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REPLY TO FLORIDA

November 22, 2023

Via E-Mail Only

Dr. David G. Hornak,
Superintendent of Schools
Holt Public Schools
5780 West Holt Road
Holt, MI 48842
[REDACTED]@hpsk12.net

RE: “Decentering Christmas” ban on holiday symbols, decorations, and expression

Dear Dr. Hornak:

By way of brief introduction, Liberty Counsel is a national non-profit litigation, education, and public policy organization with an emphasis on First Amendment religious liberties. Liberty Counsel provides *pro bono* advocacy and assistance on a variety of issues within our mission, including the public celebration of traditional holidays such as Christmas. We have affiliated attorneys across the United States, including Michigan.

Numerous Michigan residents have contacted Liberty Counsel. We write to demand that Holt Public Schools (“HPS” or the “District”) 1) **retract the unconstitutional bans on Christmas holiday symbols, decorations, and expression set forth in the “Winter Celebrations Communications FAQ” (“FAQ”) published December 2, 2022;** as well as 2) **retract the “Decentering Christmas”/“Holiday Celebrations”/“Racial Justice Guide” email published December 3, 2021 and 3) any similar promulgated in 2023.**

The HPS Christmas holiday bans constitute religious discrimination prohibited by *Groff v. DeJoy*, 600 U.S. 447 (2023); *Kennedy v. Bremerton Sch. Dist.*, 142 S. Ct. 2407 (2022); and *Shurtleff v. City of Boston*, 596 U.S. 243 (2022). The egregious “Racial Justice Guide” and its material on “Whiteness and the Holidays” is prohibited by *Students for Fair Admissions, Inc. v. President & Fellows of Harvard*, 600 U.S. 181 (2023).

Please preserve all evidence related to the above communications, and please provide (under the Michigan Freedom of Information Act, M.C.L. 15.231 *et seq.*) all policies discussed, promoted, adopted or circulated by the District from December 3, 2021, to the present (including but not limited to those above) relating to “Winter Celebrations,” “Holiday Celebrations,” “December Dilemma,” “Racial Justice Guide To The Winter Holiday Season,” “dismantle the hierarchy of religious practices

and holidays,” “dominant culture holidays,” and “Decentering Christmas.” Email accounts with documents responsive to this preservation demand and FOIA request include but are not limited to the accounts of [REDACTED]@hpsk12.net, [REDACTED]@hpsk12.net, [REDACTED]@hpsk12.net, [REDACTED]@hpsk12.net and [REDACTED]@hpsk12.net.

The FAQ and the “Decentering Christmas” Christmas 2021 email are rooted in Critical Theory (CT), and the “Racial Justice Guide” which the email promotes is rooted in Critical Race Theory (CRT). CT includes within its relentless criticism of cultural institutions an intense hatred for Christianity and associated holidays, such as Christmas. CRT seeks to upend the social order by recasting the Marxist ideology of CT in racial terms. “Critical Race Theorists see capitalism’s disparities as functions of race, not class. CRT merely adds an R to Critical Theory [CT]; it reimagines class warfare as race warfare.”¹ Critical Race Theory departs from Critical Theory in holding that “there is no human race per se; there are just white oppressors and the non-white oppressed... there is no human race united by functions, traits, or goals.” CRT “uses race to continue CT’s intense criticism of the cultural institutions in order to fundamentally change society.” *Id.* In contrast to these ideologies, Christianity teaches that all people are made in God’s image, regardless of race, class or sex, and have inherent dignity and worth. Christmas is part of our Nation’s history and traditions and may not be banned by public schools.

I. FACTS

A. 2022 Winter Celebrations Communication FAQ

On December 2, 2022, the District published the “**2022 HPS Winter Celebrations Communication FAQ (Last Updated: 12/2/22 - 1:00 PM)**” (“Winter Celebrations FAQ” or “FAQ”) to prohibit the celebration of the Christmas holiday through symbols, decorations and expression. See attached copy for your ready reference. FAQ **Question 2, “Thoughts on decorations? (Mini Christmas trees)”** made its anti-Christian, anti-religious viewpoint clear, stating “**Secular decor is acceptable.** For example, using a tree that is winter themed or has plain light bulbs versus angels, Santa, or a manger scene, etc.” Even though Santa Claus and “Christmas trees” have been traditionally recognized as secular (not religious) symbols of the Christmas holiday, the FAQ now deems them “religious” because of their mere association with Christmas.

FAQ **Question 4** asked “**Is it okay to watch [H]ome [A]lone with some content-based connection?**” “A: Showing a movie, as part of your thoughtful learning activities covering a broad spectrum of cultural backgrounds, **that does not center one culture over another** is acceptable.” In other words, “Home Alone” – as secular as it is – is *not* “okay.”

FAQ **Question 5** asked “**Are staff able to put up decorations in the building for the season?**” “A: Please **reference question number two.** If you have specific decoration questions, please submit a follow-up question.” In other words, “no,” and if staff nevertheless ask via a “follow-up question,” staff do so at their peril.

FAQ **Question 6** asked, “**How do we justify picking and choosing what we are equitable about? Not allowing dress up for holidays, but allowing dress up for spirit week or other events...**” “A: We understand **this is a complex journey.** We would like everyone to consider the differences between cultural holidays and school community events. Spirit days are student driven and center our internal school community, while **holidays are deeply rooted in personal/cultural**

¹ <https://www.heritage.org/progressivism/commentary/purging-whiteness-purge-capitalism>

identities. As a district, we will continue to be thoughtful around cultural holidays as our learning community consists of **a broad spectrum of cultures.**” In other words, the District cannot justify it (and it does not comport with Supreme Court precedent discussed herein, either). And, it is “a journey” because the District recognizes it has not reached its ultimate destination.

FAQ Question 7 asked, “**So if everyone in the classroom celebrates Christmas can the staff put up a Christmas board? Can a board be put up in the hallway with a Christmas tree if it also represents Hanukah and Kwanza?**” “A: Building consistency as a district around holidays/celebrations is an area of focus. While we understand that there may be situations where all or most students celebrate a certain holiday, a more inclusive winter or holiday board would better serve all students.” In other words, no recognition of Christmas will be allowed at all, not even if other faiths (like Judaism) are included; nor even if a faux race-based “holiday” made up in 1966 is also included. The District has demonstrated a pattern and practice of anti-Christian, anti-Christmas hostility, when the FAQ is read alongside the previous year’s directive on “Holiday Celebrations.”

B. 2021 Email “Decentering Christmas” “Holiday Celebrations” “Racial Justice Guide”

On December 3, 2021, the District’s then-Director of Diversity, Equity & Inclusion Matt Morales sent the following email entitled “Holiday Celebrations” (highlighting added):

Hi Team,

Many students, teachers, and staff may express excitement during the upcoming weeks as we look forward to having an extended break and possibly engaging in holiday activities. **While this may be an exciting time for many people, others may lack a sense of belonging.** As we continue our commitment toward creating a more inclusive learning community with intentional equity work, I want to provide additional **opportunities for reflection and growth.**

Therefore, I ask that you **review the meaning of *Decentering Christmas*** and the reflection questions provided below. While reviewing this material, please understand that a diverse display of non-religious celebrations demonstrates support for the winter season and the importance of community.

Decentering Christmas does not mean canceling Christmas - by Liz Kleinrock

Here’s what it does mean:

This practice is *not* to encourage teachers and schools to ignore holidays. **Ignoring holidays completely is similar to a “race/color-evasive” approach.** Often, holidays and cultural and religious practices are important aspects of peoples’ identities.

Instead, **how can we dismantle the hierarchy of religious practices and holidays?**

Reflection Questions:

What do you know about your students and families’ religious and cultural identities?

Are you aware of which holidays your students celebrate?

Which holidays are visible in your classroom decor and activities?

How might you be centering your own traditions and beliefs?

How do you celebrate holidays outside of December in your classroom and school?

What are you taking for granted as “non-religious” (Elf on the Shelf, Santa, decorated trees)

that are actually centered on Christian beliefs and practices?

How can you discuss “dominant culture holidays” with students who celebrate dominant culture holidays, and create actionable steps to be inclusive and respectful of holidays?

For example, if you go to a grocery store, will you see decorations and displays for your holiday?

Will the music you hear celebrate your holiday?

Will TV shows and commercials center your holiday?

Recommended Resources:

[A Racial Justice Guide to the Winter Holiday Season for Educators and Families](#) - Center for Racial Justice in Education (Includes an extensive list of resources.)

[Culturally Responsive Instruction for Holiday and Religious Celebrations](#) by Dr. Cynthia Lundgren & Giselle Lundy-Ponce

Thank you,

Matt Morales (he/him/his)
Holt Public Schools
Director of Diversity, Equity, & Inclusion
(517) 699-████



(Emphasis original; highlighting added).

The email’s “Recommended Resources” “Racial Justice Guide” link “recommended” for all staff for “reflection and growth” included anti-Christmas “**Resources for Educators on the Winter Holidays;**” anti-Christian “**Christian Privilege, Hegemony, and the Winter Holiday Season;**” “Islam, Islamophobia, and the Winter Holiday Season;” “Judaism, Antisemitism, and the Winter Holiday Season;” “Celebrating Los Tres Reyes Magos (Three Kings Day) and the Winter Holiday Season;” and the following racist essays on “**Whiteness and the Holidays:**”

- **Dear white people**, the holiday season is the best time to tell our grandparents to stop being racist – Jordan Uhl
- Do The Holidays Need To Be A **Celebration of Whiteness?** – Multiracial Media
- Black Santa—where you at? – Verysmartbrothas.com
- **Why is Santa Claus Always White?** – Peggy Albers
- Seeing Santa in Black and white – Sa’iyda Shabazz
- Black, white or imaginary? Santa’s race has the US in a Christmas kerfuffle – Hadley Freeman
- Racists Freak Out Over Black Santa At Mall Of America – Ed Mazza
- **Dreaming of a not-white Christmas: Why I’m embracing black Santa and black Jesus** – Angela Fichter
- **Santa Claus Should Not be a white man Anymore** [sic] – Aisha Harris
- **White Christmas, White Santas, White Privilege** – Martha Pitts
- Black Lives Matter Wants to **Bring Down white Capitalism with ‘Black Christmas’** – Summer Meza

(Emphasis added). The December 2, 2021 email is passive-aggressive and disingenuous. It posits

“opportunities for reflection and growth,” claiming on the one hand that “Decentering Christmas” does not mean “canceling” Christmas – just eliminating any positive aspects of Christmas (and any reference to “Christmas”) under the guise of “dismantl[ing] the hierarchy of religious practices and holidays.”

The email claims “non-religious” aspects of the holiday “(Elf on the Shelf, Santa, decorated trees)” “**are actually centered on Christian beliefs and practices**” and even these secular aspects must also be eliminated. The email promotes racism and discrimination on the basis of ethnicity, ancestry and color, and outright Marxism. The District has clearly communicated that Christianity, Christmas and “whiteness” are problems to be remedied. “Christmas” is a word to be excised from the vocabulary of District staff in favor of “**winter season.**” Decorations deemed “religious” by the District, including Christmas trees (or even the colors red and green associated with Christmas) must be eliminated in favor of “**a tree that is winter themed or has plain light bulbs.**” It is difficult to understand how such anti-Christian and racially-charged propaganda squares with legitimate pedagogical goals, nor with existing District policies and federal law.

II. DISTRICT POLICIES

These anti-Christian, anti-Christmas, and race-based directives are inconsistent with Board Policy, including Board Policy PO 2260, Nondiscrimination and Access to Equal Educational Opportunity (prohibiting discrimination and harassment on the basis of - *inter alia* - race, color, national origin, ancestry, and religion).

Further, the directives are inconsistent with Policy PO 8210 “School Calendar” recognizing official holidays, including Christmas. The Board has recognized a number of holidays, including “January 1st, New Year’s Day; the last Monday of May, Memorial or Decoration Day; July 4th, Independence Day; the first Monday in September, Labor Day; the fourth Thursday of November, **Thanksgiving Day**; and December 25th, **Christmas Day.**” (emphasis added). Two of these holidays have explicit religious significance – Thanksgiving Day; and Christmas Day – and the religious significance of one other is implicit.²

Board Policy PO 8510, “Wellness” recognizes that “classroom parties” and “holiday celebrations” may occur. Other policies (PO 2270, Religion in the Curriculum; PO 8800, Religious/Patriotic Ceremonies and Observances) discuss classroom celebration of holidays that may have religious significance (such as Christmas) but in a sterile, outdated manner in light of recent Supreme Court decisions. Policy 8800, for example, cites *Gregoire vs. Centennial School District* 907 F2d 1366, (3rd Circuit, 1990) and *Lee vs. Weisman*, 112 S. Ct 2649, 120 L. Ed. 2d 467 (1992). Both relied heavily on the *Lemon* test, which has been overruled; and as such, are no longer good law.

III. LEGAL ANALYSIS

A. The Lemon Test Has Been Overruled and May Not Be Used to Censor Thanksgiving or Christmas.

In *Shurtleff* (brought by Liberty Counsel and decided by the Court in our client’s favor, 9-0, resulting in attorney’s fees for Liberty Counsel in an amount of more than \$2,100,000) and in *Kennedy*,

² Independence Day has implicit religious significance, as the Declaration of Independence -our Nation’s birth certificate - recognizes “God” as the “Creator” and source of “unalienable rights” (“We hold these truths to be self-evident, that **all men are created equal, that they are endowed, by their Creator, with certain unalienable rights**, that among these are Life, Liberty, and the pursuit of Happiness. --That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed ...”)(emphasis added).

the Court rejected application of the *Lemon* test in the Establishment Clause context and noted that it had “instructed that the Establishment Clause must be interpreted by ‘reference to historical practices and understandings’.” *Kennedy* at 2428 (quoting *Town of Greece v. Galloway*, 572 U.S. 565, 576 (2014)).

The *Kennedy* court noted that “in *Lemon* the Court attempted a ‘grand unified theory’ for assessing Establishment Clause claims.” *American Legion v. American Humanist Assn.*, 139 S.Ct. 2067, 2101 (2019) (plurality opinion). That approach called for an examination of a law’s purposes, effects, and potential for entanglement with religion. *Lemon*, 403 U. S., at 612–613. In time, the approach also came to involve estimations about whether a “reasonable observer” would consider the government’s challenged action an “endorsement” of religion. See, e.g., *County of Allegheny v. American Civil Liberties Union, Greater Pittsburgh Chapter*, 492 U.S. 573, 593 (1989); *id.*, at 630, (O’Connor, J., concurring in part and concurring in judgment); *Shurtleff*, 596 U. S., at —, 142 S.Ct., at 1604–1605 (opinion of GORSUCH, J.). The opinion of the majority in *Kennedy* continued:

What the District and the Ninth Circuit overlooked, however, is that the “shortcomings” associated with this “ambitiou[s],” abstract, and ahistorical approach to the Establishment Clause became so “apparent” that this Court long ago abandoned *Lemon* and its endorsement test offshoot. *American Legion*, 588 U. S., at — — —, 139 S.Ct., at 2079–2081 (plurality opinion); see also *Town of Greece v. Galloway*, 572 U.S. 565, 575–577, 134 S.Ct. 1811, 188 L.Ed.2d 835 (2014). The Court has explained that these tests “invited chaos” in lower courts, led to “differing results” in materially identical cases, and created a “minefield” for legislators. *Pinette*, 515 U.S. at 768–769, n. 3, 115 S.Ct. 2440 (plurality opinion) (emphasis deleted). This Court has since made plain, too, that **the Establishment Clause does not include anything like a “modified heckler’s veto, in which ... religious activity can be proscribed” based on “‘perceptions’ “ or “‘discomfort.’** “ *Good News Club v. Milford Central School*, 533 U.S. 98, 119, 121 S.Ct. 2093, 150 L.Ed.2d 151 (2001) (emphasis deleted). **An Establishment Clause violation does not automatically follow whenever a public school or other government entity “fail[s] to censor” private religious speech.** *Board of Ed. of Westside Community Schools (Dist. 66) v. Mergens*, 496 U.S. 226, 250, 110 S.Ct. 2356, 110 L.Ed.2d 191 (1990) (plurality opinion). Nor does the Clause “compel the government to purge from the public sphere” anything an objective observer could reasonably infer endorses or “partakes of the religious.” *Van Orden v. Perry*, 545 U.S. 677, 699, 125 S.Ct. 2854, 162 L.Ed.2d 607 (2005) (BREYER, J., concurring in judgment). **In fact, just this Term the Court unanimously rejected a city’s attempt to censor religious speech based on *Lemon* and the endorsement test. See *Shurtleff*, 142 S.Ct., at 1587–1588; ...142 S.Ct., at 1595 (ALITO, J., concurring in judgment); *id.*, 142 S.Ct., at 1587, 1588–1589 (opinion of GORSUCH, J.).⁴**

In place of *Lemon* and the endorsement test, this Court has instructed that the Establishment Clause must be interpreted by “reference to historical practices and understandings.’ “*Town of Greece*, 572 U.S. at 576, 134 S.Ct. 1811; see also *American Legion*, 139 S.Ct., at 2087 (plurality opinion). “[T]he line’ “that courts and governments “must draw between the permissible and the impermissible” has to ““accor[d] with history and faithfully reflec[t] the understanding of the Founding Fathers.’ “*Town of Greece*, 572 U.S. at 577, 134 S.Ct. 1811 (quoting *School Dist. of Abington Township v. Schempp*, 374 U.S. 203, 294, 83 S.Ct. 1560, 10 L.Ed.2d 844 (1963) (Brennan, J., concurring)). An analysis focused on original meaning and history, this Court has stressed, has long represented the rule rather than some “‘exception’ “within the “Court’s Establishment Clause jurisprudence.” 572 U.S. at 575, 134 S.Ct. 1811; see *American Legion*, ...139 S.Ct., at 2087 (plurality opinion); *Torcaso v. Watkins*, 367 U.S. 488, 490, 81 S.Ct. 1680, 6 L.Ed.2d 982 (1961) (analyzing certain historical elements of religious

establishments); *McGowan v. Maryland*, 366 U.S. 420, 437–440, 81 S.Ct. 1101, 6 L.Ed.2d 393 (1961) (analyzing Sunday closing laws by looking to their “place ... in the First Amendment’s history”); *Walz v. Tax Comm’n of City of New York*, 397 U.S. 664, 680, 90 S.Ct. 1409, 25 L.Ed.2d 697 (1970) (analyzing the “history and uninterrupted practice” of church tax exemptions). The District and the Ninth Circuit erred by failing to heed this guidance.

Kennedy v. Bremerton Sch. Dist., 142 S. Ct. 2407, 2427–28 (2022) (emphasis added; some internal citations omitted).

B. The Christmas Holiday is Part of the History and Traditions of America

Even under the misguided, ahistorical *Lemon v. Kurtzman*³ regime, the U.S. Supreme Court long-ago rejected the idea that all Christmas holiday symbols must be purged from public life. See *Lynch v. Donnelly*, 465 U.S. 668 (1984) (holding that a nativity scene was permissible to display on public property). Now, after *Shurtleff*, *Kennedy*, and *Groff* such symbols *may not* be purged by the District. In *Lynch*, the court noted with approval the practice of public schools “taking note of the season with Christmas hymns and carols,” in its discussion of how everything about Christmas is influenced by faith:

Of course the crèche is identified with one religious faith but no more so than the examples we have set out from prior cases in which we found no conflict with the Establishment Clause. See, e.g., *McGowan*, *supra*; *Marsh*, *supra*. It would be ironic, however, if the inclusion of a single symbol of a particular historic religious event, as part of a celebration acknowledged in the Western World for 20 centuries, and in this country by the people, by the Executive Branch, by the Congress, and the courts for two centuries, would so “taint” the City's exhibit as to render it violative of the Establishment Clause. To forbid the use of this one passive symbol—the crèche—at the very time **people are taking note of the season with Christmas hymns and carols in public schools and other public places**, and while the Congress and Legislatures open sessions with prayers by paid chaplains would be a stilted over-reaction contrary to our history and to our holdings. If the presence of the crèche in this display violates the Establishment Clause, a host of other forms of taking official note of Christmas, and of our religious heritage, are equally offensive to the Constitution.

The Court has acknowledged that the “fears and political problems” that gave rise to the Religion Clauses in the 18th century are of far less concern today. *Everson*, *supra*, 330 U.S., at 8, 67 S.Ct., at 508. We are unable to perceive the Archbishop of Canterbury, the Vicar of Rome, or other powerful religious leaders behind every public acknowledgment of the religious heritage long officially recognized by the three constitutional branches of government. **Any notion that these symbols pose a real danger of establishment of a state church is far-fetched indeed.** *Lynch v. Donnelly*, 465 U.S. 668, 685-86, (1984). (Emphasis added.)

The Supreme Court has even rejected the argument that singing Christian Christmas carols would entangle government schools with religion: “[m]usic without sacred music, architecture minus the Cathedral, or painting without the Scriptural themes would be eccentric and incomplete, even from a secular point of view.” *Illinois ex rel. McCollum v. Board. of Educ.*, 333 U.S. 203, 236 (1948) (Jackson, J., concurring). (Emphasis added).

³ *Lemon v. Kurtzman*, 403 U.S. 602 (1971).

C. District Employees May Decorate Their Classrooms and Common Areas With Holiday Decorations and May Not Be Punished

School district employees may not be punished for decorating for holidays with religious significance (such as Thanksgiving and Christmas or even Independence Day). *Shurtleff, Kennedy* and now, *Groff* foreclose this result. *Shurtleff* teaches that where the District has opened a forum for expression by employees, by encouraging employees to decorate spaces for other holidays or political causes at employee discretion, the District may not censor other holidays or decorations because they are or may be “religious.” Moreover, *Kennedy* does not permit the City to provide an “**excessively broad job descriptio[n]**” “**by treating everything [government employees] say in the workplace as government speech subject to government control.**” *Garcetti*, 547 U.S. at 424, 126 S.Ct. 1951.” *Kennedy* at 2411. The fact that District employees may decorate their spaces for the Christmas holiday does not necessarily transform their speech into government speech, simply by the fact that it takes place on school property. And, under *Groff*, an employer which fails to accommodate (let alone which discriminates against) a religious employee and fails to provide an accommodation “has a defense only if the hardship is ‘undue,’ **and a hardship that is attributable to employee [or “Diversity, Equity and Inclusion” Director] animosity to a particular religion [like Christianity and Christmas], to religion in general, or to the very notion of accommodating religious practice cannot be considered ‘undue.’** If bias or hostility to a religious practice or a religious accommodation provided a defense to a reasonable accommodation claim, Title VII would be at war with itself.” *Groff v. DeJoy*, 600 U.S. 447, 472 (2023).

D. The District’s Promotion of Racism to Staff Violates Title VII and the First Amendment

The “Decentering Christmas” email and its “Racial Justice Guide” constitutes employment discrimination based on race, color and religion, in violation of Title VII of the Civil Rights Act of 1964; including the race or color or religion “of any other person with whom the individual associates.” It is unlawful for an employer to “print or publish or cause to be printed or published any notice or advertisement indicating any preference, limitation, specification, or discrimination based on race, color, religion, sex, or national origin.” See 42 U.S.C. § 2000e-3(b).

Under the First Amendment, Holt Public Schools may not mandate a religious or racial orthodoxy: “If there is any fixed star in our constitutional constellation, it is that **no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.**” *West Virginia v. Barnette*, 319 U. S. 624 (1943) (emphasis added). The main idea of the “Racial Justice Guide” – that “race” should be the primary consciousness of our society - was plainly rejected by the Supreme Court this last term. *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 276-77, 280 (2023) (Thomas, J. concurring) (“But, under our Constitution, race is irrelevant, as the Court acknowledges. In fact, all racial categories are little more than stereotypes, suggesting that immutable characteristics somehow conclusively determine a person's ideology, beliefs, and abilities. Of course, that is false.... [t]he solution to our Nation's racial problems thus cannot come from policies grounded in affirmative action or some other conception of equity. Racism simply cannot be undone by different or more racialism.... [s]uch a view is irrational; it is an insult to individual achievement and cancerous to young minds seeking to push through barriers, rather than consign themselves to permanent victimhood.”).

Under this precedent, the “Racial Justice Guide” and its material on “Whiteness and the Holidays” is constitutionally suspect and violative of Title VII’s prohibitions on race discrimination. *Hamilton v. Dallas Cnty.*, 79 F.4th 494, 509 (5th Cir. 2023) (Ho. J. concurring) (“Title VII bars ... a

host of increasingly popular race-conscious corporate initiatives: from providing race-restricted access to mentoring, sponsorship, or training programs; to selecting interviewees partially due to diverse candidate slate policies; to tying executive or employee compensation to the company achieving certain demographic targets; to offering race-restricted diversity internship programs or accelerated interview processes, sometimes paired with euphemistic diversity ‘scholarships’ that effectively provide more compensation for ‘diverse’ summer interns.”) (internal citations excluded); *Young v. Colorado Dep't of Corr.*, No. 22-CV-00145-NYW-KLM, 2023 WL 1437894 (D. Colo. Feb. 1, 2023) (“Title VII’s prohibition on discrimination protects members of both historically disfavored groups and historically favored ones”).

CONCLUSION

The “FAQ” and the “Decentering Christmas” email and its links violate the First Amendment to the U.S. Constitution and Title VII of the Civil Rights Act of 1964 by showing hostility on the basis of religion and on the basis of race. The First Amendment does not permit the District to eliminate traditional Christmas holiday symbols or expression associated with a federally- and state-recognized holiday – whether “religious” or “secular,” under the guise of being “inclusive.” Moreover, the First Amendment does not permit the District to promote racism to staff and students.

Liberty Counsel demands the immediate retraction of the District’s past (and proposed) unconstitutional bans on Christmas holiday symbols, decoration and expression, and the “Racial Justice Guide.” Please inform Liberty Counsel in writing **by close of business on December 7, 2023**, that the Christmas bans and “Racial Justice Guide” have been retracted and rescinded.

If the District fails to provide this response, Liberty Counsel will take additional action to prevent irreparable harm to cherished liberties. Thank you for your attention to this matter.

Sincerely,

c.

Via Email:

Holt Public Schools Board of Education
Ms. Amy Dalton, President
Ms. Jennifer Robel
Ms. Jessie Jones
Mr. Mark Perry
Dr. Robert Halgren
Ms. Marisa Anderson
Dr. Kevin Leonard

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[REDACTED]

2022 HPS Winter Celebrations Communication FAQ
(Last Updated: 12/2/22 - 1:00 PM)

- 1. Would it be appropriate to ask parents what holidays they celebrate so we can be sure to highlight them in lessons about holidays or any celebrations?**

A: Yes, we encourage our educators to connect with families and learn about their backgrounds. You could do this by surveying your class to see what cultural holidays are celebrated to honor each of their unique identities. We do encourage our staff to avoid using symbolic gestures as an avenue to be a more inclusive learning environment, but your class can be engaged in thoughtful learning activities about a broad spectrum of cultural backgrounds.

- 2. Thoughts on decorations? (Mini Christmas trees)**

A: Secular decor is acceptable. For example, using a tree that is winter themed or has plain light bulbs versus angels, Santa, or a manger scene, etc.

- 3. We send out family surveys every summer and one of the questions lists holidays and asks families to circle the ones they celebrate/observe. This year I have a student that celebrates Eid al-Fitr after Ramadan, and the other one Eid al-Adha. I am looking for information on when these occur as well as resources at a kindergarten level.**

A: That's great you surveyed your class's families to learn more about their cultures. Both of these holidays fall later in the school year. Please check future Diversity, Equity and Inclusion Calendars for further information and resources related to these holidays. They can be found in the monthly Holt Inclusivity Coalition Newsletter.

- 4. Is it okay to watch home alone with some content-based connection?**

A: Showing a movie, as part of your thoughtful learning activities covering a broad spectrum of cultural backgrounds, that does not center one culture over another is acceptable.

- 5. Are staff able to put up decorations in the building for the season?**

A: Please reference question number two. If you have specific decoration questions, please submit a follow-up question.

6. **How do we justify picking and choosing what we are equitable about? Not allowing dress up for holidays, but allowing dress up for spirit week or other events. (same kids are excluded for either event!)**

A: We understand this is a complex journey. We would like everyone to consider the differences between cultural holidays and school community events. Spirit days are student driven and center our internal school community, while holidays are deeply rooted in personal/cultural identities. As a district, we will continue to be thoughtful around cultural holidays as our learning community consists of a broad spectrum of cultures.

7. **So if everyone in the classroom celebrates Christmas can the staff put up a Christmas board? Can a board be put up in the hallway with a Christmas tree if it also represents Hanukah and Kwanza?**

A: Building consistency as a district around holidays/celebrations is an area of focus. While we understand that there may be situations where all or most students celebrate a certain holiday, a more inclusive winter or holiday board would better serve all students.