



**The Washington Flyer
October 15, 2021**

“Resistance to tyranny becomes the Christian and social duty of each individual. . . . Continue steadfast and, with a proper sense of your dependence on God, nobly defend those rights which heaven gave, and no man ought to take from us.”
-John Hancock

DOJ Receives Backlash for Calling for Investigation of Parents

Last week, U.S. Attorney General Merrick Garland issued a memorandum which instructs the FBI and United States Attorneys to facilitate meetings with state and local leaders to investigate parents’ growing opposition against policies being promoted by local school boards. The memo was issued just [five days](#) after the National School Boards Association (NSBA) sent a 6-page [letter to President Biden](#) charging that parents’ opposition was “equivalent to a form of domestic terrorism and hate crimes.” While school board meetings are indeed getting more intense as parents’ concern grows nationwide about mask mandates and the inclusion gender ideology and critical race theory in public education, there is not a record of violence that warrants an investigation by the FBI or Department of Justice. The NSBA letter and Garland’s memo have received a swift and steady [backlash](#) from parents, lawmakers, and citizens who are concerned by the Biden administration’s attempt to intimidate parents into silence. The timing of the response by the Biden administration—just five days after the initial NSBA letter—has led some conservatives to [call for an investigation](#) to determine whether “the entire matter was precoordinated” between the NSBA and the Biden administration or whether the normal legal process for issuing responses was “bypassed or corrupted.” Sen. Josh Hawley (MO) [noted in an interview](#) that this is not about stopping violence—because there has not been violence from parents—but rather it is “about using federal law enforcement to try and intimidate parents because these parents are daring to stand up.” He added, “This is a dangerous precedent, to use federal law enforcement to go after citizens, to stop them from speaking about things you don’t like.”

Notably, [several state school board associations](#) are also issuing statements to distance themselves from the NSBA position. [Virginia and Louisiana](#) state associations were among the first to issue statements denouncing the NSBA’s letter and stating that they do not want or need the DOJ to intervene as they believe their own local law enforcement is well-equipped to handle any situation that warrants such intervention. Other state school board associations also criticized the NSBA letter, with most saying they were never consulted by the NSBA before the letter was sent, some denouncing the NSBA’s characterization of protesting parents and citizens as “domestic terrorists,” and others stating they believe the NSBA’s letter only serves to stifle important communication that parents should have regarding their children’s education. While the NSBA letter and DOJ memo are aimed at parents who are fighting the school boards of local public schools, the core issue at stake is whether the government respects parental rights to be involved in their children’s education. The growing opposition from parents seems to have revealed a deeper animus from some public education and political officials against parental involvement in education. However, as Tony Perkins, president of Family Research Council, [stated](#), “Fortunately, parents—as everyone but the Left seems to know—have no intentions of going quietly. And neither should anyone who cares about the future of this great nation.”

Intervention Granted in Title IX Religious Exemption Case

Last Friday, a federal district court allowed Alliance Defending Freedom (ADF) and three Christian colleges [to intervene](#) in a case that threatens the religious liberty of Christian higher education. In *Hunter v. U.S. Department of Education*, the [Religious Exemption Accountability Project](#) (REAP) and forty current and former Christian college and high school students are suing the Department of Education alleging that the religious exemption in Title IX unconstitutionally discriminates against LGBT people. If successful, the REAP lawsuit would ban any Christian college that accepts federal aid through grants or student loans from practicing its religious beliefs about marriage and human sexuality among staff or the student body. Because REAP is suing the Department of Education, the Department of Justice (DOJ) is responsible for defending the religious exemption in Title IX. In June, the DOJ submitted a court filing [arguing](#) that ADF and the Christian colleges should not be allowed to intervene in the case because the DOJ was committed to “vigorously” defending the law as written. After the statement sparked outrage from LGBT activists, however, the DOJ changed its statement to express that it would “adequately” defend the religious exemption. The DOJ’s actions only strengthened ADF’s arguments that it should be allowed to intervene in the case, and with the court’s granting approval, religious liberty can now be strongly defended in the court.

Federal Court Allows Texas Abortion Ban to Resume

The 5th Circuit Court of Appeals [recently reinstated](#) the Texas Heartbeat Act just one day after a federal judge temporarily blocked the law. In a swift turn of events, the Texas Heartbeat Act, a law that bans abortions once a heartbeat can be detected at around six weeks gestation, was blocked last week by district judge Robert Pittman after the U.S. Department of Justice (DOJ) [sued the state](#). Just one day later, the 5th Circuit Court of Appeals, which has jurisdiction over Texas, Louisiana, and Mississippi, [reversed](#) Judge Pittman’s decision and reinstated the law. On Monday, the DOJ presented [arguments](#) to the court, stating that “if Texas’s scheme is permissible, no constitutional right is safe from state-sanctioned sabotage of this kind.” Texas state attorneys presented their arguments to the 5th Circuit Court on Thursday, and the court will decide whether to let the abortion ban stand while the lawsuit proceeds. The Texas Heartbeat Act is unique among state-passed abortion laws in that it gives private citizens the power to enforce the law by filing lawsuits against those who perform or assist in performing an abortion. The U.S. Supreme Court [declined to strike down](#) the law last month because of its unusual enforcement mechanism and the “complex and novel antecedent procedural questions” it raises. The Supreme Court will hear oral arguments in another abortion case, [Dobbs v. Jackson Women’s Health Organization](#), on December 1.

In Case You Missed It:

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

[Practical Legal Help for Christian Schools: ADF Ministry Alliance](#)

[Promise to America’s Children](#)

[Biden Overturns Trump’s Pro-life Rule Defunding Planned Parenthood by \\$60 Million](#)