

THE RUTHERFORD INSTITUTE

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INTERNATIONAL OFFICE
CENTRAL AND EASTERN EUROPE
Budapest, Hungary

December 13, 2013

Cory Klabunde, Executive Director
PACT Charter School
7250 E. Ramsey Parkway
Ramsey, Minnesota 55303

VIA CERTIFIED MAIL AND ELECTRONIC MAIL

Re: PACT Yearbook Christmas Poster

Dear Mr. Klabunde:

The Rutherford Institute¹ has been contacted by Donna Heinrich concerning a Christmas-themed poster produced by her PACT Charter School yearbook class and intended to promote the sale of yearbooks as a holiday gift. She informs us that display of the poster was forbidden because the poster included the word “Christmas” and the fear that this would be an improper religious display within the school. We write to urge you to reverse this decision. It is a draconian and unnecessary application of the idea that there should be separation of church and state in public schools. The creative and dazzling poster which the students worked so hard on does not constitute a religious display such that its exhibition within the school could be deemed an improper endorsement of religion by the school.

A misunderstanding of the scope of the First Amendment’s Establishment Clause, the constitutional provision which forbids government establishment of religion, often leads to decisions such as this one which seek to expunge any vestige of religion from the public schools. The Establishment Clause was never meant to eliminate acknowledgements and references to religion from government-owned and operated property. The U.S. Supreme Court has long recognized that religion plays an important role in the culture of the United States and officials do not violate the Constitution by acknowledging this aspect of our history and experience. Religion has been closely identified with our history and government and the history of man is

¹ The Rutherford Institute is a non-profit civil liberties organization that provides free legal representation to individuals whose civil rights are threatened or infringed.

Cory Klabunde, Executive Director
December 13, 2013
Page 2

inseparable from the history of religion. *Van Orden v. Perry*, 545 U.S. 677, 687 (2005) (citing *School Dist. of Abington Twp. v. Schempp*, 374 U.S. 203, 212 (1963)).

Such acknowledgement includes government recognition of the importance of Christmas as both a religious and cultural event. Thus, federal law establishes “Christmas Day” as a legal, public holiday. 5 U.S.C. § 6103(a). Use of the term “Christmas,” and even the acknowledgement of its importance by closing most government operations, has consistently been held by courts to *not* constitute an improper endorsement of religion under the First Amendment’s Establishment Clause. These courts note that Christmas has to a great extent been secularized in our culture and that governments do not signal allegiance to Christianity by accommodating society’s desire to celebrate the holiday. *Ganulin v. United States*, 71 F. Supp. 2d 824, 832-33 (S.D. Ohio 1999); *Blagman v. White*, 112 F. Supp. 2d 534, 540-41 (E.D. Va. 2000). Government institutions may acknowledge Christmas as a cultural event without violating the constitution.

These principles have been applied to uphold public school recognition, accommodation, and even celebration of Christmas in the schools. Thus, a Tennessee federal court ruled that a public elementary school did not violate the Establishment Clause by holding a Christmas program at the school which included various symbols of the holiday, including a nativity scene. *Doe v. Wilson County Pub. Sch. System*, 564 F. Supp. 2d 766, 800-01 (M.D. Tenn 2008). The key issue, according to that court, was whether the school’s program on the whole presented an improper religious message advancing Christianity or was a proper message about the cultural aspects of the holiday. Because any religious symbolism was only a small part of the program and used to illustrate the historic origins of Christmas, the program did not violate the Establishment Clause. *Id.* In other contexts, courts have held that a display of religious symbols in a public school does not offend the constitution if the display has a secular purpose and is not intended to endorse a particular religion. See *Weinbaum v. Las Cruces Public Schs.*, 465 F. Supp. 2d 1182, 1197 (D.N.M. 2006) (in-school display student-created mural containing depiction of three Latin crosses did not violate Establishment Clause where crosses had historical significance apart from any religious meaning).

In light of these principles, it is clear that display of the PACT yearbook Christmas poster would in no way violate the restriction on public school endorsement of religion. The poster had the wholly secular purpose of promoting the sale of yearbooks; apart from the use of the word “Christmas,” which has taken on a largely secular significance, there is nothing in the poster that symbolizes or promotes religion. Indeed, the use of the Jack Skellington character from the movie “The Nightmare Before Christmas,” further negates any religious message from the poster. Because there is not even a hint of a religious message from this poster, there is no reason for preventing its display at the school.

Therefore, we are asking that you withdraw your decision to forbid display of the poster, which serves only to impede promotion of the school’s yearbook and casts a chill upon student expression, particularly expression that has any connection whatsoever to religion. Because of

Cory Klabunde, Executive Director
December 13, 2013
Page 3

the time-sensitive nature of this matter, we need a response to this letter by the close of business
December 16, 2013.

Sincerely,

John W. Whitehead
President

Cc: Donna Heinrich