

Citizens Religious Freedom Toolkit

Tools and Resources Compiled by Citizens Project

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The 'December Dilemma'

December Holiday Guidelines for Public Schools

December						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
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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 to 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.

Best Practices for Neutrality “Do’s and Don’t” Adapted from www.worldvieweducation.org

OK

(At high school levels) To present a brief statement of personal belief, if asked by the class to tell your religious beliefs.

To *not* state your own religious or nonreligious view, if asked. Middle and high school students may be able to distinguish between a personal view and the official position of the school; very young children may not.

To allow students to express their beliefs about religion in the form of homework, artwork, and other written and oral assignments free of discrimination based on the religious content of their submissions. Such home and classroom work should be judged by ordinary academic standards.

To include the study of religiously inspired material as a part of a secular educational program.

To use art, drama, music or literature with religious or nonreligious themes when it serves a sound educational goal in the curriculum.

To teach about religious and nonreligious influences on art, music, literature, science, and social studies in relation to a culture.

To recognize and provide information about holidays, focusing on how and when they are celebrated, their origins, histories and generally agreed-upon meanings.

To teach about a holiday if it furthers a genuine secular program of education, is presented objectively, and does not have the effect of advancing or inhibiting religion.

To welcome students sharing their knowledge and ideas.

NOT OK

To turn an inquiry concerning your personal beliefs into an opportunity to promote or speak against religion.

To inject personal religious or nonreligious beliefs into a discussion in an attempt to persuade students to your view.

To position assignments that feature religious themes as representing the school. For example, a religious play written by a student should not be the play everyone performs.

To single a student out on the basis of your assumptions about their religious affiliations.

To allow religious music, literature, art or other worldview-derived activities to dominate a classroom activity.

To ignore the sway of religious and nonreligious imperatives on culture, or to emphasize one form of influence and ignore the other.

To celebrate religious holidays.

To put students on the spot to represent a group. The student may feel uncomfortable and may not have enough information to be accurate. The teacher may be sending a signal that the religion is too "exotic" for the teacher to understand.

To place students into "role-playing" or other participatory situations where they will experience aspects of belief practices that may be contrary to their own worldview traditions.

To single students out on the basis of religious affiliation. Within your classroom, do not permit actions or statements (e.g., ostracism, ridicule, or disrespect by teacher or peer) that erode the liberty of conscience or undermine the social circumstance of any youngster on account of the individual's profession of religious or nonreligious belief (or associated attire or customs).

Citizens Religious Freedom Institute – Religion and Public Schools

Guidelines for Advocates

- ✓ *What if a teacher at my kid's school refuses to teach evolution, and the administration is letting it slide?*
- ✓ *What if a school counselor is promoting a prayer event?*
- ✓ *What if a teacher tells a kid he can't read the bible during open reading period or study hall?*
- ✓ *What if a principal refuses to allow a Gay-Straight Alliance club, or a Christian Athletes' club?*
- ✓ *What if a choir teacher requires students to sing a religious song to try out for the choir?*

1) Document perceived violations.

Write down every detail about what happened. Record dates, times, exact or approximate words, etc and consider what exactly do you want done about the problem or violation.

2) Do your homework.

Check your facts, and use reference materials to determine if the action is truly a violation. Find out if the district has a policy about the matter. Where can you get written policies – on the web or at the district office? Call the principal or district to ask if there is a formal complaint process.

3) Address your question and concern respectfully first to the teacher, staff person or principal directly.

It is important to be courteous and respectful, and to first express your concern to the teacher or the person whose action caused your concern, unless you fear reprisal. In that case, you can go to that person's supervisor, or:

4) If you want to remain anonymous, contact Citizens Project. We are a resource to help address your concerns.

Sometimes an outside voice can help get concerns addressed. Citizens Project can contact a school on your behalf.



5) If the teacher or principal says they will get back to you, ask them for a deadline.

You may need to give them a reasonable time to talk with their supervisor or investigate whether the alleged action took place and whether it was a violation.

6) If you are not satisfied with the response, move up the “chain of command.”

Ask who is the next person you should speak with, and when you call them, ask if they are the right person to whom you should speak. At the top are the Superintendent and School Board, but often conflicts will be resolved below this level.

7) If the complaint is not resolved satisfactorily and you believe your rights are still not being protected, you may decide to seek legal help or policy change at the state level.

Citizens Project can help put you in touch with resources at this level.



Additional Resources: Religion in Public Schools

U.S. Department of Education www.ed.gov

Search site for: *Religion in public school*

On this site you can find news, press releases, guidance and starting points for research on this topic.

First Amendment Center www.firstamendmentcenter.org

A nonpartisan, secular organization endorsed by educational organizations and a variety of faiths. Visit the Lesson Plans tab for information on teaching the First Amendment, or their 1 For All tab to take their First Amendment Quiz. Under Archives, you will find a variety of publications, case history and resources by searching "Religion". Also visit the site's sponsor organization www.newseuminstitute.org for more information and resources.

Americans United www.au.org

AU is a nonpartisan organization representing members and supporters across the nation, coming from different religions, political and philosophical viewpoints who share a common commitment to church-state separation and individual freedom for all Americans.

Anti-Defamation League www.adl.org

Founded "to stop the defamation of the Jewish people and to secure justice and fair treatment to all." It is now one of the premier civil rights agencies that fights all forms of bigotry, defends democratic ideals and protects civil rights for all. Their publication resources include several addressing public school issues. Their page <http://www.adl.org/civil-rights/religious-freedom/c/religion-in-the-public.html> contains links to downloadable pdfs covering a wide variety of issues in schools. Citizens Project distributes their "[December Dilemma](#)" every year in order to offer guidance on the teaching of religious holidays in public school.

The National Center for Science Education www.ncse.com

The National Center for Science Education is a non-profit membership organization providing information and resources for schools, parents and



concerned citizens working to keep evolution and climate science in public school science education. Their 5000 members are scientists, teachers, clergy and citizens with diverse religious and political affiliations.

The NCSE has an extensive Library and Archives section as well as a Book Store offering books organized by subjects and even a selection of children's and fictional books.

Pew Forum www.pewforum.org

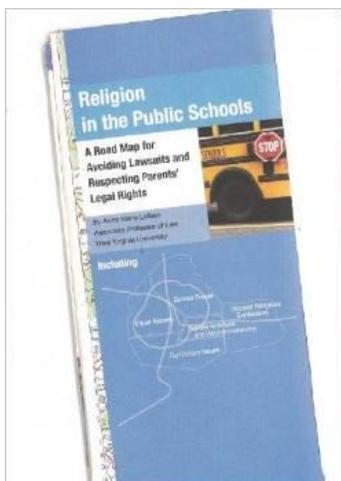
Pew Research Center is a nonpartisan fact tank that informs the public about the issues, attitudes and trends shaping America and the world. The center conducts public opinion polling, demographic research, media content analysis and other data-driven social science research. They do not take policy positions. Search their Religion tab for a wide variety of articles and data on American and Global religious trends and analysis.

Worldview Education www.worldvieweducation.org

This site provides background information and classroom materials related to teaching about religion in public schools in support of pluralism. It acknowledges that the schools are for students of all worldviews, whether religious or nonreligious, and that public school teachers, as professionals need to exercise a scrupulous neutrality regarding religion.



Religion in the Public Schools: A Roadmap for Avoiding Lawsuits and Respecting Parents' Legal Rights



Questions about the proper role of religion in public education continue to reverberate across the nation. With our country becoming increasingly diverse, it's important that educators, principals, superintendents, school board members, parents and students understand what public schools can and cannot do when it comes to religion.

Religion in the Public Schools: A Road Map for Avoiding Lawsuits and Respecting Parents' Legal Rights is designed to help. This handy 129-page book, written by Associate Professor of Law Anne Marie Lofaso of West Virginia University, examines what the courts have said about many religion-in-school controversies and provides clear, concise answers to common questions. Fully referenced and footnoted, Religion in the Public Schools is the perfect guide for anyone seeking to better navigate the intersection between religion and public education.

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