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"While we are zealously performing the duties of good citizens and soldiers, we certainly ought not to be inattentive to the higher duties of religion. To the distinguished character of Patriot, it should be our highest glory to add the more distinguished character of Christian."
President George Washington

South Carolina Court Case Against Blaine Amendment
A school choice case currently being considered by a federal trial court could open the door for thousands of children in South Carolina to have access to school choice opportunities. At issue is the Safe Access to Flexible Education (SAFE) grant program, established by South Carolina Governor Henry McMaster to help children and families have access to good education during the COVID-19 pandemic. Through the CARES Act, funds were allocated to each state through the Governor's Emergency Education Relief (GEER) fund, to be used according to the discretion of each governor for educational needs in that state. South Carolina received $48 million, and Gov. McMaster designated $32 million to fund the SAFE grant program to provide scholarships of up to $6,500 for students to attend the school of their choice, reaching an estimated 5,000 eligible students. The program was lauded by school choice advocates who recognized the program as a way to empower parents to find the best education for their children, especially after a year when education was interrupted for most children due to the pandemic. However, the program was immediately challenged by opponents who charged that the program was simply designating public funds to private institutions and thus violating the state's Blaine Amendment. The SC State Supreme Court consequently ruled against the program. Gov. McMaster had also designated $2.4 million of GEER funds for historically black colleges and universities, but that amount is also on hold due to the legal challenges.

In response to the legal challenges, the Liberty Justice Center (LJC) has filed a lawsuit against South Carolina's Blaine Amendment, charging the antiquated law is steeped in racial and religious animus and, therefore, unconstitutional. The argument points to the intent of the 1895 law when it was first passed which was to keep public funds from supporting Catholic schools and also to target Protestant schools which were teaching newly freed slaves to read. In June 2020, the U.S. Supreme Court ruled in *Espinoza* that the Blaine Amendment in Montana was unconstitutional, thus rendering most Blaine Amendments in other states also unconstitutional. However, the South Carolina Blaine Amendment describes private schools as "non-profit" or "non-governmental" rather than "sectarian" or religious, so is not covered by the *Espinoza* ruling. Joining LJC in the lawsuit is the Catholic diocese and the SC Independent Colleges and Universities, which includes five historically black colleges and universities. Ironically, the NAACP and Georgetown University, a Catholic Jesuit institution, attempted to oppose the lawsuit, despite the fact that doing so was an effort against religious and black colleges and universities. LJC attorney Daniel Suhr noted the irony, "So you've got Georgetown—Catholic Jesuit institution—spending money to fight Catholic schools. And you've got NAACP filing a lawsuit to stop money from going to historically black colleges. That is how much these people hate school choice." He added, "It's just disappointing and sad. It's this really cynical use of this provision that's been on the books for a century because it's convenient to advance their political agenda."

AACS Submits Amicus Brief Supporting Religious Liberty for Mission in Hiring Rights
The AACS submitted an amicus brief in support of a Christian ministry's fundamental right to make hiring decisions that align with its biblical faith. The case, *Seattle Union Gospel Mission v. Woods*, has broad implications for religious liberty for faith-based organizations, even those that do not accept federal funds. The Mission is a Christian non-profit that has provided services to Seattle's homeless and addicted for nearly ninety years. In 2016, the Mission declined to hire lawyer Matthew Woods for its Open Door Legal Services ministry because Woods was in a same-sex relationship, was not active in a church, and did not indicate a personal relationship with Christ or a desire to help the Mission's clients come to know God. Woods sued, alleging that the Mission violated Washington's Law Against Discrimination (WLAD). The Mission initially won in trial court, but the Washington Supreme Court overturned that ruling, stating that the Mission could not be exempt from the non-discrimination law and limiting the Mission's right to hire employees to minister. This decision splits from the six Courts of Appeals that have protected religious hiring rights. In our amicus brief, the AACS argues that the WLAD is not neutral or generally applicable because it exempts some employers but not the Mission. Further, we argue that the exemption given to some proves that the state has no compelling interest in denying the exemption to religious employers. The Supreme Court is currently deciding whether it will take up the case.

Judge Rules in Favor of Christian School Allowing Parental Decisions on Masks
An Illinois county judge last week initially ruled in favor of the freedom of a Christian school to allow parents to make decisions regarding their children's wearing of masks while at school. Last month, the Illinois State Board of Education (ISBE) decided to revoke Parkview Christian Academy's status as a state-recognized private school because the school did not enforce a state-wide mandate that all students and staff wear masks. By revoking recognition, the state excluded Parkview from participating in Illinois High School Association sports and threatened the ability for graduating seniors to apply to colleges. Judge Stephen Krentz granted Parkview an emergency order that forces the state to temporarily reinstate the school's recognition while the court case moves forward. Judge Krentz noted in his reasoning that the state had denied Parkview due process rights that public schools typically enjoy before having their recognition revoked. State Senator John Curran stated that "public schools are placed on probation and are given a defined timeline to respond, yet nonpublic schools are not given that same consideration," noting that the school's recognition was rescinded the same day that ISBE notified it of its noncompliance. The state superintendent responded that the state could immediately revoke recognition when he "determines there is an emergency situation present at a school." Addressing this point, Judge Krentz wrote that the rules for private schools "may not be more burdensome" than those for public schools.

In Case You Missed It:

Weekly Market Update provided by Jeff Beach of the AACS Investment Team at Merrill Lynch

Practical Legal Help for Christian Schools: ADF Ministry Alliance

Promise to America's Children

Biden Overturns Trump's Pro-life Rule Defunding Planned Parenthood by $60 Million

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