

Oh, Wheaton

By [Steve Thorngate](#)

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I've so far declined to comment on Wheaton College's [decision to join the election-year culture war skirmish du jour](#) by suing the feds for ~~stomping all over its religious freedom~~ requiring insurers to cover basic women's health needs while allowing faith-based employers to themselves stay out of it. I was sad but not surprised to learn of this move. Wheaton takes it as not only one legitimate view but *an article of evangelical conviction* that the morning after pill is unacceptable? Sure, okay. I disagree with my alma mater, but it's hardly the first time. I don't have much more to say than that.

But [Grant Gallicho does](#). He dug into what's behind Wheaton's claim, via the Becket Fund, that the college can't appeal to the safe-harbor provision—delaying implementation of the mandate—until a year from now "for purely technical reasons about changes made to its insurance policy." Here's Gallicho:

Technical reasons? The safe harbor provision "has a number of technical requirements to be able to qualify," Duncan elaborated. "For example, it has a cut-off date of February 10, 2012. Because of technical changes made to Wheaton's insurance policy after that date, it can't qualify. If that sounds arbitrary that's because it is."

No, it's not. In order to qualify for safe harbor, a religious employer must not cover — or have recently covered — services it now wants to be exempt from covering. Duncan didn't explain this on the call, but in paragraph 120 of [Wheaton's legal complaint](#) (.pdf), you find this: "They currently provide coverage for certain contraceptives and inadvertently provided coverage for a short period after February 10, 2012 for other now-excluded contraceptives, making it impossible for Wheaton to make the required Safe Harbor certification." Sounds like Wheaton was paying for emergency contraception coverage for its employees — for how short a period it doesn't say.

Gallicho goes on to point out that the college's stated intention to "err on the side of moral caution" doesn't really square with this apparent history of inadvertently

paying directly for services it now claims it can't in good conscience allow someone else to pay for instead. [Read it all.](#)