

Legal Legislative UPDATE

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Should Some Students Be Denied College Entrance Because They Used These Textbooks?

The University of California system (UC) represents 10 university campuses such as UCLA, UC Berkeley, and UC San Diego. It has apparently decided that it will not accept new private-school course submissions for core curriculum subjects if they are based on the science textbooks pictured above or if they use the non-science texts above and emphasize Christianity's truthful influence on our history and culture. Such course submissions must be approved by UC in order for a student's credits to count toward eligibility at any of the state's college campuses (whether UC or California State University). It appears that UC has determined that the science books and certain other courses are simply "too religious" to qualify for consideration. The Association of Christian Schools International; Calvary Chapel Christian Schools of Murrieta, California; and the students believe that the university's decision is motivated by unlawful religious discrimination. For this reason, ACSI and the other plaintiffs have filed a court case against the University of California system. The goal of the

case is to secure both religious and academic freedom in California by enjoining UC from engaging in viewpoint discrimination against Christian schools and their students.

Some Historical Background

When California Christian school administrators began to contact ACSI regarding concerns about the new university demands, Ken Smitherman, president of ACSI, wrote to Susan Wilbur, UC director of undergraduate admissions, to inquire about the restrictions. Here is some of the information that she supplied in her February 9, 2004, response:

In the 1930s the UC faculty established the "a-f" subject area requirements, representing a sequence of 15 courses that students must take in order to be eligible for UC admissions. Since that time UC faculty and staff have reviewed course descriptions and outlines from public and private high schools in California to determine whether they meet the "a-f" (now "a-g") guidelines (i.e., are they adequately rigorous and do they cover core academic concepts that the faculty



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ACSI Vision Statement

It is our Vision to be an association speaking with a viable and authoritative voice in education and consisting of effective Christian schools recognized as essential and contributing to the public good so that Christian school students worldwide acquire wisdom, knowledge, and a biblical worldview as evidenced by a lifestyle of character, leadership, service, stewardship, and worship.

Specifically, young men and women, products of Christian schooling, will mature to loving God with all their heart, mind, and soul (Matthew 23:37); growing in wisdom and stature (Luke 2:52); living in the world as salt and light (Matthew 5:13-14); and giving sacrificially of themselves and their resources, reflecting the essence and love of the Christ who lives and dwells within them (Romans 12:1).

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"This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. [It has been provided to member schools with the understanding that ACSI] is not engaged in rendering legal, accounting, or other professional service. If legal advice or other expert assistance is required, the services of a competent professional person should be sought."

—From a Declaration of Principles jointly adopted by a committee of the American Bar Association and a committee of publishers and associations.



As a member of the Evangelical Council for Financial Accountability (ECFA), ACSI follows high standards of Christian ethics in financial accounting and reporting ... standards that help set us apart from other ministries.

ECFA is an alliance of more than 1,100 evangelical ministries dedicated to honest accounting, financial integrity, and good stewardship.



have determined should be covered in a college preparatory curriculum).... The faculty/staff course reviews result in lists of a-g certified courses for most public and private schools in the state. Students use these certified course lists when they apply to the University.

The BOARS Committee Rejects the Textbooks

The UC Faculty Senate has a committee known as the Board of Admissions and Relations with Schools (or BOARS). Each of the universities in the University of California system has a representative on this board. BOARS establishes the policies and practices used in the admissions process, including course requirements for minimum eligibility for freshman admission to the University of California.

A UC position paper states that the general purposes of the a-g subject area requirements, which BOARS oversees, are to ensure that entering students ...

Can participate fully in the first-year program at the University in a broad variety of fields of study;

Have attained the necessary preparation for courses, majors, and programs offered at the University;

Have attained a body of knowledge that will provide breadth and perspective to new, more advanced studies; and

Have attained essential critical thinking and study skill.

The position paper goes on to state the following:

The faculty set guidelines for prerequisite secondary school course content that UC students need to be prepared to take and pass University major requirements. Not every secondary school course meets these criteria. In the sciences, for example, courses and texts that provide general overviews or perspectives without providing strong basic information can be determined to be unsuitable in meeting the prerequisite criteria that fulfills the "d" laboratory science requirement.

Initially, the Christian publishers' science texts were rejected by BOARS. The following is a part of the University's position paper regarding those texts:

The texts in question are primarily religious texts; science is secondary. The textbook authors and publishers are quite clear and direct about their approach and provide evidence of this approach in both the texts and general marketing materials such as their websites.... As a result of the orientation/approach of the texts in question, which expressly prioritize religion over science, a course relying on these texts as core instructional materials does not meet the faculty's criteria for the UC subject "d" laboratory science requirement.

More recently, a course outline entitled "Christianity and Morality in American Literature" was also rejected, and it used the *American Classics for Christians*, Volume V from A Beka Book. A history course entitled "Christianity's Influence on America," using the Bob Jones University Press (BJU) text *United States History for Christian Schools* as well as a college history textbook, was also turned down because it



truthfully explored our nation's Christian roots. Other rejections have also occurred. It is interesting that these courses with strong content were rejected when other courses with such titles as California Problems, Cinema and the Real World 2, Theory of Knowledge, and Sound and Acoustics have been accepted by BOARS.

The University has rejected these new course submissions for new high schools or for existing high schools that want to add classes or change existing classes. However, UC administration indicated in a position paper that "there is no plan to disapprove biology or physics courses that were approved prior to the recent faculty clarification regarding courses that rely on these texts. *However, please note that for nearly a year the faculty has been considering the possibility of instituting periodic re-evaluation of previously approved courses from all schools to insure that they continue to meet guidelines...*" (emphasis added). It appears to ACSI that it is only a matter of time before all schools using these textbooks will find that they no longer meet the requirements for UC course approval.

Meeting with UC Personnel to Discuss the Issue

Representative Sharon Runner, a California state legislator, arranged for a meeting at the California state capitol in May 2004, between UC personnel, Christian school personnel, and attorneys from both sides of the issue. Among those present to discuss the situation were two attorneys from the Christian Law Association; Burt Carney, ACSI's director for legal/legislative issues; and Rohn Ritzema, ACSI's regional director for Northern California and Hawaii.

The Christian school representatives learned several points at this meeting:

- (1) The rejection of the science books represents the first time that UC has rejected books because of their religious content and teachings. (Note: Since that meeting, courses with religious content in other subject areas have also been rejected by UC.)

- (2) When asked whether poor college performance by students from religious schools prompted the rejection of the textbooks, UC representatives responded negatively. They also acknowledged that UC did not have any objective evidence that students from religious schools are deficient in science when they arrive for their freshman year of college.
- (3) The UC representatives indicated that there was no problem with the material facts in the BJU physics textbook—that if the Scripture verses that begin each chapter were removed the textbook would likely be approved for the science lab course requirement.
- (4) As the discussion continued about the biology books, it became evident that they were rejected because they appeared to state the perspective that the Bible is revelation and along with faith is more authoritative than the observations of science, especially if there were a conflict over a "factual scientific issue."
- (5) The UC representatives acknowledged that there were no UC policies or guidelines for BOARS to follow when it decided to reject the books. ACSI also discovered that no minutes were taken of the meetings in which these decisions were made, nor were the publishers or schools asked for more information regarding their submissions.

It became obvious to those present representing Christian schools that the textbook decisions were highly subjective and appeared to be made because of discrimination against Christianity.

ACSI's Position

- (1) ACSI seeks to preserve the right of Christian school graduates to attend the college or university of their choice. Of course, ACSI hopes that parents and graduates will seriously consider Christian colleges or universities as their first admissions option. However, several administrators have told



ACSI that one of the questions parents frequently ask when seeking high school admission is, “Do students from your Christian school qualify for admission to the University of California system?” ACSI believes it’s wrong for the state to discriminate against Christians—essentially foreclosing opportunities at state universities—because of unfair religious prejudice by UC personnel, particularly when UC can’t cite any objective evidence that graduates from Christian schools using these textbooks perform any less well in their freshman year of university than graduates from secular schools.

- (2) ACSI wishes to make it clear that in becoming a plaintiff in this suit it is not endorsing any particular textbooks or publishers. ACSI seeks both to defend the right of Christian schools to have the religious and academic freedom to choose their curriculum, courses, and teaching methods and to allow equal opportunity for graduates of these schools to gain admission to the college or university of their choice. Isn’t it surprising that, as everyone knows, public university personnel adamantly defend their right to academic freedom—yet these same people seem to be denying equal freedom to California Christian high schools and to those who attend these schools.
- (3) ACSI is concerned that this secular intolerance might spread to other institutions and to other states. Right now, the a-g curriculum list is used by both the UC and the Cal State systems. Cal State has 23 campuses in California and UC has 10 campuses. If this discrimination is allowed to continue unchallenged, it is only a matter of time before secular institutions in other states will join the bandwagon. It is imperative to try to keep this religious and viewpoint discrimination from spreading.
- (4) ACSI wants to make clear that schools that have an approved course outline will continue to enjoy approval under the a-g standards, regardless of what textbook they use, until and unless the University of California disapproves the course for a future year. UC has

not said that any approved course loses credit because of a text—only that it will not approve future new courses because of science texts.

Who Will “Fight the Fight” on Behalf of Christian Schools?

The plaintiffs in the lawsuit are ACSI, Calvary Chapel Christian Schools of Murrieta, and several high school students at Calvary Chapel Christian. The plaintiffs are represented by the law firm of Bird & Loechl, LLC of Atlanta, as well as by the southern California public interest law firm Advocates for Faith and Freedom.

Attorney Wendell Bird and one of his associate attorneys, Jonathan McCants, are preparing the case and will litigate it in a California court. Mr. Bird is quite experienced in handling education cases and First Amendment issues.¹ Advocates for Faith and Freedom is a new organization founded by Robert Tyler, an experienced litigator of First Amendment cases who most recently was on staff with Alliance Defense Fund (ADF). Mr. Tyler will serve as local counsel in the case and will help support the case in California.

ACSI wants to especially commend the courageous board and administration of Calvary Chapel Christian Schools of Murrieta, California, as well as each of the student plaintiffs and their families, for “standing in the gap” as plaintiffs, even though UC purports to exercise such sweeping (and biased) control over the school’s courses and curriculum and their futures. 🏠

Footnote

1. For more information about this law firm, check www.birdlawfirm.com.

Your Help Is Needed

We hope that you will “fight the good fight” by praying for a successful outcome of this case. We also ask that you consider contributing to the ACSI Legal Defense Fund, which stands ready to support legal efforts that impact Christian schooling. You can mail your contribution or give securely online at www.acsi.org/~give. Choose *Legal Defense Fund* under Giving Opportunities.