



# AMERICAN ATHEISTS

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March 23, 2021

The Honorable Rep. Larry Klemin  
Chairperson, North Dakota House Judiciary Committee  
North Dakota State Capitol  
600 East Boulevard Avenue  
Bismarck, ND 58505-0360

**Re: OPPOSE SB 2308; Posting of “Ten Commandments” displays in public school classrooms, undermining students’ freedom of religion**

Dear Chairperson Klemin and Members of the House Judiciary Committee:

American Atheists, on behalf of its constituents in North Dakota, writes in opposition to SB 2308, a measure which seeks to authorize “Ten Commandments” displays to be posted in schools and classrooms. “Ten Commandments,” while not defined in the legislation, refers to a set of biblical principles relating to ethics and worship that play a fundamental role in two religions: Judaism and Christianity. This bill is exclusionary and divisive, and most importantly, it represents a direct attack on the religious freedom of North Dakota students. We strongly urge you to reject this unconstitutional measure.

American Atheists is a national civil rights organization that works to achieve religious equality for all Americans by protecting what Thomas Jefferson called the “wall of separation” between government and religion created by the First Amendment. We strive to create an environment where atheism and atheists are accepted as members of our nation’s communities and where casual bigotry against our community is seen as abhorrent and unacceptable. We promote understanding of atheists through education, outreach, and community-building and work to end the stigma associated with being an atheist in America. As advocates for the historical principle of religious freedom, American Atheists believes that no one should be coercively subjected to religious viewpoints by the government.

Authorizing placement of this religious text into public school classrooms undermines students’ constitutionally protected freedom of religion. The U.S. Constitution does not allow North Dakota taxpayer funded schools to legally post Ten Commandments displays in classrooms unless there is an educational reason for doing so. Lacking such an educational context, these displays violate the Establishment Clause, which states that “Congress shall make no law respecting the establishment of religion.” The U.S. Supreme Court has clarified that laws authorizing such displays have “no secular legislative purpose” and are “plainly religious in nature,” and so they are not allowable in public schools.<sup>1</sup>

SB 2308 is no different. The bill does nothing to ensure that these displays are intended to fulfil appropriate secular purposes. In fact, the bill promotes violations of the First Amendment, and the religious freedom of students, by shielding school districts and staff from liability for their knowingly

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<sup>1</sup> *Stone v. Graham*, 449 U.S. 39 (1980).

unconstitutional actions. This removal of liability is, of course, invalid because it directly conflicts with federal law, providing that:

“Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.”<sup>2</sup>

Public schools in North Dakota would be ill-advised to follow the lead of the legislature in this regard.

Further, these displays are religiously coercive in that they promote certain religious perspectives with apparent state approval. Asserting a particular set of religious beliefs in classrooms this way is exclusionary and unfair. Students and teachers have a variety of beliefs -- Christian, Jewish, Muslim, Buddhist, and atheist, to name a just a few. SB 2308 will set the stage for bullying and harassment against students with differing beliefs.

This bill is especially exclusionary toward the growing number of North Dakotans that do not identify with any religion. Currently, about 23% of adults in the US are religiously unaffiliated, and atheists and agnostics make up about 7% of the total population.<sup>3</sup> In North Dakota, 20% of the population has no religious affiliation.<sup>4</sup> The North Dakota Legislative Assembly should not marginalize this sizeable and growing population by purposefully inserting exclusionary messages into public school classrooms that are meant to serve all the people of North Dakota.

SB 2308 undermines religious freedom for North Dakota students by inserting specific religious beliefs into the classroom that serve no educational purpose. This wasteful bill will certainly result in additional liability for school districts. We strongly urge you to reject this unconstitutional legislation. If you should have any questions regarding American Atheists' opposition to SB 2308, please contact me at 908.276.7300 x309 or by email at [agill@atheists.org](mailto:agill@atheists.org).

Very truly yours,



Alison Gill, Esq.

Vice President, Legal & Policy

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<sup>2</sup> 42 U.S.C. § 1983.

<sup>3</sup> Pew Research Center. A Closer Look at America's Rapidly Growing Religious 'Nones' by Michael Lipka, 2015. Available at: <http://www.pewresearch.org/fact-tank/2015/05/13/a-closer-look-at-americas-rapidly-growing-religious-nones/>.

<sup>4</sup> Pew Research Center. Religious Composition of Adults in North Dakota. Available at: <https://www.pewforum.org/religious-landscape-study/state/north-dakota/>.