



EDUCATION PRACTICE

# ALERT

## HOLIDAY DISPLAYS AND PROGRAMS: INCLUSION, NOT EQUALITY, REQUIRED

By Timothy E. Gilsbach

As we approach the upcoming holiday season, many school districts will struggle with how to recognize this generally “jolly time of year” without inviting lawsuits or complaints over a holiday display. Despite the content of a display, it is likely someone will have an issue with it, especially if that person’s own view of the season is not, in his or her opinion, adequately represented in the display.

Courts have required displays to be inclusive, but they do not need to exclude – or include – all religious symbols of the season. Two cases, detailed below, are helpful in understanding what is permissible.

*Sechler v. State College Area School District* involved a suit filed by a parent regarding an elementary school holiday display and program. The display consisted of a table that contained the books *Celebrations*, *My Harvest Home* and *Festival of Lights*, as well as a book on Kwanzaa and a small pouch of gold coins, a Menorah, a Kwanzaa candelabra, a Kwanzaa cloth, a card with the word “Oplatki” on it, a dreidle, a red and white cloth, incense and an incense burner, and a white cut-out snowflake. Next to the table was a tree, denoted as a “giving tree,” decorated with hats, gloves and doves, and hanging over the table was a banner that read “Happy Holidays.” The holiday program consisted of a series of seasonal, secular songs, none of which

made reference to Christian symbols or doctrine, but did include a discussion of Hanukkah and Kwanzaa.

The court, relying upon guidance from the U.S. Supreme Court, found the display and program to be constitutional, and formulated an analysis of the overall effect of the display from the Supreme Court’s findings. The court explained, “There need not be symbols of other religions to counterbalance something like a Menorah before the message is reasonably perceived as one of inclusion.” The court further noted while the symbols of one holiday may be the minority numerically, this alone does not demonstrate hostility toward any holiday or religion that celebrates the same.

In *Spohn v. West*, an employee filed suit against his employer, a Veterans Affairs Medical Center, challenging the legality of its holiday display. The display had numerous “Happy Hanukkah” signs, but no “Merry Christmas” signs. It also had Menorahs, toy soldiers, Christmas trees, Santa Clauses, posters celebrating Kwanzaa and “signs mentioning Muslim prayer services.” Nothing in the display referenced or depicted Christmas as a Christian holiday, such as a Star of Bethlehem or nativity scene.

The court felt the question at hand, which can be highly fact-specific, is, “[w]ould a reasonable observer of the display in its particular context perceive a message of

governmental endorsement or sponsorship of religion?” The court explained, in applying this standard, that government entities may acknowledge religious holidays, such as Christmas and Hanukah, as cultural events, but not in a way that endorses the religious doctrine behind them. The court further noted, “Holiday displays including religious as well as secular symbols of the holiday season have been upheld, whereas displays of religious symbols standing alone in locations associated with core governmental functions have been struck down.” The court concluded that given the secular symbols that accompanied it, the display, as described, would not give a reasonable observer the perception of a governmental endorsement of religion by including religious symbols of the holiday.

Finally, the court noted the plaintiff in the matter was really seeking the inclusion of a nativity scene in the

holiday display and explained that while the inclusion of the same would be constitutionally permissive in an appropriate setting, it is not constitutionally required.

Both cases dictate that whatever holiday display is exhibited on public grounds, including a school setting, it must show a message of inclusion of the various observances held at this time of year and may include some religious symbols. However, it is equally clear the display does not need to include every holiday and religious symbol of holidays celebrated at this time of year. It is inclusion and not equality that is required of holiday displays.

If you have any questions or require guidance about the issues in this Alert, please contact Timothy Gilsbach at 610.397.6511 or [tgilsbach@foxrothschild.com](mailto:tgilsbach@foxrothschild.com) or any member of Fox Rothschild’s [Education Practice Group](#).



Fox Rothschild LLP  
ATTORNEYS AT LAW

Attorney Advertisement

© 2010 Fox Rothschild LLP. All rights reserved. All content of this publication is the property and copyright of Fox Rothschild LLP and may not be reproduced in any format without prior express permission. Contact [marketing@foxrothschild.com](mailto:marketing@foxrothschild.com) for more information or to seek permission to reproduce content. This publication is intended for general information purposes only. It does not constitute legal advice. The reader should consult with knowledgeable legal counsel to determine how applicable laws apply to specific facts and situations. This publication is based on the most current information at the time it was written. Since it is possible that the laws or other circumstances may have changed since publication, please call us to discuss any action you may be considering as a result of reading this publication.