

Peter Greene's "Vouchers Restore Discrimination and Segregation" article via Diane Ravitch's April 11 blog.

EdChoice vouchers in Ohio advance segregation. It will be proven in Court that Ohio taxpayers are forced to pay for state sponsored segregation. EdChoice vouchers are used in private schools that use a litmus test in enrolling students.

Ohio EdChoice vouchers support private institutions that discriminate.

Diane Ravitch's [April 11 blog](#) gives an in-depth look at these matters.

Peter Greene: Vouchers Restore Discrimination and Segregation

Peter Greene has written several columns about the U.S. Supreme Court's step-by-step effort to tear down the wall of separation between church and state. With its June 21: 2022, decision called Carson v. Makin, the High Court ordered the state of Maine to pay the tuition for students at two religious schools. Under Maine law, districts that do not have a public high school must pay tuition for high school students to attend a private non-religious school. A majority of the justices ruled that Maine violated the students' free exercise of religion rights by denying them the same benefits as those who go to private schools at the public's expense.

The decision was 6-3. The majority were all appointed by Republican presidents (Roberts, Alito, Thomas, Gorsuch, Kavanaugh, and Barrett). The minority were appointed by Democratic presidents (Breyer, Sotomayor, Kagan). All six of the Justices in the majority were born Catholic; Gorsuch graduated from Georgetown Preparatory Academy, a Jesuit school (Brett Kavanaugh was two years behind him.) Gorsuch and his family now attend an Episcopal church. The minority bloc consists of two Jews and a Catholic (Sotomayer).

Before the case was decided, Peter Greene expressed concern that the two religious schools openly discriminated against student, families, and staff by refusing to accept into the school's community.

He wrote [six months before the decision was released](#):

Bangor Christian Schools require adherence to a code of conduct; trans or gay students will be expelled, even if celibate. Their religious indoctrination is inseparable from their academic instruction. A fifth grade social studies objective is to "recognize God as Creator of the world," while a ninth grade objective is to "refute the teachings of the Islamic religion with the truth of God's word." Teachers at BCS must certify that they are born again Christians.

Temple Academy is an extension of the Centerpoint Community Church. [TA is unlikely to admit](#) students that do not come from a Christian family; that family must sign a Family

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Covenant saying they agree with TA's views on abortion, marriage, and homosexuality. Again, only born again Christians may be hired to teach; teachers also sign an employment agreement acknowledging that the Bible says that God considers "homosexuals and other deviants as perverted."

The issue, he wrote, was not about freedom of religion or free exercise of religion, but about whether taxpayers should pay for schools that discriminated against defined groups of people.

For several years, fans of school choice have been pushing the argument that a religious school is not free to exercise its religious faith if it does not get to share in taxpayer dollars. The wall between church and state has thus been characterized as discrimination against religion. Turns out you can't be really free without taxpayer funding.

A few weeks ago, Peter [returned to the subject and reviewed some of the Justices' arguments](#). Quite simply, he wrote, the Supreme Court was ordering the state of Maine to pay tuition at schools that engage in discrimination.

Justice Breyer asked:

What happens once "may" becomes "must"? Does that transformation mean that a school district that pays for public schools must pay equivalent funds to parents who wish to send their children to religious schools?

Justice Sotomayor said:

In 2017, I feared that the Court was "lead[ing] us . . . to a place where separation of church and state is a constitutional slogan, not a constitutional commitment." Today, the Court leads us to a place where separation of church and state becomes a constitutional violation.

But the case goes on, because Maine passed a law stating that it would not fund schools that discriminate. The Bangor Christian Academy sued the state and asserted its right to discriminate.

Bangor Christian Schools is [now suing the state of Maine](#), asking first for an injunction against the Maine Human Rights Act (MHRA) restriction that bars them from receiving state money as long as they continue to discriminate. Their assertion is that the "poison pill" of human rights law in Maine violates their religious liberty, that they cannot exercise that liberty unless they can both receive state funds and continue to discriminate against students and prospective faculty that don't meet their religious requirements.

The state of Maine insists that it will not fund schools that discriminate:

[Attorney General Aaron Frey](#) said that “all Mainers deserve to be treated with dignity and respect, whether it be in their workplace, their housing, or in their classrooms. The Maine Human Rights Act is in place to protect Mainers from discrimination and the Office of the Attorney General is steadfast in upholding the law. If abiding by this state law is unacceptable to the plaintiffs, they are free to forego taxpayer funding.”

Peter continued his [dissection of the decision in a third post](#), wherein he debated the libertarian Neil McCluskey of the CATO Institute. McCluskey asserts that secular schools are hostile to religion, and the only way to secure true freedom of religion is to fund all choices, all religions.

Peter writes:

First, I don't accept the premise that “secular” requires hostility to religion. If you play in the percussion section, you aren't hostile to melody—it's just not your job to handle it. A secular education system doesn't try to fulfill any religious functions, for a variety of reasons we'll get into.

There's another issue in that first point, which is the newly revived idea among some folks that they cannot fully and freely practice their religion unless they are free to discriminate against people of whom they disapprove, like the Mom who objects to having her child taught empathy because she believes there are some people her child should not feel empathy for. This is a whole other post, but my short answer is this—there is no placating these people as long as circumstances find them in a pluralistic society.

But where I really disagree with McCluskey is in his central notion that by allowing everyone to retreat to their own personal bubbles, we can end all the various battles over culture and religion...

The whole choice thesis is that by not using taxpayer funds to support private religious choice, the government is discriminating against religious folks (with the newest legal test of this theory [coming to a courtroom in Maine](#)). Again, this reasoning goes, I am not fully free to exercise my religion if the taxpayers aren't subsidizing my choice.

I should get to practice in my little bubble, and the taxpayers should help pay for the bubble.

That's how this vision of choice leads to religious discrimination on an unprecedented scale and takes us all the way back to the question of separate but equal.

Peter demonstrates a variety of scenarios that show how thorny this issue is.

A variety of secular schools realize that if they re-configure themselves as religious schools, the “free exercise” clause is a ticket to the Land of Do As You Please and they can start discriminating against students and faculty in pretty much any way they wish as long as they claim that it’s an essential part of their religion. This will force taxpayers to fund all sorts of things that they (and not just liberal especially) object to, from aryan supremacists to gender theory schools. One worst case scenario will be a government agency given the task of figuring out which religious schools are “real” religious schools and which are just playing games. The other worst case scenario will be states figuring out how to regulate these schools so that they can’t discriminate in ways that would be illegal for anyone else. Or maybe we’ll just have a government office of educational equality that makes sure that every religion gets an equal shake in the school funding/free exercise department. No way that could end badly. None of these “solutions” will be popular.

Now that we’re establishing that I can’t have freedom to exercise my religion without enough of a taxpayer subsidy, who is going to decide how much subsidy is enough?...

I can imagine taxpayers rejecting bond unissued because they don’t to subsidize all those religious schools.

Peter concludes:

I can imagine plenty of awful scenarios. What I can’t imagine is how vouchers + religious schools results in a free and adequate education for every child or greater harmony and cohesions for our pluralistic nation. Yes, yes, I understand we haven’t exactly mastered either of those things currently, but I don’t see how vouchers + religious schools does anything except make matters worse.