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Sandra Register
Principal
Terry Elementary School
10800 Mara Lynn Drive
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Dr. Morris Holmes
Superintendent
Little Rock School District
810 West Markham Street
Little Rock, Arkansas 72201

cc: Little Rock School District Board of Education

Re: Public Elementary School Field Trip to Church to See Christian Play

Ladies and Gentlemen:

I am writing to alert you to a serious separation of church and state concern. We have recently received a request for legal assistance from the Arkansas Society of Freethinkers and the Central Arkansas Coalition of Reason on behalf of the parents of a student at Terry Elementary School. They informed us that the school has scheduled a field trip for students to view a production of “Merry Christmas, Charlie Brown!,” a Christmas play with a sectarian theme, staged at and by Agape Church, a local evangelical Christian church,¹ the week of December 14.

The American Humanist Association is a national nonprofit organization with over 10,000 members and 20,000 supporters across the country, including in Arkansas. The purpose of AHA’s legal center is to protect one of the most fundamental legal principles of our democracy: the constitutional mandate requiring separation of church and state, embodied in the Establishment Clause of the First Amendment.²

¹ <https://www.agape-church.org/>.

² The very first sentence of the Bill of Rights mandates that the state be secular: “Congress shall make no law respecting an establishment of religion.” This provision, known as the Establishment Clause, “build[s] a wall of separation between church and State.” See *Reynolds v. United States*, 98 U.S. 145, 164 (1878). The Supreme Court “has given the [Establishment Clause] a ‘broad interpretation . . . in the light of its history and the evils it was designed forever to suppress. . . .’ [finding that it] afford[s] protection against religious establishment far more extensive than merely to forbid a national or state church.” *McGowan v. Maryland*, 366 U. S. 420, 442 (1961).

As you must know, the Supreme Court has made clear that the “First Amendment has erected a wall between church and state” and that this “wall must be kept high and impregnable.” Everson v. Bd. of Ed. of Ewing Twp., 330 U.S. 1, 18 (1947). To do so, “the Constitution mandates that the government remain secular.” County of Allegheny v. ACLU, 492 U.S. 573, 610 (1989). In order to secure this freedom from state-backed religion, the Constitution requires that any governmental “practice which touches upon religion, if it is to be permissible under the Establishment Clause,” must have a “secular purpose” and not “advance . . . religion.” *Id.* at 590. Specifically, the government “may not promote or affiliate itself with any religious doctrine or organization.” *Id.* Courts “pay particularly close attention to whether the challenged governmental practice either has the purpose or effect of [unconstitutionally] ‘endorsing’ religion.” *Id.* at 591. Endorsement includes “conveying or attempting to convey a message that religion or a particular religious belief is favored or preferred.” *Id.* at 593.

In short, “religion must be a private matter for the individual, the family, and the institutions of private choice,” not the state. Lemon v. Kurtzman, 403 U.S. 602, 625 (1971). In addition, the Supreme Court has in particular expressed especially “heightened concern” about preventing any sort of public school involvement with religion because of the risk of “subtle coercive pressure in the elementary and secondary public schools” environment. Lee v. Weisman, 505 U.S. 577, 592 (1992).

Applying these general constitutional rules to the issue at hand, we have reason to believe that the school’s actions are in violation of the Establishment Clause. The school is encouraging impressionable young students to attend an event in a Christian venue with a Christian message. The effect is to affiliate the school with that message, encouraging its adoption by the students by means of this endorsement.

In the play, following a raucous and disjointed attempt to put on a Christmas pageant, Charlie Brown expresses frustration. Linus says he can tell Charlie Brown “what Christmas is all about.” He then quotes verbatim the New Testament of the Bible, Luke 2:8-14:

And there were in the same country shepherds abiding in the field, keeping watch over their flock by night. And, lo, the angel of the Lord came upon them, and the glory of the Lord shone round about them: and they were sore afraid. And the angel said unto them, Fear not: for, behold, I bring you good tidings of great joy, which shall be to all people. For unto you is born this day in the city of David a Savior, which is Christ the Lord. And this shall be a sign unto you; Ye shall find the babe wrapped in swaddling clothes, lying in a manger. And suddenly there was with the angel a multitude of the heavenly host praising God, and saying, Glory to God in the highest, and on earth peace, good will toward men.

The characters then cease bickering, adopt this religious view (rejecting the supposed “commercialism” of a secular Christmas celebration), and, in the immediately following final scenes, sing “Hark the Herald Angels Sing”:

Hark the herald angels sing
“Glory to the newborn King!”

Peace on earth and mercy mild
God and sinners reconciled
Joyful, all ye nations rise
Join the triumph of the skies
With the angelic host proclaim:
“Christ is born in Bethlehem.”
Hark! The herald angels sing
“Glory to the newborn King!”

The message of the play is clear: Jesus Christ is the son of God and the messiah, and the real meaning of Christmas is to celebrate the anniversary of his birth. It is completely sectarian in nature and expressly rejects any secular version of Christmas.

A church is of course free to spread this religious message. Our public schools, however, are not free to take part in the effort. They may not choose to promote it by encouraging students to attend, let alone by organizing and funding attendance by means of an official field trip. Although objecting students may decline to attend, they will face the subtly coercive pressure of their peers to do so (in addition of course to the explicit encouragement of the school). Because of this, the Supreme Court has made clear that an Establishment Clause violation is not “mitigated by the fact that individual students may absent themselves upon parental request.” Abington School Dist. v. Schempp, 374 U.S. 203, 224-25 (1963).

The Establishment Clause forbids our schools from promoting a religious message in this way. This trip must therefore be canceled. In the alternative, it may be modified to be instead a visit to a secular Christmas-themed theatrical performance, such as the Nutcracker, would of course present no issue.

Please notify us in writing about the steps you are taking to avoid this constitutional violation so that we may avoid any potential litigation. Thank you for your time and attention to this matter.

Sincerely,

William J. Burgess
Appignani Humanist Legal Center
American Humanist Association