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*"I always consider the settlement of America with reverence and wonder, as the opening of a grand scene and design in providence, for the illumination of the ignorant and the emancipation of the slavish part of mankind all over the earth."*

*John Adams*

**AACS Submits Amicus Brief in Religious Liberty Case**

The AACS joined an amicus brief submitted to the Fourth Circuit Court of Appeals advocating for the First Amendment rights of religious institutions to make employment decisions based on the tenets of their faith. The [case](#), *Billard v. Charlotte Catholic High School*, involves Lonnie Billard, a man who taught English and drama in a Catholic high school in Charlotte, NC, for 12 years before taking a substitute role. While in this role in 2015, Billard entered into a same-sex marriage, posting on social media about his relationship. Billard's behavior violates the teachings of the Catholic church and the conduct policies agreed to in his employment contract. When the school decided not to use Billard as a substitute teacher, Billard joined with the ACLU to sue the school, claiming discrimination. A lower court sided with Billard against the Catholic school, prompting the Diocese of Charlotte, which has 9 schools in Charlotte including Charlotte Catholic High School, to appeal the case to the Fourth Circuit Court of Appeals. The Becket Fund, which represents the Diocese of Charlotte, stated that the U.S. Constitution and federal law protects "the right of religious institutions like the Diocese of Charlotte to select teachers who agree to uphold their religious mission." The AACS joined with four other Christian educational organizations in an amicus brief which offered a thorough explanation of the importance of faith-based policies and shared faith commitments by employees for a successful Christian ministry. The brief also pointed to the First Amendment and the language in Title VII which "protect[s] the right of religious organizations to build communities of the faithful." Furthermore, the brief emphasized that lack of respect and acknowledgement in this area by the courts will result in devastating and divisive measures which will cripple ministry and thereby hinder the advancement of faith in society. Also joining the amicus brief are the AACS state associations from Maryland, Virginia, West Virginia, North Carolina, and South Carolina—states within the district of the Fourth Circuit Court.

This is not the first case to address whether a religious institution has the right to make employment decisions based on religious belief and practice. In a similar case, a federal court in Indiana [ruled just last week](#) that a guidance counselor who was fired from a Catholic school for engaging in a same-sex relationship did not have a legitimate claim of discrimination as the school was following the tenets and mission of its faith. The court pointed to the [ministerial exception](#), a principle often used in deciding court cases, that "allows religious organizations to make employment decision for ministers without government interference." "This is a common-sense ruling," stated Luke Goodrich of the Becket Fund. "Catholic schools exist to pass on the Catholic faith to their students; to do that, they need freedom to ask Catholic educators to uphold Catholic values."

## **AACS Submits Public Comments on HHS Transgender Rule**

This week, the AACS submitted public comments on a proposed rule concerning [Section 1557](#) of the Affordable Care Act that incorporates Title IX's new definition of *sex* to include “pregnancy or related conditions; sexual orientation; and gender identity.” The proposed Section 1557 rule prohibits discrimination on those grounds in Department of Health and Human Services (HHS)-funded health programs, applying to both directly funded programs and indirectly funded health insurers. The [proposed rule](#) was written so broadly that many Christian education institutions will be affected, especially in the issuance of health insurance benefits to their employees. The Section 1557 proposed rule expands nondiscrimination that lacks explicit, affirmative religious exemptions, such as the broad religious exemption in Title IX. Instead, HHS claims that it will make an “informed, case-by-case decision and, where applicable, protect a recipient’s conscience or religious freedom rights.” Our public comments highlight previous examples of religious employers such as [Hobby Lobby](#) and [Little Sisters of the Poor](#) and current cases such as [Franciscan Alliance](#) that were persecuted but eventually vindicated in court after the government attempted to force them to provide access to contraceptives, abortions, or “gender-affirming” care that violated their religious beliefs. Ignoring this legal backdrop, the HHS proposed rule would only intensify the targeting of religious institutions that have sincere conscience or religious objections to facilitating these procedures. We write in our comments, “To the extent that the HHS proposed rule would affect Christian educational institutions, the rule should clearly incorporate Title IX’s religious exemption that was designed to protect religious educational institutions from violating their sincerely held religious beliefs.”

## **Report Shows Child Abuse and Neglect in Head Start Centers**

A recently released [report](#) reveals that one in four Head Start centers have had incidents of “child abuse, lack of supervision, or unauthorized release between October 2015 and May 2020.” The report was published by the Office of the Inspector General (OIG) in the U.S. Department of Health and Human Services (HHS) and examined information gathered by the Administration for Children and Families (ACF), the HHS office responsible for the Head Start Program. The OIG conducted the review by examining data and reports from the ACF as well as state and local agencies regarding incidents that occurred within programs operating under Head Start funding. Out of 1,611 recipients of Head Start funding, 438 received an adverse finding, and 24% of these received an additional adverse finding for failing to report the incidents. The OIG review also “identified 130 additional incidents that occurred in Head Start centers but of which ACF was not aware.” Rep. Virginia Foxx (NC), the Ranking Member on the Education and Labor Committee, [called the report “damning”](#) and, pointing to ACF’s own “admission that it is not even aware of the full extent of abuse in Head Start centers,” charged that “ACF is guilty of a dereliction of its oversight duty and of enabling child abuse and neglect on a systemic level.” Calling for accountability, she added, “This program is supposed to be about giving children a head start in life, as it operates now, it is holding too many children back.” She further pointed to earlier reports from 2010 and 2019 conducted by the Government and Accountability Office which found fraud and abuse in Head Start centers, but no oversight hearings occurred.

## **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](#)

[The Religion Cases to Watch in the Supreme Court's New Term](#)