FREEDOM FROM RELIGION *foundation*

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May 20, 2013

SENT VIA EMAIL & US MAIL
surrattsm@lindaleeagles.org

Stan Surratt
Superintendent
Lindale Independent School District
P.O. Box 370
Lindale, Texas 75771

Re: Unconstitutional Religious Performance Scheduled for May 23, 2013

Dear Superintendent Surratt:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to alert you to an unconstitutional music program scheduled to take place at E.J. Moss Intermediate School on May 23, 2013. A concerned parent contacted us about this. FFRF is a national nonprofit organization representing more than 19,000 members across the country, including more than 880 in Texas. Our purpose is to protect the constitutional principle of separation between state and church.

It is our information and understanding that the 5th Grade Music Program is scheduled to take place on May 23, 2013 at 7:00 p.m. in the E.J. Moss Intermediate east auditorium. We understand that all 5th grade music class students participate in the program. We understand that the music performance is called "In God We Trust," and features several songs written by Chris and Diane Machen. The songs make many references to the "word of god" being the "true" foundation of our nation and government, glorifying and trusting in god, and the gospel of Jesus Christ. The Machens run a "music and worship ministry" whose goals are to "lead the Church in worship and reach non-believers with the Gospel of Jesus Christ." They compose Christian music to fulfill their Christian worship ministry. "With a deep love for the Lord, they lead others to worship Him in song and praise…Simply stated, Chris and Diane are real people with a real desire to exalt the Lord Jesus Christ." (See http://www.mastersmusic.com/).

We are further informed that the 5th Grade Music Program includes "spoken lines" which will be recited by 5th grade students (See enclosed copies of the spoken lines script). These lines include:

> What you have heard today helps to explain why the founding fathers of our nation believed and trusted in God.
> The people who struggled and fought to establish this nation did so because of a dream.
> That dream was to have a place where they could freely proclaim the gospel of Jesus Christ.

> The gospel of Jesus Christ is this: people do wrong things -- this is called sin. This sin separates us from God and causes us to be sentenced to an eternal life apart from Him.
> But Jesus Christ, God's one and only son, fought the greatest battle ever fought for freedom.
> He died on the cross and sacrificed His life so that we could have eternal life with God.
> God will forgive our sins if we belief that Jesus died for us.
> Our country's freedom was bought by the struggles, tears and the blood of Jesus Christ.
> He paid the greatest price ever paid to give us the greatest treasure ever bought.

If these allegations are true, this program is an egregious violation of the First Amendment and should be cancelled immediately. It is illegal for a public school to compel students to participate in religious expression. This is compounded by the fact that the children, as fifth graders, are very young. The performance has a clearly devotional and proselytizing message and thus would be appropriate in a church setting, not in a public school.

First and foremost, it is well settled that public schools may not advance or endorse religion. *See generally*, *Lee v. Weisman*, 505 U.S. 577 (1992); *Wallace v. Jaffree*, 472 U.S. 38 (1985); *Epperson v. Arkansas,* 393 U.S. 97 (1967); *Sch. Dist. of Abington Twshp. v. Schempp,* 374 U.S. 203 (1963); *Engel v. Vitale*, 370 U.S. 421 (1962). These constitutional dictates are violated when a public school chooses to put on a performance that professes the gospel of Jesus Christ and urges the audience to trust in god and glorify god. All public school instruction and activities must have an educational purpose. No such rationale can be argued here. This performance is wholly devotional and should never have been approved for performance by public school students.

Moreover, courts have reviewed religious music in public schools and held that its use must comport with the Establishment Clause. *See Nurre v. Whitehead,* 580 F.3d 1087, 1097 (9th Cir. 2009) (school district's disallowing the playing of "Ave Maria" at graduation was permissible because an observer could have viewed it as the district's preference for one religion over another); *Sease v. School Dist. of Philadelphia,* 811 F.Supp. 183, 192 (E.D. Pa. 1993) ("Clearly, a school employee's participation in, or sponsorship of, a public school gospel choir during school hours would be a violation of the Establishment Clause.").

It is no defense that this is an event in which participation or attendance is voluntary. Courts have summarily rejected arguments that voluntariness excuses a constitutional violation. *See, generally, Lee v. Weisman*, 505 U.S. at 596 ("It is a tenet of the First Amendment that the State cannot require one of its citizens to forfeit his or her rights and benefits as the price of resisting conformance to state-sponsored religious practice."); *Abington Sch. Dist. v. Schempp*, 374 U.S. 203, 288 (1963) (Brennan, J., concurring) ("Thus, the short, and to me sufficient, answer is that the availability of excusal or exemption simply has no relevance to the establishment question..."); *Mellen v. Bunting*, 327 F.3d 355, 372 (4th Cir. 2003) ("...VMI cannot avoid Establishment Clause problems by simply asserting that a cadet's attendance at supper or his or her participation in the supper prayer are 'voluntary.' ").

As the Supreme Court in *Lee* explained, "It is a tenet of the First Amendment that the State cannot require one of its citizens to forfeit his or her rights and benefits as the price of resisting conformance to state-sponsored religious practice." 505 U.S. at 596. There is immense pressure for students to do as their instructors and their peers are doing. Public school staff and administrators should be aware of these concerns and ensure that all students are made to feel welcome in all programs.

Nearly 20% of adult Americans do not associate themselves with any one religion. (Pew Forum on Religion and Public Life, October 2012) Regardless of the age of the students involved, by endorsing a belief in the Christian god and Jesus, the school "sends the ... message to ... nonadherents 'that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members…'" *McCreary*, 545 U.S. at 860 (citations omitted).

This is clearly illegal and unconstitutional indoctrination of children into a particular religion. You must cancel this unconstitutional performance and investigate the music curriculum at E.J. Moss Intermediate School to ensure the school is not impermissibly promoting religion or indoctrinating students. We request a prompt response in writing as to the steps the district is taking to remedy these concerns so that we may notify our complainant.

Sincerely,

Elizabeth Cavell
Staff Attorney

In God We Trust

INTRODUCTIONS

A. _____: Good evening, Ladies and Gentlemen ! And welcome to the E.J.Moss 5th Grade production of "In God We Trust."

B. _____: Before we begin, *(pause)* we would like to remind everyone *(pause)* to please turn off their cell phones.

C. _____: If your younger children happen to get loud or fussy, *(pause)* we simply invite you to move to the back *(pause)* where you can still hear and see, *(pause)* but not disturb the others.

D. _____: At this time in our country *(pause),* it is easy to be distracted by all of the discouraging news.

E. _____: We hope that this program encourages *(pause),* and reminds everyone *(pause)* where the true Answer is *(pause)* to every challenge we face.

F. _____: We hope that you enjoy the program and thank you for coming !!!

_____ Newsboy *(walking across stage)*:

Stop, speak out strongly to audience): Extra! Extra! Read all about it!
Read all about it!
Read the REAL TRUTH about the
foundation of our country !!!
Extra! Extra! Read all about it !

(Begin #68 immediately)

#68: *Song: "Extra, Extra!"*

5 Speakers

#1: Trust in God gave birth to our country over 200 years ago!

#2: Some Americans believe that the phrase, "In God We Trust" no longer fits our country.

#3: We're here tonight to remind everyone that our government has always acknowledged a foundational trust in God.

#4: Actually, this country's system of government was inspired by faith in the Word of God.

#5: His Word has nurtured and developed this country into the great nation that it is today!

#69 (Begin music after speakers are in place & before Eagle enters)

Song: "Eagle Eye"

_____Eagle Eye:

- **Greetings, everyone! I'm here as an eye -witness to the birth of the United States of America.**
- **Let me take you waaaaaaaay back....to the place where it all started.**
- **It was in England with the Pilgrims and their leader William Bradford.**

_____William Bradford:

- **We left our families, our work & our homes in England to seek a place of freedom to praise and honor our God, & to freely declare the gospel of Jesus Christ.**
- **A vessel called the Mayflower carried us in pursuit of a new country.**
- **To declare our faith, we traveled under a sail inscribed with the words, "In God We Trust."**

(music begins)

#70: *Song: "In God We Trust"*

_____ #6: Thomas Jefferson first wrote the phrase "separation of church and state" in this letter written in 1802 to the Danbury Baptist Association in Connecticut.

_____ #7: Please listen carefully as he shares more that is written in this letter.

_____ Thomas Jefferson:

- "I believe with you that religion is a matter which lies only between man and God.
- The people have voted that no law controls the decisions of churches in America.
- It is not that the state should be separate from religion, but that religion should be separate from the state."

P.3B *(optional)*

Intro 1: Thomas Jefferson could not join us this evening, but we would like to share some words from a letter that he wrote.

TJ-1: Thomas Jefferson first wrote the phrase "separation of church and state" in a letter in 1802.

TJ-2: This letter was actually written to the Danbury Baptist Association in Connecticut.

TJ-3: Furthermore, he wrote: "I believe with you that religion is a matter which lies only between man and God."

TJ-4: "The people have voted that no law controls the decisions of churches in America."

TJ-5: "It is not that the state should be separate from religion, but that religion should be separate from the state."

Eagle Eye:

Now I'd like to introduce George Washington, our first President of the United States.

_____ #8: Not only was he our first President, but he was also the Chairman of the Convention, which wrote our Constitution.

_____ #9: George Washington had much to say about the place of religion in governmental affairs.

_____ George Washington:

- It is the duty of all nations to acknowledge the help of Almighty God, to obey His will, and to humbly ask for His protection and favor.
- There never was a people who had more reason to show gratitude for God's help than the people of the United States.
- Therefore, I should be heartbroken if they have forgotten to be grateful for His blessings to us.

#71: *"Blessed Is The Nation"*

Eagle Eye: *(Looking back w/ 1 hand shielding his eyes, appearing to look for someone)*
I believe I see Betsy Ross coming.
Let's listen to what she has to say.

_____ Betsy Ross:

- **Hi, there! I just got the word that I am needed.**
- **I've sewn a million stitches for this country.**
- **I think my opinion should count.**
- **Let's go, Supremes !**

#72 "Stop and Start All Over Again"

(after song go to #74 on CD)

Eagle Eye: That was great, Betsy! Now let's hear from another important founding father.

_____#10: That would be Benjamin Franklin and he had a lot to say about freedom.

_____#11: That includes: freedom of speech AND freedom of religion.

_____#12: We should also listen because he was one of America's most influential statesmen.

_____ Benjamin Franklin:

- God has given us this chance to establish a nation.
- Do we think that we no longer need His wisdom or His help?
- I have lived a long time and the longer I live, the more proof I see of this truth:
- "Except the Lord build the House, they labor in vain that build it." Therefore, I beg you that we pray for God's help and His blessing on our country.

Eagle Eye: Lastly we must include some words from our 16th President of the United States, Abraham Lincoln.

_____ #13: Most definitely ! Under his courageous leadership, "Honest Abe", as they called him,. showed his true character as a man of strong integrity.

_____ #14: The last act of Congress ever signed by him was one requiring that the motto, "In God We Trust. would be inscribed on all the nation's currency.

_____ Abraham Lincoln:

- We have forgotten God.
- AND we have vainly imagined that ALL THESE BLESSINGS were produced by some great wisdom of our own.
- We have become too proud to pray to the God that made us !
  #74 *(softly fade music in)*

- Therefore, we must humble ourselves before God and ask for forgiveness.
- I do not rely on our people, our soldiers, or our leaders.
- I rely only on the God of our fathers.

(increase volume after speech)

Battle Hymn of the Republic"

#15: What you have heard today helps to explain why the founding fathers of our nation believed and trusted in God.

#16: The people who struggled and fought to establish this nation did so because of a dream.

#17: That dream was to have a place where they could freely proclaim the gospel of Jesus Christ.

#75 *(begin music w/ volume down)*

#18: The gospel of Jesus Christ is this: people do wrong things-----this is called sin. This sin separates us from God and causes us to be sentenced to an eternal life apart from Him.

#19: But Jesus Christ, God's one and only son, fought the greatest battle ever fought for freedom.

#20: He died on the cross and sacrificed His life so that we could have an eternal life with God.

#21: God will forgive our sin if we believe that Jesus died for us.

#22: Our country's freedom was bought by the struggles, tears and the blood of our forefathers.

#23: Our personal freedom from sin was bought by the blood of Jesus Christ.

#24: He paid the greatest price ever paid to give us the greatest treasure ever bought.

#76 *"Bought With A Price"*

 # 77: "Finale"