

The 'December Dilemma'

December Holiday Guidelines for Public Schools

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The 'December Dilemma'

Every December, public school students, parents, teachers and administrators face the difficult task of acknowledging the various religious and secular holiday traditions celebrated during that time of year. This pamphlet is designed to inform members of the public school community about the current state of the law regarding constitutionally permissible religious holiday observance in the public schools.

The First Amendment guarantees freedom of religion to all Americans — including young schoolchildren — by prohibiting the government from endorsing or promoting any particular religious point of view. This prohibition has led courts to ban such plainly coercive religious activities in public schools such as organized prayer and the teaching of creationism. The law is less clear regarding the limits on holiday celebrations in public schools, but a number of guidelines should be followed in order to adhere to the requirements of the First Amendment.

Religion as an Educational Lesson

While there are appropriate educational benefits to teaching about the diverse religious traditions and cultures of our country, school officials must be sure they do not give students the impression that one set of holidays or beliefs is more important or more acceptable than others.

Courts have stressed that “[r]eligion is a pervasive and enduring human phenomenon which is an appropriate, if not desirable, subject of secular study.”¹ In fact, “it might well be said that one’s education is not complete without a study of comparative religion or the history of religion and its relationship to the advancement of civilization.”²

However, there is a critical difference between **practicing religion** and **teaching about religion**. Most importantly, it is constitutionally permissible for public schools to **teach about religion** but unconstitutional for public schools to **observe religious holidays or practice religion**.³ School officials and parents must be careful not to cross the line between “the laudable educational goal of promoting a student’s knowledge of and appreciation for this nation’s cultural and religious diversity, and the impermissible endorsement of religion forbidden by the Establishment Clause.”⁴

The Supreme Court has not specifically ruled on issues related to teaching about religious holidays in public schools, but its rulings in other cases involving religious freedom and lower court rulings about religious holidays in public schools are instructive regarding which activities are permissible or impermissible.

The Supreme Court has said that religion may only be studied when it is “presented objectively as part of a secular program of education.”⁵ Such study must have a distinctly nonreligious purpose.

For example, public school students in an English class may study passages from the Bible to better understand a work of literature that draws on Biblical sources. A course on American or European history might also include an in-depth study of the role of religion in shaping important historical events. It is important to remember that in any context, the study of religion must not be coercive and must neither promote nor be hostile towards religion.⁶

It is often appropriate to teach about the historical, contemporary and cultural aspects of religious holidays. From these lessons, young children

often gain understanding and respect for the diverse cultures and beliefs in our country. Appropriate lessons about religious holidays could include discussions of the origins and meanings of holidays and how and when they are celebrated.

However, teachers should make sure not to cover a single holiday or religion, but instead to teach children about the holiday celebrations of a number of different traditions.

For example, in any given year a number of holidays may occur in December — Christmas, Chanukah, Kwanzaa, Bill of Rights Day, and Bodhi Day (a Buddhist celebration) — and may be appropriate for a lesson on various celebrations held in the winter season.⁷ In this context, it is permissible for teachers to display religious symbols, so long as they are used solely as a teaching aid and are displayed temporarily as part of an educational lesson.⁸

Holiday Assemblies and Other Public School Activities

The study of religious holidays may also include “more than mere classroom instruction.”⁹ For instance, public performances or presentations of music, literature and art are permissible, as long as they are “presented objectively as part of a secular program of education.”¹⁰ A permissible purpose for such a program may be advancing students’ knowledge of society’s cultural and religious heritage.¹¹

However, religious music, literature, art or other religious activities should not dominate school activities. These activities are permissible only if they make up a small portion of a school-sponsored event.

For instance, it may be permissible to have students act out a play which contains one scene where a family is shown opening presents on Christmas morning. However, school-sponsorship of a play about the birth of Jesus would be impermissible because such performances are inherently affirmations of a certain religious point of view.

School-sponsored activities should also focus on more than one religion and religious holiday. Depicting a diversity of beliefs and customs is important to teaching public school students about religion and culture. It also helps to ensure that public schools remain neutral and do not promote or denigrate any particular denomination or custom.

It is also important to provide students the opportunity to choose not to participate in activities they find offensive to their religious sensibilities.¹² School administrators must be sure that students have the option to make this choice and not be forced to participate out of embarrassment or peer pressure.

Public School Students Performing Religious Music

School-sponsored singing of religious music poses slightly different concerns because so much choral music is religious.¹³ Due to the dominance of religious music in serious choral music and the legitimate secular reasons for having public school students sing choral music, courts have been more lenient about allowing public school choirs to sing religious music.¹⁴

Additionally, forbidding choirs to sing any music that is religious has been found to be hostile, not neutral, toward religion.¹⁵ Therefore, it is usually permissible to allow public school groups to sing some religious music as part of a choral performance.

However, to avoid First Amendment violations, school choirs should not sing only religious music and should not focus on a particular holiday or denomination. Also, similar to school assemblies and other activities, school officials should allow public school children to be excused from singing religious music without fear of embarrassment or peer pressure.

For instance, at a winter public school choral concert, it is permissible to include some songs based on holidays such as Christmas or Chanukah. However, it would not be appropriate for a public school choir to perform a concert dominated by the songs of a single religious tradition.

It is also not appropriate for public schools to lead students in singing prayers, just as it is improper for schools to lead students in spoken prayer.¹⁶ Courts have found no distinction in singing versus speaking prayers and have found that songs which “call on God for His blessing and contain an avowal of divine faith,” are not appropriate for public school students to sing.¹⁷

Public school students may be allowed to perform at churches, synagogues or temples because courts have recognized that these venues often provide excellent acoustics and atmosphere for the singing of choral music. However, a public school choir should not sing at exclusively religious sites or only at venues of a particular denomination.

As with other public school activities that involve religion, school officials and parents should consider the effects of teaching religious music to impressionable young children.

Decorating Public School Classrooms and Grounds With Holiday Symbols

Public school officials may decorate classrooms and other areas of public schools to recognize certain holiday seasons. But they must be careful not to send a message through these decorations that a certain religion is endorsed or favored by the school.

The Supreme Court has never ruled specifically on holiday displays in public schools, but its decisions on such displays on public property, like parks and courthouses, are instructive in this area.

In the context of displays on public property, the Supreme Court has ruled that a Christmas crèche standing alone is impermissible, but a Christmas tree is permissible because it has become such a secular symbol of the winter holiday season.²¹ It also has found that a Chanukah menorah is a symbol with both secular and religious meanings, and its display on public property within a predominantly secular display is permissible.²²

Due the impressionability of school children, the Supreme Court has noted that a holiday display of a Chanukah menorah and secular symbols such as a Christmas tree could raise additional constitutional concerns.²³ However, lower courts have not invalidated such displays and it's likely that they are permissible.

Thus, the particular symbols used and the context of the display are vitally important to determine whether the decorations are permissible. As one court has put it, "The context in which a symbol appears is critical because it may determine what viewers fairly understand to be the purpose of the display, and may negate any message of endorsement that the religious symbol might otherwise evoke."²⁴

If schools choose to recognize holidays through decorations, they should represent the diversity of the season and should avoid symbols with patently religious meanings to avoid sending the message to students that a religion or a particular denomination is preferred.²⁵

Additionally, symbols depicting religious holidays are most appropriate when accompanied by both secular objects and symbols from holidays of other religions. This combination of faiths and of secular and sacred helps to neutralize messages of favoritism and concerns about religious coercion.

For instance, on a board filled during the winter months with images of snowflakes, candles and evergreen trees, it might be appropriate to add images of Santa Claus and even a Chanukah menorah because the overall message is clearly a celebration of the season, not the promotion of a religious point of view. However, a nativity scene, crucifix or other undeniably religious symbols are not appropriate for a public school display, especially when they are the only objects displayed.²⁶

If a school wishes to recognize seasonal holidays, temporary secular displays that recognize secular aspects of the season and perhaps also holidays with a religious origin are the most appropriate and permissible.²⁷ If symbols that depict religious holidays are used, the display should visually represent holidays of several religions and should also include secular decorations of the season.

Conclusion

The December holidays present public schools with the challenge of acknowledging the diverse religious beliefs of their students while avoiding the kind of divisiveness that the constitutional mandate of separation of church and state is designed to prevent. Teachers, administrators and parents should try to promote greater understanding and tolerance among students of different traditions by taking care to adhere to the First Amendment's prohibition against school-sponsored endorsement or promotion of religious beliefs of any kind. By following this great American tradition, our public schools can best celebrate the religious freedom upon which our nation was founded.

Endnotes

¹ See *Clever v. Cherry Hill Township Bd. of Educ.*, 838 F. Supp. 929, 939 (D. N.J. 1993).

² See *School Dist. of Abington Township, Pa. v. Schempp*, 374 U.S. 203, 225 (1963).

³ See *Abington*, 374 U.S. at 225.

⁴ See *Clever*, 838 F. Supp. at 932.

⁵ See *Abington*, 374 U.S. at 225.

⁶ See *Epperson v. Arkansas*, 393 U.S. 97, 106-107 (1968); *Altman v. Bedford Central School Dist.*, 245 F.3d 49, 75-76 (2nd Cir. 2001).

⁷ See *Clever*, 838 F. Supp. at 933-34, 939.

⁸ See *Florey v. Sioux Falls School Dist.* 49-5, 619 F. 2d 1311, 1317 (8th Cir.), cert denied, 449 U.S. 97 (1980); *Clever*, 838 F. Supp. at 939-40.

⁹ See *Florey*, 619 F.2d at 1316. See also *Illinois ex rel. McCollum v. Board of Education*, 333 U.S. 203, 477 (1948) (Jackson J., concurring).

¹⁰ See *Abington*, 374 U.S. at 225.

¹¹ See *Florey*, 619 F.2d at 1316.

¹² Id. at 1317.

¹³ See e.g., *Doe v. Duncanville Indep. School Dist.*, 70 F.3d 402, 407 (5th Cir. 1995).

¹⁴ Id. at 407-08.

¹⁵ Id. at 407-08.

¹⁶ See *Doe v. Aldine Indep. School Dist.*, 563 F. Supp. 883, 888 (S.D. Tex. 1982).

¹⁷ Id. at 885, 888.

²¹ See *County of Allegheny v. American Civil Liberties Union*, 492 U.S. 573, 602, 616 (1989).

²² Id. at 613-14, 618.

²³ Id. at 629 (footnote No. 69).

²⁴ See *Clever*, 838 F. Supp. at 937 (citing to *Allegheny*, 492 U.S. 573 (1989)).

²⁵ See e.g., *Stone v. Graham*, 449 U.S. 39 (1980); *Washegesic v. Bloomingdale Public Schools*, 33 F.3d 679, 684 (6th Cir. 1994).

²⁶ See *Washegesic*, 33 F.3d at 683-84. See also *Allegheny*, 492 U.S. at 598-99.

²⁷ See *Florey*, 619 F.2d at 1317; *Clever*, 838 F. Supp. at 939.