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“Education means emancipation. It means light and liberty. It means the uplifting of the soul of man into the glorious light of truth, the light by which men can only be made free.”
Frederick Douglas

Fourth Circuit Court Hears Oral Arguments in Tax Exemption Case

The 4th Circuit Court of Appeals recently heard [oral arguments](#) in the religious hiring case *Buettner-Hartsoe v. Baltimore Lutheran High School Association*. The [case](#) involves five girls who sued the Lutheran school for not adequately addressing their complaints of sexual harassment, as required by Title IX. The school claimed that it is not subject to Title IX because it is not a recipient of federal funds. However, the U.S. District Court for the District of Maryland decided against the school, ruling that the tax-exempt status of the school constituted “federal financial assistance” (FFA), and, thus, made the school subject to the regulations of Title IX. During the oral arguments before the 4th Circuit, the attorneys representing the students argued that federal laws about tax-exempt status were “ambiguous” and likened tax exemption to a “grant, loan, or contract.” The panel of three judges, two Obama appointees and one Trump appointee, expressed incredulity at times at the lawyers’ arguments, with one judge asking if her taking a tax deduction on her own taxes would be considered FFA under the argument. The judges exclaimed that they were “dumbfounded,” asking one attorney “how was that possible” to consider tax exemption as FFA while a tax deduction was not. Later on, judges asked the lawyers where a judge might find the rule to help them figure out whether tax treatment is considered FFA. The judges also pressed attorneys on why federal agencies have not enforced federal law and regulations on the host of tax-exempt organizations that, under the attorney’s definition, have always been recipients of FFA and thus were always subject to federal laws like Title IX. Throughout oral arguments, the judges expressed skepticism that tax exemption and the many organizations it affects should be upended. They also seemed unpersuaded by an argument that, when applied to individuals, would likely turn millions of Americans who claim a deduction or tax credit into recipients of FFA overnight. While the tone of the questions indicates that the court may look favorably on the religious schools in this case, it is impossible to predict how the court will decide.

Because of the implications of this case, the AACCS submitted an [amicus brief](#) to the 4th Circuit, urging a reversal of the lower court’s decision. In addition, the AACCS has endorsed the [Safeguarding Charity Act](#) which would provide a nationwide solution to the false claims that tax-exempt status is the same as FFA. As [previously reported](#), Sen. Marco Rubio (FL) and Rep. Greg Steube (FL) have introduced this simple, one-sentence bill to codify that the tax-exempt status is not FFA. Though the text is short, the effects would be consequential. If passed, the bill would cut through the patchwork of court cases to create a nationwide standard that would prevent anyone from claiming a tax-exempt organization is the recipient of FFA. Tax-exempt organizations span a wide range of organizations, all of which would now be subject to costly and burdensome regulations under this novel legal theory. Rep. Doug Lamborn (CO), an original cosponsor of the bill, summed up the issue by [saying](#), “It is past time that legislation is enacted to clarify the independence of tax-exempt organizations, from those receiving federal financial assistance.”

Alabama, Tennessee, and Texas Governors Push for School Choice

Governors across multiple states have continued fighting for school choice, with some even staking their careers on the issue. In Alabama, Gov. Kay Ivey has declared that her [main objective](#) during the current session is to pass the Creating Hope & Opportunity for Our Students' Education Act ([CHOOSE Act](#)). This bill would fund education savings accounts of up to \$7,000 per child enrolled in an accredited private school. During the first two years of the program, families with income levels at or below 300% of the federal poverty level would be eligible. However, starting in 2027, any child would be eligible. In Tennessee, Gov. Bill Lee proposed spending \$144 million to [expand](#) the state's existing school choice program to 20,000 scholarships to students across the state. Currently, only 5,000 scholarships are open to low-income or disabled students in three counties. Lee's proposed program would also expand eligibility, with only half of the scholarships being subject to income requirements. Over in Texas, Gov. Greg Abbott is making good on his promise to support primary challengers of anti-school choice candidates. He recently [called out](#) state Rep. Gary VanDeaver, a Texas Republican who opposed school choice legislation. Abbott has instead endorsed Chris Spencer, a pro-school choice candidate. Abbott's influence remains strong, with [64%](#) of Texans surveyed saying they would vote for candidates the governor has endorsed. More and more states have embraced school choice programs. In 2023, [20 states](#) expanded school choice. School choice supporters are hopeful that these three states might do the same in 2024.

NCES Releases Data on Private Schools

The National Center for Education Statistics recently hosted a webinar in which they released statistics on private schools and on principals and teachers in private schools. According to the data for the 2021-2022 school year, 29,700 private schools served 4.7 million K-12 students and employed 483,000 full-time teachers. Of these private schools, 66% were religiously affiliated. Between the 2019-2020 and the 2021-2022 school years (when schools were disrupted by the COVID-19 pandemic), the number of private schools decreased by 6%, but the enrollment in private schools increased between 3 and 9% in grades K-4 and held steady in grades 5-12, with a 3% decrease in only grade 11. Regarding school leadership, the data showed the average age of private school principals is 51, and the average salary is \$78,600. (For public school principals, the average age is 49, and the average salary is \$105,900.) The average age for private school teachers is 45, with the average teacher salary at \$46,400. (For public school teachers, the average age is 43, and the average salary is \$61,600.) The data was compiled through several voluntary surveys: the [Private School Universe Survey](#) (PSS), the [National Teacher and Principal Survey](#) (NTPS), the Teacher Follow-up Survey (TFS), and the Principal Follow-up Survey (PFS) to the NTPS. Because participation in the surveys is voluntary for private schools, the results are reflective of only those schools that participate. The data is helpful in presenting the great work of private schools to lawmakers as evidence showing they provide an excellent alternative to public schools for children and families.

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](#)

[NEW! AACCS Today Podcast: Do You Love Analyzing Policy? Thankfully, Maureen Does!](#)

[America Must Stand Firm Upholding Religious Freedom at Home and Abroad](#)

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