



Via US Mail and Facsimile at [REDACTED]

March 10, 2015

Dr. Russ Deaton
Interim Executive Director
Tennessee Student Assistance Corporation
404 James Robertson Parkway
Parkway Towers, Suite 1510
Nashville, TN 37243-0820

Dear Dr. Deaton,

We have been contacted by [REDACTED] and her son [REDACTED] of Washington County, Tennessee, regarding a violation of [REDACTED] freedom to exercise his religion. The Tennessee Promise Scholarship Program is being administered in such a way as to force students like [REDACTED] to make a choice between attending their church's worship services or applying for the Tennessee Promise scholarship. I am sure you would agree that the state is prohibited from so burdening a student's free exercise of his religion by the federal and state constitutions and that immediate action is warranted.

Public Chapter No. 900, § 1(c) places the Tennessee Student Assistance Corporation ("TSAC") in charge of administering the Tennessee Promise scholarship and charges it with promulgating rules for the program. TSAC Rules require that students attend two meetings to maintain their eligibility for the Tennessee Promise scholarship. TSAC Rule 1640-01-26-.04(k). Partnering organizations that participate in the scholarship program must provide the first of these meetings before March 1 and the second before May 31 of each year. TSAC Rule 1640-01-26-.09(g)(h). "Where a student cannot attend either mandatory meeting due to extenuating circumstances, Partnering Organizations shall provide opportunities for the student to receive the training prior to the March 1 and May 31 deadlines, or as soon thereafter as practicable." TSAC Rule 1640-01-26-.09(i). Neither the statute nor the rules dictate how many meeting opportunities must be provided to a student applicant or what circumstances should excuse an absence or allow for attendance at a make-up meeting.

The 2014-2015 *Student Handbook* (the "Handbook") distributed to students by partnering organization tnAchieves, Inc. provides the only definition of an excused absence. Page 31 of the Handbook interprets the TSAC rules and

AMERICAN CIVIL
LIBERTIES UNION
FOUNDATION
OF TENNESSEE
P.O. BOX 120180
NASHVILLE, TN 37212
TEL: 615/259-7147
FAX: 615/259-7715
WWW.ACLU.TN.ORG

regulations to allow the partnering organizations to set a single date for the mandatory meeting which all applicants must attend unless they have an excused absence. If an absence is excused, then the applicant may attend a make-up date scheduled by the organization. Absences are excused only if they are caused by (1) personal illness; (2) death in the immediate family; (3) conflict with a post-secondary class; (4) personal or immediate family emergency; or (5) participation in a "school-sanctioned event (e.g. athletic event, choir concert, national or state conference or competition)." Handbook at p. 31, § 2(a). Attendance of a religious worship service or similar event related to the free exercise of religion is not included in the handbook as a valid excuse.

TnAchieves scheduled the second mandatory meeting for [REDACTED] on Thursday, March 5, 2015. However, due to inclement weather, tnAchieves rescheduled the meeting to Wednesday, March 18, 2015 at 5:30 p.m. As most people who have lived in Tennessee are aware, for many Christian denominations, church services are scheduled on Wednesday nights.

[REDACTED] is one of the service leaders at his church. [REDACTED] emailed several tnAchieves officials and [REDACTED] assigned mentor informing them that the rescheduled meeting conflicted with their Wednesday night worship services. [REDACTED] asked if her son could attend one of the make-up sessions or a meeting at another school. (See Attached Exhibit "A.") This request was referred to the Outreach Coordinator for tnAchieves, who stated that "church is not an excusable absence." (See Attached Exhibit "B."). Next, [REDACTED] also complained to the governor's office. A representative from the Office of Constituent Services reiterated that church was not an acceptable excuse. If an absence is not excused, the student is no longer eligible for the scholarship.

The First Amendment of the U.S. Constitution and Article I, § 3 of the Tennessee Constitution guarantee the free exercise of religion and prohibit the government from placing a substantial burden on the plaintiff's sincerely held religious practices or beliefs. See *Kent v. Johnson*, 821 F.2d 1220, 1224-25 (6th Cir. 1987); A substantial burden exists when the state forces the individual to choose between following the precepts of his or her religious faith and forfeiting benefits. See *Sherbert v. Verner*, 374 U.S. 398, 404, 83 S.Ct. 1790 (1963);

[REDACTED] is now in the position of having to choose between his faith and the scholarship program. If [REDACTED] attends church on March 18 he loses his opportunity to participate in the scholarship program. If [REDACTED] attends the March

Dr. Russ Deaton
March 10, 2015
Page 3 of 3

18 meeting, he violates his religious beliefs. The State of Tennessee cannot put ██████████ in this position. It must allow ██████████ to exercise his religious beliefs and attend another meeting to maintain his eligibility for the scholarship program.


A convenient and readily available solution to this problem presents itself. The TSAC Rule contemplated that some students might miss a mandatory meeting and mandated that tnAchieves schedule make-up meetings. ██████████ could easily be allowed to attend that make-up meeting. ██████████ could also attend any of the several meetings held in one of the surrounding counties to satisfy his requirement and remain eligible.

The state and its participating organization are enforcing the Handbook's rigid rules that only activities sanctioned by the school can excuse an absence even though this requirement exists in neither the statutes nor administrative regulations. This distinction between school events and worship services is arbitrary and pointless. Allowing students to attend a make-up meeting for participation in religious activities will no more burden the state or its participating organizations than allowing excused absences for illness or athletic events.

Such strict adherence to this narrow policy violates ██████████ free exercise rights. Therefore, ██████████ and the ACLU of Tennessee request that an exception be made for ██████████ and for any other student applicant who presents evidence of a religious conflict with their assigned meeting date.

Time is of the essence as the March 18, 2015 meeting looms. An immediate response stating that ██████████ absence will be excused is requested.

Sincerely,



Thomas H. Castelli

cc: Honorable Bill Haslam, Governor of Tennessee
Honorable Candice McQueen, Commissioner, Tennessee Department of
Education
Krissy DeAlejandro, Executive Director, tnAchieves, Inc.