates the Establishment Clause, which prohibits government from making any law “respecting an establishment of religion.” The ruling also says both the Oklahoma and U.S. constitutions, as well as state law, were violated.

The case is being closely watched because supporters of the school believe [recent U.S. Supreme Court decisions](#) have indicated the court is more open to public funds going to religious entities.

Conservative-led states have targeted public schools: Louisiana required them to post the [Ten Commandments in classrooms](#), while others are under pressure to [teach the Bible](#) and [ban books](#) and lessons about race, sexual orientation and gender identity.

“Under Oklahoma law, a charter school is a public school,” Justice James Winchester, an appointee of former Republican Gov. Frank Keating, wrote in the court's majority opinion. “As such, a charter school must be nonsectarian.

“However, St. Isidore will evangelize the Catholic school curriculum while sponsored by the state.”

The Archdiocese of Oklahoma City and Diocese of Tulsa said in a statement they will “consider all legal options” in response to the court's ruling.

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The court's decision was 7-1, with one member concurring in part and one member, Chief Justice John Kane IV, recusing himself. Justice Dana Kuehn dissented.

Five of Oklahoma's nine Supreme Court justices were appointed by Republicans, four by Democrats.

In her dissent, Kuehn wrote that excluding St. Isidore from operating a charter school based solely on its religious affiliation would violate the Free Exercise Clause of the First Amendment to the U.S. Constitution. The Oklahoma Constitution does not bar Oklahoma from contracting with religious schools as long as state-funded, nonreligious options are available, Kuehn wrote.

Oklahoma's Republican Attorney General Gentner Drummond, who urged the board not to approve the contract, had asked the state's high court to intervene and rule on the case. He praised the court's decision.

“The framers of the U.S. Constitution and those who drafted Oklahoma’s Constitution clearly understood how best to protect religious freedom: by preventing the state from sponsoring any religion at all,” Drummond said in a statement.

The K-12 online public charter school was set to start classes for its first 200 enrollees in the fall, with part of its mission to evangelize its students in the Catholic faith. The archdiocese is seeking guidance from attorneys on whether to open, said Brett Farley, the executive director of the Catholic Conference of Oklahoma.

A group of Oklahoma parents, faith leaders and a public education nonprofit [sued to stop the establishment](#) of the school.

Oklahoma Gov. Kevin Stitt, who supported the board's decision, said he was disappointed Drummond challenged it and remained hopeful the U.S. Supreme Court would consider the case.

“I’m concerned we’ve sent a troubling message that religious groups are second-class participants in our education system,” Stitt said in a statement. “Charter schools are incredibly popular in Oklahoma – and all we’re saying is: we can’t choose who gets state dollars based on a private entity’s religious status.”