

FREEDOM FROM RELIGION *foundation*

P.O. BOX 750 · MADISON, WI 53701 · (608) 256-8900 · WWW.FFRF.ORG

December 19, 2011

COPY

**SENT VIA FAX AND U.S. MAIL
(607)735-3002**

Joseph Hochreiter
Superintendent
Elmira City School District
951 Hoffman St
Elmira NY 14905

Re: URGENT: Religious Holiday Music in Halls of Southside High School

Dear Mr. Hochreiter:

I am writing on behalf of a concerned resident and taxpayer to alert you to a serious constitutional issue occurring at Southside High School. The Freedom From Religion Foundation (FFRF) is a national nonprofit organization based in Madison, Wisconsin, with over 17,000 members across the country including nearly 1,000 in New York. Our purpose is to protect the constitutional principle of separation between church and state.

It is our information and understanding that Principal Krantz at Southside High School has elected to play religious holiday music non-stop in the halls of the high school all day and evening every day for at least the month of December. Our complainant informs us that Principal Krantz decided to do this in order to "lift morale, especially for those underprivileged kids who don't get much of a celebration at home." Our complainant informs us that carols are also sung as part of the morning news broadcasted throughout the school. Some of the songs played during the day include: Oh Holy Night, From a Distance, Little Drummer Boy, O Come Emmanuel, Silent Night and The First Noel, among others. Our complainant informs us that the songs are played all day long and into the evening. The music does disrupt classes, as some of the classrooms have speakers near the door. Our complainant informs us that even with closed doors the music from the hallways can be heard.

We understand that Wednesday is the last day of classes for Southside High School until the new year. Therefore, we request you take immediate action to halt this inappropriate practice.

It is wholly inappropriate for a public school principal to broadcast religious music in the halls of a public school during the school day. A majority of the music has a devotional message and thus would be appropriate in a church setting, but not in a public school.

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).). Moreover, “the preservation and transmission of religious beliefs and worship is a responsibility and a choice committed to the private sphere.” *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 310 (2001)(quoting *Lee v. Weisman*, 505 U.S. at 589).


Courts that have reviewed religious music in public schools have stressed 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); *Floreys v. Sioux Falls School Dist.* 49-5 619 F.2d 1311, 1317 (8th Cir. 1980) (school district’s rules allowing holiday celebrations, *on their face*, were constitutional because they had the primary effect of advancing a “secular program of education,” and not religion); *Sease v. School Dist. of Philadelphia*, 811 F.Supp. 183, 192 (E.D. Pa. 1993) (“Clearly, a school employees participation in, or sponsorship of, a public school gospel choir during school hours would be a violation of the Establishment Clause.”).

Furthermore, we would like to bring to your attention the serious concerns this practice raises even when the music is only played after instructional hours (i.e. after students have left for the day). The devotional music playing constantly after school is offensive to non-Christian teachers, faculty and other public school staff and could constitute workplace harassment.

We ask that you immediately direct Principal Krantz to stop playing the religious music in the halls of Southside High School. We seek written assurances that this practice — blaring Christmas music in the halls of a public school — will not recur in the future.

Thank you in advance for your time. We look forward to hearing from you.

Sincerely,


Rebecca S. Markert
Staff Attorney

cc: Christopher Krantz, Principal Southside High School