

An exploration of school leadership issues relating to the “December Dilemma”

Anna L. Fox
University of Mary Hardin-Baylor

Austin Vasek
University of Mary Hardin-Baylor

Derek Davis
University of Mary Hardin-Baylor (Retired)

ABSTRACT

School leadership is required to navigate difficult issues concerning the religious liberties of their students. December is a month filled with secular and religious holidays. It is the one month on the school calendar filled with joyous cultural celebrations. However, it can also become a quandary for leadership when attempting to balance the religious and cultural diversity of American school students. The Supreme Court of our land has historically ruled for the separation of religion and the state. Therefore, school leadership has the task of guiding schools and educators to not violate intentionally or accidentally the religious liberty of all students.

This paper specifically addresses the “December Dilemma”, examining relevant court cases, one specific local “dilemma”, and the results of a survey conducted of school district administrators and classroom teachers. The overall recommendation is that school district leaders should consider school district policy that not only protects the student, but the school district itself.

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INTRODUCTION

American public schools regularly finds themselves embroiled in an atmosphere of intolerance and limited perspectives as it struggles to determine how to balance the plethora of differences prevalent in today's culture particularly during the month of December. It seems rather ironic this season arrives immediately after a celebration- Thanksgiving- that began with a group of people who sought to practice their faith without government intervention. The purpose of this paper is to examine the phenomenon called "December Dilemma."

A REVIEW OF THE LITERATURE

December Dilemma

December is a month which brings much controversy in how, when, what, and why religious holidays are, or should be, addressed in public schools in the United States. This controversial phenomenon known as the December Dilemma has school district leadership and classroom teachers each year trying to balance the public educational setting and the diversity of religious celebrations. Understandably, it is imperative to balance and meet the needs of diversity in the classroom. Equally important is the need for educators to understand how to address religious differences that may exist among their own students.

Hecke (2010, November 12) wrote, "Religious celebrations of the holidays and expressions of religious belief play a vital role in enriching the personal and spiritual lives of many Americans. They have always done so and always will" (p. 1 para.2). The public school system, being an entity of the government, must also uphold the laws of the United States Constitution and therefore maintain an appropriate separation of church and state. Consequently, public school leaders and teachers find themselves in a dilemma. What do schools do during the month of December to avoid conflict and even potential legal issues? It is also important for schools to create an environment that recognizes and embraces diversity and is respectful to the variety of religious creeds and viewpoints found in its community. Often during this time of year (December), communities find themselves divided and at odds concerning issues of faith and the role of the school. Murray (2008) wrote, "Nowhere is the battle for freedom of religion – and freedom *from* religion – more heated than in public schools, where the hearts and minds of children are involved" (p. 94).

The Establishment Clause

The American "experiment" and its form of government began more than 200 years ago. The founders sought to create a government more tolerant to religious diversity than what many had previously experienced. As a result, the First Amendment to the United States Constitution states:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of Grievances. United States Constitution, Amendment 1.

This amendment gives the American people the right and the freedom to practice their own, personal faith without the influence and intrusion of the government. Murray (2008) wrote, “The first sixteen words of the First Amendment – the Free Exercise Clause and the Establishment Clause – together constitute the Religious Liberty Clauses that guarantee religious liberty in the United States” (p. 14). As Americans, we should diligently strive to protect these Religious Liberties in all facets of our lives, and thus, public schools must be aware of any actions that undermine these freedoms – intentional or accidental. Haynes (2001) stated, “If we fail in our schools to teach and model the rights and the responsibilities that flow from the First Amendment, then surely we endanger the future of our daring experiment in religious liberty” (p. 8). The Establishment Clause requires public schools, auspices of the state, to remain neutral concerning issues of religion (Whitaker, Salend, and Elhoweris, 2009). Imber (2003) defined neutrality in the schools to mean that schools should “not favor or encourage any specific religious belief or activity or sponsor any religious practice or observance” (p. 16-17). On the other hand, schools should also not “discourage religious beliefs or activities except in cases where religious practices by students or teachers significantly disrupt the school’s legitimate educational program” (p. 17). Neutrality is not an easy feat, and it takes a deliberate and intentional effort of school leadership to accomplish neutrality and maintain a setting focused on educating children.

The Voice of the Supreme Court

The Supreme Court has not directly ruled on the celebration of holidays in the public school setting. However, the court has ruled on issues of holiday displays in the public sector. The first case to address this issue, *Lynch v. Donnelly* (1984), examined a holiday display owned by the city that displayed a combination of holiday symbols erected in a private park in Pawtucket, Rhode Island. The display had been a tradition for 40 years. Some citizens of Pawtucket, along with the local chapter of the American Civil Liberties Union (ACLU), challenged the placement of a crèche scene among the secular symbols of the season. The Court heard the case with a primary focus on whether or not the crèche was constitutionally sound (Murray, 2008). The Supreme Court justices considered every element of the display, its size, and its placement. The judges also examined the history of “public holiday displays in America, the legacy of sectarian conflict, and religious diversity” (p. 149). In the decision, the justices applied the *Lemon v. Kurtzman* (1971) test. The Lemon test allows the court to apply a three-prong analysis to determine if a policy or law violates the Establishment Clause or is deemed unconstitutional. The three criteria, as reported by Murray (2008), are:

1. Reflect a clearly secular purpose
2. Have the primary effect of neither advancing nor inhibiting religion
3. Avoid excessive government entanglement with religion (p. 96).

In the final decision, the court decided the display including the crèche did not violate the Establishment Clause. The display was considered secular and not religious. Justice William Brennan wrote a dissenting opinion stating, “Those who believe in the message of the nativity received the unique and exclusive benefit of public recognition and approval of their views” (*Lynch v. Donnelly, 1984*). Writing for the majority, Chief Justice Warren Burger stated,

It would be ironic if the inclusion of the crèche in the display, as part of a celebration of an event acknowledged in the Western World for 20 centuries, and in this country by the people, the executive branch, Congress, and the courts for two centuries, would “taint” the exhibition as to render it violative of the Establishment Clause. *Lynch v. Donnelly* (1984).

Five years later in *Allegheny County v. ACLU*, the Supreme Court decided a very similar case involving a holiday display, this time at the county courthouse in Pittsburgh, Pennsylvania. Russo and Mawdsley (2001) reported that in this case, it was a Roman Catholic organization, the Holy Name Society, which contributed the crèche displayed at the courthouse. The display also included a banner, which proclaimed ‘Gloria in Excelsis Deo,’ and a sign that indicated the display was donated by the Holy Name Society. Located elsewhere outside an office building occupied by both city and county offices, a 45-foot Christmas tree and an 18-foot Jewish Menorah (owned by a Jewish organization) were displayed, as well. A nearby sign proclaimed “Salute to Liberty” and, “During this holiday season, the city of Pittsburg salutes liberty. Let these festive lights remind us that we are all the keepers of the flame of liberty and our legacy of freedom”. In their analysis of the decision, Russo and Mawdsley (2001) noted the Court was highly divided on this decision. The majority agreed this time the crèche did indeed violate the Establishment Clause as per the Lemon test. The majority said the County of Allegheny associated itself with the crèche, and the display “did not merely acknowledge Christmas as a cultural phenomenon but celebrated it a way that had an effect of endorsing a Christian message” (Justice Blackmun *Allegheny County v. ACLU* (1989).

On the other hand, the Court did not find the Menorah and Christmas tree in violation of the Establishment Clause, did not promote a religious view, and were thus deemed a secular display. Murray (2008) stated that the decision brought about much criticism and the dissenting opinion was “scalding” (p. 152). Justice Scalia said of the Allegheny decision, “I find it a sufficient embarrassment that our Establishment Clause jurisprudence regarding holiday displays has come to require scrutiny more commonly associated with interior decorators than with the judiciary,” (P.152 *Lee v. Weisman* (1991). Obviously, this decision left a bad taste in the mouths of many of the justices.

These two decisions seem to somewhat contradict each other with respect to the display of religious and or secular displays in the public sector. These cases also illustrate the confusing dilemma public school leaders and educators face when attempting to create policy and judge religious questions in December. The primary challenge is for school leadership to uphold the law but also address cultural issues in their schools. A further challenge is serve all the students of a school while equally allowing religious liberty for all students.

Close to Home

The issue of the December Dilemma became evident during the December 2010 holiday season in a series of letters to the editor to a Central Texas newspaper. The initial letter read as follows:

My family is not Christian. We are Jewish. We raised three children in the [city’s] public schools and I recently watched my 10-year old grandson perform in the [city’s] Elementary School’s fifth grade Christmas program. This was the most Christian

program I had ever seen the school perform. There was religious music, images and children dressed up like Mary, Joseph and the angels. Baby Jesus was in the manger.

My grandson is like all children. He wants to fit in. He does not want to be “different”. I don’t know what his thoughts were when he shared the stage with the Christian Holy family.

Afterwards, I told him how proud I was, but I really had other feelings. I was angry that my family suffered this internal struggle over a school program, while the Christian families around us were all so happy. How difficult it must be for a small child to convince himself that he is not different from his classmates in the face of such a program. My heart went out to my grandson that night.

The program also sent an equally destructive message to my grandson’s Christian classmates: Everyone *should* be like them.

Whether or not this is legal, it’s wrong and mean-spirited. And I believe there are other non-Christian, as well as Christian, parents and teachers, who probably feel the same way.

I hope next year my community stands together to support all of its precious children, Christian and non-Christian. (“Letter”, 2010, p. 4A)

The first response, appearing ten days later, illustrated how parents of other students viewed the program, when the writer shared, “They saw this play as not a means of challenging anyone’s beliefs or faith, only a bolstering of their own. This had nothing to do with mean-spirited. However, I think she was mean-spirited in her subsequent comments” (“Letter 2”, 2011, p. 4A). The author of this response also speculated that, “If a survey was taken, I think there would be several children of different ethnicities and faiths in this Christmas play. Why punish those children who enjoy performing in a Christmas pageant because of one child’s family member? I can’t believe a Christmas play will scar his Jewish faith or change his belief” (“Letter 2”, 2011, p. 4A).

It is evident that there are strong feelings on both sides of this issue. It is not just an academic or legal issue, but also a personal, deep-seated, cultural issue affecting multiple generations in many families. Shortly after this response, three additional letters to the editor appeared, two concerned more with separation of church and state, and the third was simply an emotional outburst, which concluded, “I want to put God back in schools” (“Letter 3”, 2011, p. 4A). The two letters that specifically addressed the legal issues shared similar perspectives, as represented by comments such as:

No. It is not legal. But it seems to be permitted for any public school to promote any particular religion. It is not the job of public schools to promote *any* religion. It is their job to educate. Have we all forgotten why the pilgrims left England? I am asking the Christian community, of which I am a member: Do what is legal. (“Letter 4”, 2011, p. 4A)

In these letters, the writers clearly articulate their frustration with perspectives different than their own. The program as described did indeed seem to promote one religious faith – Christian. If the program did not present a balance in its presentation, then undeniably, it did violate the concept and the mandate of the separation of church and state. In essence, the

Christmas pageant in its dramatization of the Christmas Nativity turned the schoolhouse into a church house that December evening.

PROFESSIONAL STAFF DEVELOPMENT

In order to gain additional insight, a survey was conducted of school district educators at a 3A school district in Central Texas during a planned staff development day. Issues of religious liberty and the responsibilities of district leadership and classroom teachers was discussed. The survey consisted of two open-ended questions. First, the respondents were asked to indicate, and describe, if they had ever received any formal or informal guidelines on what they should do in regards to teaching about holidays, specifically December holidays. The second question asked the respondents about their own personal guidelines with respect to this issue.

Findings

Thirty-one individuals responded to the questionnaire. These respondents consisted of sixteen teachers, eight paraprofessionals, five student interns, and two administrators. The first question asked, “What formal or informal guidelines have you been given (district, college courses) when teaching about the holidays and traditions in December?” Fifteen subjects indicated they had received some formal or informal guidelines. Ten subjects indicated they had never received any guidelines, and six indicated that they were not sure if they had ever received or heard of any guidelines. Table 1 (Appendix) provides a summary of the types of comments made by those respondents who actually received guidance on this issue.

Several of the respondents mentioned the importance of remaining professional and, to a certain degree, neutral in how they discuss religion in the classroom. One student teacher wrote, “I have been told by my professors that it is ok to talk about religion and faith in the classroom but not to be biased or push personal beliefs onto our students.” A veteran teacher with experience teaching in several school districts responded, “It depends on the district. Some districts were very open to us talking about Christmas.”

The second question asked, “What are your personal guidelines when teaching about the holidays in December?” Table 2 (Appendix) presents a summary of the comments made by all respondents, regardless of whether they had received any guidance on this issue.

The respondents to this question clearly indicated a deliberate attempt to include different viewpoints in the classroom. Sixteen teaching professionals reported they promote cultural diversity when they discuss the holidays. However, the educators were not asked to what extent the teacher went to insure the level of diversity.

Seven of the respondents reported that they focus on the families of their students and the students’ family traditions to guide how they address the holiday season. It is clear that public school teachers must be unbiased in their teaching and recognize the responsibility to present a diverse curriculum. O’Neal and Loschert (2002) wrote public school teachers must find a balance between their own personal devotion and their responsibility to those they teach.

ESTABLISHING SCHOOL DISTRICT POLICY

Charles Haynes, senior scholar of the First Amendment Center, often speaks to the issues of public school’s obligation to protect the constitutional rights of their students. In a recent

commentary, Haynes spoke to the significance of school district developing policies regarding December holidays:

A policy helps avoid Constitutional missteps. From a practical standpoint, a district that has a good policy will likely find itself facing fewer lawsuits from both the left and the right. On the other hand, not having a policy enhances vulnerability and generally makes success in the classroom more difficult. (*School Law News*, 2010, p. 4).

While many school districts choose to downplay, or seemingly ignore, this issue, some school districts have taken a more definitive stand. The Austin Independent School District (AISD), for example, has developed an extensive TEKS-based policy document specific to teaching about religious holidays. AISD wrote a “Statement of Purpose” in introducing this document, which stated:

Some may feel that the District’s policies regarding religious matters are unwelcoming, even hostile to religion and those who hold religious beliefs. Others may feel that the District’s policy does not go far enough to protect students from coercion toward a particular belief. In fact, the purpose of the District’s policies is to convey the District’s deep and abiding respect for the beliefs of all of its students and staff. Because the District serves students of every creed and none, it must never appear to coerce students toward any particular belief. (Austin Independent School District, 2010, p.1).

It becomes apparent that school districts must develop policies to protect themselves from legal questions, but at the same time must recognize their profound duty to the schoolchildren and communities they serve.

RECOMMENDATIONS

Teachers are given directives as to what *not* to do, say, or teach and are often fearful of not doing the right thing. As a result, teachers need guidelines and policies they can reference, particularly when facing the holidays in December and trying to determine what is appropriate. Unfortunately, not all school districts have invested the time and employed the foresight to develop policies as AISD has done. In these instances, the classroom teacher must decide how to teach, and a reactive district leadership is often faced with attempting to determine how to diffuse a disruptive situation.

In the absence of district policies, teachers do have a few resources to draw from. For example, the *California Three Rs Project: Rights, Responsibilities, and Respect*, as described by Hill (2005), is a valuable resource, providing a calendar of dates identifying various religions and holidays and offering guidance on teaching the topic of religion and holidays.

Another resource, The First Amendment Center, under the direction of Charles Haynes, provides district leadership and classroom teachers with “three simple questions” to answer when planning for lessons, holiday activities, or student performances:

1. Do we have a clear educational purpose? Under the First Amendment, learning about religious holidays is an appropriate educational goal – celebrating or observing religious holidays is not.

2. Will any student or parent be made to feel like an outsider by the concert, lesson, or activity? Most parents and students are fine with learning about religious traditions – as long as the school’s approach is academic, not devotional. It is never appropriate for public schools to proselytize.
3. Is our overall curriculum balanced and fair? December should not be the only time sacred music pops up in the curriculum. Students should learn about religious music from various traditions at other times of the year. (Hill, 2008)

If school leadership and classroom teachers pause and ask themselves to simply identify their motives with regard to what they want to present to their students, perhaps they can make better, more appropriate, and more neutral decisions. Navigating the law and the expectations of communities is not a simple task. School leadership should assist teachers by clearly communicating the law and the expectations of the district. With the right information and a clear understanding of district expectations, teachers can make informed decisions and be less likely to make legal mistakes.

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APPENDIX

Table 1: A Summary of Comments of Respondents Who Received Guidance

Comment	Frequency
Do not emphasize religion	5
Don't push my personal beliefs	4
Do what the district or school tells you	3
Talk about all holidays	3
I follow the TEKS as a guideline for my class	2
Get guidelines from the families	1

Table 2: A Summary of Comments on Personal Guidelines

Comment	Frequency
I discuss different cultures and celebrations	16
I include all holidays in my teaching	10
I discuss the symbols of the holidays	8
I focus on families and their traditions of the holidays	7
I allow children to ask questions and share their beliefs in class	5
I do not talk about religion to the children	1