

January 2013

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The AACCS is a service organization that exists

- To protect the freedoms of Christian schools.
- To provide resources to advance Christian education.
- To aid schools in building Christlikeness in each student.
- To promote quality Christian education programs.

ESEA AND WAIVER RELIEF: MAINTAINING EDUCATIONAL FREEDOM

When the Elementary and Secondary Education Act (ESEA) was reauthorized by Congress in 2001, it was labeled the “No Child Left Behind Act” (NCLB) and focused on raising standards and prescribing specific school turnaround strategies in an effort to raise student achievement. As a result of NCLB provisions, states were faced with punitive measures if all students did not reach 100% proficiency standards in English and mathematics by 2014. Specific language was included in the bill which protected the freedoms of private, religious, and home schools (section 9506), and also allowed for equitable participation for private schools in some programs, specifically programs designed to help disadvantaged students and to further the professional development of teachers and principals. In addition, the NCLB Act prohibited the establishment of a national curriculum (section 9527), national testing (section 9529), mandatory national teacher certification (section 9530), and a national student database (section 9531). These sections not only limit the federal footprint in education, but they also provide protection for private, faith-based schools against government interference with their autonomy and mission.

During the first session of the 112th Congress, the House Education and Workforce

Committee held eleven hearings to address “overly prescriptive mandates” and “restrictive funding schemes” in NCLB. The House Education and Workforce Committee adopted an approach to ESEA reauthorization through a series of smaller bills intended to limit federal control and increase state and local control over education. In contrast, the Senate took a comprehensive approach to ESEA, offering a massive bill that met with criticism from both conservative and liberal groups. As discussions took place in Congress regarding ESEA reauthorization, the AACCS Legislative Office communicated with offices in both houses about the importance of retaining the protective language which ensures educational freedom in private, faith-based schools. In the absence of either plan passing both houses, the Administration circumvented the legislative branch and sought to implement education reforms through Race to the Top grants and offering NCLB flexibility waivers to states that followed the Administration-favored reform guidelines in the areas of standards and assessments, teacher quality, data systems, and school improvement.

In a September 2011 letter, the Secretary of Education invited states to submit reform proposals that met Administration criteria in order

to merit relief from NCLB turnaround measures. As of December 2012, the Department of Education (DOE) has awarded conditional waivers to 34 states and D.C. “in exchange for rigorous and comprehensive State-developed plans designed to improve educational outcomes for all students, close achievement gaps, increase equity, and improve the quality of instruction.” According to the DOE ESEA Flexibility website, states must demonstrate a commitment to “college and career ready” standards in English and mathematics but do not have to adopt the Common Core Standards to obtain waiver relief. However, since the Common Core Standards are the only standards that are already established and meet the “college and career ready” criteria, many states choose to incorporate the standards into reform proposals in order to meet the “college and career ready standards” bar set by the DOE. The ESEA Frequently Asked Question guidance stipulates that the standards must be “common to a significant number of states” or approved by higher education institutions and other stakeholders within the state. Additionally, states are then required to administer department-approved assessments to ascertain student achievement outcomes.

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EARLY EDUCATION UPDATE: FREEDOM FOR PRIVATE SCHOOLS

On May 25, 2011, Secretary of Education Arne Duncan and HHS Director Kathleen Sebelius announced the Race to the Top—Early Learning Challenge (RTT-ELC) grant competition to incentivize state early education reform. Jointly administered by the Department of Education (DOE) and the Department of Health and Human Services (HHS), the RTT-ELC allotted \$500 million in grant money for the winning applicants.

The RTT-ELC application required competing states to outline plans that would bring all early childhood providers under their supervision, establish an accountability mechanism, formulate a tiered quality rating and improvement system (TQRIS), develop teacher qualification and certification processes, and strengthen data collection and assessment strategies.

The application guidelines made it clear that states were to include private preschools in their reforms. The application specified that states establish 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. These guidelines and application requirements threatened the autonomy of private, faith-based

preschools, increased the federal footprint in early education, and further eroded both local control and parental involvement.

While a narrow exception was made for those states with an existing exemption for private or faith-based preschools, no allowance was made for states without existing exemptions; and there was no indication whether these states would be allowed to establish a future exemption.

The AACS Legislative Office alerted state leaders about potential problems that could arise. A total of 35 states, D.C., and Puerto Rico submitted applications for the RTT-ELC. On December 16, 2011, the Administration announced that nine states (CA, DE, MD, MA, MN, NC, OH, RI, WA) would receive funding. The White House press release stated, “These investments will impact all early learning programs, including Head Start, public pre-K, childcare, and private preschools.” Five additional states (CO, IL, NM, OR, WI) were awarded \$133 million in a second RTT-ELC application round.

On the state level, Minnesota Executive Director Alan Hodak communicated tirelessly with education officials about the problematic components of the competition. In February 2012, Representative Michele Bachmann and other Members of the Minnesota delegation received a letter

from senior staff in both agencies in response to a request for further clarification about the effects of the RTT-ELC on the autonomy and religious liberty of Christian preschools. The DOE/HHS letter specifically stated the following: “There is no requirement within these criteria that states must develop a TQRIS that would apply to all early learning programs in the states. Moreover, the RTT-ELC notice that contained the requirements for the RTT-ELC competition neither mandated nor required the participation of private or faith-based early learning providers that do not accept federal funding or did not choose to participate in a state’s RTT-ELC program.”

In March, AACS received a response from Education Secretary Arne Duncan clarifying the effects of the RTT-ELC on autonomy and religious liberty. The response made clear that states were not required to include private early education providers in the TQRIS and states would not be penalized for the omission. Furthermore, the letter stated, “Faith-based organizations, whether or not they participate in the State’s RTT-ELC program, retain their independence, autonomy, right of expression, religious character, and authority over their governance.”

Early education will remain a top priority for President Obama’s second term, but the focus will be on holding states accountable to their RTT-ELC plans. The battle to maintain autonomy and religious liberty for private, faith-based preschools is now on the state level as the RTT-ELC competition is over. The aforementioned communications with the Secretary and Members of Congress could aid state leaders working to ensure their states do not develop programs that infringe on the autonomy and religious liberty of their preschools.

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NATIONAL STANDARDS

In 2009, the National Governors Association and the Council of Chief State School Officers launched the Common Core Standards Initiative (CCSI) to craft standards for English and mathematics instruction. Although the CCSI was purportedly a voluntary, state-led movement, the Administration's subsequent decision to link billions of dollars in funding to the adoption of Common Core Standards (CCS) has been controversial. As a Fox News article stated, "Sparking this war is the Common Core standards push—an effort to nationalize the standards and assessments upon which every public school in America would base its curriculum."

Prior to completion or evaluation, states signed on to the CCSI in order to qualify for 4 billion dollars in Race to the Top funding. Only four states—Alaska, Minnesota, Virginia and Texas—have rejected part or all of the CCSI. Officials cited issues such as curriculum replacement costs, teacher training, restrictions on innovation, instructional and sequential deficiencies in the standards, and an overall rejection of a one-size-fits-all approach to education. In 2010, the Department of Education awarded two consortia, comprising 31 states, over \$330,000,000 to craft assessments based on the Common Core Standards. In 2012, the Department of Education linked "No Child Left Behind" waiver relief to the adoption of standards "common to a significant number of states."

Standardized curriculum based on fluctuating . . . societal norms would undermine absolute values and religious teachings.

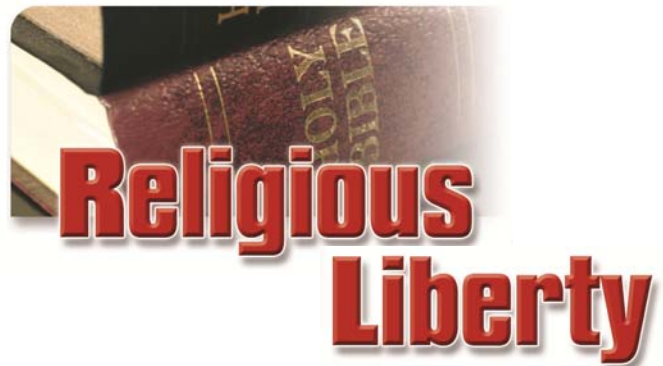
The American Association of Christian Schools has voiced serious concerns about the effect that these standards will have on the autonomy of private, Christian schools and their ability to adhere to their faith-based mission. While educational excellence is important to AACCS member schools, we believe the CCS will actually hinder rather than help efforts to promote excellence in education.

Despite repeated assurances from the Administration that they have no intention of establishing a national curriculum, the CCS could easily lead to a *de facto* national curriculum. National standards naturally lead to a national test, and the assessments are already being crafted. The establishment of a national curriculum and national test would result in a loss of local control and accountability. Furthermore, a standardized curriculum based on fluctuating and controversial societal norms would undermine absolute values and religious teachings. Other risks include the politicization of textbook content, the potential increase in credit transfer issues, and possible barriers to college admission for graduates of schools that choose not to adhere to the CCS. As aptly stated by former Secretary of Health, Education, and Welfare Joseph Califano, "Any set of test questions that the federal government prescribed should surely be suspect as a first step toward a national curriculum. . . . In its most extreme form, national control of curriculum is a form of national control of ideas."

ESEA and Waiver Relief *continued from page 1*

Critics have noted that many waiver plans fail to adequately plan for transitional periods, assign seemingly arbitrary percentages to underperforming schools, eliminate tutoring and school choice components, and include lengthy periods (3-5 years) before schools would be reassessed for improvement. In a post-election address, Secretary Duncan vowed to continue to

use federal dollars to "leverage" states to pursue additional reforms and accountability measures. The DOE aggressively championed Administration-preferred reform programs (the ESEA Reauthorization Blueprint, the Race to the Top competitions, and No Child Left Behind waiver flexibility) during the first term. The Secretary has indicated that the Department plans to monitor the implementation of the grants and flexibility waivers during the second term.



CHALLENGING THE HHS MANDATE

In 2011, the U.S. Department of Health and Human Services (HHS) issued a mandate under the Affordable Care Act that required all employer health plans to provide free contraceptives, sterilizations and abortion-inducing drugs, regardless of moral or religious objections. Despite receiving thousands of negative comments, the guidelines included only a narrow religious exemption that resulted in many religious employers (Christian colleges, schools, organizations, etc.) being forced to violate their consciences or pay steep fines starting in August 2012.

In the face of widespread opposition, the Administration offered a one-year delay and a future "accommodation" as

solutions. Throughout the year, opponents held Stand Up for Religious Freedom rallies and other demonstrations across the country. Currently, there are 41 cases involving 110 individual plaintiffs seeking relief from the unconstitutional mandate. In a surprising development, the Department of Justice recently informed a federal appeals court that it would not oppose Liberty University's petition for a rehearing of the Obamacare related case, *Liberty University v. Geithner*. This critical case would address the abortion-funding components, such as the mandate, that were not addressed by the Supreme Court healthcare law ruling.



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Although election year coverage and partisanship dominated the political landscape in 2012, the AACS Legislative Office continued to meet with conservative groups, educate Congressional staffers, communicate our concerns to the Department of Education, and monitor regulations and legislation that would affect AACS schools.

- On January 11, the Supreme Court unanimously overturned an unfavorable lower court ruling in the *Hosanna Tabor Evangelical Lutheran v. EEOC* case, one of the most important religious liberty cases in the past twenty years. The case centered on the applicability of the “ministerial exception” which has long been recognized by lower courts. The AACS had submitted an *amicus brief* in this case, arguing that the Free Exercise and Establishment Clauses of the First Amendment protect religious organizations from government interference in their daily operations including employment practices.
- In February, the AACS Legislative Office participated in National Marriage Week USA.
- The Legislative Office hosted an orientation for the Office of Non-Public Education staff about the history, objectives, and priorities of AACS.
- Later in the month, the AACS wrote a letter to Secretary of Education Arne Duncan delineating

concerns that the RTT-ELC competitive grant program would infringe on the autonomy of private, early education providers. In response, the Secretary authored a letter which state leaders can use to push back against overly aggressive state agencies which could seek to include all early education providers, even those that do not receive federal funding, in the program.

- The office met with several Senate offices to educate staffers about the threats to religious liberty posed by the HHS Mandate.
- In March, the office participated in a Concerned Women for America press conference along with representatives of several other organizations and Members of Congress opposed to abortifacient coverage required by the HHS Mandate. Several press outlets covered the event including *The New York Times*.
- In April and May, Regional Legislative Directors visited with lawmakers during our annual Lobbying Days urging Members to maintain the protections for Christian schools in ESEA, maintain religious liberties, and support pro-life parental notification measures.
- The AACS was a signatory to the Coalition to Preserve Religious Liberty letter which called on Congressional and agency leaders to eradicate the “two-class” scheme created by the HHS Mandate. The letter received widespread press coverage.
- The AACS Legislative Office hosted the 18th annual Youth Legislative Training Conference in July. Forty-two AACS students participated in a mock Senate, visited with their Congressmen, learned from conservative experts, and toured DC. Several students were included in feature articles detailing their experience by local news outlets.
- In July, Maureen Van Den Berg was interviewed and quoted in a *Christian Post* article on the danger of national standards and federal attempts to link funding to the adoption of these standards.
- In September, Courtney Holloway was included in a YouTube video entitled “Women Speak for Themselves” which highlighted the religious liberty implications of the HHS Mandate. The video presentation received over 18,700 views.
- During the fall, the staff worked with Education Department officials to ensure that Christian schools were included on the list of schools whose students are eligible for college financial aid.
- In August, Maureen Van Den Berg was invited to speak on *The Janet Mefferd Show* about the dangers of the national standards movement.
- During the National Legislative Conference held in September, attendees were briefed about a host of issues affecting private Christian schools. A youth track component was offered at the conference. Conference attendees visited with dozens of offices, attended a Congressional briefing, enjoyed an after-hours Capitol tour, and heard an inspiring speech from former Presidential candidate Representative Michele Bachmann.