



California Three Rs Project

Rights, Responsibility, and Respect

A Project of the California County Superintendents Educational Services Association and The First Amendment Center

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Does Music with a Sacred Text Have a Place in the Public Schools?

Position Statement of the National Music Educators Association

The First Amendment does not forbid all mention of religion in the public schools; it prohibits the advancement or inhibition of religion by the state. A second clause in the First Amendment prohibits the infringement of religious beliefs. The public schools are not required to delete from the curriculum all materials that may offend any religious sensitivity. For instance, the study of art history would be incomplete without reference to the Sistine Chapel, and the study of architecture requires an examination of Renaissance cathedrals. Likewise, a comprehensive study of music includes an obligation to become familiar with choral music set to religious texts.

The chorales of J. S. Bach, the "Hallelujah Chorus" from George Frideric Handel's *Messiah*, spirituals, and Ernest Bloch's *Sacred Service* all have an important place in the development of a student's musical understanding and knowledge.

In order to ensure that any music class or program is conforming to the constitutional standards of religious neutrality necessary in public schools, the following questions raised in 1971 by Chief Justice Warren E. Burger in *Lemon v. Kurtzman*[1] should be asked of each school-sanctioned observance, program, or institutional activity involving religious content, ceremony, or celebration:

1. What is the purpose of the activity? Is the purpose secular in nature, that is, studying music of a particular composer's style or historical period?
2. What is the primary effect of the activity? Is it the celebration of religion? Does the activity either enhance or inhibit religion? Does it invite confusion of thought or family objections?
3. Does the activity involve excessive entanglement with a religion or religious group, or between the schools and religious organizations? Financial support can, in certain cases, be considered an entanglement.

If the music educator's use of sacred music can withstand the test of these questions, it is probably not in violation of the First Amendment. Since music with a sacred text or of a religious origin (particularly choral music) constitutes such a substantial portion of music literature and has such an important place in the history of music, it should and does have an important place in music education.

Legal History

In the first court case that dealt specifically with music, Roger Florey, the father of a primary student, challenged the rules set up by the Sioux Falls, South Dakota, school board. The plaintiff, an avowed atheist, touched off a statewide

furor in 1978 when he complained about the use of the hymn "Silent Night" in the school's Christmas program. He contended that the use of the song violated the doctrine of separation of church and state. At a hearing on the plaintiff's motion for an injunction in December 1978, the motion was denied. The plaintiff's request for declaratory and final injunctive relief was denied in February 1979. The case *Flore v. Sioux Falls School District* was appealed to the Eighth U.S. Circuit Court of Appeals in St. Louis. This court, in April 1980[2], upheld the Sioux Falls school policy, allowing religious songs for educational purposes. The Appeals Court said the policy was not promulgated with religious purposes in mind.

In a more recent court case (1995), U.S. District Judge J. Thomas Greene dismissed a lawsuit (*Bauchman v. West High School*) filed by 15-year-old Rachel Bauchman over Christian songs performed by the choir at Salt Lake City's West High School[3]. Ms. Bauchman claimed that the songs were sung prayers and therefore constituted a violation of the establishment clause. Rejecting this argument, the court said that music has a purpose in education beyond the mere words or notes in conveying a mood, teaching cultures and history, and broadening understanding of arts and that the selection of the music had a primarily secular purpose of teaching music appreciation.

Several other cases, most notably *Brandon v. the Board of Education of the Guilderland Central School District*[4], involving free exercise of religion, and *Widmar v. Vincent*[5], involving freedom of speech, suggest that in the court's opinion, college and university students have the maturity to understand the religiously neutral role that public schools must play in dealing with the subject of religion, where younger students may not. Therefore, college teachers may not be required to emphasize this neutrality so much. According to the Brandon decision, "Our nation's elementary and secondary schools play a unique role in transmitting basic and fundamental values to our youth. To an impressionable student, even an appearance of secular involvement in religious activities might indicate that the state has placed its imprimatur on a particular creed."

Teachers of young children have a special responsibility in treating this sensitive subject. Young students (and their parents) sometimes become confused and upset by what they view as contradictions to their religious teaching. It is important to communicate that music learning, not religious indoctrination, is the motivation in choosing repertoire. One way to reinforce this is to list the music concepts/skills associated with each song in a printed program.

Religiously Neutral Programs

With this volatile topic, music educators should exercise caution and good judgment in selecting sacred music for study and programming for public performances. During the planning phase of each program, the following questions should assist the teacher in determining if the program is, indeed, religiously neutral.

1. Is the music selected on the basis of its musical and educational value rather than its religious context?
2. Does the teaching of music with sacred text focus on musical and artistic considerations?
3. Are the traditions of different people shared and respected?
4. Is the role of sacred music one of neutrality, neither promoting nor inhibiting religious views?
5. Are all local and school policies regarding religious holidays and the use of sacred music observed?
6. Is the use of sacred music and religious symbols or scenery avoided? Is performance in devotional settings avoided?
7. Is there sensitivity to the various religious beliefs represented by the students and parents?

Abraham Schwadron summarized the problems facing the music educator in the use of religious music in the public schools:

Obviously, the key to an adequate solution rests ultimately with the sensitive and well-informed music educator. Of singular importance is the development of the attitude that participation in actual performance produces a better grasp of the aesthetic import of great music than mere listening or non-participation.[6]

It is hoped that with sensitivity to the issues raised, with careful understanding of legal aspects, and with consideration for personal feelings, educators will use the full range of music literature in an appropriate contextual setting.

Notes: 1. 403 U.S. 602, 612 (1971); 2. 619 F. 2d 1311 (8th Cir. 1980); 3. 900 F. Supp 254 (D. Utah 1995); 4. 635 F. 2d 971 (2nd Cir. 1980), Cert denied. 454 U.S. 1123 (1981); 5. 454 U.S. 263 (1981).6. Abraham Schwadron, "On Religion, Music, and Education," *Journal of Research in Music Education* 18, no. 2 (Summer 1970), 157-66.

Source: MENC National Music Educators Association. *Reprinted with permission.*

San Diego County Office of Education
The California Three Rs Project
and
International Studies Teachers Education Project
present

Teaching About World Religions in Public Schools

The San Diego County Office of Education, California Three R's Project and International Studies Teachers Education Project invite you to this informative workshop! The California History-Social Science Content Standards include extensive coverage of world religions and the impact of religious ideas and practices on the story of human history. Teachers and administrators have requested academic background and teaching ideas on these topics. This workshop will feature scholar sessions on the major world religions covered in standards, paired with teacher discussions on how to apply this content in the classroom in a constitutionally permissible manner.

November 7, 2006

San Diego County Office of Education
Joe Rincone Regional Technology Center
6401 Linda Vista Road, San Diego

8:30 a.m. – 3:30 p.m.

Fee per participant: \$50.00 (includes morning refreshments, lunch and materials)



Content Topics

- **3Rs Overview – Teaching About Religion in Public Schools**
- **December Dilemma – A Teachable Moment in Civic Education**
- **Session I Judaism Islam**
- **Session II Hinduism/Buddhism Early Christianity**

Pre-registration is required. Registration deadline is **October 20, 2006**. No refunds after deadline.

Questions? Contact Laurie Mosier at lmosier@sdcoe.net or 858-292-3820.

Send registration and payment to: Sakura Hamada, 6401 Linda Vista Rd., San Diego, CA 92111
or fax to (858) 576-9827.

Name: _____ Gr. Taught: _____

School: _____ District: _____

School Phone: () _____ School Fax: () _____

School Address: _____ City: _____ Zip: _____

Email: _____

Method of Payment: Check (made payable to SDCOE) _____ PO (PO #) _____

The San Diego County Superintendent of Schools/ Office of Education is a tobacco-free facility. Tobacco use (smoked or smokeless) is prohibited at all times on all areas of county office property.

The California Three Rs Project, with San Joaquin COE, San Bernardino CSS, and Orange County DOE, is proud to announce that it has received a grant from the U.S. Department of Education to implement a statewide series of institutes entitled **Religion in American History: What to Teach and How to Teach It**. Part I of the program was held in Rancho Cucamonga July 17-21. Thirty-two teachers from San Bernardino, Orange, Riverside, and Los Angeles counties participated and will continue working during the school year. Next June will be Part II of the institute in Rancho Cucamonga and July Part I of the institute for the San Joaquin County cohort will begin. A whole new group of CA3Rs teachers leaders is in the making!

* * *

Sign up to receive the **CA Three Rs Bulletin** electronically by emailing peg_hill@sbcss.k12.ca.us
California Three Rs Project http://score.rims.k12.ca.us/score_lessons/3rs/
First Amendment Center http://www.firstamendmentcenter.org/rel_liberty/index.aspx

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