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"The liberties of our country, the freedom of our civil constitution, are worth defending against all hazards."
Samuel Adams

House Subcommittee Holds Hearing on School Choice
The U.S. House Subcommittee for Early Childhood, Elementary and Secondary Education recently held a hearing on the subject of "School Choice: Expanding Education Freedom for All." Chaired by Rep. Aaron Bean (FL), the hearing brought a robust discussion on the benefits of school choice and the necessary components for a strong choice program and thriving educational system. Often during the hearing, the topic of the federal role in education surfaced, with the Republicans claiming that the federal role should be minimal and many of the witnesses calling for the end of the Department of Education. In contrast, the Democrats claimed it was the responsibility of the government to provide education for every child and charged that private school choice programs took funding away from this responsibility. Speaking about legislative options to advance school choice, Rep. Warren Davidson (OH) and Rep. Adrian Smith (NE) both discussed legislative solutions, such as the recently passed Parent's Bill of Rights and also the proposed Education Choice for Children Act (ECCA, H.R. 531) which would establish a $10 billion tax credit scholarship program to provide school choice for students and families nationwide. Former Congressman Luke Messer (IN), who currently serves as the president of Invest in Education, pointed out that ECCA also protects federalism and "ensures K–12 education remains a state and local issue, creates no new mandates or government programs, [and] protects religious liberty and private school autonomy." Ranking Democrat member Rep. Suzanne Bonamici (OR) argued against private school choice programs, stating that they "drain resources from public education, can lead to wasteful and even fraudulent spending, deprive students and parents of civil rights protection, and do not improve student achievement." Democrat-invited witness Derek W. Black, professor of law at the University of South Carolina, further contended that providing public education was a constitutional obligation for the government. An exchange between Rep. Bonamici and Mr. Black revealed their underlying philosophy that the government must control a child's education: Mr. Black stated, "The further children get away from public schools the less we have the capacity to protect them."

In contrast, witnesses invited by the Republicans offered testimony and statistics which show the benefits to students when parents are empowered to choose the best education for their children. Dr. Lindsey Burke, the Director for the Center of Education Policy at the Heritage Foundation, spoke of the abundance of research and studies which offer empirical evidence that school choice programs not only improve the academic success of students but also improve graduation and college enrollment rates. Further discussion made the point that private schools and other educational options in choice programs are accountable to the parents, while public schools have no accountability to parents. Denisha Allen, with the American Federation for Children, gave a stirring testimony of how a Florida school choice program allowed her to go from failing in a public elementary school to thriving as a student and becoming the first in her family to graduate from high school. In a counter to the argument that private school choice supports discrimination, she pointed out that there are 100,000 Black students in Florida enrolled in the school choice program, explaining that "for context, . . . there are more Black students in Florida that are enrolled in choice programs than 30 states have Black students overall."

Supreme Court Hears Oral Arguments in Religious Liberty Case
On April 18, the Supreme Court heard oral arguments for *Groff v. DeJoy*, a case which involves a Christian postal worker who wants to observe the Sabbath. The case revolves around the question "what burden employers must meet before denying religious accommodations to their employees." This case began in 2012, when Gerald Groff began working for the United States Postal Service (USPS). Once USPS began delivering packages on Sundays, Groff requested to not work on Sunday and offered to work more shifts during the week and on holidays. USPS initially allowed the accommodation for Groff but then reversed its decision and scheduled Groff to work on Sundays, forcing him to resign. Aaron Streett, the counsel representing Groff, argued that the Supreme Court should reconsider the 1977 decision in *Trans World Airlines v. Hardison* (1977) which offered an interpretation of Title VII of the 1964 Civil Rights Act which can be limiting to the religious liberty of employees. Title VII requires that an employer reasonably accommodate an employee's religious practices unless the accommodation causes an undue hardship for the employer's business. In *Hardison*, the Supreme Court decided that the employer needed to prove only a minimal (*De minimis*) hardship to deny religious accommodations. The oral arguments are just a part of the legal process; Justice Alito pointed out the large volume of amicus briefs submitted in support of Groff and the lack of supporting briefs for the government's position in the case. A decision by the Court is expected by the end of June 2023.

Supreme Court Hands Abortion Pill Argument back to Lower Courts
Last week, the U.S. Supreme Court issued an order which allows the abortion pill mifepristone to continue on the market without added restrictions while a case against the drug is being considered in a lower court. This order is in response to a request made by the U.S. Justice Department which asked the Supreme Court to remove restrictions against the drug while the case is being debated in the 5th Circuit of Appeals. Earlier this month, a Texas federal judge suspended the FDA's approval of the abortion pill mifepristone. Minutes after the Texas decision, a federal judge in the state of Washington ruled that the FDA was not required to make changes to the drug's availability. The plaintiff in the case is stating that the FDA's approval of the drug was rushed and that the drug produces many medical complications for women. The Biden administration appealed the Texas decision, and the 5th Circuit Court of Appeals allowed the drug to still be sold but with added restrictions to increase protection of women's health. On April 21, the Supreme Court upheld the appeal, allowing availability of the drug while the case is under consideration. This order is not a final decision by the Supreme Court and does not mean that it will not hear the case in the future. The order simply sends the case back to the 5th Circuit Court. The case will most likely be heard by the 5th Circuit beginning in May and will likely be considered by the Supreme Court sometime later this year.

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

ADF Video: Respect for Marriage Act: What Church and Ministry Leaders Should Know

AACS Executive Director Jeff Walton Weighs in on School Security after Tennessee Tragedy

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