



December 15, 2015
VIA E-MAIL, FACSIMILE, AND U.S. MAIL

Mr. Bob Hutchison, Chairman
Mr. Melvin Vanhoose, Vice Chairman
Mr. William Fraley, Member
Mr. Bruce Aaron Davis, Member
Mr. Brad Frisby, Member
Mr. Thomas R. Salyer Superintendent (Tom.Salyer@johnson.kyschools.us)
Ms. Valarie Blair, Board Secretary (Valarie.Blair@johnson.kyschools.us)
JOHNSON COUNTY SCHOOLS
253 North Mayo Trail
Paintsville, KY 41240
Fax: 606-789-2506

Re: Johnson County Schools' Production of "A Charlie Brown Christmas"

Dear Board Members and Superintendent Salyer:

We are writing on behalf of Joey Collins, whose daughter is a cast member in your District's upcoming production of "A Charlie Brown Christmas." After receiving a single complaint, the District announced its intent to censor all religious references from "A Charlie Brown Christmas" and any other Christmas plays at District schools.

We write to encourage you not to give in to the demands of a single complaint. Through its annual broadcast on network television, "A Charlie Brown Christmas" has reached an iconic status in our nation similar to that associated with many other Christmas traditions. There is no violation of the so-called "separation of church and state" by allowing children to learn about theater and the origins of Christmas through participating in a stage version of this beloved program that contains the same religious elements as the television version.

By way of introduction, Alliance Defending Freedom is an alliance-building legal organization that advocates for the right of people to freely live out their faith. Alliance Defending Freedom frequently assists students, teachers, and public schools in understanding their rights and responsibilities concerning seasonal religious expression.

Students may hear and sing religious Christmas carols during school activities such as choir and Christmas programs without offending the Constitution. *See, e.g., Florey v. Sioux Falls Sch. Dist.*, 619 F.2d 1311, 1319 (8th Cir. 1980); *Clever v. Cherry Hill Twp. Bd. of Educ.*, 838 F. Supp. 929 (D.N.J. 1993). In *McGowan v. Maryland*, the U.S. Supreme Court held that some government involvement with religion does not violate the Establishment Clause if it has a secular purpose and effect. 366 U.S. 420, 445 (1961). Thus, no lower court has ever ruled that

public schools must ban students from participating in the performance of religious Christmas carols. In *Florey v. Sioux Falls School District*, a case involving a school policy permitting public performances of religious music, dramas, and poetry as long as they were part of the school's educational efforts, the U.S. Court of Appeals for the Eighth Circuit held that schools may observe religious holidays without violating the Establishment Clause if doing so furthers a secular program of education. 619 F.2d at 1329. The court approved the school's stated educational purpose of advancing "the students' knowledge of society's cultural and religious heritage, as well as the provision of an opportunity for students to perform a full range of music, poetry and drama." *Id.* at 1314. Other federal appeals courts have reached similar results concerning the singing of religious songs in public schools. See *Bauchman v. West High Sch.*, 132 F.3d 542, 554 (10th Cir. 1997) (upholding the inclusion of religious songs in a school's choral production because "[a]ny choral curriculum designed to expose students to the full array of vocal music culture therefore can be expected to reflect a significant number of religious songs"); *Doe v. Duncanville Indep. Sch. Dist.*, 70 F.3d 402, 407 (5th Cir. 1995) ("[T]he Establishment Clause does not prohibit [school] choirs from singing religious songs as part of a secular music program.").

Moreover, students may learn about the religious origins of Christmas as part of school activities without offending the Constitution. The U.S. Supreme Court held in *Stone v. Graham* that "the Bible may constitutionally be used in an appropriate study of history, civilization, ethics, comparative religion, or the like." 449 U.S. 39, 42 (1981). The Eighth Circuit defined "the term 'study' to include more than mere classroom instruction; public performance may be a legitimate part of secular study." *Florey*, 619 F.2d at 1316. Therefore, school officials may constitutionally present Christmas passages from the Bible, such as Luke 2:1-20 (which is the passage quoted in "A Charlie Brown Christmas"), with a variety of teaching methods.

Given that courts have consistently held that schools may organize and sponsor Christmas programs and performances that include religious songs and study the historical origins of Christmas, there is no basis for the District's decision to censor the religious aspects of "A Charlie Brown Christmas."

We hope that you will resist demands of a lone complainant who seeks to deprive students of the opportunity to participate in this educational (and constitutional) production. If you have any questions regarding the constitutionality of including the religious elements of the play, or would like our assistance in responding to any legal action filed to stop the play from occurring, we would be happy to discuss the situation with you further.

Cordially,


Jeremy D. Tedesco, Senior Legal Counsel
J. Matthew Sharp, Legal Counsel