

# GUIDANCE FOR HOLIDAY BREAKS AND PROGRAMS

FOR SCHOOLS AND THE  
WORKPLACE

SCHOOLS

Schools can display holiday-themed religious symbols during the holiday season but only so long as the display of those symbols is part of some legitimate instructional plan by the school. The display of the symbols for the purpose of endorsement, favoritism or proselytization is, of course, excluded.

Schools can hold holiday programs which include the singing of explicitly religious songs and the use of explicitly religious themes, for example singing "Silent Night, Holy Night" in front of a nativity display. However, this can be done only if the program is part of an educational curriculum which is designed to explain to students the religious and cultural heritage of the date in a "prudent and objective manner." *Florey v. Sioux Falls School District*, 49-5, 619 F.2d 1311 (8th Cir.), *cert. denied*, 449 U.S. 987 (1980).

Usually courts will look at musical programs in the same way that they look at religious displays -- thus, the existence of a secular component (like "Jingle Bells" alongside "Silent Night") helps ensure that the program is legitimate. The *Florey* decision permits schools to make extensive use of religious material during religious holidays of the administrators' choosing without violating the separation of church and state. So long as the school can claim to be working for the purpose of educating students about the religious and historical heritage of the holiday - even if it is their own holiday which they know well - there is no constitutional problem.

The mere existence of religious symbols in the context of a general school holiday program does not constitute any automatic endorsement of the faiths to which those symbols belong. Thus, schools are free to include them so long as they are in the context of the general educational mission. Minimal amounts of Christian symbolism which can also be interpreted in a secular manner are not a problem. *Sechler v. State College Area School District*, 121 F.Supp.2d 439 (M.D. Pa. 2000).

Schools may include specifically religious aspects to the observance of or teaching about religious holidays. Thus, teaching about the history of Christmas or Hanukkah can be accompanied by Christian or Jewish symbols, for instance. As District Judge Irenas noted in *Clever v. Cherry Hill Township*, F.Supp. 929 (D. N.J. 1993), it would be very difficult to teach such subjects without religious symbols ever appearing in any fashion.

FEDERAL  
BUILDINGS

If the religious symbols are displayed alone, it is an unconstitutional violation of the separation of church and state. The decision in *Allegheny v. ACLU*, 492 U.S. 573, July 3, 1989, the Supreme Court found that creche (nativity scene) standing on the grand staircase of the Allegheny County Courthouse in Pittsburgh was impermissible. On the other hand, if there are enough secular symbols displayed in conjunction with the religious symbols, then the display is constitutional.

In the decision of *Lynch V. Donnelly*, 465 U.S. 668 (March 5, 1984), the Supreme Court has ruled (known as the "plastic reindeer rule") that the addition of plastic Santas, reindeer, and other such decorations suddenly make a plastic nativity "acceptable." The *Allegheny* decision basically permitted the existence of competing religious symbols, conveying a message of accommodation of religious plurality. While a single symbol standing alone might be unconstitutional, its inclusion with other secular/seasonal decorations may offset an apparent endorsement of a religious message.

If a privately sponsored religious display is placed in a public/government building, then the display must be temporary and be accompanied by a disclaimer from the government. In addition, the public/government building must also be open to all forms of speech with no regulation of content. Thus, if the government permits a Christian church to erect a nativity display, it must also allow a Jewish synagogue to put up a menorah, a freethinking group to display a sign opposing violations of the separation of church and state, and the KKK to erect a large cross [*Capitol Square Review Board v. Pinette*, (94-780), 515 U.S. 753 (1995)]. For government officials to permit secular displays while prohibiting religious displays would be evidence of a hostility towards religion.