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“The sacred rights of mankind are not to be rummaged for, among old parchments, or musty records. They are written, as with a sun beam, in the whole volume of human nature, by the hand of the divinity itself; and can never be erased or obscured by mortal power.”

Alexander Hamilton

Senate HELP Committee Holds Hearing for U.S. Secretary of Education Nominee

On Wednesday, the Senate Health, Education, Labor, and Pensions Committee held a [hearing regarding the nomination](#) of Dr. Miguel Cardona to serve as U.S. Secretary of Education. Dr. Cardona’s entire career has been in the Connecticut public school system, beginning as a fourth-grade teacher, then as a principal, assistant superintendent, and the state’s Commissioner of Education—a position he has held for the last eighteen months. Throughout the confirmation hearing, he faced questions regarding student assessments, student loan debt and making college affordable, and pandemic-related issues such as his plan to reopen schools and ensure vaccinations for public and private school teachers. Senator Tim Scott (SC), a strong advocate for school choice, asked Mr. Cardona about his position on charter schools and the DC Opportunity Scholarship Program (DCOSP). Mr. Cardona responded by recognizing that some charter schools have been successful, but that his goal would be to invest in neighborhood district schools to ensure “all schools are quality schools,” and he is not in favor of a “system of winners and losers.” He made no mention of the DCOSP. Senator Mike Braun (IN), referencing the success of the school choice program in Indiana, asked Mr. Cardona for clarification regarding his position on school choice; in his answer, Mr. Cardona referenced the choice he had to attend a technical high school, but reiterated that his passion is to improve the quality of public neighborhood schools and made no mention of educational opportunities provided through school choice programs.

Perhaps the most significant exchange in the hearing was the [discussion](#) of whether or not transgender male students should be allowed to compete in girls’ athletics, an education issue highlighted by President Biden’s [executive order](#) instructing all federal agencies to examine policies that supposedly discriminate by gender identity or sexual orientation. Sen. Rand Paul (KY) pointedly asked Dr. Cardona whether he thought it is “fair to have [transgender students] running in the girls’ track meet?” The nominee replied that he believes it is the “legal responsibility of schools to provide opportunities for students to participate in activities and this includes students who are transgender.” Sen. Mitt Romney (UT) and Sen. Roger Marshall (KS) echoed Sen. Paul’s concerns that allowing transgender students to compete in girls’ sports would dramatically hinder opportunities for girls. Dr. Cardona then claimed the Supreme Court has ruled it illegal to discriminate on gender identity, a reference to the Supreme Court’s *Bostock* decision which addressed employment arenas (some legal experts have [argued](#) the ruling does not extend to education). Dr. Cardona stated that he “respect[s] the perspectives of people who feel differently” and committed to working “to make sure we can provide opportunities for all students in a non-discriminatory fashion, but also make sure that we respect the rights and beliefs of all our students.” Sen. Patty Murray (WA), Chairman of the HELP Committee, voiced her support for transgender rights and urged Dr. Cardona to also take quick action to repeal the Title IX regulations which were finalized last year to address sexual harassment issues in education and firm up religious liberty protections in higher educational settings.

National Poll Shows Strong Support for School Choice

A [recent national poll](#) shows that school choice receives strong support across party lines, especially among African American and Latino communities. Conducted by Democratic polling company Beck Research on behalf of the American Federation for Children (AFC), the poll found that 65% of K–12 parents support school choice, with 74% of African Americans and 71% of Latinos recording strong support. When broken down by political affiliation, 82% of Republicans, 69% of Independents, and 55% of Democrats offered strong support for educational options. The survey asked respondents about seven different types of school choice programs, specifically mentioning the Education Freedom Scholarship (EFS) program, a tax credit scholarship program introduced to Congress and championed by the Trump administration. The EFS program received 79% support, with strong support from 92% of African Americans and 86% of Latinos. Education savings accounts also enjoyed strong support (78% overall) across party lines, with 78% of Democrats, 82% of Republicans, and 76% of Independents favoring ESAs. AFC president John Schilling [noted](#) that the pandemic caused upheavals to education that revealed “how inflexible schools truly are” and that “families are desperate for educational alternatives.” He added, “We owe it to students across the country to give them the flexibility they need in order to be successful in the classroom. . . . Policymakers should note how critical constituencies are overwhelmingly supportive of policies that allow families the freedom to choose the best education for their sons and daughters.”

Federal Court Strikes Down Obamacare Transgender Mandate

A federal district court in North Dakota [recently ruled](#) in favor of protecting the religious liberty and conscience rights of health care providers who cannot in good conscience offer surgical treatments that supposedly affirm transgender patients. In the case [Religious Sisters of Mercy v. Azar](#), a group of Catholic nuns, a Catholic university, and a group of Catholic health care providers sued to strike down Section 1557 of the Affordable Care Act, commonly called Obamacare, that forced doctors to prescribe puberty-blocking drugs and cross-sex hormones and perform sex reassignment surgeries for patients even if the doctor viewed these treatments as antithetical to medical science or his religious beliefs. This nationwide “transgender mandate” applied to all patients, even children, and disregarded the doctor’s individual medical judgment about whether the procedure was actually beneficial for the patient. In its [ruling](#), the Court stated that the Religious Freedom Restoration Act (RFRA) protects religious health care providers from following a government mandate in violation of their religious beliefs. The court also mentioned the 2020 *Bostock v. Clayton County* decision that redefined sex in federal employment law to include sexual orientation and gender identity, noting that Justice Alito in his dissent foresaw Section 1557 being a future “intense battleground” for religious liberty and conscience rights. For now, the court has ruled that protecting religious liberty and conscience rights promotes the common good of society “because the protection of constitutional rights is ‘always in the public interest.’”

In Case You Missed It:

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

[Practical Legal Help for Christian Schools: ADF Ministry Alliance](#)

[On Nation's Report Card on Life, These States Score Highest](#)

[How Biden is Appeasing Progressives with His Education Department Picks](#)

[3 in 4 Americans Favor “Significant Restrictions” on Abortion, Poll Finds](#)

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