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“Resistance to tyranny becomes the Christian and social duty of each individual.”
John Hancock

AACS Signs Amicus Brief Regarding Equitable Services in the CARES Act

The AACS has joined an [amicus brief](#) with the [Wisconsin Institute for Law and Liberty](#) (WILL) in a case disputing how several states are interpreting participation by private schools in equitable services for CARES Act education funding. The case, *National Association for the Advancement of Colored People (NAACP) v. DeVos*, was filed in the D.C. District Court last week. The NAACP contests a provision in the CARES Act that provides federal funding for schools in order to maintain a safe and healthy school environment. The CARES Act dedicates \$16.5 billion to education through the Elementary and Secondary School Emergency Relief Fund (ESSER) and the Governor’s Emergency Education Relief (GEER). Because the coronavirus affects all students, the CARES Act requires that equitable services be available to private schools wishing to partake in these programs. However, Congress did not specify how states could distribute funds to private schools. This confusion led Secretary of Education Betsy DeVos to issue an [interim final rule](#) that gives states and local school agencies two options for delivering ESSER and GEER funds to nonpublic schools: either to all students proportionally based on the total number of public and private school students, or to only low-income students proportionally based on the total number of these students. In response, the NAACP sued Secretary DeVos, arguing that the department acted unlawfully by giving states these options.

In the amicus brief the AACS joined, WILL argued three main points against the NAACP. First, the language of the CARES Act clearly instructs that equitable services can be shared with all students, not just the low-income students benefitting from Title I. Contrary to the NAACP’s argument, the CARES Act does not allow states to distribute funds to all public school students while distributing private school funds only to low-income students. Second, private schools would suffer irreparable harm if they did not receive equitable services. Unlike public schools, private schools are not perpetually funded by taxes and must instead compete to enroll students. As private schools close due to COVID-19 restrictions, more students are absorbed into the strained public school system. Indeed, [EdChoice estimates](#) that if only 10% of private school students had to enroll in public schools, states would incur an additional \$6.7 billion in costs. Because of these irreparable harms, private schools should receive federal funding proportionally based on their enrollments. Last, private schools serve an invaluable role in American education. Around 10% of American students attend nearly 35,000 private schools in the U.S. Many of these schools serve low- to middle-class families who want not only excellent academic training for their children, but also training in character, values, and religious belief that those families share. Studies show that these schools produce balanced, civically engaged, and responsible citizens that go on to contribute greatly to society. During the COVID-19 pandemic, the Department of Education should recognize the irreplaceable role private schools serve in American education and do everything possible to preserve these institutions by treating them on an equal footing with public schools.

Religious Liberty Battle Continues in California

Churches and religious leaders in California are continuing to see [aggressive action](#) from state and local officials trying to shut down religious activity through COVID mandates. Pastor Rob McCoy and the members of Godspoke Calvary Church in Ventura County were ordered to stop holding worship services; and when they defied the orders and met for church in person, they were fined \$3,000. In Santa Clara, county officials taped a 4-page cease and desist letter to the doors of North Valley Baptist Church and then fined the church \$10,000 for singing during their indoor worship services. The pastor of the church, Jack Trieber, released a [video](#) this week describing the church's position, and pleaded with the county to "please stop" their aggressive action against the church. He stated, "You can't make laws against the church. We have the right to worship. But more than the right to worship under the Constitution, we have a command from God." In Los Angeles, Pastor John MacArthur and Grace Community Church saw a victory in their battle for religious liberty when the California Superior Court denied the county officials' fourth attempt to get a restraining order against the church. The church has a full hearing on September 4 for their lawsuit against the county's mandates. Assistant U.S. Attorney General Eric Dreiband, in a recent [interview](#) for the podcast "The World and Everything In It," noted the intent of the U.S. Department of Justice to monitor closely "everything that state and local governments are doing across the country, including in California." He cited the freedom to exercise religion that is guaranteed in the First Amendment and emphatically stated, "There is no pandemic exception to the Bill of Rights." He added, "when appropriate, we are taking action in court."

Republican Platform: Education, Life, and Religious Liberty

As the Republican party hosted the virtual Republican National Convention this week due to COVID restrictions that limit large gatherings, they voted to forego the adoption of a new 2020 platform and instead [re-adopt the 2016 platform](#) and support President Trump's [agenda for his second term](#). The 2016 platform was hailed by conservatives as the most conservative party platform ever presented, boldly supporting religious liberty, the pro-life cause, constitutional judicial appointments, and school choice and parental rights. Some have criticized the lack of a new platform, noting that, with the exception of school choice, these issues are not included in the President's list of core principles for his second term. It should be noted that the Republican National Convention highlighted speakers who spoke specifically to the President's commitment and the administration's accomplishments in the areas of life, religious liberty, and judicial appointments. For education, the President's 2nd-term agenda includes two items: "Provide school choice to every child in America" and "Teach American exceptionalism." On these issues, the Trump administration's record and agenda stand in stark contrast to the positions stated in the Democratic platform. In last week's edition of our *Washington Flyer*, we noted that the Democratic platform left "religion" out of the list of civil rights the party would strive to protect. We need to clarify that this was true of the draft of the platform; in the final version, "religion" was reinserted in the list of protected classes. However, as we reported, the final Democratic platform flatly rejects "broad religious exemptions" that protect the religious rights of faith-based organizations, such as adoption agencies and medical providers, to live out their faith in the public sphere.

In Case You Missed It:

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

[NEW AACCS Podcast: Navigating State and Local Reopening Plans](#)

[States Have an Obligation to Offer Parents School Choice During Pandemic Closures](#)

[Court Allows Four Pro-Life Laws to Go Into Effect Saving Unborn Babies From Abortion](#)