

# FREEDOM FROM RELIGION *foundation*

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July 17, 2020

**SENT VIA EMAIL & U.S. MAIL:**

**health@publichealthmdc.com**

Janel Heinrich  
Director Public Health Madison & Dane County  
210 Martin Luther King Jr. Blvd.  
Room 507  
Madison, WI 53703

Re: Protective measures for gatherings must apply to churches

Dear Director Heinrich:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to ask that Dane County revise Emergency Order #8 remove the exemption for religious meetings from the mass gatherings rules laid out in Section 2.

FFRF understands that on July 7, 2020, Dane County issued a revised emergency order in response to the ongoing COVID-19 epidemic, with which we strongly concur. While most of the order was neutral as to religion, FFRF understands that Section 7 exempts religious organizations from public gatherings regulations laid out in Section 4(h) and Section 2.

The Supreme Court has long held that the Establishment Clause “mandates government neutrality between religion and religion, and between religion and nonreligion.” *McCreary Cty., Ky. v. Am. Civil Liberties Union of Ky.*, 545 U.S. 844, 860 (2005); *Wallace v. Jaffree*, 472 U.S. 38, 53 (1985); *Epperson v. Ark.*, 393 U.S. 97, 104 (1968); *Everson v. Bd. of Educ. of Ewing*, 330 U.S. 1, 15-16 (1947). Exempting religious facilities from Dane County’s gathering rules violates this basic stricture.

Since the beginning of this pandemic, houses of worship have repeatedly been shown to be hotbeds for spreading COVID-19. In the last few weeks alone a worship service in West Virginia led to over 50 cases and three deaths, a religious camping trip in Missouri led to over 80 cases, and a worship service in Oregon led to over 300 cases.<sup>1</sup>

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<sup>1</sup> Kate Conger et al. *Churches Were Eager to Reopen. Now They Are Confronting Coronavirus Cases.* NY Times (July 8, 2020) available at <https://www.nytimes.com/2020/07/08/us/coronavirus-churches-outbreaks.html>

These numbers make sense. Many religious facilities are uniquely susceptible to spreading the disease and consequently should be held to at least the same gathering requirements as similar secular facilities. Worship services usually require people to sit together in an enclosed space for an extended period of time to share a communal experience. This is compounded by social greetings, group singing and chanting and other typical church practices. Even when conducted under social distancing measures, this type of gathering creates a high risk of coronavirus transmission. The more people who gather, the more viruses spread. Viruses do not respect boundaries or holy ground, they simply travel from person to person.

Governments *already* regularly place limits on worship gatherings that jeopardize public health. For instance, the government prohibits churches from cramming too many people into a building in violation of fire codes and also requires that church buildings comply with necessary building codes. The congregants' right to gather and worship is limited by the government's need to protect those congregants from being trampled to death and the community from a fire. Requiring temporary caps on meeting size during a pandemic is even more crucial.

To protect the health and safety of all residents, we ask that Dane County revise Emergency Order #8 to require religious meetings, trainings, and conferences be subject to the same mass gatherings rules as other organizations. The coronavirus makes no exemption for religious facilities. Therefore, to be effective, Dane County's response to the virus must do the same. Thank you for your time and attention to this matter.

Very truly,



Annie Laurie Gaylor & Dan Barker

Co-presidents

ALG/DB:dchh