

Arkansas Representative Mary Bentley House Chair

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EMAIL to: johnl.colbert@fayar.net

December 13, 2018

Dr. John L. Colbert
1000 West Bulldog Blvd.
Fayetteville, AR 72701

Re: Christmas decorations

Dear Dr. Colbert,

We are state legislators in Arkansas who are part of the Arkansas Legislative Prayer Caucus. We formed this Caucus because we believe in the historic and prevailing significance of prayer in civil society and righteous governing. We firmly believe that the First Amendment's Free Exercise of Religion protects Americans who want to pray, worship or honor God both privately and publicly.

We are allied with Congressional Prayer Caucus Foundation, a non-profit organization that is working to protect religious freedom for all. In addition, the Foundation serves a network of Legislative Prayer Caucuses in Congress and over 30 states, which have over 1,000 federal and state lawmakers who are working together to preserve the integrity of our founding principles and to protect First Amendment rights for all.

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We recently received word that in a message sent to staff and faculty, you granted permission to teachers to celebrate the season with winter decorations and parties, but that any religious expressions “run the risk of creating an environment where a student does not feel comfortable or included. This is unacceptable, and a violation of School Board Policy 6.14, which states ‘no religious belief or nonbelief should be promoted by the school district or its employees, and none shall be disparaged.’”

You realize, of course, that by permitting parties and “winter decorations” (Frosty the Snowman, pictures of Christmas trees, snow flakes, etc.), you are purposely excluding the most important reminder for many of your students – the fact that God became man in the form of Jesus. It is incumbent upon public schools to be neutral as to religion and irreligion. If the school celebrates the “winter solstice,” it must also allow celebration of the birth of Jesus. Otherwise, the school is engaging in practice that is hostile to religion, which is prohibited.

In *Lynch v. Donnelly*, 465 U.S. 668 (1984), the U.S. Supreme Court considered whether a city-owned Nativity Scene displayed at Christmas violated the First Amendment. In considering this claim, Chief Justice Burger explained that a complete separation of church and state is impossible. For the Court, the Chief Justice wrote:

No significant segment of our society and no institution within it can exist in a vacuum or in total or absolute isolation from all the other parts, much less from government. “It has never been thought either

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possible or desirable to enforce a regime of total separation....” *Committee for Public Education & Religious Liberty v. Nyquist*. Nor does the Constitution require complete separation of church and state; it affirmatively **mandates accommodation**, not merely tolerance, of all religions, and forbids hostility toward any. See, e.g., *Zorach v. Clauson*; *McCullum v. Board of Education*. Anything less would require the “callous indifference” we have said was never intended by the Establishment Clause. *Zorach*. Indeed, we have observed, such hostility would bring us into “war with our national tradition as embodied in the First Amendment's guaranty of the free exercise of religion.” *McCullum. Id.* at 673 (citations omitted and emphasis added).

Viewing the city-owned Nativity Scene in this light, the Court concluded that it was constitutional to permit the scene with other Christmas symbols.

Justice Anthony Kennedy, dissenting with Chief Justice Rehnquist, Justice White and Justice Scalia in *County of Allegheny v. ACLU*, 492 U.S. 573, 663-64 (1989) correctly in our opinion addressed Christmas displays when he wrote:

In permitting the displays on government property of the menorah and the crèche, the city and county sought to do no more than “celebrate the season,” . . . and to acknowledge, along with many of their citizens, the historical background and the religious, as well as secular, nature of the Chanukah and Christmas holidays. This interest falls well within the tradition of government accommodation and acknowledgment of religion that has marked our history from the

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beginning. It cannot be disputed that government, if it chooses, may participate in sharing with its citizens the joy of the holiday season, by declaring public holidays, installing or permitting festive displays, sponsoring celebrations and parades, and providing holiday vacations for its employees. All levels of our government do precisely that. As we said in *Lynch*, “Government has long recognized—indeed it has subsidized—holidays with religious significance.”

If government is to participate in its citizens' celebration of a holiday that contains both a secular and a religious component, enforced recognition of only the secular aspect would signify the callous indifference toward religious faith that our cases and traditions do not require; for by commemorating the holiday only as it is celebrated by non-adherents, the government would be refusing to acknowledge the plain fact, and the historical reality, that many of its citizens celebrate its religious aspects as well. Judicial invalidation of government's attempts to recognize the religious underpinnings of the holiday would signal not neutrality but a pervasive intent to insulate government from all things religious. The Religion Clauses do not require government to acknowledge these holidays or their religious component; but our strong tradition of government accommodation and acknowledgment permits government to do so. See *Lynch*

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□

v. Donnelly, supra; cf. Zorach v. Clauson; Abington School District v. Schempp.
(citations omitted).

We strongly encourage you not to limit the celebration of Christmas in the schools you represent. Christmas is a time for joy, and parties and decorations are ways to express that joy. But Christmas is not the same if Christ is excluded. Including baby Jesus in a manger, or the Angels proclaiming Jesus' birth, and/or the three wise men bearing gifts together with Frosty and Santa would be a way to avoid showing hostility to religion. May God bless you, your family, and those members of the public whom you serve this Christmas.

Keeping Faith in America,

List of State Legislators

<i>Delann Vaughn</i>	<i>Mark Bryant</i>	<i>Marilyn Tate</i>
<i>Robin Lundberg</i>	<i>Mary Bentley</i>	<i>Bruce Coleman</i>
<i>Paul [unclear]</i>	<i>[unclear]</i>	<i>Dan Sullivan</i>
<i>[unclear]</i>	<i>[unclear]</i>	<i>Jan [unclear]</i>
<i>Jack Redyma</i>	<i>Mark Davis</i>	<i>[unclear]</i>
<i>Hilda Speaks</i>	<i>[unclear]</i>	<i>Bruce Cozart</i>
<i>[unclear]</i>	<i>Julie Mayberry</i>	<i>Mark Lowery</i>
<i>[unclear]</i>	<i>ME Richmond</i>	<i>[unclear]</i>