



**The Washington Flyer**  
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*“The Government of the United States is acknowledged by the wise and good of the other nations, to be the most free, impartial, and righteous government of the world; but all agree, that for such a government to be sustained for many years, the principles of truth and righteousness, taught in the Holy Scriptures, must be practiced. The rulers must govern in the fear of God, and the people obey the laws.”*

Emma Willard, American Educator and Historian, 1843

**Federal Rule Imposes on Private Higher Education Institutions**

The Department of Education working together with the Obama Administration has proposed a change to a federal rule regarding colleges and universities that could [greatly affect](#) the way private and public higher education institutions operate and are certified. Shapri D. LoMaglio, Government Relations and Executive Programs Director for the [Council for Christian Colleges & Universities](#), explained that under the proposed federal change, all higher education institutions “would be required to have a document of state approval ... to operate an educational program, including programs leading to a degree or certificate.” While private and public higher education institutions are traditionally accredited and certified by regional or independent educational councils, the federal rule would “encourage” states to take a more dominant role in the certification of colleges and universities. In fact, the rule expresses that “the State is expected to take an active role in approving an institution and monitoring complaints from the public about its operations and responding appropriately.”

Former Sen. Bill Armstrong, now president of [Colorado Christian University](#) stated, “I think it is the greatest threat to academic freedom in our lifetime. But only if you love liberty.” He continued, “The Department of Education is attempting to subject every college and university in America—public and private—to political supervision.” Many are concerned about what the state’s role will be in determining and approving curriculum. Sen. Armstrong has teamed up with former Colorado senator and higher education leader, Hank Brown, in writing an [analysis](#) of the proposed rule change. They wrote:

While these regulations only encourage rather than require state involvement and oversight, if these proposals are passed as written, it is apparent the direction that future regulations will head. Some states are already involving themselves in curriculum decisions for education, nursing, and other such programs for professions that require state licensure. In addition to the practical considerations of staffing and expense, this also implicates the large issues of academic freedom and religious freedom.

As religious schools, we could particularly be adversely affected by state attempts to regulate curriculum (science, religion, etc.). Currently Colorado requires education courses to include phonics, but what if as part of ‘authorization’ a state required that a science course or a counseling course include certain components?

In evaluating the proposed rule, they find that “the state will be required to set standards, establish guidelines, and enact rules and regulations by which each college and university will be judged,” resulting in an “assault on academic freedom and institutional autonomy.”

Jay Ambrose, columnist and editor with Scripps Howard News Service, described the proposal's possible effects as “enormous, including a frightening assault on academic freedom as crucial decisions are transferred from faculty and administrators to bureaucrats and legislative bosses who just might use weapons of mass authority to demolish instruction of a kind they don't like.”

Former Senator Armstrong is urging Congressional members to put a stop “to this takeover, a huge threat to institutional autonomy and academic freedom.”

### **Senate “Seclusion and Restraint” Bill Makes Improvements**

Earlier this year the House of Representatives [passed](#) the Preventing Harmful Restraint and Seclusion in Schools Act. Sponsored by Rep. George Miller (D-CA) and Rep. Cathy McMorris Rodgers (R-WA), the purpose of this bill is to “prevent and reduce the use of physical restraint and seclusion in schools.” While the goal of this bill is certainly something AACCS would support, concerns remained about the language of the bill that could introduce unnecessary regulation into our private schools, specifically through the requirements it would establish for reporting and for teacher training. The AACCS Legislative Office met with the offices of both sponsors of this bill and [voiced concerns](#) over the regulations that could be imposed on private schools.

In a letter expressing our concerns, AACCS President Keith Wiebe stated that though “we appreciate the efforts to mitigate the effect of this bill on private education, and we are grateful for the inclusion of language that does specify protection for those private schools which do not receive federal funds, . . . we are concerned that there still may be unintended negative consequences for those private schools whose teachers or students may be benefiting from a federal education program. . . . While private school regulation may not be the intention of the bill, this could set a dangerous precedent for future federal regulation of private education.”

Just last week, Senator Chris Dodd (D-CT) introduced on the Senate floor the Senate counterpart of the Preventing Constraint and Seclusion Act. Prior to this introduction, the AACCS Legislative Office met with the office of Sen. Richard Burr (R-NC), a lead co-sponsor of the bill, to discuss the importance of including language to keep private schools protected from government regulation. The final language for the bill fully exempted private schools from being regulated so long as they do not have a child that is benefiting from the “[Free Appropriate Public Education](#)” program. (Under the Free Appropriate Public Education program, a child is placed in a private school and his tuition is fully funded by the government.) In fact, *Education Daily* reported, “Dodd’s new bill, the Keeping All Students Safe Act, [S. 3895](#), departs from the original in at least three respects.” The Senate version of the bill “would permit physical restraint and seclusion to be included in an IEP or other student plan under certain circumstances,” it “does not apply to as many private schools as the original,” and “the bill grants no new powers to protection and advocacy organizations.” The AACCS Legislative office is pleased to see this improvement that protects private schools from unnecessary government regulation in this bill.

If passed by the Senate, the bill will then proceed to a conference between the two Houses, due to the differences in language between the two versions of the bill. Members of Congress are urged to accept the Senate language in order to see that all private schools that do not accept government funds are protected.

### **Judge Rejects Atheist Plea**

This week U.S. District Judge William M. Conley [dismissed](#) a case filed by the [Freedom from Religion Foundation](#) that argued the engravings of the National Motto, “In God we Trust,” and the Pledge of Allegiance in the new U.S. Capitol Visitor’s Center were unconstitutional. The judge made his ruling based on the atheist group’s lack of legal standing to sue the architect of the Capitol.

Conley wrote that the “Plaintiffs fail to establish standing because they cannot point to any specific congressional appropriation for the allegedly unconstitutional concurrent resolution.” Jay Sekulow, chief counsel of the [American Center for Law and Justice](#), was “extremely pleased” about the judge’s ruling to

dismiss the case. Representing 50 members of Congress who fought hard to preserve the National Motto and Pledge, Sekulow stated, “This challenge was another misguided attempt to alter history and purge America of religious references. The National Motto and the Pledge of Allegiance displayed in the Capitol Visitor Center merely echo the sentiments found in the Declaration of Independence. In our view, Congress acted appropriately by including these expressions in the center—expressions that are consistent with the Constitution.”

**In Case You Missed It:**

[Weekly Market Update](#) provided by Jeff Beach of the [AACS Investment Team at Merrill Lynch](#)

[High Court Refuses to Hear Case on Banning Religious Songs in School](#)

[Gianna Jensen's Testimony of Surviving an Abortion](#)



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