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It does not take a majority to prevail... but rather an irate, tireless minority, keen on setting brushfires of freedom in the minds of men.

Samuel Adams

States Resist NCLB Mandates

State education officials are watching the Department of Education's [response](#) to those states that have publicly vowed to defy the "No Child Left Behind" proficiency mandates. By 2014, states are required to have 100% of students achieve math and reading proficiency standards or face punitive action by the Department. Secretary of Education Arne Duncan [stated](#) that approximately 82% of schools will not achieve proficiency by the next year. Earlier this year, several state superintendents – Idaho, Montana, and South Dakota – informed the DOE that they were not going to raise their AYP standards as directed by the 2007 law. The Department has not responded to the various noncompliant states in a uniform way. For example, Idaho Education Superintendent Tom Luna simply informed the DOE that Idaho would keep the same Annual Yearly Percentage (AYP) target for two years. Even though Luna did not ask for approval, Idaho was then granted formal permission by the Department to implement this plan. In contrast, Montana received a warning from the Secretary that the state would face stiff penalties if it did not comply with NCLB mandates by August 15, 2011. Penalties would include a denial of [Title I](#) revenue to fund the state's public schools. In a letter to Montana education official Denise Juneau, Secretary Duncan rejected the state's desire to maintain the "flat expectations" or same AYP standard for four years in a row. Currently, South Dakota is awaiting the Department's response to its plan to maintain the same AYP standard for three years. Tennessee and Michigan are among the states that have also asked the DOE for relief from some of the NCLB requirements. In addition, controversy has been heated over the Secretary's proposed NCLB waiver deal for states that agree to certain provisions. The Secretary's ability to offer a waiver option that relieves states from their duty to adhere to a federal law has been questioned by several Members of Congress.

National Call to Prayer Ruled Constitutional

The Freedom from Religion Foundation (FFRF) has lost its latest [case](#) against the right of officials to proclaim state or national days of prayer. Texas Governor Rick Perry along with the Family Research Council and others garnered significant [support](#) for a National Day of Prayer event on August 6; however, the FFRF filed suit claiming the event was unconstitutional. The American Center for Law and Justice filed a brief in this latest attack on individual religious liberty in which they cited the case law history precedent that an official's call to prayer on a voluntary basis does not constitute a violation of the Establishment Clause. The atheist group alleged that any acknowledgement of religion would cause them substantial emotional and physical harm. In his opinion, the judge dismissed the group's claim and wrote that a mere assertion of offense as a result of a religion is not sufficient to merit a favorable legal judgment. Subsequently, Judge Gray Miller ruled in favor of the ACLJ argument since the FFRF had no legal standing in the matter. He denied the request for a preliminary injunction and [dismissed](#) the lawsuit in its entirety. This is not the first time that there has been a legal challenge against National Day of Prayer activities. Atheist groups had also filed complaint against the longstanding National Day of

Prayer event held every May. In that instance, the atheists won a court judgment, but it was then overturned on appeal.

Judicial Nominee Article

In a rare deference to an apparent lack of veracity, the troubling nomination of Judge Steve Six to a federal judgeship has been withdrawn from further consideration. Although the Senate confirmation of judges was intended to serve as a check on the executive branch, most nominees are easily confirmed because of longstanding tradition of deference to the President's wishes. Conservative judicial watch groups have campaigned against many of President Obama's nominees because of their lack of experience, [controversial](#) statements, [loose constructionist](#) position on the Constitution, desire to promote international law above U.S. law, legal representation of infamous clients, and wide ranging charitable donations to activist groups promoting controversial agendas. Despite these well-documented concerns, all but [one](#) of the 31 federal and circuit court [candidates](#) have been confirmed with little opposition this term. The latest nominee Steve Six was ousted by Kansan voters and then was nominated by the President for a federal judge position. Six was accused of attempting to block the criminal lawsuit against Planned Parenthood for over 107 violations. During Senate hearings, Six gave misleading statements about his aggressive involvement in the case which led the Kansas Senators to withdraw their previous endorsement and urge the Judiciary Committee Chairman to stop the nomination process for Six. The Judicial Action Group has praised the Committee's decision to block the nomination of this troubling applicant. The selection of conservative judicial nominees is vital because of the critical legal decisions that could potentially curtail religious liberty and individual freedom.

HHS Ruling on Contraceptives

During the healthcare debate, Senator Barbara Mikulski offered an amendment that directed health care providers to cover the full range of healthcare options for women. The Institute of Medicine conducted panel [discussions](#) throughout the year to define the services that should be available under this law. On July 19, the institute issued its final recommendations which included the "full range" of preventive healthcare services. On August 1, the Department of Health and Human Services issued a [mandate](#) that all healthcare providers must now offer a wide range of contraceptives (birth control) at no cost to the beneficiary. Aside from the financial implications of the ruling, pro-life advocates are protesting the inclusion of such harmful abortifacients as [Ella](#) and "the morning after pill." These drugs have been shown to have injurious side effects and in some cases work by starving a developing baby of nutrients. A very narrow religious exemption exists for groups such as churches that offer health plans, but the exemption does not apply to many other providers who object on religious grounds. Barring an administrative retraction, the regulation will go into effect on August 1, 2012.

Video of the AACS Youth Legislative Training Conference

Action Item: View the new [video](#) of our Youth Legislative Training Conference [here](#).

In Case You Missed It:

[Weekly Market Update](#) provided by Jeff Beach of the [AACS Investment Team at Merrill Lynch](#)

[Education and the Supreme Court: The 2010 – 2011 Term](#)

[Same Sex Marriage and Threats to Religious Freedom: How Nondiscrimination Laws Factor In](#)

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