

FREEDOM FROM RELIGION *foundation*

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

April 17, 2023

SENT VIA U.S. MAIL AND EMAIL: director@odysseycharter.net

Russell Schellhous
Director
Odyssey Charter School
738 E 700 S
American Fork, UT 84003

Re: Constitutional Concerns over Hope of America Event

Dear Director Schellhous:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to alert you to serious constitutional concerns over public school involvement in the annual Hope of America event. Over the years, we have continued to receive numerous complaints from concerned Utahns regarding this event. FFRF is a national nonprofit organization with over 40,000 members across the country, including members in Utah. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

It is our understanding that on May 3–5, 2022, fifth grade students from over 70 public schools throughout Utah participated in the annual Hope of America event, sponsored by America’s Freedom Foundation in conjunction with America’s Freedom Festival at Provo. We are writing in advance of Hope of America 2023, taking place May 9–11. America’s Freedom Festival at Provo is a private nonprofit foundation “whose mission is to celebrate, teach, honor, and strengthen the traditional American values of God, family, freedom, and country.”¹³¹ The Hope of America event takes place at the Marriott Center at Brigham Young University, a private university owned and operated by The Church of Jesus Christ of Latter-Day Saints. The “mission of Brigham Young University — founded, supported, and guided by The Church of Jesus Christ of Latter-day Saints — is to assist individuals in their quest for perfection and eternal life.”¹³²

We are informed that as always, the 2022 Hope of America event opened with an overtly Christian prayer:

Our dear father in Heaven, as we gather here in this amazing facility, we are so grateful and our hearts are full of joy to celebrate the many years of this great program. We are so thankful for the many hands and thousands of hours that have been given to create this wonderful experience for these youths and the blessed lives they have led [. . .] We’re so grateful for our nation, for this great United

¹³¹ *About America’s Freedom Festival*, AMERICA’S FREEDOM FESTIVAL (2022), <https://www.freedomfestival.org/about/>.

¹³² <https://www.byu.edu/about>.

States of America, the only nation founded on the principles of religious freedom, and the rights of each of us as given by thee. We are so thankful for the Founders who looked to thee for guidance in framing our beloved constitution. We pray that these children may feel thy love, may feel thy hand in their lives, and look to thee for comfort and healing, and for guidance in their lives. And most of all, we are grateful for our salvation found in our lord and savior, Jesus Christ [. . .] We say these things in the name of Jesus Christ. Amen.¹³³

Additionally, many of the songs performed at Hope of America have religious overtones and contain explicitly Christian messages. Please see enclosed copies of official Hope of America lyrics. For instance, the song “Hope of America” contains the lyrics:

Where there’s hope, there’s America.
She’s a land that we love,
Blessed from heaven above.
Please protect our rights and liberty.¹³⁴

Another song, “I Love America,” features the lyrics:

I love to see a church house
Where people go to pray.
They are seeking guidance,
To live from day to day.¹³⁵

Reportedly, during “I Love America,” images of people praying and Christian congregations kneeling in prayer in a chapel are shown on the large television screens. In the official recording of the 2022 performance, the video suddenly cuts away from the television screens and focuses on close ups of the children singing when the above verse begins.

The song “We Can be the Light” contains:

Wherever there is darkness,
Together we’ll bring light.
Let’s shine on all God’s children,
Shine with all your might.
For those who feel forgotten,
Who are lost along their way,
This light’s a new beginning.¹³⁶

In addition to religious lyrics and imagery, Hope of America promotes offensive and racist stereotyping of minority cultures and ethnicities. During the song “All Kinds of People,”

¹³³ <https://www.youtube.com/watch?v=eVKOQei6mMY>, at 9:18.

¹³⁴ *Id.* at 17:07.

¹³⁵ *Id.* at 1:06:00.

¹³⁶ *Id.* at 1:14:12.

different groups of students come onto the stage dressed in costumes and performing choreography that parodies people from a variety of cultures and ethnic groups.¹³⁷ Pacific Islanders, Hispanic Americans, and Asian Americans are among the groups mimicked in the performance by students who by and large are not actual members of these groups. Please see enclosed photographs of the 2022 performance.

Stereotyping minority racial and ethnic groups contributes to the harmful notion that members of those groups are “foreigners and outsiders.”¹³⁸ The use of costumes, dance, and other cultural elements from minority groups results in cultural appropriation, which is “the act of taking significant elements (symbols, dress, words, practices, etc.) from a culture that is not your own and removing all original context or meaning.”¹³⁹ While it is likely not Hope of America’s intent to be racist or insensitive, “regardless of inventions, appropriative costumes still perpetuate harmful stereotypes and contribute to the continuation of the violence and aggression towards marginalized folks.”¹⁴⁰ By boiling diverse and complex cultures down into simplified costumes and choreography rooted in stereotypes, Hope of America belittles and disrespects the cultures and people that it is attempting to honor.

Furthermore, we are told that a vast amount of public school resources are typically spent in preparation for the Hope of America event. Music teachers use class time to teach all of their fifth grade students the songs and choreography for this event. We understand that school resources are used to transport and chaperone students at a dress rehearsal for the event and to the event itself. School faculty and staff are often expected to help prepare for, attend, and participate in Hope of America.

We write to ask that the School take action to ensure that it no longer participates in this private religious event and that its faculty and staff do not take an active role in organizing and instructing students in preparation for the event in the future.

Public Schools Cannot Participate in Religious Events

It is illegal for a public school to sponsor or participate in an event that includes prayer. The Supreme Court has continually struck down school-sponsored prayer in public schools. *See, e.g., Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203 (1963) (declaring unconstitutional devotional Bible reading and recitation of the Lord’s Prayer in public schools); *Engel v. Vitale*, 370 U.S. 421 (1962) (finding prayers in public schools unconstitutional); *Lee v. Weisman*, 505 U.S. 577 (1992) (ruling prayers at public school graduations an impermissible establishment of religion); *Wallace v. Jaffree*, 472 U.S. 38 (1985) (overturning law requiring daily “period of silence not to exceed one minute . . . for meditation or daily prayer”); *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000) (holding that a school’s policy allowing student-delivered prayers at high school football games violates the Establishment Clause). Federal courts continually strike down school-sponsored prayer because it constitutes government advancement of religion and

¹³⁷ *Id.* at 46:23.

¹³⁸ Zara Abrams, *The Mental Health Impact of Anti-Asian Racism*, APA (Jul. 1, 2021), <https://www.apa.org/monitor/2021/07/impact-anti-asian-racism>.

¹³⁹ <http://www.lspirg.org/costumes>.

¹⁴⁰ <http://www.lspirg.org/costumes>.

creates a coercive environment, which violates the Establishment Clause of the First Amendment. Elementary students are especially vulnerable to coercion by teachers and school administrators due to their age as well as their desire to fit in with their peers and please their teachers. When schools are organizing and encouraging students to participate in a privately-sponsored religious event, it is inevitable that young students will feel coerced into conforming by accepting the religious points of view urged upon them and participating in this religious event.

Even though your School is not an official sponsor of this event, fifth grade students will still perceive that the event, and the prayers that take place during it, are school-sponsored. Fifth graders cannot be expected to appreciate the distinction between a government-sponsored and a privately-sponsored event when they are preparing for that event during class time and taken to the event by their public school. In this context, “[r]egardless of the listener’s support for, or objection to, the message, an objective student will unquestionably perceive the inevitable . . . prayer as stamped with her school’s seal of approval.” *Santa Fe*, at 308. In this case, public schools will be perceived as sponsoring this event when they use class time to teach students songs for the event or when they use entire days of class to take students to the event’s dress rehearsal and the event itself.

Please note that it is not a reasonable solution to make this event optional for students. Forcing students who opt out of this event, for any reason, to sit in the hallway while their classmates learn songs for their performance or miss a day of school during the dress rehearsal is unacceptable. Even if appropriate educational alternatives were offered to nonparticipating students, it would still be illegal for schools to participate in this religious event. Courts have summarily rejected arguments that voluntariness excuses a constitutional violation. *See, generally, Lee*, 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.”). As long as Hope of America continues to contain religious content, public schools cannot participate, regardless of whether individual students can opt out of participating.

Moreover, it is unconstitutional for a public school to require employees to participate in or attend events that include prayer or the promotion of religion. By requiring employees to participate in and attend the Hope of America event, which included prayer, religious music, and religious imagery, the School violates the rights of conscience of nonreligious employees.

Patriotism Does Not Require Piety

Another damaging aspect of the Hope of America event is that through the use of prayer and religious overtones it teaches students that it takes belief in God to have respect for one’s country. This is a toxic notion and could not be further from the truth. We are not a Christian nation. As President John Adams noted, “. . . the government of the United States is not, in any sense, founded on the Christian religion . . .”¹⁴¹ In fact, the United States is the birthplace of one of liberty’s most fundamental principles: the separation between state and church.

¹⁴¹ Treaty of Tripoli (1797).

Our Founders were particularly wary of forming a country that commingled religion with government. That is why they drafted a Constitution that effectively formed “a wall of separation between church and state.” This is perfectly exemplified in George Washington’s response to a letter from Presbyterian Ministers in Massachusetts and New Hampshire expressing their disappointment in the absence of “some Explicit acknowledgement of the only true God and Jesus Christ” in the Constitution. Washington replied “that the path of true piety is so plain as to require but little political direction. To this consideration we ought to ascribe the absence of any regulation, respecting religion, from the [Constitution] of our country.”¹⁴²

Thomas Jefferson, another of our nation’s Founding Fathers, had a low opinion of orthodoxy. As the U.S. Supreme Court noted, “President Jefferson . . . steadfastly refused to issue Thanksgiving proclamations of any kind, in part because he thought they violated the Religion Clauses.”¹⁴³ Far from proscribing a particular religious preference, our Founders saw the importance of keeping religion out of the affairs of government. This principle extends to keeping religion out of our public schools. It is ahistorical and pure propaganda to suggest that it takes a religious heart to love the United States.

The School has a constitutional obligation to remain neutral toward religion. Because Hope of America includes explicitly Christian opening prayers and uses religious overtones to falsely equate religiosity with patriotism, public schools cannot participate in this event. We ask that the School remind all of its faculty of their constitutional obligation to remain neutral toward religion and make it clear that class time cannot be used to prepare students for performances at private religious events.

Please notify us in writing of the steps you are taking to address this matter and ensure that this constitutional violation does not recur.

Sincerely,

A handwritten signature in cursive script that reads "Samantha F. Lawrence". The signature is written in dark ink and is positioned above the typed name.

Samantha F. Lawrence
Anne Nicol Gaylor Legal Fellow
Freedom From Religion Foundation

Enclosures

¹⁴² Letter from George Washington to Presbyterian Ministers of Massachusetts and New Hampshire (Nov. 2, 1789).

¹⁴³ *Lee v. Weisman*, 505 U.S. 577, 623 (1992) (Souter, J., concurring).

