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Are students allowed to sing Christmas carols with religious themes at school events or in holiday programs?

Yes.

The Establishment Clause does not prevent the singing of Christmas carols with religious origins by public school choirs. A case that addressed this specific issue upheld the singing of religious Christmas carols in public schools.

In *Florey v. Sioux Falls School District*, 619 F.2d 1311 (8th Cir. 1980), *cert. denied*, 449 U.S. 987 (1980), the United States Court of Appeals for the Eighth Circuit held that the study and performance of religious songs, including Christmas carols, are constitutional if their purpose is the “advancement of the students’ knowledge of society’s cultural and religious heritage, as well as the provision of an opportunity for students to perform a full range of music, poetry and drama that is likely to be of interest to the students and their audience.” *Id.* at 1314. The Eighth Circuit in *Florey* found that religious songs and symbols can be used in public schools if they are presented in a “prudent and objective manner and only as part of the cultural and religious heritage of the holiday.” *Id.* at 1317.

It is important to note that the decision in *Florey* was based upon Supreme Court cases that permit the study of the Bible in public schools. For example, in *School District of Abington Township v. Schempp*, 374 U.S. 203, 225 (1963), the Supreme Court explained: It certainly may be said that the Bible is worthy of study for its literary and historic qualities. Nothing we have said here indicates that such study of the Bible or of religion, when presented objectively as part of a secular program of education, may not be effected consistently with the First Amendment.

Other court of appeals cases have bolstered the central holding of *Florey*.

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Similarly, in *Bauchman v. West High School*, 132 F.3d 542 (10th Cir. 1997), *cert. denied*, 524 U.S. 953 (1998), a student sued the school due to the religious content of the songs performed by the school choir. The Tenth Circuit dismissed the lawsuit, citing *Doe* and noting that “the Constitution does not require that the purpose of every government-sanctioned activity be unrelated to religion.” *Id.* at 553. Furthermore, the court recognized that “a significant percentage of serious choral music is based on religious themes or text. Any choral curriculum designed to expose students to the full array of vocal music culture therefore can be expected to reflect a significant number of religious songs.” *Id.* at 554 (citations omitted).

It is hardly surprising, then, that “the Constitution does not forbid all mention of religion in public schools.” *Id.*; *see also Sease v. School Dist. of Philadelphia*, 811 F. Supp. 183 (E.D. Pa. 1993) (noting that the Equal Access Act protects the ability of student-led and initiated choirs to sing religious songs and access school facilities on the same basis as other student groups).

In short, a school has discretion to decide whether to include music that contains religious themes as part of an objective classroom study or holiday performance for the purpose of advancing students’ knowledge of our cultural and religious heritage.¹

¹ *See generally Stratechuk v. Bd. of Educ.*, 587 F.3d 597 (3d Cir. 2009) (upholding a public school district policy that prohibited the performance of “celebratory” religious holiday music at school-sponsored concerts; the policy permitted religious-themed music at school-sponsored events that did not celebrate a specific religious holiday and also allowed religious-themed holiday music to be taught objectively in music classes), *cert. denied*, 131 S. Ct. 72 (2010).