

December 19, 2024

Re: School districts should not implement Louisiana’s unconstitutional Ten Commandments law.

Dear Superintendent:

Public-school officials are legally required to protect and uphold the constitutional rights of students and families, including their right to religious freedom under the Establishment and Free Exercise Clauses of the First Amendment. We write to advise you that implementing H.B. 71 (Act 676) would violate this obligation and could result in litigation being filed against your district.

H.B. 71 purports to require “each public[-]school governing authority [to] display the Ten Commandments in each classroom in each school under its jurisdiction” by January 1, 2025.¹ In June, on behalf of a multi-faith group of nine families with children in Louisiana’s public schools, the undersigned attorneys brought a federal lawsuit against five school boards and various state officials challenging the constitutionality of H.B. 71. On November 12, a federal district court ruled in our clients’ favor and determined that H.B. 71 “is facially unconstitutional and unconstitutional in all applications.”²

Accordingly, the court prohibited the defendants from “(1) enforcing H.B. 71; (2) adopting rules or regulations for the enforcement of H.B. 71; and (3) requiring that the Ten Commandments be posted in every public-school classroom in Louisiana in accordance with H.B. 71.”³ The court further directed that the defendant state officials “be responsible for providing notice of this order and H.B. 71’s unconstitutionality to all Louisiana public elementary, secondary, and charter schools, and all public post-secondary education institutions.”⁴

After the defendants appealed this decision, the U.S. Court of Appeals for the Fifth Circuit denied their request to suspend the district court’s injunction while the appeal proceeds. This means that the district court’s injunction and order—which concluded that H.B. 71 is unconstitutional—remain in full force and effect.

Even though your district is not a party to the ongoing lawsuit, and therefore is not technically subject to the district court’s injunction, *all* school districts have an independent obligation to respect students’ and families’ constitutional rights. Because the U.S. Constitution supersedes state law, public-school officials may not comply with H.B. 71.

¹ The statute requires that schools use a specific, Protestant version of the Ten Commandments.

² *Rev. Roake v. Brumley*, __ F. Supp. 3d __, No. CV 24-517-JWD-SDJ, 2024 WL 4746342, at *90 (M.D. La. Nov. 12, 2024) (cleaned up).

³ *Id.*

⁴ *Id.*

Louisiana

Indeed, H.B. 71 directly contravenes the Supreme Court’s ruling in *Stone v. Graham*, which struck down a similar Kentucky statute that required public schools to post a copy of the Ten Commandments in every classroom.⁵ At oral argument, the defendants conceded that *Stone* remains good law and is binding on lower courts.⁶ And, as the district court held, *Stone* is “directly on point and controlling” with respect to the constitutionality of H.B. 71.⁷

Louisiana’s public schools serve families who practice a rich diversity of religions, as well as many families who do not practice any faith. These families “entrust public schools with the education of their children, but condition their trust on the understanding that the classroom will not purposely be used to advance religious views that may conflict with the private beliefs of the student and his or her family.”⁸ They also trust that public officials will live up to their fiduciary duties by not engaging in conduct that has already been ruled unconstitutional and could result in unnecessary and costly litigation.

In light of the district court’s ruling in *Roake* and the Supreme Court’s decision in *Stone*, complying with H.B. 71 would violate the First Amendment to the U.S. Constitution. We thus urge you to respect the First Amendment rights of Louisiana students and families by not implementing the statute at this time.

Sincerely,



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⁵ See *Stone v. Graham*, 499 U.S. 39, 42 (1980); *Roake*, 2024 WL 4746342, at *4-5.

⁶ *Roake*, 2024 WL 4746342, at *47.

⁷ *Id.* at *46. The district court further ruled that H.B. 71 violates the Free Exercise Clause rights of our clients. *Id.* at *74.

⁸ *Edwards v. Aguillard*, 482 U.S. 578, 584 (1987).