



SB2308 – Authority for 10 Commandments/Pledge in School

NDCEL Written Testimony in Opposition

Chairwoman Klemin and members of the House Judiciary Committee, for the record my name is Dr. Aimee Copas, serving as the Executive Director for the North Dakota Council of Educational Leaders (NDCEL) representing all school administrators, directors, and leaders in North Dakota.

We are here today to discuss concern we have with SB 2308. Please allow me to address the easy issue between the two – the Pledge of Allegiance. I will address this to put your minds and hearts at ease. There is nothing in law that prohibits our schools from reciting the pledge. In fact, most of our schools in North Dakota still do this on a regular basis at least in our elementary schools. Hence, it is unnecessary to include that permissiveness in North Dakota.

However, as we move the conversation over to the allowing boards the authority to add the Ten Commandments it becomes a little more complicated. During my research on the constitutionality of this authority or doing this in practice, I discovered that a near replica of this bill was offered as a bill in Texas (HB309) in 2019. A constitutional attorney testified at this hearing and ultimately this sister bill was killed in the Texas House of Representatives. What I am going to share with you are portions of his rationale when he recommended a do not pass. The Texas bill had even more flexibility in that the board of a school would not prevent copies of the 10 commandments from being hung. According to this attorney allowing authority to post (or disallowing a district from prohibiting it) can be seen as unconstitutional. Even with the attempt at immunity put into the bill, it is questionable whether that would protect a district at a circuit court level outside of North Dakota.

Excerpt from the constitutional attorney: *Exhibiting the Ten Commandments, which begin “I am the Lord your God . . . you shall have no other gods before me,” in public schools violates the First Amendment. The Supreme Court settled this back in 1980, stating that the “pre-eminent purpose for posting the Ten Commandments on schoolroom walls is plainly religious in nature” and is “therefore, unconstitutional.”*

Displaying the decalogue in public schools violates the First Amendment, and so do many of the commandments themselves. The injunctions “I am the Lord your God” and “Have no other gods before me” infringe the core constitutional principle of religious freedom. “Don’t take the Lord’s name in vain” breaches the First Amendment’s protection of free speech, as does the command not to make or worship images or idols.

The attorney references more examples, but the above two paragraphs encapsulate enough information to establish unconstitutionality. We therefore ask that you follow your legislative peers in Texas and also recommend a Do-Not-Pass of SB 2308.

NDCEL is the strongest unifying voice representing and supporting administrators and educational leaders in pursuit of quality education for all students in North Dakota.

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