



**The Washington Flyer**  
**October 14, 2016**

*“When our Founding Fathers passed the First Amendment, they sought to protect churches from government interference. They never intended to construct a wall of hostility between government and the concept of religious belief itself.”*  
**Ronald Reagan**

**Supreme Court Considers Education Cases**

The US Supreme Court began its 2016–17 term this month and will consider [several cases](#) having implications for K-12 education. Two of these cases regard the rights and protections for people with disabilities as provided under the Individuals with Disabilities Education Act (IDEA). Specifically, one case involving a student with autism considers the appropriate level of educational benefits required under IDEA (*Endrew F. v. Douglas County School District*). Another case will determine whether a service dog can accompany a student with disabilities and what the parents must do before filing charges under IDEA (*Fry v. Napoleon Community Schools*). A third case before the Supreme Court could have lasting effects for school choice and religious liberty. In *Trinity Lutheran Church of Columbia v. Pauley*, the Court will decide whether Missouri’s constitution prohibits the use of government funds for a neutral use at a religious school. The case involves Trinity Lutheran Church Learning Center, a faith-based preschool that applied for a state grant to upgrade its playground with scrap tire material but was denied exclusively because of the religious nature of the school. Missouri is one of 37 states that currently have a Blaine Amendment. Originally intended to discriminate against Catholics by prohibiting their parochial schools from receiving state education funds, Blaine Amendments are now used by anti-school choice groups to prohibit school choice programs by opposing any public funds from going to any faith-based school or their programs. A Supreme Court ruling against the Blaine Amendment would remove one major obstacle for school choice nationwide. There is a possibility that the Court will take up a fourth case, *Gloucester County School Board v. G.G.*, which would address the Obama transgender mandate. Earlier this year, the Court granted a stay in this case involving a transgender student, Gavin Grimm, who sued her county school board for prohibiting her from using the boys’ bathrooms and other sex-segregated school facilities. The lawsuit charges that Gloucester County school board in Virginia is violating Title IX, which prohibits sex discrimination; however, the school board contends that the federal statute was not written to include gender identity in its definition of sex. By granting a stay, the Supreme Court allowed the school board temporarily to prohibit Grimm from using the boys’ facilities while the case is ongoing. This move by the Supreme Court signaled that the Court may decide to take up the case during this session. However, if they do not, the 4<sup>th</sup> Circuit’s order will stand and the county school board will be required to allow the student to use the bathroom of her choice. Court pundits have noted that the vacancy of Justice Scalia’s seat has made the Court somewhat reluctant to take on many contentious cases.

**New Massachusetts Law Could Put Pastors in Jail**

A law recently passed in Massachusetts strictly prohibits segregating any public bathrooms in the state based on biological sex. Furthermore, the Massachusetts Commission Against Discrimination, the department responsible for enforcing the law, has released a guidebook outlining how they plan to do so, including a

disturbing portion describing how the state plans to force churches to comply as well. The intent of the regulations is to label church events that are open to the public as “secular” events, and, therefore, use the law to hold churches and pastors liable for any sort of “discrimination” attendees claim to experience. Under the law, harassment claims could be filed against a church that has sex-segregated bathrooms at a public church event and even against a pastor or church member who simply uses the [“wrong” pronoun](#) when addressing a transgender person. Conservatives are challenging this law as an infringement to the right to freedom of religion protected by the First Amendment. A ballot initiative has been created by the Massachusetts Family Institute to [gather signatures](#) to repeal the law.

### **Poll on Religious Liberty vs. Nondiscrimination**

The country appears to be divided on issues of religious liberty and “nondiscrimination” policies, according to results from a recently released [survey](#) by the Pew Research Center. The survey also found that church attendance factored significantly into a person’s view of religious liberty. The results showed that 63% of churchgoers believed that business owners should be able to refuse services for same-sex weddings based on religious objections, while only 42% of non-church attendees agreed. Regarding whether transgender individuals should be able to use the bathroom of their chosen gender identity, 60% of churchgoers believed people should be required to use the restroom of their biological gender, compared with 46% of non-churchgoers. On the question of whether or not employers should be required to provide health coverage for contraception, regardless of any religious objections, 49% of respondents who attend church indicated it should be required, while 75% of non-churchgoers agreed there should be no religious exemptions. Interestingly, very few respondents could sympathize with both views on the issues.

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

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

[Freedom vs. Liberty: Why Conservatives Have Begun to Favor One Over the Other](#)

[Lawsuit Filed Over Sale of Fetal Tissue](#)

Jamison Coppola: Legislative Director  
Maureen Van Den Berg: Policy Analyst  
Legislative Office, 119 C Street SE, Washington, DC 20003  
Phone: 202.547.2991 Fax: 202.547.2992