



The Washington Flyer
February 28, 2025

*“Those who deny freedom to others, deserve it not for themselves;
and, under a just God, cannot long retain it.”*
Abraham Lincoln

Victory for School Choice and First Amendment Rights in Colorado Preschool Program

A federal court in Denver has ruled that a Christian preschool can participate in Colorado’s Universal Preschool Program (UPK) and maintain its religious standards in its admission and hiring policies. The [ruling](#) marks a victory for school choice and religious liberty as the case involved whether the state could force Darren Patterson Christian Academy to conform to Colorado’s nondiscrimination laws to participate in the program. The [UPK program](#) provides 15 hours of free preschool for all 4-year-olds in the state and allows for a variety of preschool programs to participate, including faith-based schools and home-based options. However, the state requires that participating schools agree to the state’s [antidiscrimination laws](#). Darren Patterson Christian Academy, which operates the Busy Bees Preschool, filed a religious discrimination lawsuit against the state after it was denied eligibility based on its religious beliefs on marriage, sexuality, and gender. Specifically, the state said the school could not require its staff to share biblical values, and the school must also be willing to hire transgender employees and let them use the clothing, restrooms, and pronouns of their choice. The state claimed its antidiscrimination laws required the school’s compliance for participation. Alliance Defending Freedom, representing the school, argued that by not providing a religious exemption in the UPK program, the state was violating the First Amendment. In the 15-page ruling, U.S. District Judge Daniel Domenico, noted that the Colorado Department of Early Childhood [made allowances](#) for some exemptions from the “quality standards” that were requirements for the program, yet would not allow an exemption for religious beliefs and practices. “The fact that the state recognizes conditions could exist in which it would exempt a preschool from the quality standards but does not consider Plaintiff’s religious convictions sufficiently compelling to do so here, triggers strict scrutiny,” wrote Domenico. ADF senior counsel Jeremiah Galus [praised](#) the decision. “The government can’t force religious schools to abandon their beliefs—and how they exercise those beliefs—to participate in a public benefit program that everyone else can access.” Noting that the “Supreme Court has reaffirmed this constitutional principle multiple times,” he called the decision a “resounding win for First Amendment rights.”

First Circuit Upholds Transgender Policy, Violating Parental Rights

The U.S. 1st Circuit Court of Appeals has affirmed a school’s decision to hide a student’s gender identity from her parents. The case started when Baird Middle School in Ludlow, Massachusetts, socially transitioned an 11-year-old girl against her parents’ wishes. The school began calling the girl a different name, using incorrect pronouns, and also let her choose which bathroom to use. The parents sued after discovering the school had socially transitioned their daughter. They appealed to the 1st Circuit after the district court dismissed the case. The parents argued the school violated their fundamental right to direct their daughter’s upbringing by performing medical treatment and socially transitioning her without their consent. They also argued that the school violated their parental rights by concealing information from them. However, the 1st Circuit [ruled](#) that the school’s decision to refer to the girl incorrectly did not qualify as medical treatment. The court characterized

the school's decisions about bathroom access as purely administrative and outside the parents' control, such as dress code policies. The court also concluded the school's decision to withhold information was different than outright lying. According to [Sarah Parshall Perry](#), a senior legal fellow at the Heritage Foundation, the parents have decided to appeal to the Supreme Court. Although the Supreme Court has denied two other similar cases, conservatives hope the court will take the case and protect parental rights.

States Petition SCOTUS to Overturn *Obergefell*

This year, members of various state legislatures have committed to introducing resolutions calling on the U.S. Supreme Court to overturn its *Obergefell* decision that legalized same sex "marriages." According to pro-family activist group [MassResistance](#), legislators in Idaho, Iowa, Kansas, Michigan, Montana, and North Dakota have either introduced the resolutions or promised to introduce them. This week, [Michigan](#) Rep. John Schriver introduced the [Resolution to Restore Marriage](#), and, so far, 12 Republican legislators have supported the resolution. In [Idaho](#), state Rep. Heather Scott introduced a resolution which passed both the committee and the state House. The [North Dakota](#) House of Representatives also passed a resolution on *Obergefell* this week, and a similar resolution is being considered one state over in [South Dakota](#). Next week in [Montana](#), the Senate Judiciary Committee will hold a hearing to consider a joint resolution urging the Supreme Court to overturn *Obergefell*. In addition to these resolutions, other states have introduced resolutions that create a category of covenant marriage between a man and a woman. Although one of these resolutions failed in an [Oklahoma](#) committee, similar covenant marriage resolutions have been introduced in [Missouri](#), [Tennessee](#), and [Texas](#). Many of the resolutions build off the U.S. Supreme Court's decision in *Dobbs v. Jackson* that overturned the right to abortion. In his concurring opinion in *Dobbs*, Justice Clarence Thomas suggested that the court should reconsider cases that rely on similar [precedent](#), such as *Obergefell*. Although the resolutions cannot force the Supreme Court to reconsider *Obergefell*, they do represent the states' concern for protecting marriage.

Department of Ed Removes Nonbinary Option from FAFSA Forms

Students filling out the Free Application for Federal Student Aid form must choose between the male and female sexes. Under the Biden administration, applicants could also choose "nonbinary" or "prefer not to respond." The Education Department [announced](#) this action in response to President Trump's [executive order](#) that recognizes the biological reality of the two sexes. The change [applies](#) to all current and future FAFSA applications. Applicants who previously selected "nonbinary" or "prefer not to answer" do not need to resubmit the form. However, applicants who change their response to any current FAFSA question must also update their sex before they can resubmit the form. Because the sex question is only for the Department's statistical research, colleges will neither see students' responses nor change any records. In its announcement, the Department also highlighted its commitment to fix ongoing problems from the FAFSA's bungled rollout. By the end of February, the Department plans to release batch correction capabilities for colleges. In addition, the Department is continuing its work on releasing all the FAFSA's features. "The Trump Administration will correct the failures of the last Administration and ensure students and families can easily access the FAFSA form in a timely manner," [said](#) Acting Under Secretary James Bergeron.

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](#)

[NEW! AACCS Today Podcast: Is the D.O.E. D.O.A.?](#)

[Vance: Faith and Family Motivate Trump Administration's Policies](#)

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