

Capitol Comments



American Association of Christian Schools

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The AACCS is a service organization that exists

- To provide legislative oversight.
- To promote high-quality educational programs.
- To encourage the goal of producing Christ-like young people.
- And to provide related institutional and personnel services to its constituency.

GOVERNMENT TAKEOVER OF PRESCHOOLS?

A key component of President Obama's education agenda has been to expand early education opportunities, from cradle to career. Conservative leaders and organizations, including AACCS, have spoken out opposing federal involvement in early education as such a move would decrease parental rights and dramatically hurt existing private preschools.

Consequently, Congress decided not to authorize funds for an Early Learning Challenge Fund. The Administration then bypassed Congress, and, using "discretionary funds" appropriated to the Secretary of Education, established a Race to the Top-Early Learning Challenge (RTT-ELC) fund. Jointly administered by the Departments of Education and Health and Human Services, this grant competition urged states to adopt early education program reforms.

While it would appear that this competition was solely for those programs which are government-funded, a closer look at the language in the application revealed otherwise. Key sections in the application indicated that a goal was to bring all preschools and early learning centers under the governance of the state, regardless of the funding source for that preschool. The application specifically stated that states should have in place a "Tiered Quality Rating and Improvement System in which

all licensed or State-regulated Early Learning and Development Programs participate," and all preschools, regardless of funding source, were to be licensed or regulated by the state. The most telling statement regarding the government control of private, faith-based preschools comes from the White House Press release which stated, "These investments will impact all early learning programs, including Head Start, public pre-K, childcare, and private preschools."

A narrow exception was made for those states that already have in place an exemption for private or faith-based preschools. While this exception protects some schools and programs in some states, there are still many states which do not have an exemption in place; and there was no indication in the RTT-ELC whether these states would be allowed to establish an exemption for religious or private early education centers.

By requiring participating states to include private preschools in their regulations and reforms, the RTT-ELC not only infringes on the autonomy of private early education programs, it also threatens the religious liberty of faith-based preschools. These schools by nature operate according to their faith-based mission. This necessarily affects their decisions and practices when it comes to curriculum,

personnel training and development, programs, and operational decisions. However, as schools are forced to comply with government regulations in these areas, their religious freedom will be negatively affected.

Recognizing the threat the RTT-ELC posed to private, Christian preschools, the AACCS began communicating their concerns early in the process of the development of the program. This resulted in the "exception language" that allowed certain states to continue exemptions for programs if they were already in place. However, as stated earlier, this did not solve the problem for many states.

So what can be done? The states still have the power to refuse to enact programs that follow the Administration's agenda. State legislators can pass legislation that ensures protection for private, faith-based preschools. It is critical that state Christian school leaders review the grant application developed by their state for RTT-ELC and take action to protect Christian preschools from any proposed actions that would impose new regulation or licensing on those centers. Grant applications can be reviewed at <http://www2.ed.gov/programs/racetothetop-earlylearningchallenge/awards.html>. The importance of protecting the autonomy and religious liberty of our private Christian schools cannot be overstated.



THE LIST ISSUE: ENSURING EQUAL OPPORTUNITY FOR CHRISTIAN SCHOOL STUDENTS

In October 2010, the Department of Education finalized new regulations intended to rein in for-profit higher educational institutions and ensure consumer protection and stronger integrity of Title IV Programs. However, the regulations imposed new requirements that affected *all* colleges.

One element of the regulations has raised concerns in the K-12 private school community. According to the new federal regulations, a student who wishes to participate in a federal student aid program must have a “valid” high school diploma. The online application for Federal Student Aid includes this new question, “What is the name of the secondary school or entity that provided the student’s secondary school program of study?” To answer the question, the student selects the school from a drop-down list. If the applicant’s school is not on the list, the financial aid officer must take additional steps to determine whether the applicant received a diploma from a valid school.

The Department of Education issued FSA Student Eligibility Guidelines for college financial aid officers to guide them in determining if a diploma was from a valid school, and these guidelines reiterate that the list is not a list of good or bad schools.

The list of private high schools is populated by information from the National Center for Education Statistics (NCES) which they obtain through the Private School Survey. The Private School Survey is conducted every other year by the NCES, and participation in the survey is completely voluntary for private schools.

However, this well-intended measure creating a list to prevent distribution of federal financial aid to persons whose diplomas are purchased from diploma mills has raised serious questions about school inclusion on the list, application denial, and opportunity for redress. In spite of the claims from the Department of Education regarding the purpose of the list, there is great concern that the list could potentially become the gateway to receiving financial aid, which would make inclusion on the list very important for every valid high school. In addition, because there is currently only one way for a school to get on the list (participation in the Private School Survey), this now makes a *voluntary* survey a *requirement* for inclusion on the list.

The AACS Legislative Office has communicated these concerns with officials at the Department of Education, in the office of Federal Student Aid, and in the Office of Postsecondary Education. The AACS has also been

working to ensure that AACS member schools are included on the list so that no Christian school student is hindered in his application for Federal Student Aid. We have been in frequent communication with both the NCES and the DOE to gain further clarification for school administrators. In the most recent meeting at the Department, several private school group leaders articulated concerns and offered alternate methods for school inclusion (or list population). The Department officials gave assurance that the list is used only for streamlining the FAFSA. Although they were confident that financial aid officers will endeavor to ascertain whether applicants’ diplomas are valid, this may not happen in every case. Furthermore, there was no assurance that applicants whose financial aid applications were denied would be made aware of the reason for the denial or given an avenue to rectify the problem.

The AACS office will continue to monitor this issue. Since the list is populated by the results of the NCES Private School Survey, **all Christian schools are encouraged to participate in this survey.** For this year, the initial survey was sent out in October, follow-up telephone calls will happen in January, and site visits of schools that did not respond will be conducted in the spring. The survey collection will be completed by May of 2012.

NOTE to AACS SCHOOLS: If your school does not receive the survey from the NCES, please contact the AACS Legislative office. Also, if a student from your school has difficulty qualifying for federal student aid because his school was not on the list or because there was a question about the school, please notify the AACS office. Your communication helps us better represent you in D.C.

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ENSURING PROTECTIONS FOR PRIVATE SCHOOLS IN ESEA REAUTHORIZATION AND NCLB WAIVERS

Educators, lawmakers, and advocacy groups agree that the Elementary and Secondary Education Act of 1965 ("No Child Left Behind" Act of 2001) needs revision, but stakeholders offer vastly different plans for reauthorization. While the House Education and Workforce Committee has passed a series of smaller reform bills, Senators Harkin and Enzi (Health, Education, Labor and Pensions Committee) introduced a comprehensive ESEA reauthorization proposal. After a flurry of committee activity, the proposal stalled after receiving criticism from the Administration, House Republicans, teachers unions, and minority advocacy groups.

Last spring, in the absence of Congressional reauthorization, President Obama offered a NCLB relief waiver plan for states that was linked to the adoption of certain reforms prescribed by the Department of Education. After a firestorm of controversy over what the waiver requirements would entail, the Secretary of Education stated that adoption of the controversial Common Core Standards would not be a waiver application requirement but states' development of their own standards would have to meet the Department of Education's college- and career-ready designation. Although critics have assailed the constitutionality and timing of the waiver program, the first round of states have already applied for waivers with as many as twenty-eight states indicating they will submit applications by the deadline. Some pundits argue that this move away from a "uniform" standard

(NCLB) will result in an inability to perform accurate state outcome comparisons. State plans have included a range of reforms, including the elimination of some school choice.

In order to ensure that protections remain for private schools, the AACS has tracked the process for ESEA reauthorization and the Department's efforts to advance its agenda through the waiver program. AACS concerns with the waiver program lie in the states' plans regarding the adoption of national standards and the elimination of school choice provisions. AACS encourages member state leaders to be in communication with their state education officials over this important issue. Ensuring protections for private schools in ESEA requires maintaining NCLB language which explicitly states that the law does not affect private, faith-based schools, and which prohibits federal funds from being used to establish a national curriculum, national testing service, and a mandatory teacher certification program. If established, these would infringe on the autonomy of private schools and the religious freedom of faith-based schools and would increase the federal footprint in education. The Senate ESEA reauthorization proposal did maintain these sections; however, other provisions allowing for the furtherance of the controversial Race to the Top program and a proposed definition of "high school diploma" have caused concern. Time remains to amend these sections to protect private school autonomy.



THE MARRIAGE BATTLE

The battle to protect the sanctity of marriage continues on both the state and federal level. Two states, North Carolina and Minnesota, were successful in placing a state marriage amendment on the November 2012 ballot; and in a surprising victory, the Maryland legislature voted down a measure which would have legalized same-sex marriage. In contrast, the state legislature voted to legalize same-sex marriage in New York. On the federal level, the Defense of Marriage Act (DOMA) faces challenges through repeal efforts and court challenges. Senator

Dianne Feinstein introduced a bill which would effectively repeal the 1996 law, but the bill has yet to receive a vote on the Senate floor. In April, President Obama instructed Attorney General Holder to stop defending the law in court because he believed it to be unconstitutional. In response, Congressional leadership appointed Paul Clement to take up the defense of this law in the various court cases across the nation. Several Representatives have also introduced bills to retain and protect DOMA in the various appropriations bills.



PRO-LIFE VICTORIES

In what some have deemed to be the most pro-life House of Representatives in modern times, several pro-life measures have been passed including the reinstatement of the Dornan Amendment (which prohibits taxpayer funded abortions in the District of Columbia) and the codification of Weldon language (which bans patents on work dealing with human embryos).

With a third of its annual budget of 1.1 billion dollars paid by taxpayers, Planned

Parenthood, the nation's largest abortion provider, has been a target of calls to cut government spending. States such as Texas, Kansas, and North Carolina have stripped the group of over \$61 million in funding. Indiana and New Hampshire are embroiled in litigation after state efforts to defund the group were circumvented by the Administration. Rep. Cliff Stearns has ordered the first Congressional investigation of the group after numerous reports of alleged misdeeds surfaced in the press.



Although the current, highly partisan climate has resulted in a series of legislative stalemates, the Administration has sought to advance its agenda through a myriad of regulations, executive orders, and competitive grant programs. This year, the primary work of the AACS Legislative Office (DC Office) has been to communicate our concerns to Capitol Hill offices and the various department representatives.

did not violate the Establishment Clause of the First Amendment.

- In February, the DC Office was able to participate in an annual summit with House of Representatives leadership and the principals from a number of values groups. During the meeting, Dr. Keith Wiebe reminded attendees about the importance of preserving private school autonomy in legislation.
- At the end of March, the Speaker of the House negotiated the successful reinstatement of the D.C. Opportunity Scholarship program, one of the main school choice priorities of the DC Office.
- In the spring, the Supreme Court ruled favorably in the case of *Arizona Christian School Tuition Organization v. Kathleen Winn*, in which the AACS had submitted an amicus brief. In the majority opinion, Justice Anthony Kennedy asserted that tax credits awarded to those who contributed to tuition scholarship organizations
- In April, AACS legislative directors visited lawmakers to encourage legislators to support school choice, rein in federal regulations, and maintain protections for religious schools in the reauthorization of ESEA.
- In support of the North Carolina marriage amendment efforts, Maureen Van Den Berg composed talking points that were distributed to attendees at a marriage rally. Ultimately, the traditional marriage amendment advocates were successful in placing the measure on the 2012 ballot.
- In July, Senator DeMint released his book, *The Great American Awakening*, in which he mentions the importance of the AACS National Legislative Conference, stating, "The AACS visits Washington every year to remind legislators how education built on the Judeo-Christian values of our founders has proven superior to secular education when it comes to producing students with the character and skills to succeed in our free society" (p. 99).
- During the 17th annual Youth Legislative Training Conference July 11-16, forty AACS students were able to sharpen their debate skills during the mock Senate, visit their Congressmen, learn from distinguished speakers, and tour Washington.

- In September, at the Legislative Briefing on Capitol Hill, National Legislative Conference (NLC) attendees heard from nine Representatives and one Senator about the need for Christian involvement in the political process. At the close of the NLC, former Attorney General Ed Meese identified AACS as one of the most important groups in Washington.
- In September, Maureen Van Den Berg participated in a panel discussion entitled "Dialogue with Arne Duncan" at the Private School Leaders meeting at the Department of Education. She articulated the importance of autonomy to the ability of religious schools to educate their students. Secretary Duncan exhorted her "to push back very hard" if the AACS felt that the department began to encroach on private school autonomy.
- As a result of the Congressional visits made during the NLC, four Members of the House authored a letter of inquiry to Secretary of Education Arne Duncan and Health and Human Services Director Kathleen Sebelius communicating several concerns about the latest iteration of RTT which encourages states to monitor, rate and regulate nearly all early childhood care providers.
- In December, Maureen Van Den Berg's participation in a panel on religious freedom that was held in the Capitol provided the opportunity to communicate to Congressional staffers about the problems that RTT-ELC presents to private, faith-based preschools.

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President

Keith Wiebe

Executive Director

Jeff Walton

Legislative Director

Maureen Van Den Berg

Legislative Assistant

Courtney Holloway

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AACS Legislative Office

119 C Street, SE
Washington, DC 20003

P: 202-547-2991

F: 202-547-2992

e-mail: washington@aacs.org

AACS National Office

602 Belvoir Avenue
East Ridge, Tennessee 37412

P: 423-629-4280

F: 423-622-7461

e-mail: national@aacs.org

www.aacs.org