

# FREEDOM FROM RELIGION *foundation*

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

December 22, 2015

**SENT VIA U.S. MAIL & EMAIL**

**ghcfd1@comcast.net**

Kevin Witt  
Oakville Fire Chief  
PO Box 6  
Oakville, WA 98568

Re: Inappropriate Religious Postings on Facebook Page

Dear Chief Witt:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to object to the Grays Harbor Fire District 1 using government resources to promote religious views. Several concerned local citizens contacted us. FFRF is a nationwide nonprofit organization, which works to protect the constitutional principle of separation of church and state. FFRF has about 23,000 members across the country, including over 1,000 members and a chapter in Washington.

It is our understanding that Oakville Fire Department, Grays Harbor Fire District 1, has put up a sign reading "Unto us a savior is born, Merry Christmas" on fire department property. We understand this sign was taken down after a citizen complained, but was put back up.

The United States Supreme Court has held that public officials may not seek to advance or promote religion. It is inappropriate for the Oakville Fire Department (OFD) to indicate a preference for Christianity and religion by declaring that "a savior is born." This proselytizing message gives the appearance of government endorsement of Christianity. It also conflicts with personal religious and nonreligious views of many town residents and employees.

The Supreme Court has stated: "The government may acknowledge Christmas as a cultural phenomenon, but under the First Amendment it may not observe it as a Christian holy day by suggesting people praise God for the birth of Jesus." *Allegheny v. ACLU, Greater Pittsburgh Chapter*, 492 U.S. 573, 601 (1989). The sign is not a secular Christmas celebration, it is about the religious story of the birth of Jesus. It is unlawful for the OFD to publish a holiday display that consists solely of a Christian reference, thus singling out, showing preference for, and endorsing Christianity.

In *Allegheny*, the Court further determined that the placement of a crèche on the Grand Staircase of the county courthouse contributed to its illegality because "no viewer could reasonably think it occupies this location without support and approval of the government." *Id.* at 599-600. Moreover, the Court found that the nativity scene "sen[t] an unmistakable message that [the county] supports and promotes the Christian praise to God that is the crèche's religious message." *Id.* at 600. Similarly, putting a message celebrating Jesus' birth up in the first place caused reasonable viewers to conclude that it was posted with the support and approval of the OFD. The Fire Commission's vote to put the display back up confirms that fact.

Furthermore, other federal courts have upheld restrictions on the display of religious materials by government entities because such restrictions exist to avoid an Establishment Clause violation. The Ninth Circuit Court of Appeals, which has jurisdiction over Washington, has stated that the “government has a greater interest in controlling what materials are posted on its property than it does in controlling the speech of the people who work for it.” *Tucker v. Department of Education*, 97 F.3d 1204, 1214 (9th Cir. 1996); *see also Berry v. Department of Social Services*, 447 F.3d 642 (9th Cir. 2006).

In *Berry*, the court upheld restrictions on displays of religious materials in government workplaces, because public access to the area could cause someone to “reasonably interpret the presence of visible religious items as a government endorsement of religion.” *Berry*, 447 F.3d at 652. The court concluded that “[d]isplaying the Bible implicitly endorses a religious message and it is precisely that message which the Department reasonably seeks to avoid.” *Id.* The courts have recognized that “the state has a legitimate interest, for example, in preventing the posting of crosses or Stars of David in the main hallways, by the elevators, or in the lobbies, and in other locations throughout its buildings. Such a symbol could give the impression of impermissible government support of religion.” *Tucker*, 97 F.3d at 1216. These restrictions clearly extend to religious messages posted on all OFD property, which any reasonable viewer would assume represents the views of the OFD.

We understand the OFD feels stuck between a rock and a hard place. But the Constitution must be honored, no matter how many people favor the government’s promotion of Christianity. The Constitution requires strict government neutrality on religion to respect the rights of conscience of all citizens, including the nearly 30% of Americans who are not Christian.<sup>1</sup> The OFD was right to remove the sign initially, and to end this Establishment Clause violation, the OFD must immediately again the proselytizing message from its sign. Please inform us in writing of the steps that are taken to remedy this constitutional violation and ensure that it does not recur.

Sincerely,



Madeline Ziegler  
Cornelius Vanderbroek Legal Fellow  
Freedom From Religion Foundation

---

<sup>1</sup> *America’s Changing Religious Landscape*, Pew Research Center (May 12, 2015), available at [www.pewforum.org/2015/05/12/americas-changing-religious-landscape/](http://www.pewforum.org/2015/05/12/americas-changing-religious-landscape/).