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*No truth is more evident to my mind than that the Christian religion must be the basis of any government intended to secure the rights and privileges of a free people.*

**Noah Webster**

### **ESEA Reauthorization Plan Faces Opposition**

After analyzing the 860 page Elementary and Secondary Education Act reauthorization bill, many groups have begun to voice their objections to portions of the comprehensive education legislation. According to *Education Week*, complaints have been presented by five key education [groups](#) including the powerful [National Education Association](#) which represents 3.2 million public school educators. Teacher unions, civil rights groups, and minority advocates have urged Congress to slow down and assess the weaknesses of the proposal. The Heritage Foundation has published several critiques of the bill which focus on the continued push for national standards and equitable distribution of teachers. This week, the Senate Health, Education, Labor, and Pensions (HELP) committee held an executive [session](#) to markup the legislation. Approximately 144 amendments were offered during the session. Chairman Harkin has urged that immediate action be taken before the President's [waiver](#) program goes into effect. Senator Rand Paul, HELP committee member, wrote a [letter](#) to Senator Harkin in which he asked for a longer time to [review](#) the lengthy proposal that was introduced late last week. During the committee meeting, Senator Paul offered 74 amendments to the bill. The American Association of Christian Schools legislative office is working to ensure that the specific language which protects the rights of private Christian schools is included in this latest reauthorization proposal. Education analysts doubt that the bill has the sixty votes necessary for passage in the Senate.

### **Texas Officials Seek to Curtail Christian Activities**

The [Alliance Defense Fund](#) (ADF), a nationwide network of Christian lawyers who defend religious liberty, has discovered a disturbing trend in Texas. Several decisions by various city officials have been aimed at marginalizing faith-based groups in the state. Austin officials have mandated that crisis pregnancy centers must post signs detailing the services that they do not provide or face fines that range from \$250 to \$450 dollars. The signs must include the fact that they do not provide abortions or offer Food and Drug Administration approved contraception drugs. Abortion centers are not required to post signs in their clinics despite the fact that they are performing procedures that are potentially harmful to the mother and end the life of a preborn child. Alliance Defense Fund lawyers have won similar suits or put a stay on injunctions in Baltimore and Montgomery County, Maryland, as well as in New York City. The ADF has also [filed](#) suit on the behalf of an El Paso church and other pro-family groups that participated in a mayoral recall effort after city officials overturned an ordinance prohibiting the offering of benefits for unmarried domestic partners. The mayor and the city officials disregarded the voters' wishes and then retaliated by filing a lawsuit against the pro-family groups. In their countersuit, ADF lawyers affirm that churches do possess First Amendment rights that enable them to voice their opposition to the actions of public officials.

## **Supreme Court Considers Religious Liberty Case**

During the first week of October, the [Supreme Court](#) heard the oral arguments in the case of *Hosanna-Tabor Evangelical Lutheran Church v. EEOC*. This case is viewed by many to be one of the most [important](#) religious cases in decades. At the beginning of the 2004 school year, Cheryl Perich, a teacher at Hosanna-Tabor Lutheran School, took a medical leave of absence. She was subsequently diagnosed with narcolepsy. In the spring, she attempted to return to work although her position had been filled during the interim. After several exchanges with school officials, her threats to sue the church led to her termination. The legal battle between Ms. Perich and the school has resulted in conflicting opinions and is now to be decided by the Supreme Court. The Equal Employment Opportunity Commission (Department of Justice) is litigating Ms. Perich's case against the Lutheran church that operated the school. The church maintains that the "ministerial exception" clause precludes the plaintiff from suing the school for the alleged discrimination as a result of her medical condition. Lower courts have upheld the existence the "ministerial exception" clause for over forty years. The clause prohibits employees (such as pastors, rabbis, and priests) from suing a church in matters related to their employment since courts lack sufficient knowledge of ecclesiastical matters and church doctrine. In this case the church school argues that since Ms. Perich was a commissioned minister in the Lutheran church, taught Bible classes and led chapel services, she [qualifies](#) as a minister and is therefore subject to the provisions of the exception. Court precedent has dictated that while clergy members do fall under the exception, janitors and other lay personnel are not bound by the rule. This case hinges on whether teachers and others whose jobs include the inculcation of religious doctrine are covered by the ministerial exception. During oral arguments, the claim by EEOC lawyers that the ministerial exception was unconstitutional in any circumstance was met with [disbelief](#) by even the more liberal justices. The [outcome](#) of this case could open up a virtual Pandora's box of separation of church and state issues. If the justices side with the Administration's [argument](#) that the ministerial exception is unconstitutional, judges could require a church to employ a pastor that had previously been dismissed by the church. A decision is expected this summer. To view the amicus brief submitted by the AACS [click here](#).

## **Christmas Displays Under Fire**

Although the holiday season is still several months away, liberal activist groups are already warning localities not to erect Christmas displays including religious symbols. The Christian Law Association (CLA) was asked to defend the right to include religious symbols in holiday displays by a town threatened with a lawsuit by the American Civil Liberties Union (ACLU). The CLA circulated a Legal Opinion Memo that articulated the Supreme Court precedents that allow the use of religious symbols in city displays. At the county council meeting, the CLA lawyer was given five minutes to prove that the city's display met the requirements set forth in Justice Sandra Day O'Connor's "[Three Reindeer Rule](#)." Representatives from the ACLU were given thirty minutes to explain their opposition to the display. In an interesting turn of events, the last ACLU speaker admitted that the city's display was constitutional and did not need to be changed. The city council voted 4-1 to use the same display that it had in previous years. The Christian city council member who contacted CLA was thankful for this unexpected [victory](#).

## **In Case You Missed It:**

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

[Boy Scouts Affiliation Ends Program](#)

[Don't Drink the Koolaid](#)

[House Vote Supports Pro-life Group Claim](#)

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