



**The Washington Flyer
October 29, 2021**

*“If virtue and knowledge are diffused among the People, they will never be enslav'd.
This will be their great Security.”
Samuel Adams*

Merrick Garland Faces Questions from Senators Regarding Parents Memo

Attorney General Merrick Garland has come under [significant criticism](#) from GOP lawmakers for the memo he issued October 4 that 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 Board Association (NSBA) sent a [letter](#) to the White House that denounced parents’ opposition at school board meetings as “equivalent to a form of domestic terrorism and hate crimes.” The NSBA has since issued an [apology](#) for its letter, causing many lawmakers to press AG Garland to withdraw his memo. AG Garland has appeared before both the House and Senate Judiciary Committees within the last week, and at both he has defended his memo, claiming that it was only “in response to concerns about violence, threats of violence, other criminal conduct—that’s all it’s about.” During the Senate Judiciary Committee meeting on Wednesday, several Republican senators pressed Garland with questions, revealing that Garland has no specific cases or data to point to as the basis for issuing federal involvement in investigations into parents, nor does he know who wrote the language of the letter, nor is he aware of the cases that the NSBA cited to prove the need for federal intervention. Additionally, several senators expressed concern over the fact that the NSBA collaborated with the White House on the language of the initial NSBA letter; thus, Garland is politicizing the Department of Justice with an action memo that is a response to the NSBA letter. Several pressed Garland to withdraw the memo, and Senator Josh Hawley called on Garland to resign.

Republicans on the House Judiciary Committee also questioned Garland during a committee hearing in which Garland [stated](#), “I want to be clear, the Justice Department supports and defends the First Amendment right of parents to complain as viscerally as they wish, about the education of their children, about the curriculum taught in their schools.” However, after the committee hearing, several GOP house members sent a [letter](#) to Garland which urged him to retract the DOJ memo, stating, “During your testimony, you sidestepped the obvious effect of your ill-conceived memorandum and the chilling effect that invoking the full weight of the federal law enforcement apparatus would have on parents’ protected First Amendment speech.” GOP members of the House Judiciary Committee are also launching their own [investigation](#) into the collusion between the NSBA and the White House before the initial NSBA letter was sent. Notably, the NSBA did not consult with even its own board or any of its state affiliate school boards before sending the letter, a fact which has caused 21 state school boards to [distance themselves](#) from the NSBA, including [Missouri, Pennsylvania, and Ohio](#) which have completely withdrawn from the national association. The Heritage Foundation is also [calling for action](#) against the DOJ memo, including an investigation into the White House and NSBA collusion. Heritage president Kay C. James stated, “This shameful politicization of the Department of Justice to harass and threaten parents who are simply speaking out on behalf of their children is unacceptable and casts a dark cloud over the entire department.”

Supreme Court to Hear Challenges to Texas Pro-Life Law

The Supreme Court recently [agreed](#) to hear two challenges to Texas's recently passed Heartbeat Act that prohibits abortions after an unborn baby's heartbeat can be detected. Since early September when it went into effect, abortion advocates have urged the Supreme Court to [strike down](#) the law as unconstitutional, but the Court declined to do so because of the law's unique enforcement mechanism. Under the Heartbeat Act, private citizens can sue anyone who has performed or aided in performing an abortion for damages, shifting the burden of enforcing the law from the state to individual citizens. While allowing the law to remain in effect, the Supreme Court agreed to hear the case on an unusual fast-track schedule, with oral arguments scheduled for November 1. By using a procedure called certiorari before judgment, the Supreme Court will hear the case without requiring it to move through the circuit court level beforehand. The Court denied the U.S. Department of Justice's request to stop the law while it prepares to hear the case next month. Importantly, the Court will consider only procedural questions about the enforcement mechanism in the law and will not decide on the substantive question of abortion rights. It will take up those questions that challenge the constitutionality of abortion and *Roe v. Wade* in another case called *Dobbs v. Jackson Women's Health Organization*, which will be heard in early December.

Biden Admits Reconciliation Package May Not Fully Fund Free Community College

When a reporter asked President Biden last week if he would sign a reconciliation package that does not include two years of free community college, he admitted that his proposal is not likely to be passed in full at this time. Biden [responded](#), "I don't know of any major change in American public policy that's occurred by a single piece of legislation. . . . And so, you know, I doubt whether we'll get the entire funding for community colleges, but I'm not going to give up on community colleges as long as I'm President." In attempts to shrink the \$3.5 trillion reconciliation bill, moderate Democrats are considering placing an income cap on those who are eligible to receive free tuition at community colleges, but free community college could be [scrapped](#) completely. Several prominent members of Congress have opposed the new entitlement, including key moderate Democrat Joe Manchin (WV). Republicans have also expressed concern with the free college proposal. Rep. Virginia Foxx (NC), leading Republican member on the House Education & Labor Committee, stated that "dumping money into community colleges, where students have the lowest odds of completing their program within six years, is a recipe for disaster." Colleges and higher education lobbyists have also pushed back against free community college, urging instead that the government provide more funding for Pell grants. House Speaker Nancy Pelosi is hoping that [negotiations](#) will be completed for a vote on October 31.

In Case You Missed It:

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

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

[Promise to America's Children](#)

[What is the NSBA and Why Is It Trying to Shut Down Parents?](#)