

# Issue Brief

## SEF “Report” Misstates Law and Misleads Public to Promote Anti-Choice Agenda

Faith First Georgia, Inc.

February 11, 2013

### *Southern Education Foundation, Inc. Agenda Opposes Free Choice and Free Exercise of Religion*

#### **SEF “Report” Built on Foundation of Sand**

Last month, the Southern Education Foundation, Inc. (“SEF”) published an “Issue Brief” that was packed with misleading assertions of fact and law. That “report” misstates the law and misleads the public to promote its anti-choice agenda. Unfortunately, many media outlets published information from that “report” without confirming any of these incorrect assertions.

The headline of the SEF “report” shouts “Georgia Tax Dollars Help Finance Private Schools” in large, bold letters. This is a complete fabrication

and misstatement of the law. The SEF “report” misleads the public by repeating this blatant inaccuracy throughout its “report.”

The truth is that not a single penny of Georgia tax funds is used to fund any Faith First SSO scholarship. Every donation received by Faith First and other SSOs in Georgia come from private individuals and companies. This position is supported by a recent United States Supreme Court decision - *Arizona Christian School Tuition Organization (ACSTO) v. Winn*, 131 S. Ct. 1436 (2011).

In *ACSTO*, the

### *Fact v. SEF Fiction*

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**SEF FICTION:** SSOs are “providing public financing;” use “tax dollars;” or are “tax funded.”

**FACT:** SSOs do not receive a single penny of Georgia tax funds; all donations are funded by private donations.

individuals challenging Arizona’s tax credit scholarship program (which is similar to Georgia’s SSO laws in all relevant aspects) claimed that the program was supported by taxpayer dollars, just like the SEF “report.”

**SEF WRONG ON LAW,  
WRONG ON POLICY**

The Supreme Court rejected this argument out of hand. "When ... taxpayers choose to contribute to [SSOs], they spend their own money, not money the State has collected from respondents or from other taxpayers." 131 S. Ct. at 1447. The Court noted that "[l]ike contributions that lead to charitable tax deductions, contributions yielding [SSO] tax credits are not owed to the State and, in fact, pass directly from taxpayers to private organizations. **Respondents' contrary position assumes that income should be treated as if it were government property even if it has not come into the tax collector's hands.**" *Id.* at 1448. (emphasis added)

Clearly, the entire foundation of the SEF "report" is built upon shifting sand. The issue of whose funds are used for SSO scholarships has been closed since the *ACSTO* decision - these are private funds, not Georgia tax funds. Presumably, the attorneys working for SEF and on its Board were fully aware that the *ACSTO* decisions ruled against their position on this fundamental point before SEF issued their "report."

This blatant, repeated misrepresentation of the law should be enough for any fair-minded person to reject the SEF "report" in its entirety.

To compound this error, the SEF "report" advocates for policies that reflect utter intolerance of opposing viewpoints. Such a policy position should be rejected by everyone.

By seeking to shut off SSOs to biblically based Christian schools, the SEF seeks to compel adherence to its view of

morality. In other words, an organization advocating tolerance is intolerant of any opposing viewpoints.

Faith First supports the fundamental right of fit parents to raise their children as they desire. Faith First views the SSO program as an opportunity for all Georgia parents to have meaningful choice in the education of their children. The SEF "report" supports compulsion, not choice, in education.

Finally, the SEF desires to stifle fundamental freedoms of free exercise of religion and free association. In essence, the SEF advocates for the denial of equal protection of the law to those with whom it disagrees.

Ironically, the SEF "report" itself admits that if no tax funds are used by SSOs, then it has no grounds to complain about any of the policies of Christian schools participating in the SSO program. In its conclusion the SEF concedes, "[u]nder state and federal constitutions, a private religious institution has the right to believe whatever it thinks Holy Scripture commands. It also has the right under current law to operate its private affairs in accordance with those beliefs." Even the SEF recognizes that if no Georgia tax funds are used, its entire "report" is without any legal merit whatsoever.

By deliberately misstating the law about the source of funds for SSO scholarships, the SEF has misled the public and revealed its anti-choice agenda.

Faith First supports school choice for every parent in Georgia.