

# FREEDOM FROM RELIGION *foundation*

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

March 7, 2017

**SENT VIA EMAIL AND U.S. MAIL:**

**ddevine@ccps.org**

Dr. D'Ette W. Devine  
Superintendent  
Cecil County Public Schools  
201 Booth Street  
Elkton, MD 21921

**Re: Unconstitutional religious musical**

Dear Superintendent Devine:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a religious musical scheduled to start on **Thursday, March 9** at Rising Sun High School. FFRF is a national nonprofit organization with more than 27,000 members across the country, including more than 400 members in Maryland. FFRF's purpose is to protect the constitutional principle of separation between state and church.

A concerned District parent contacted us to report that Rising Sun High School is planning on performing the musical *Children of Eden*, directed by the school's drama instructor, Tess Garrett. *Children of Eden* is based entirely on the first nine chapters of the Book of Genesis from the Old Testament. It is inappropriate and unconstitutional for a public school to sponsor a performance of this religious musical. We see no alternative to cancelling this religious production and ask that you take action to ensure that similar mistakes do not occur in the future.

Although the story in *Children of Eden* is not a strict retelling of the Genesis story—some characters and events are added or changed slightly—the central devotional themes remain. One of the show's authors described his trepidation at “putting our own interpretation on these sacred stories,” such as a “vision of Noah, Even, Cain, and especially God Himself that did not exactly jibe with what [the audience] had heard in Sunday school.”<sup>1</sup> The author then explained that further study of biblical history convinced him that “these events actually happened historically, though not precisely as described in Genesis,” and therefore the authors “feel more comfortable about playing slightly loose with these Bible tales.”<sup>2</sup>

In other words, the authors feel that the *Children of Eden* musical presents a reasonable “historical” version of the Book of Genesis, since theological interpretations of the Old

---

<sup>1</sup> [stephenschwartz.com/wp-content/uploads/2010/08/children-of-eden.pdf](http://stephenschwartz.com/wp-content/uploads/2010/08/children-of-eden.pdf).

<sup>2</sup> *Id.*

Testament are themselves so varied and inconsistent. The alterations were not made with the intent of lessening the book's religious content. Music Theatre International revealingly describes *Children of Eden* as "a joyous and inspirational musical about parents, children and faith . . . . *Children of Eden* is a wonderful show for faith-based groups looking for a large-scaled pageant with sweeping music."<sup>3</sup>

*Children of Eden* retains every crucial religious element of the Genesis story:<sup>4</sup>

1. The character "Father" creates the heavens and earth, then creates Adam and Eve in the Garden of Eden;
2. Father tells Eve not to eat from the tree of knowledge, instructing Eve to "have faith in his reasons";
3. A talking snake deceives Eve into disobeying Father and eating from the tree of knowledge, and then tricking Adam into doing the same;
4. Father exiles Adam and Eve from the Garden of Eden for this infraction;
5. Eve gives birth to two sons, Cain and Abel, whom Father speaks to as a hope for redeeming humanity;
6. Cain kills Abel, for which Father marks him with the "Mark of Cain";
7. Father orders Noah to build an ark so that he can destroy the line of Cain;
8. Noah and his family load animals onto their ark in preparation for a great flood, which continues for forty days and forty nights.

The musical's lyrics are plainly religious as well. As just two examples, the song "World Without You" begins with Adam singing, "Oh my Father, Lord and Creator / You know that half my heart is yours / All that you gave me I can't repay you / If I betray you, I'll break in two / How could I live in a world without you?"<sup>5</sup> In the song, "Children of Eden," Eve sings, "Sins of your parents / Haunt you and test you / This is your inheritance / Fire and rain / Children of Eden / Try no to blame us / We were just human to error prone."<sup>6</sup>

Besides the recitation of familiar biblical stories of creation, sin and genocide, a central theme of the musical is obedience to Father, the character representing the god of the Old Testament. Students would reasonably understand that their school is promoting the musical's messages that the bible is more or less historically accurate and that obedience to the Old Testament god is a virtue. It is unconstitutional for a public school to endorse these religious messages.

The Establishment Clause in the First Amendment to the U.S. Constitution prohibits government sponsorship of religious messages. The Supreme Court has said time and again, that the "First Amendment mandates government neutrality between religion and religion, and between religion and nonreligion." *McCreary County, Ky. v. American Civil Liberties Union of Ky.*, 545 U.S. 844, 860 (2005); *Wallace v. Jaffree*, 472 U.S. 38, 53 (1985); *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968); *Everson v. Bd. of Educ. of*

---

<sup>3</sup> [mtishows.com/children-of-eden](http://mtishows.com/children-of-eden) (emphasis added).

<sup>4</sup> *Id.* (under "Full Synopsis").

<sup>5</sup> [stlyrics.com/lyrics/childrenofeden/worldwithoutyou.htm](http://stlyrics.com/lyrics/childrenofeden/worldwithoutyou.htm).

<sup>6</sup> [stlyrics.com/lyrics/childrenofeden/childrenofeden.htm](http://stlyrics.com/lyrics/childrenofeden/childrenofeden.htm).

*Ewing*, 330 U.S. 1, 15–16 (1947). This constitutional mandate is stronger within the context of our public schools.

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.”).

In 2015, FFRF brought a federal lawsuit against a public school district in Indiana regarding a musical performance that included a “living nativity,” in which students reenacted the nativity story from the New Testament while the school choir sang religious songs. Even though this performance only took up the last 20 minutes of a 90-minute performance, the court enjoined the school district from including the live nativity because “the live nativity celebrates a religious message, which a government entity like Concord cannot endorse.” *FFRF v. Concord Community Schools*, Case No. 3:15-CV-463 JD (N.D. Ind.) (Opinion, Order and Preliminary Injunction, filed Dec. 2, 2015). Whereas the live nativity included students acting out a biblical story as a small part of a larger holiday performance, with the Children of Eden musical students reenacting biblical stories is **the entire performance**. This would be an appropriate play for a faith-based theater group, but not for a public school.

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.’”).

In addition, nonreligious drama students should not be forced to choose between participating in a religious musical or skipping a major drama production. About 35% of Americans born after 1981—*i.e.* your students—are nonreligious.<sup>7</sup> Regardless of the age of the students involved, by endorsing a belief in the historical veracity of the bible and obedience to the god of the Old Testament, the school “sends the . . . message to . . . nonadherents ‘that they are outsiders, not full members of the political community, and

---

<sup>7</sup> The Pew Forum on Religion & Public Life, *Asian Americans: A Mosaic of Faiths*, 148 (July 2012), based on aggregated data from Pew Research Center for the People & the Press 2011 surveys.

an accompanying message to adherents that they are insiders, favored members . . . .”  
*McCreary*, 545 U.S. at 860 (citations omitted).

Because the religious content is inseparable from the Children of Eden musical, we see no alternative to cancelling the upcoming performance, which is scheduled to begin on **Thursday, March 9**. Additionally, some action must be taken regarding the poor judgment of Ms. Garrett or any other staff member who thought that this musical would be appropriate in a public school. Please provide written assurances that future performances at District schools will not require students to reenact biblical stories or otherwise promote religious messages.

Sincerely,



Ryan D. Jayne, Esq.  
*Elaine & Eric Stone Legal Fellow*  
*Freedom From Religion Foundation*