

# RELIGION IN THE PUBLIC SCHOOLS

## RELIGIOUS DISPLAYS ON SCHOOL PROPERTY

**School-sponsored displays of religious symbols, texts or artwork on school property are impermissible unless a display is integrated into an appropriate secular curriculum.<sup>1 2</sup> The fact that a display is donated by a private group or paid for by private funds will not affect whether it is permissible under the Establishment Clause.<sup>3</sup>**

### SPECIFIC ISSUES & QUESTIONS

**May a school permanently display the Ten Commandments within classrooms or on school property?** No. A temporary display of the Ten Commandments integrated into a secular curriculum such as history or comparative religion may be permissible.<sup>4</sup> However, the Ten Commandments are "undeniably" a religious text, and the Supreme Court and a number of lower courts evaluating permanent displays of the Ten Commandments have found that such displays have a predominantly religious purpose and violate the Establishment Clause.<sup>5</sup>

<sup>1</sup> See *Stone v. Graham*, 449 U. S. 39, 42 (1980); *ACLU of Kentucky v. McCreary County*, 354 F. 3d 438 (6th Cir. 2003); rehearing denied, 361 F.3d 928 (2004); *Washegesic v. Bloomingdale Public Schools*, 33 F. 3d 679 (6th Cir. 1994); *Joki v. Board of Education of Schuylerville Central School Dist.*, 745 F. Supp. 823 (N. D. N. Y. 1990).

<sup>2</sup> See *Bannon v. School District of Palm Beach*, 387 F.3d 1208 (11th Cir. 2004), cert denied, 546 U.S. 811 (2005) (Court found that murals painted in school hallway by student volunteers during non-curricular time were school sponsored, and it upheld the school's removal of religious messages painted by certain students from the murals); *Demmon v. Loudon County Public Schools*, 342 F.Supp. 2d 474 (E.D. Va. 2004) (Court found that a "walkway of fame" on high school grounds containing bricks bearing secular and religious symbols purchased by students, parents, and family members as part of parent fundraising program was not school sponsored, and it held that the school's removal bricks bearing Latin Crosses was improper); *Phillips v. Oxford Separate Municipal School District*, 314 F.Supp. 2d 643 (N.D. Miss. 2003) (Court found that middle-school student council candidates' posters were school-sponsored, and it upheld the school's removal of a candidate poster bearing religious messages).

<sup>3</sup> See *Stone*, 449 U. S. at 42; *Baker v. Adams County*, 86 Fed. Appx. 104, 2004 U.S. App. LEXIS 481 (6th Cir. 2004), cert denied, 545 U.S. 1152 (2005).

<sup>4</sup> See *Stone* at 42; *McCreary County*, 354 F. 3d 438.

<sup>5</sup> See *Stone* at 41-42; *Adams County*, 86 Fed. Appx. 104, 2004 U.S. App. LEXIS 481; *McCreary*, 354 F. 3d 438.

**May a school permanently display religious artwork within classrooms or on school property?** No. Similar to displays of the Ten Commandments, a temporary display of religious artwork integrated into a secular curriculum may be permissible. However, courts also have found that permanent displays of religious artwork have a predominantly religious purpose and violate the Establishment Clause.<sup>6</sup>

### SAMPLE SCENARIOS & SITUATIONS

#### **Principal Displays Religious Painting in High School Hallway**

Rob Franklin, a graduating high school senior who is heading off to art school, donates a painting to his high school depicting the Last Supper of Jesus and his apostles. Impressed by the quality of the work, Principal Bard hangs the painting in a hallway of the school. A year later, Ms. Greene, the parent of a ninth-grader, sees the painting when she visits the school for parent-teacher night. She later tells Principal Bard that the display of the painting is inappropriate and asks that it be taken down.

#### **Is the display of the painting permissible? Should Principal Bard take it down?**

Principal Bard should take down the painting because its display violates the Establishment Clause. The display is not temporary and integrated into a secular curriculum. Rather, it is a permanent display representing a central event to the Christian faith, and therefore advances and endorses religion. The fact that Rob donated the painting to the school does not diminish this endorsement.

**PROVIDED BY: Civil Rights Division**

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<sup>6</sup> See *Washegesic*, 33 F. 3d 679; *Joki*, 745 F. Supp. 823.