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REPORT
from the Capital

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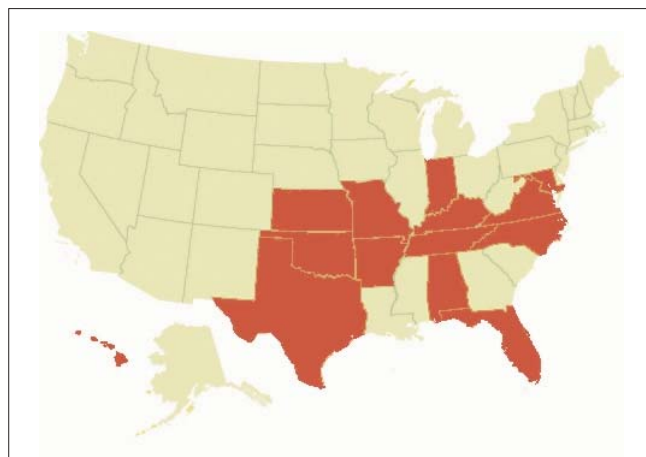
◆ Development Update ◆

Religious Liberty Day kits traverse the country!

In the March edition of *Report from the Capital*, we reported on a new opportunity to order a Religious Liberty Day kit that will help you plan a celebration of our first freedom at your church.

Since that time, the Baptist Joint Committee received requests from churches and individuals across the country. Kits have been sent to Florida, Hawaii, Tennessee, Texas, Kansas, Indiana and places in between. So far, individuals and churches in 14 states have requested a kit to learn more about planning a Religious Liberty Day celebration.

Celebrating religious liberty can involve an entire worship service with every element connected to religious freedom, or it can be as simple as a prayer in a service, a special hymn, a Bible study lesson or a table set up in the lobby with information about religious liberty.



So far, individuals and churches in the 14 states colored red have requested Religious Liberty Day kits. Get a kit and highlight your state today!

If you have been considering a focus on religious liberty at your church, let us help you! This year, **July 4** falls on a Sunday. Independence Day could be the perfect time to talk about the religious freedom we enjoy in this country.

If you would like a packet, contact Kristin Clifton at (202) 544-4226 or send an e-mail to kclifton@BJCOnline.org.

You can also go online to view and print the resources. Visit www.BJCOnline.org/ReligiousLibertyDay to read and download documents that can help you educate those around you about religious liberty.

If you plan a celebration or recognition of religious liberty at your church, please let us know! The BJC and others can benefit from your experience.



REPORT from the Capital

Kagan confirmation hearing set to begin this month

WASHINGTON — U.S. Supreme Court nominee Elena Kagan will face questions about her views on a range of legal topics when she goes before the Senate Judiciary Committee on June 28.

President Barack Obama formally nominated Kagan to replace Associate Justice John Paul Stevens on the U.S. Supreme Court on May 10 after Stevens announced his retirement on April 9.

When introducing Kagan as his nominee, President Obama said she is “an acclaimed legal scholar with a rich understanding of constitutional law.”

For the past year, Kagan served as the U.S. Solicitor General, supervising and conducting government litigation in the High Court. The Solicitor General determines when the government will seek Supreme Court review in a case and which position the government will take before the Court.

Additionally, the Solicitor General personally conducts oral arguments before the Supreme Court or has a case assigned to another government attorney.

In her tenure as Solicitor General, Kagan argued six cases before the Supreme Court, including one in which she defended the government’s position, inherited from the Bush administration, that a cross on government property in the Mojave Desert should be allowed to stay in place (*Salazar v. Buono*).

If confirmed, Kagan would be the first justice since Lewis Powell and William

Rehnquist, both nominated in 1971, without prior experience as a judge. The last Solicitor General to become a Supreme Court Associate Justice was Thurgood Marshall in 1967.

Kagan, who grew up in New York City, holds degrees from Princeton, Oxford and Harvard Law School. Early in her career, Kagan clerked for Judge Abner Mikva at the U.S. Court of Appeals for the District of Columbia Circuit and for Associate Justice Thurgood Marshall at the U.S. Supreme Court. Kagan later worked in a D.C.-area private law firm and as a professor at the

University of Chicago Law School.

From 1995 to 1999, Kagan served in the Clinton White House, first as Associate Counsel to the President and then as Deputy Assistant to the President for Domestic Policy and Deputy

Director of the Domestic Policy Council. President Bill Clinton nominated her to serve as a judge on the D.C. Court of Appeals in 1999, but her nomination was stalled in the U.S. Senate. She returned to teaching in 1999, taking a position at Harvard Law School. Kagan was named dean in 2003 and was in that position when Obama selected her to be U.S. Solicitor General in 2009.

See pages 4-5 for more on the nomination of Elena Kagan to be the next Associate Justice on the U.S. Supreme Court.

— Staff Reports



President Obama meets with Kagan before nominating her for the U.S. Supreme Court. (White House Photo/Pete Souza)

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On the Web

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Texas board gives final approval to controversial textbook standards

AUSTIN, Texas — Amid vocal protests, the Texas State Board of Education voted May 21 to approve social studies curriculum standards that urge high school students to examine church-state separation critically.

Those standards not only influence textbooks in Texas but also could have an impact nationally because Texas is one of the top two buyers of textbooks in the United States, and many publishers craft their books with the Texas market in mind.

Those who expressed immediate disapproval of the standards included not only many supporters of strong church-state separation but also legislators in the nation's other largest textbook market — California.

Over the objection of some members, the Texas board approved a lengthy list of amendments on the day of the final vote. The new standards — for high school-level classes in history, government and other social studies — passed along party lines, with the board's nine Republicans favoring and five Democrats opposing them.

One amendment calling on high school students to compare and contrast separation of church and state with the Founders' original intent passed 11-3. It rewrote a contentious church-state amendment, offering what some observers characterized as compromise language.

As amended, the standard states that students should "[e]xamine the reasons the Founding Fathers protected religious freedom in America and guaranteed it free exercise by saying that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, and compare and contrast this to the phrase 'separation of church and state.'"

Thomas Jefferson, who famously used the phrase "wall of separation between church and state" in a letter to the Danbury

Baptist Association in Connecticut, had been dropped by the board from an early draft of the high school standards in a list of influential political thinkers, although he still appeared in the standards at other grade levels and in other contexts.

In response to a firestorm over the omission, the board reinstated Jefferson to the high school standards. But the board rejected a move to add James Madison — primary author of the Bill of Rights and the Constitution itself — and drop the theologian John Calvin's name.

At the opening of the May 21 meeting, Republican board member Cynthia Dunbar of Richmond offered an invocation articulating the position of a vocal segment of the state board — a desire to teach public school students the United States is "a Christian land governed by Christian principles."

Prior to final public hearings and the board's vote on curriculum standards, some religious leaders had voiced concern about proposed language that would downplay constitutional protections for religious freedom.

"Our Founding Fathers understood that the best way to protect religious liberty in America is to keep government out of matters of faith," said Roger Paynter, pastor of First Baptist Church in Austin, Texas.

"But this state board appears hostile to teaching students about the importance of keeping religion and state separate, a principle long supported in my own Baptist tradition and in other faiths."

In California, the state Senate passed a bill that would require education officials in that state to look out for possible influences that the Texas standards might have on textbooks used there. It is now headed to the California state Assembly.

—Associated Baptist Press



State updates

If you have a question about a religious liberty issue in your state, the BJC is a resource for you.

Arizona: "free exercise of religion" law

Gov. Jan Brewer signed a bill barring local governments from imposing land-use rules or zoning codes to restrict where churches can be located or "in a manner that imposes an unreasonable burden on a person's exercise of religion."

Georgia: kosher labeling

Prompted by a lawsuit, Georgia repealed its religious food labeling law that prevented non-Orthodox rabbis from certifying food. The new legislation does not define kosher by solely Orthodox standards. Other

states have made similar changes over concerns about religious freedom and alternative interpretations of Judaism.

Virginia: ban lifted on chaplain sectarian prayers

Gov. Bob McDonnell lifted a ban that prevented police chaplains from using sectarian prayers at official public departmental events. The ban was put in place in 2008 after a federal court ruled a city council member could not pray in Jesus' name at council meetings because such invocations are government speech and must abide by the Establishment Clause.

Judge: school cannot hold graduation in church

BRIDGEPORT, Conn. — A federal judge ruled May 31 that a Connecticut school district's plan to hold graduation ceremonies in a mega-church violates the constitutionally mandated separation of church and state and ordered school officials to find a secular alternative site. After the ruling, the board decided to hold graduations at the high schools instead of the church but voted to appeal the decision.

U.S. District Judge Janet Hall handed down a preliminary injunction blocking Enfield Public Schools from holding graduations for two high schools scheduled June 23-24 at The First Cathedral, a 120,000 square-foot facility that is home to an 11,000-member Christian church.

The judge said two seniors at Enfield High School and three parents proved "a likelihood of irreparable harm" if the court did not intervene and "a substantial likelihood of success" in their lawsuit alleging that holding the graduation at the church instead of a neutral site violates the First Amendment to the U.S. Constitution.

"It is unconstitutional and wrong for a school district to subject students and families to religious messages as the price of attending graduation," said Alex Luchenitser, senior litigation counsel for Americans United for Separation of Church and State.

AU joined the American Civil Liberties Union and the ACLU of Connecticut to challenge the graduation plans. Enfield High and another district high school had been using the church as a temporary alternative for graduations when construction was being done on their athletic fields during the 2006-2007 and 2007-2008 school years.

Earlier this year, the school board voted 6-3 to move the graduations back to the two schools themselves but later reversed the decision after lobbying by the Family Institute of Connecticut, a nonprofit that lobbies the state government for conservative values.

Peter Wolfgang, executive director of FIC and president of its lobbying arm, FIC Action, urged the board to return

to First Cathedral in order to "stand up for religious rights" and to fight back against the ACLU.

Judge Hall said she did not conclude the board necessarily shared Wolfgang's purpose for moving the venue, but the larger issue was that under the circumstances a "reasonable observer" attending the 2010 graduations would perceive that the school district was endorsing religious views of the church.

According to the opinion, one of the plaintiffs, an agnostic, attended last year's graduation ceremony and said that because of the "pervasively religious environment" the student probably would not attend his or her own graduation if it were held at the church. Another student who is Jewish said he or she would feel like First Cathedral is proselytizing its religious beliefs by symbols like crosses, stained-glass windows and Christian scriptures.

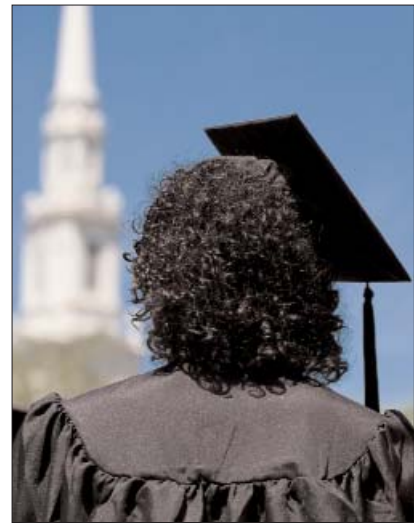
Hall said the First Amendment provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof" but does not define "establishment." To navigate interpretation of the Establishment Clause, she said courts have adopted a principle of "neutrality" neither favoring nor disfavoring religion.

She said choosing to hold graduation ceremonies at a church when several alternatives like a local symphony hall were available — some at a lower cost — sends a message that Enfield Public Schools endorses religion.

The judge said forcing people to choose between attending a public-school ceremony amid religious imagery and missing high-school graduation ceremonies is "precisely the kind of coercion that violates the Establishment Clause."

The school district argued that since no religious activity occurs during graduation ceremonies they did not violate the Establishment Clause.

On June 4, the Enfield Board of Education voted 5-4 not to appeal the ruling and then voted 7-2 to hold graduations at each high school according to *The Hartford Courant*. Then, on June



8, a board member changed her vote, and the board voted to approve the appeal. At press time, the school board planned to file an expedited appeal.

James Gibson, staff counsel for the Baptist Joint Committee for Religious Liberty, said having graduation exercises in a religious venue is commonplace in some communities — particularly in rural areas where a local church is the only place large enough to hold the crowd — but it can sometimes cause problems when it involves persons of a different faith or no faith at all.

While most graduations scheduled for religious venues are not veiled attempts to proselytize, Gibson said graduation ceremonies should be held in a non-religious venue whenever possible. When a religious venue is the most suitable option, measures should be taken to ensure that there is no implicit or explicit linkage between the civic event and the host religious venue.

In deciding to move its graduation ceremonies to the church, the Enfield school board asked First Cathedral to cover or remove 16 items, including a communion table and all church pamphlets, in order to reduce the religious content of the setting. Since the church ignored such requests in the past, Judge Hall said there is no guarantee that church leaders would comply with the request this year.

Even if they did, she said, it would create "excessive entanglement" between church and state, because the town of Enfield has no authority to monitor activities or interfere in religious matters within a local church. — *Associated Baptist Press & Staff Reports*

Elena Kagan: Capable & leaving few clues

President Barack Obama's nomination of U.S. Solicitor General Elena Kagan to replace retiring U.S. Supreme Court Associate Justice John Paul Stevens was not

surprising. Kagan was considered a frontrunner before Associate Justice Sonia Sotomayor was nominated last summer to replace Associate Justice David Souter. While widely admired for excellence in her profession, Kagan has expressed few opinions on matters that are likely to come before the Court. As a result, even those who know her well characterize her as "inscrutable."

While the BJC does not endorse or oppose Supreme Court nominees, we traditionally have prepared reports examining their church-state records. We follow the nomination process closely, reviewing the nominee's writings for clues about his or her approach to religious liberty and how it compares to that of the justice to be replaced. We often urge members of the Senate Judiciary Committee to question the nominee about particular concerns raised during our review. If confirmed, Kagan would replace Justice Stevens, who was nominated by Republican President Gerald Ford but became the leader of the Court's liberal wing and participated in dozens of church-state cases during his 34 years on the bench. (See the May 2010 edition of *Report from the Capital* for reflections on Stevens' tenure on the Court.) Most recently, Justice Stevens wrote the primary dissent in *Salazar v. Buono*, a case in which the Court allowed a cross to remain on public land, as urged by the government, represented by Solicitor General Kagan.

Predictions about the future impact of a justice, however, are always precarious, and review of the Kagan nomination is proving especially difficult. Kagan has never been a judge. With no written decisions to review, there is much less on which to base an analysis. Legal journalist Jeffrey Toobin, who has known Kagan since they began Harvard Law School together, was asked by CNN about Kagan's political perspective. After noting that she is a Democrat who served in the Clinton and Obama administrations, he added, "What is unclear, however, is her stand on specific social issues that go before the court — affirmative action, abortion, church and state issues. Unlike a sitting judge, she has never been forced to write opinions

By K. Hollyn Hollman
BJC GENERAL COUNSEL



on those issues, and she has chosen not to write about them as an academic. As far as I know, she has not even talked about her views."

Absent a judicial record, Kagan's qualifications will be assessed in reference to her experience as an attorney in private practice, professor, dean, and perhaps most notably as a legal advisor in the Clinton administration. While little is known about her thinking on church-state issues, it is clear that she has been involved in debates over religious liberty issues at the highest levels of government from the beginning of her career to her most recent post.

As a law clerk to Supreme Court Associate Justice Thurgood Marshall, Kagan wrote a memo related to *Bowen v. Kendrick* (1988). That case involved an Establishment Clause challenge to a federal program that provided grants to public and nonprofit private organizations, including religious organizations, for counseling and education services related to problems caused by adolescent sexual relations and pregnancy. In a 5-4 decision, the Court upheld the federal program. The majority opinion, written by then-Chief Justice William Rehnquist, upheld the federal statute on its face, making clear that religiously affiliated grantees could participate in the program so long as they were capable of carrying out their functions in a lawful, secular manner. In her memo, Kagan argued that religious organizations should not be able to participate in certain federal programs because it would be difficult for them to do so without injecting religious teaching in violation of the Establishment Clause. When asked about that during her confirmation hearings for Solicitor General, she called it "the dumbest thing I've ever heard." Kagan's strong rejection of the idea that religious entities should be categorically precluded from federal social services programs is not surprising given the current state of the law. The legal parameters and best practices for avoiding unconstitutional government promotion of religion when the government partners with religious entities, however, remain an important matter of debate, albeit in much more nuanced terms. For example, in the past few months, the Obama administration received recommendations from the President's Advisory Council on Faith-based and Neighborhood Partnerships on reforming how the

government operates in such partnerships to reduce legal problems and protect religious freedom.

In her most recent post, as Solicitor General, Kagan has again been involved in the Supreme Court's church-state jurisprudence. Since March of 2009, the Court heard two religious liberty cases, one in which the Solicitor General's office participated. Despite lobbying by both sides, the Solicitor's office did not intervene in *Christian Legal Society v. Martinez*, a case involving a public university's nondiscrimination policy and the Christian Legal Society's First Amendment challenge to the policy as applied to student organizations that restrict membership based on religion. That case was argued in April and a decision is expected this month.

As mentioned earlier, however, in one of only six cases she personally argued as Solicitor General, Kagan represented the Obama administration in *Salazar v. Buono*, a case inherited from the Bush administration. At the time it reached the Court, the issue was not the constitutionality of the cross displayed on federal land (twice ruled an unconstitutional endorsement of religion by lower federal courts). Instead, the government was defending an act of Congress to transfer the federal land on which the cross was displayed to a private party. During oral argument, Kagan was asked by Justice Stevens if she would concede that the Establishment

Clause was violated prior to the transfer statute. She said no, maintaining the position the government had taken earlier in the case.

Kagan's tenure in the Clinton administration provided many opportunities for involvement in church-state policy matters. She served as Associate White House Counsel (1995-96) and Deputy Assistant to the President for Domestic Policy and Deputy Director of the Domestic Policy Council (1997-99), providing advice on a range of issues. While the documents released from her service in the Clinton White House thus far indicate little about her precise role, several show that she was engaged to some extent in religious liberty issues, at times reviewing developments and participating in strategy discussions.

Among the 46,000 pages released so far are memos indicating cooperation between the White House and religious liberty groups (including the BJC) in drafting and promoting guidelines for religious expression in the federal workplace. Those guidelines were released in August 1997 and continue to be used in discussions about possible workplace religious freedom legislation. She was invited to coalition meetings to discuss proposed federal legislation to bolster free exercise standards after the Supreme Court's decision in *City of Boerne v. Flores* (1997) that limited the application of the Religious Freedom Restoration Act, as well as discussions about proposed workplace religious freedom legislation. Some documents reflect the significant debates over changes in the law regarding religious entities that provide government-funded social services. It was during Kagan's service in the Clinton administration that the first "charitable choice" provision was passed (as part of the 1996 Welfare Reform Act), a development that undermined constitutional protections for religious liberty. Documents indicate that Kagan was involved at some level in discussions about a possible technical revision to the welfare law, including the part that addressed participation of religious entities. One document shows a handwritten note to Domestic Policy Advisor Bruce Reed suggesting that Kagan did not favor the Department of Justice's effort to support a legislative response to address the part of the welfare reform law that addressed religious entities. While she participated in these discussions, the documents released thus far do not indicate her views.

While little has been revealed about Kagan's religious liberty views, the available record shows proximity to church-state debates throughout her career. In particular, the Clinton administration documents demonstrate engagement during a significant era of religious liberty developments. The BJC will continue to review her record and nomination proceedings to urge attention to religious liberty among the vital issues a Supreme Court justice can influence during his or her lifetime tenure.

Church-state developments during Kagan's time with the Clinton administration



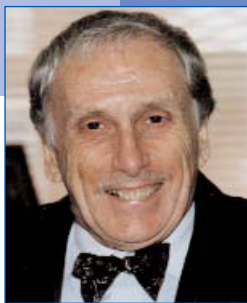
BJC photo

Kagan served at the highest levels of government during a significant time in church-state relations, including the following events

1996: Congress passes major welfare reform legislation that included "charitable choice," a provision that eliminated traditional church-state safeguards applied to religious entities providing social services with government money.

1997: In *City of Boerne v. Flores*, the U.S. Supreme Court limits application of the Religious Freedom Restoration Act, creating a need for additional religious freedom legislation.

1997: Clinton administration releases "Guidelines on Religious Expression in the Federal Workplace," drafted with input from the BJC and other organizations.



James M. Dunn
Guest Columnist

BJC alumni across the country

Have you ever thought of Baptist Joint Committee alumni? Not likely, since the BJC is not a school.

There is, however, a band of dedicated BJC graduates — the human product of months or years in which they were focused on faith and freedom. They now serve in a variety of roles but are inescapably bound together by a serviceable sense of soul freedom.

For instance, Bill Underwood, the speaker at this year's Religious Liberty Council luncheon in Charlotte on June 25, was a BJC intern in 1981. He is now president of the prestigious Mercer University. Not only does he retain his commitment to Baptist identity, but he is leading Mercer to become the most truly "Baptist" university in America.

Two more recent interns are pastors of pace-setting Baptist churches just 30-something miles apart in Texas. Andrew Daugherty has served the new Christ Church in Rockwall, Texas, a fresh, exciting faith family. I must say (full disclosure) that we have a special bond since he cared for me after I suffered an aortic event in 2003. Brent Beasley is the pastor of venerable Broadway Baptist Church in Fort Worth. Brent went way beyond the call of duty as a BJC intern by serving weeks more than his set time when a staff member's mother died. Now, he exercises his pastoral gifts as a leader of the Baptist cathedral for Fort Worth. A few blocks from Broadway is the First Presbyterian Church where the Rev. Robyn Byrd Michalove is associate pastor. Robyn was ad hoc "social director" for the BJC in her internship. For me, whose parents were members of Broadway in the 1920s, there is a certain satisfaction in this. These three have found their high calling of God in Christ Jesus doing pastoral ministry with an ethical edge.

Then there's the BJC's first Bill Moyers Scholar, Ryan M. Eller, who is the lead organizer for C.H.A.N.G.E., which is the Industrial Areas Foundation for community organizing in Winston-Salem, N.C. The church-friendly civic action crowd is reshaping the city.

Another ex, Brandon Jones, has now become one of the most respected — and

feared by some — legislators in the Mississippi House of Representatives. He is an unlikely Democrat from his ritzy district in Pascagoula. Activist is a good tag for these Christian missionaries to the larger society. As Gardner Taylor says, "We must have the separation of Church and state so the church will have some swinging room."

Two staff alums — former BJC general counsels — deserve the international attention they are getting.

Melissa Rogers, director of the Center for Religion and Public Affairs at the Divinity School of Wake Forest University, is, according to *Christian Century*, "one of the country's foremost experts on faith and public policy." In January 2010, the Center published a splendid guide for Religious Expression in American Public Life. It follows a decades-long pattern set by the BJC for dealing with hot issues as a joint statement of current law. Rogers reflects her BJC history as a centrist advocate of church-state separation when she says, "the more we can come to agreement on church-state issues the more durable policies are." In a divinity school course she and I will teach this fall, we consider seriously the work of the President Obama's Council on Faith-based and Neighborhood Partnerships, which she chaired. Would you like to audit the class?

Finally, longtime readers of *Report from the Capital* remember well the insightful work of Oliver Smith Thomas. That's "Buzz."

He writes clearly and courageously in *USA Today* as a religion columnist. In these days of shrinking newspapers it is worth noting that *USA Today* has the largest circulation of any newspaper in the United States. Good ole Buzz has an audience.

Maybe the Baptist Joint Committee is sort of a school after all. May it ever be a good one.

James M. Dunn is the president of the BJC endowment and Resident Professor of Christianity and Public Policy at the Wake Forest University School of Divinity. He was BJC executive director from 1980-1999.

BJC Executive Director Brent Walker is on a summer sabbatical. His column will return in October's Report from the Capital.

BJC welcomes summer interns

The Baptist Joint Committee is pleased to welcome two summer interns to work alongside its staff in Washington, D.C.

Cody Moore is a 2009 graduate of Texas A&M University where he earned degrees in biochemistry and history. The College Station, Texas, native is the son of Robert and Connie Moore and a member of First Baptist Church College Station. Moore recently completed an internship in the office of Rep. Chet Edwards, D-Texas, and this fall he plans to pursue a master's degree in philosophy at Texas A&M.



Moore



Talbot

Amanda Talbot is a 2010 graduate of Western Carolina University, where she earned an English degree with a concentration in professional writing and a minor in journalism. The Stanfield, N.C., native is the daughter of Jeff and Amy Talbot. This fall, she hopes to travel as a missionary and pursue a journalism career.

Arizona tax-tuition program goes to U.S. Supreme Court

WASHINGTON — The U.S. Supreme Court will review the constitutionality of an Arizona program that provides state tax breaks for donations to private school scholarship programs.

As part of the 13-year-old tax-tuition program, taxpayers receive a dollar-for-dollar reduction in state income taxes for their donations to not-for-profit school-tuition organizations.

Last year, 91.5 percent of the \$52 million collected in Arizona went to religious schools, according to *The Arizona Republic*. Opponents, including the American Civil Liberties Union and others, argue the program violates the First Amendment, which prohibits government establishment of religion.

"Arizona's convoluted scheme is a backdoor way of subsidizing religious education," said Barry Lynn, executive director of Americans United for the Separation of Church and State.

The Christian legal group Alliance Defense Fund will defend Arizona's tax-tuition program. ADF attorneys said the program "is constitutional because it involves individual, private choices and funding, not government action or money."

While the 9th U.S. Circuit Court of Appeals declared last year that the Arizona program violated the separation of church and state, the Supreme Court has upheld cases that give parents public funding for private institutions.

In a 2002 case (*Zelman v. Simmons-Harris*), the Supreme Court upheld a Cleveland case that allowed public school vouchers to be used for parochial schools. Other states with tax-tuition programs include Florida, Georgia, Iowa

and Pennsylvania, according to The Associated Press.

Two cases challenging the Arizona law, *Arizona Christian School Tuition Organization v. Winn* and *Garriott v. Winn*, are being consolidated into one appeal for review by the U.S. Supreme Court this fall.

— Ankita Rao, Religion News Service

Panel calls for military to protect religious freedom

WASHINGTON — The U.S. military should protect minority faiths within its ranks, said a California congresswoman on May 18 at a Capitol Hill symposium on religion in the military organized by The Interfaith Alliance and attended by members of the Baptist Joint Committee staff.

"Government has a duty to protect religious freedoms ... and not to allow them to be trampled on, anywhere," said Rep. Lois Capps, D-Calif. "Diversity is a hallmark of our society."

The Washington Post published a story on a Muslim soldier who filed more than 20 complaints alleging religion-based harassment. The soldier, Spec. Zachari Klawonn, received a threatening note in March addressing his faith.

A group of four panelists discussed Klawonn and solutions to religious intolerance in the military, including education, new laws, and intervention by the Supreme Court.

Retired Brig. Gen. Rabbi Israel Drazin said that Congress should pass a law making it more difficult for the military to curtail religious observances in the name of military necessity.

"If Congress is not able to do it, then religious groups should petition the Supreme Court," Drazin said.

— Religion News Service and Staff Reports

Newdow plans appeal of inaugural prayer case

WASHINGTON — Atheist lawyer Michael Newdow said May 11 he plans to appeal a court decision that said his bid to halt prayers and the words "so help me God" in presidential inaugurations are now moot.

"If the ruling stands, it seems to me that the executive branch of government will henceforth be able to trample on individual rights with impunity," said Newdow, who represented himself and other atheists in the case.

In a May 7 ruling, Judge Janice Rogers Brown of the U.S. Court of Appeals for the District of Columbia Circuit said the issues of the case are no longer timely.

"Whether the 2009 ceremony's incorporation of the religious oath and prayers was constitutional may be an important question to plaintiffs, but it is not a live controversy that can avail itself of the judicial powers of the federal courts," she wrote.

In a concurring opinion, Judge Brett M. Kavanaugh said the court could not discount the religious significance of the prayers challenged in the case, but he said neither "so help me God" in a presidential oath nor the inaugural prayers could be considered proselytizing.

— Adelle M. Banks, Religion News Service