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“The religion then of every man must be left to the conviction and conscience of every man: and it is the right of every man to exercise it as these may dictate.”

James Madison

Fourth Circuit Hears Oral Arguments in Religious Employment Case

The Fourth Circuit Court of Appeals heard [oral arguments](#) recently in the case [Billard v. Charlotte Catholic High School](#), a religious employment case with important implications for religious institutions. The case began when Charlotte Catholic High School terminated Lonnie Billard from his substitute teacher position after learning that he was marrying his same-sex partner. The district court [ruled](#) in 2021 that Charlotte Catholic violated Title VII’s prohibition on sex discrimination by firing Billard. (The AACCS submitted an amicus brief in district court in defense of the school’s religious liberty.) In that decision, Judge Max Cogburn ruled that the school was not constitutionally protected because Billard taught secular rather than religious subjects. Billard said at the time that the “decision validates that I did nothing wrong by being a gay man.”

In response, the school appealed to the Fourth Circuit, [arguing](#) that Title VII’s religious exemption protected the school’s right to make employment decisions based on the tenets of its faith, observances, and practices of its employees. The school is represented by attorney Luke Goodrich, who works with the Becket Fund for Religious Liberty. Interestingly, Goodrich did not raise a ministerial exception argument, an omission that Judges Pamela Harris and Robert King found perplexing. Harris [questioned this approach](#) to use a broad law (Title VII) that could cover employees with non-religious responsibilities, rather than the ministerial exception which has been used by courts in decisions favorable to religious institutions in employment cases. “None of the tools you’re giving us gets at the problem,” the judge stated, expressing a concern that Charlotte Catholic was “asking [the court] to make new law” by ruling in favor of the school under Title VII’s religious exemption. Harris further acknowledged that the facts of the case would make people “sympathetic” to the school’s argument, but argued that a ruling for the school under Title VII would be exceedingly broad and allow religious institutions to fire non-teaching staff or fire employees based on race or sex. The school denied that terminating an employee because he actively disagreed with the school’s religious mission was equivalent to firing someone based on his race. On the other side of the arguments, Josh Block with the ACLU argued that the court should consider the ministerial exception, which he argued would limit the ruling to core teachers only and not other staff like Billard. While he argued that the Fourth Circuit should affirm the district court’s decision, he stated that “if we have to lose, I’d rather lose on the ministerial exception” than on Title VII’s religious exception. In his rebuttal, Goodrich asserted that the Supreme Court and appellate courts have ruled in favor of religious institutions in similar cases. The AACCS continues to monitor this case closely and will provide updates as the case progresses.

Report Shows School Choice Policies Do Not Raise Tuition

The recent flourishing of the school choice movement has marked 2023 as the [Year of Universal Choice](#). This year alone, [19 states](#) have expanded their school choice programs. However, school choice advocates still face pushback. Many opponents of school choice argue that school choice programs raise private school tuition.

However, a recent [report](#) by the Heritage Foundation revealed that private school tuition in states with school choice programs increased less than tuition in states without school choice programs. For example, from 2013 to 2023, private school tuition in school choice states increased by \$1,556, a 15.4% increase. In that same time frame, tuition in states without school choice programs increased \$2,594, a 27.6% increase. In other words, private school tuition in states without school choice increased significantly more than in states with school choice. The authors of the report also found that private school tuition in school choice states decreased when adjusted for inflation. The authors found that elementary private school tuition was \$925 less than it would have been before school choice programs. However, the authors pointed out that the \$925 in savings could reflect delayed or reduced tuition increases rather than direct tuition cuts. As the evidence in favor of school choice grows, school choice advocates will continue celebrating 2023 as the Year of Universal Choice. And if the trend continues, school choice advocates might be able to say the same thing in 2024.

Results from EdChoice Teen Survey Regarding Education Habits

EdChoice, an education freedom advocacy organization, released the results of a [survey](#) regarding teenagers' outlook on news sources, school attendance, and mental health needs. Of the teens polled, 57% said their school provided mental health services. And of those whose schools provided no mental health services, 65% want their schools to provide those services. In other words, over half of teens either have access to mental health services at their schools or want their schools to provide mental health services. The survey also asked students how many full days they and their classmates were absent from school. Of those surveyed, 19% reported being absent for over 15 days of the last school year. Students reported 15% of their classmates as also missing over 15 days, an alarming statistic. "At least self-reported, something like one in five students is right on the edge of or going over being chronically absent," [said Mike McShane](#), the Director of National Research at EdChoice. McShane also expressed concern that there could be a sharp learning divide because students seem to be on two ends of the spectrum with 44% missing five or fewer days and 19% missing over 15 days. In addition, students who are [chronically absent](#) are more likely to drop out of high school. The survey also found that 64% of teens get information on current events primarily from social media. That number is down 6% from the last time the survey was conducted. An in-depth analysis of the survey can be found [at this link](#).

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](#)

[Promise to America's Children](#)

[Cal Thomas: Opening Doors to Success](#)

[Religious Freedom Institute: Crisis Toolkit for Religious Institutions](#)

[Former AG Barr Recognizes Importance of Christian Schools and School Choice](#)