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NCAA's big moment — OCR finds misuse of seclusion, restraint — Tennessee primary today — Backing Fisher — From school board to 2014's biggest upset?

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August 7, 2014

NCAA'S BIG MOMENT: The college presidents who run the National Collegiate Athletic Association's top division will likely approve a plan this afternoon to let the five power conferences set many of their own rules. The idea is controversial because many smaller institutions with lesser budgets worry they'll be left in the dust. But everyone recognizes that the gap between "the haves and have-nots," as they are sometimes called, is wide and getting wider. Presidents in the Southeastern, Pacific-12, Big Ten, Big 12 and Atlantic Coast Conference say they want the leeway to provide more for their athletes than the rest of Division I can — namely, scholarships that more closely reflect the full cost of college attendance. But they also want the ability to do more in recruiting and other competitive areas and ultimately bring in more revenue for their programs. Even if the Division I Board of Directors votes to pass the plan today, the decision could be reconsidered or suspended if enough colleges petition. An NCAA primer on today's vote: <http://bit.ly/1jXKHFr>.

— **As the vote approached**, Reps. Charlie Dent (R-Pa.) and Tony Cardenas (D-Calif.) announced the new Congressional Student-Athlete Protection Caucus to explore athletes' physical, academic and financial issues, "and to ensure that all student-athletes participating in college athletics are treated fairly and are provided with the educational promise that is at the heart of collegiate athletics." Dent and Cardenas are among a handful of lawmakers who've introduced recent legislation to limit the NCAA's authority in some areas and increase protections for athletes, an area in which Congress is increasingly dabbling, POLITICO reported: <http://politico.pro/1oEvkBa>.

OCR FINDS MISUSE OF SECLUSION, RESTRAINT: An investigation by the Education Department's Office for Civil Rights found that two public special education schools in Virginia have inappropriately used seclusion and restraint since 2012. OCR's investigation was prompted by a complaint [<http://bit.ly/1vd4DZC>] filed in November 2012 against the Positive Attitude and Commitment to Education East and West programs, in addition to Prince William County Schools. The school district is only supposed to restrain students in an emergency, but OCR found that students were being locked up in small, padded rooms for destroying property,

screaming or throwing paper at other students. At PACE West, students spent more than 700 hours in a separate room over the course of one month. And during the 2011-12 school year, 40 percent of PACE West students were restrained and/or secluded more than 200 times. Many of the students don't have individualized behavioral plans, the JustChildren Program of the Legal Aid Justice Center noted in a release.

— **In lieu of the findings**, Prince William County Schools entered into a resolution agreement with OCR. One way the district will address the issues: Agreeing to reevaluate the placement, services and behavioral interventions for any student who was secluded or restrained since 2012. If the district decides that a student needs a change in placement or services to meet specific behavioral needs, then it will provide compensatory services. OCR's findings and the resolution agreement: <http://bit.ly/1uoLm3c>.

GOOD THURSDAY MORNING, AUGUST 7. Here's the latest in breaking Bill Nye the Science Guy [<http://bit.ly/1syeKot>] news: BuzzFeed FOIA'd his emails with the White House and they're worth your time: <http://bzfd.it/1mnx2mu>. Send SCIENCE!, tips and amusing GIFs to cemma@politico.com or [@caitlinzemma](https://twitter.com/caitlinzemma). Events: educalendar@politicopro.com. And follow us on Twitter: [@Morning_Edu](https://twitter.com/Morning_Edu) and [@POLITICOPro](https://twitter.com/POLITICOPro).

WHAT TO WATCH TODAY: TENNESSEE PRIMARY: Senate HELP Committee ranking member Lamar Alexander faces off against tea party candidate Joe Carr in the state's Republican primary today. Carr has recently ramped up pressure on Alexander with assists from high-profile Republicans including Laura Ingraham and Sarah Palin. But if other recent primaries are any indication, he'll have a tough time unseating Alexander today. So far this cycle, not a single incumbent senator has been defeated by a challenger.

— **ICYMI:** Watch the television ad Alexander has been airing in the state about his fight against Obama's attempt to create a "national school board" (one of Alexander's favorite education phrases): <http://bit.ly/1pbRnjp>.

BACKING FISHER: A dozen amicus briefs filed Tuesday ask a court to revisit Abigail Fisher's affirmative action case against the University of Texas at Austin. "The question presented by this case," the American Civil Rights Union writes in its brief, "is whether the educational benefits from admitting these additional minorities to an already majority minority university is a sufficiently compelling government interest to justify the racial preferences necessary to achieve their admission, which would otherwise violate the Equal Protection rights of the white, Asian, Jewish, or other non-minority students that would be displaced from admission." The ACRU argues that a rehearing is warranted in part because the Fifth Circuit Court of Appeals didn't follow orders from the Supreme Court on remand, which said judges shouldn't give deference to Texas by assuming the admissions policy is clear and "unquestionably legitimate," and because "this is an extremely important case with nationwide implications."

— **Fisher asked for a rehearing en banc** after a three-judge panel last month said the college's use of affirmative action in admissions is constitutional, with one judge dissenting. Other amicus filers include: the Judicial Watch and Allied Educational Foundation

[\[http://politico.pro/1qXkB3I\]](http://politico.pro/1qXkB3I); the Cato Institute [\[http://politico.pro/1os2yze\]](http://politico.pro/1os2yze); the American Center for Law and Justice [\[http://politico.pro/1pbVko7\]](http://politico.pro/1pbVko7); the Asian American Legal Foundation and the 80-20 National Asian-American Educational Foundation [\[http://politico.pro/1ntIaOi\]](http://politico.pro/1ntIaOi); the Center for Constitutional Jurisprudence [\[http://politico.pro/1oEmaVm\]](http://politico.pro/1oEmaVm); former federal civil rights officials [\[http://politico.pro/1mnveJZ\]](http://politico.pro/1mnveJZ); Century Foundation senior fellow Richard Kahlenberg [\[http://politico.pro/1oh6yrj\]](http://politico.pro/1oh6yrj); the Mountain States Legal Foundation [\[http://politico.pro/1pCXyvI\]](http://politico.pro/1pCXyvI); United States Commission on Civil Rights members Gail Heriot and Peter Kirsanow [\[http://politico.pro/1os2MGT\]](http://politico.pro/1os2MGT); and the Pacific Legal Foundation, Center for Equal Opportunity, Project 21, Reason Foundation and Individual Rights Foundation [\[http://politico.pro/1qXomuw\]](http://politico.pro/1qXomuw).

FROM SCHOOL BOARD TO 2014'S BIGGEST UPSET? The only elected office Democrat Mary Burke has ever held was a seat on the school board — but here she is, tied with Republican incumbent Gov. Scott Walker in the polls. She couldn't be more different than Walker, POLITICO's James Hohmann reports: "She's a Harvard-educated multimillionaire who rarely goes to church; he's a middle-class son of a preacher who is just now trying to complete his college degree. She's spent her career in the family business and philanthropy; he's been in government for two decades. She's spent much of her campaign trying to win over progressives wary of her background in finance; he became a conservative icon after beating back the unions in an epic clash two years ago." But Burke is finally getting some national press attention and she's within striking distance of delivering the biggest shock of 2014. More: <http://politico.pro/1u0cc4f>

COLLEGE APPS AT NO COST: College applications will cause fewer financial headaches for low-income students starting this fall. For those who qualify to take the SAT for free, College Board is doling out up to four college application fee waivers. More than 2,000 colleges — a mix of public, private, two- and four-year institutions — are participating. Here's a breakdown of the participating colleges by state: <http://bit.ly/1knAcet> Some of the colleges on the list already don't charge application fees. The effort is part of an SAT redesign announced by College Board earlier this year: <http://politico.pro/1cCvXT1>.

SELECTIVITY NOT THE 'SECRET SAUCE': Attending a more or less selective college doesn't necessarily affect a student's graduation prospects, according to a new study published today in the American Education Research Journal [\[http://bit.ly/1sxWLhQ\]](http://bit.ly/1sxWLhQ). The study's findings question the idea that students attending more academically rigorous institutions are more likely to graduate. "Our results indicate that it's important not to overemphasize the idea that academically selective institutions, as measured by admissions test scores, somehow have a 'secret sauce' that gets students to graduate disproportionately relative to their background characteristics," study co-author Paul Attewell said. The study also found that a school's net cost has a slight effect on graduation rates: For every additional \$1,000 charged in tuition, the probability of graduation increased by a fraction of a percent.

JINDAL LAWYER CRIES SCHEMING OVER STANDARDS: An attorney for Louisiana Gov. Bobby Jindal said Wednesday that the Common Core and related tests are part of a federal "scheme" to control curriculum in states. The Obama administration is "trying to accomplish very indirectly what Congress has told them they can't do," attorney Jimmy Faircloth said. In a

court filing, Jindal alleged that PARCC violates federal law because it's ultimately driving curriculum. He has asked for a preliminary injunction banning the state from using PARCC materials until the court makes a decision. I have the story: <http://politico.pro/1kn3rya>.