

# FREEDOM FROM RELIGION *foundation*

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March 20, 2012

**SENT VIA U.S. MAIL & FAX  
724-994-1213**

Mr. George Batterson, Ed. D.  
Superintendent  
New Kensington-Arnold School District  
701 Stevenson Boulevard  
New Kensington, PA 15068

Re: Unconstitutional Ten Commandments Monument Must Be Removed

Dear Dr. Batterson:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to urge you to immediately remove the Ten Commandments monument in front of Valley High School. This monument was brought to our attention by a local student who witnessed the monument when visiting Valley High School. FFRF is a national nonprofit organization with 17,500 members across the country, including nearly 600 members in Pennsylvania. Our purpose is to protect the constitutional principle of separation between state and church.

It is our information and understanding that a large granite monument of the Ten Commandments is prominently displayed at Valley High School. It is our further understanding that this monument sits between two footpath bridges that lead from the parking lot over a small stream to the main entrance of the school. Because of the numbering and missing commandment against "graven images," the monument contains a historically Roman Catholic version of the Ten Commandments. The monument reads:

## *the Ten Commandments*

*I AM the LORD thy God.*

- I. Thou shalt have no other gods before me.*
- II. Though shalt not take the Name of the Lord thy God in vain.*
- III. Remember the Sabbath day, to keep it holy.*
- IV. Honor thy father and thy mother, that thy days may be long upon the land which the Lord thy God giveth thee.*
- V. Thou shalt not kill.*
- VI. Thou shalt not commit adultery.*
- VII. Thou shalt not steal.*
- VIII. Thou shalt not bear false witness against thy neighbor.*
- IX. Thou shalt not covet thy neighbor's house.*
- X. Thou shalt not covet thy neighbor's wife, his manservant, nor is maidservant, nor his cattle, nor anything that is thy neighbor's.*

The bottom of the monument contains a Star of David and a Chi-Rho inscription, which symbolizes Christ. Please see the enclosed photograph.

The permanent display of the Ten Commandments in front of a New Kensington-Arnold school violates the Establishment Clause of the First Amendment. Courts have continually held that public schools may not display religious messages or iconography. *See, generally, Stone v. Graham*, 449 U.S. 39 (1980)(ruling that the Ten Commandments may not be displayed on school walls); *Washegesic v. Bloomington Public Schools*, 813 F. Supp. 559 (W.D. Mich. 1993), affirmed, 33 F. 3d 679 (6th Cir. 1994)(ruling that a picture of Jesus may not be displayed in a public school). New Kensington-Arnold School District may not display Christian or other religious messages on school grounds.

The Supreme Court has found that posting the Ten Commandments in schools violates the Establishment Clause. *Stone v. Graham*, 449 U.S. 39 (1980). In that case, the Supreme Court definitively ruled:

The pre-eminent purpose for posting the Ten Commandments on schoolroom walls is plainly religious in nature...The Commandments do not confine themselves to arguably secular matters...rather, the first part of the Commandments concerns the religious duties of believers: worshipping the Lord God alone, avoiding idolatry, not using the Lord's name in vain, and observing the Sabbath Day.

449 U.S. 39, 41 (1980). Clearly, if a mere posting of a Ten Commandments poster is unconstitutional, a permanent monument prominently displayed in front of the school is unconstitutional.

As the Court ruled in *Stone v. Graham*, which involved donated posters, it is immaterial that this monument was donated. The financier is not relevant to the constitutionality of the monument. "Just as government-commissioned and government-financed monuments speak for the government, so do privately financed and donated monuments that the government accepts and displays to the public on government land." *Pleasant Grove City, Utah v. Summum*, 129 S.Ct. 1125, 1139 (2009).

The religious message of the Ten Commandments is incontrovertible. As the Supreme Court said in *McCreary*:

They proclaim the existence of a monotheistic god (no other gods). They regulate details of religious obligation (no graven images, no Sabbath breaking, no vain oath swearing). And they unmistakably rest even the universally accepted prohibitions (as against murder, theft, and the like) on the sanction of the divinity proclaimed at the beginning of the text.

*Id.* at 868. The Court went on to say:

The point is simply that the original text viewed in its entirety is an unmistakably religious statement dealing with religious obligations and with morality subject to religious sanction. When the government initiates an effort to place this statement alone in public view, a religious object is unmistakable.

*Id.* at 869.

Although the Supreme Court allowed a long-standing Ten Commandments monument on government property in one unique context, the Court made clear that such displays in public schools are unconstitutional. The Court distinguished that case from the school context. Justice Breyer said, "This case, moreover, is distinguishable from instances where the Court has found Ten Commandments displays impermissible. The display is not on the grounds of a public school, where, given the impressionability of the young, government must exercise particular care in separating church and state." *Van Orden v. Perry*, 545 U.S. 677, 703 (U.S. 2005) (concurring) (citations omitted). The Court said that *Stone v. Graham* "stands as an example of the fact that we have 'been particularly vigilant in monitoring compliance with the Establishment Clause in elementary and secondary schools.'" *Van Orden v. Perry*, 545 U.S. 677, 691 (citing *Edwards v. Aguillard*, 482 U.S. 578, 583-584, 96 L. Ed. 2d 510, 107 S. Ct. 2573 (1987)).

In addition to the unconstitutional purpose, prominent placement of the Ten Commandments monument at the school constitutes an unconstitutional endorsement of religion, in this case, the religious edicts of Catholicism. Any student will view a permanent 6-foot tall monument in front of the school entrance as being stamped with the district's approval. This "[s]chool sponsorship of a religious message is impermissible because it sends the ancillary message to members of the audience who are nonadherents 'that they are outsiders, not full members of the political community and accompanying message to adherents that they are insiders, favored members of the political community.'" *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 309-10 (2001). New Kensington-Arnold School Districts' promotion of Christianity over other religions and religion over non-religion impermissibly turns any non-Christian or non-believing student, parent, or staff member into an outsider. The monument is especially troubling because it even conflicts with a protestant rendition of the Decalogue.

It is unfortunate that some educators feel it is their place to instruct other people's children on religious edicts. FFRF is committed to defending parental and student constitutional rights. I am co-counsel in an ongoing lawsuit on this same issue. See *Doe 1 v. School Board of Giles County*, No. 7:11-cv-00435-MFU (W.D. Va. Filed Sept. 13, 2011). That dispute has been disruptive to the school environment and could have been avoided.

This is a particularly egregious violation so please inform us at your earliest convenience in writing of your plan to rectify this matter and the date at which you plan to remove this unconstitutional monument. We look forward to an immediate reply.

Sincerely,



Patrick C. Elliott  
Staff Attorney

PCE:scl

Cc: Jon Banko, Principal, Valley High School

Enclosure





## the Ten Commandments

I AM the LORD thy God.

Thou shalt have no other gods before me.

Thou shalt not take the Name of the Lord thy God in vain.

Remember the Sabbath day, to keep it holy.

Honor thy father and thy mother, that thy days may be long upon the land which the Lord thy God giveth thee.

Thou shalt not kill.

Thou shalt not commit adultery.

Thou shalt not steal.

Thou shalt not bear false witness against thy neighbor.

Thou shalt not cover thy neighbor's house.

Thou shalt not cover thy neighbor's wife, nor his manservant, nor his maidservant, nor his ox, nor anything that is thy neighbor's.



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