

Guidance on the Display of Christmas Trees and Other Religious Holiday Symbols on Campus

As the holiday season approaches, questions naturally arise concerning the permissibility of displaying Christmas trees and other holiday decorations on campus. The concern is that certain types of holiday and religious displays may violate state or federal constitutional restrictions establishing the separation of church and state.

This memorandum is intended to clarify what types of holiday displays are permissible on university property, including in employee offices and cubicles. If further clarification is needed, please do not hesitate to contact the Office of the General Counsel or, for UW-Madison and UW-Milwaukee, your campus legal offices.

Christmas Trees

The display of Christmas trees on campus is generally permissible. Courts have recognized that Christmas trees have widely become a secular symbol associated with the winter holiday season. All such displays, however, must also be consistent with applicable fire and safety codes. For more information about what those codes require, contact your institution's safety or risk management office. A list of safety and risk management contacts are available at: <http://www.uwsa.edu/oslp/mastrlst.htm>.

Nativity Scenes and Menorahs

The display of nativity scenes and menorahs has generally been upheld by courts against legal challenges if they appear as part of a larger display devoted to the celebration of pluralism, liberty and freedom, or are used to promote tolerance and respect for diverse customs. However, any holiday display with an overtly religious symbol (such as a nativity scene or a menorah) should include at least one other religious symbol from a different religious tradition to avoid the appearance of endorsing one religion over another. The legal validity of these displays is premised on the notion that they do not represent an endorsement of any particular religion or of religion in general.

Accordingly, religious symbols from different religions should be of similar prominence and displayed in close proximity to one another- (e.g. a 12 foot tall version of the Ten Commandments displayed next to a 1 inch menorah may be found unlawful because of the disparity between the sizes of the two symbols).

The university is not *required*, however, to display any particular symbol of a religious nature requested by students, staff or the public. For example, in one case, a public school's holiday display which included a menorah, crescent and star, Christmas trees and other holiday symbols was permissible, even though it did not include a nativity scene as requested by parents and religious leaders. While there is no requirement to display particular symbols, all displays should be analyzed to determine whether a reasonable person would feel that a display reflects a government endorsement of religion. Such endorsements are not permitted.

Messages Accompanying Displays

Any message that might accompany a holiday display should be secular. Courts have upheld messages that celebrate pluralism and liberty, and do not promote the observance of any religion (e.g. “During this holiday season, the city of Splendor salutes liberty. Let these festive lights remind us that we are the keepers of the flame of liberty and our legacy of freedom”).

Religious Symbols and Décor in Employee Offices and Cubicles

Displays of religious décor and symbols inside employees’ offices and cubicles are generally permissible. In fact, prohibiting the display of religious decorations and symbols may be deemed an infringement on an employee’s constitutional rights of free exercise of religion and free speech. Under certain circumstances, however, restrictions on religious displays may be appropriate, such as in the office of a high-ranking university official, where the display may be interpreted as an endorsement by the University of religion or a particular religion, or in common areas, where the display may not be interpreted as a particular employee’s exercise of religion or free speech.

Public Forums on Campus

If the campus has a public forum designated for free speech purposes available throughout the year, the university cannot restrict its use during the holiday season to prevent the display of holiday symbols or messages. Such actions have been deemed impermissible content-based restrictions on speech. However, university policies that reasonably limit use of public areas in time, place and manner still apply, including quiet hours during study and exam periods.