

October 2022

Dear Friends and Supporters,

This month's Educational Update addresses the second of two important Free Exercise of Religion cases recently decided by SCOTUS. You can see from the quotation at the bottom of the page the cases from 1947 to 2000 which have operated basically remove to religion from public schools.

This opinion is important because, for example, it protects the Alabama Accountability Act of 2013, amended in 2015, which allows educational scholarships to nonpublic schools through "scholarship granting organizations," funded by private contributions that get tax credits. Tuition may be paid to participating private schools, including religious schools. That law has remained in effect and the *Carson* opinion would further substantiate its constitutionality. It is important to remember, however, that any time a religious organization takes any government funds, there will be the potential for regulation. *Carson* is not *carte blanche*, for example, for Alabama church schools to begin taking state funds.

You may have seen news reports by the Eagle Forum of Alabama concerning a subpoena it received from the U.S. Department of Justice. The subpoena requests Eagle Forum's lobbying records related to the statute passed by the Alabama Legislature in the 2022 Regular Session that prohibits sex change procedures on minor children. It is called VCAP, the Vulnerable Child and Protection Act. SLI worked with the sponsors of the legislation to help draft the legislative bill. SLI was also subpoenaed to provide our legal records. It is the first time in over thirty years that lawyers working on these SLI type issues have every been subpoenaed to provide legal documents.

Not long after VCAP passed, the DOJ and some private plaintiffs filed a federal court lawsuit attacking its constitutionality. Their attack is based on the policies of the Biden Administration to advance many types of sexual issues, often referred to as the LGBTQ+ agenda, which includes promoting transgenderism. One of their big issues is to advocate for the ability of minor children to have hormone and drug procedures, and then actual "faux" sex change surgeries.

We joined with Eagle Forum in opposing the subpoenas. We retained counsel and filed a motion to quash, meaning the subpoenas should be thrown out. The federal judge in the case will set a hearing in the near future. This issue is much more important than the VCAP issue alone. It implicates the ability of public interest organizations to associate and provide assistance and guidance on issues affecting the public, including providing confidential attorney privileged advice. It is a threat to the constitutional rights of free speech, association and the right to petition government. We will provide a more complete explanation when there have been developments.

Thank you for your continuing support of our efforts. With personal regards, I am,

Yours Very Truly,

A. Eric Johnston

AEJ/pkh