

FREEDOM FROM RELIGION *foundation*

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December 2, 2011

Mailed and Emailed to bharris@cusd200.org

Dr. Brian Harris
Superintendent
130 West Park Avenue
Wheaton, Illinois 60189

Re: Religious Musical Performance in Public School

Dear Dr. Harris:

I am writing on behalf of a concerned district parent and taxpayer, as well as other Illinois members of the Freedom From Religion Foundation (FFRF), who object to the unconstitutional nature of a recent musical program at Sandburg Elementary School. Most notably, we are concerned that a public school taught a Christian worship song. FFRF is a national nonprofit organization representing over 17,000 members across the country, including over 600 in Illinois. Our purpose is to protect the constitutional principle of separation between state and church.

It is our information and understanding that Sandburg Elementary School had musical program in November 2011. It is our further understanding that during the program, which occurred at the public school, an overtly Christian song, "There was a Little Baby," was performed to schoolchildren as young as five.

It is wholly inappropriate for a public school teacher to teach songs of Christian worship in a public school setting. The music listed above has a devotional message and thus would be appropriate in a church setting, but not in a public school.¹ There are a multitude of secular songs that would be appropriate in this setting. Though there may be some instances where singing religious songs in a public school setting might be permissible, the school should exercise caution when teaching impressionable school children songs that are so devotional in nature.

The problem with teaching these songs was brought home to our complainant when their child explained "the Lord" the song mentions "is Jesus." It is for exactly this reason that the Supreme Court continually rules that "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).

¹ "There was a little baby, oh my Lord [repeat x3], way down in Bethlehem [repeat x2], they laid him in a manger, oh my Lord [repeat x3], way down in Bethlehem [repeat x2], They named the baby Jesus, oh my Lord [repeat x3], way down in Bethlehem [repeat x2], There was a little baby, oh my Lord [repeat x3], way down in Bethlehem [repeat x2]."

Teaching these very young and impressionable students pervasively Christian music in a public school violates the First Amendment. 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). In addition, 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 impermissible 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 employees participation in, or sponsorship of, a public school gospel choir during school hours would be a violation of the Establishment Clause.").

The problem is not solved by claiming that such programs 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. Students feel immense pressure to act like their instructors and peers. Public school staff and administrators should be aware of these concerns and ensure that all students are made to feel welcome in all programs.

All public school instruction and activities must have an educational purpose. While an argument could be made that school students in a chorale group should be exposed to classical music, which includes some "sacred" pieces, no such rationale can be argued here. There is no dearth of secular, age-appropriate melodies for middle school students to learn. Parents – not the school district or a public school choir directory – have the authority and the right to decide whether and when to expose their child to religious concepts and devotional music.

We respectfully request that you instruct schools in your District to immediately cease teaching religious songs to young, impressionable children in public schools and that you investigate the matter of the Sandburg Elementary matter to ensure that they meet the requirements of the Constitution. We would also appreciate a prompt response from you, in writing, informing us of the steps that District 200 will take to resolve this matter so that we may inform our complainants.

Sincerely,



Annie Laurie Gaylor

Cc Mr. Aaron Bacon, Sandburg Elementary School
abacon@cusd200.org