

PETOSKEY News-Review

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Petoskey school officials will not continue with 'Christmas break' change

By Ryan Bentley News-Review Staff Writer
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Petoskey school officials will not continue with plans to change the name of the district's winter vacation period to "Christmas break," the school board announced in [a written statement today](#).

The change in terminology was something that the board had decided to pursue earlier this month as part of labor-contract negotiations with the Petoskey Education Association union which represents teaching staff. Board member Jack Waldvogel first had raised the issue in a now-controversial e-mail.

"Upon reviewing the legality of this change in light of [Mr. Waldvogel's e-mail of Aug. 10, 2009](#), it is the opinion of this board, along with legal counsel, that the school district would not be successful in court if challenged," the board's statement reads.

The board also noted that the ability or right to change the wording is not at issue, and that it is well-settled that schools can refer to the break as Christmas — which is a federal holiday.

"However, it is also well-established that government actions (including public school boards) must have a secular purpose for their actions (based on a finding in the federal court case *Lemon v. Kurtzman*). The change to 'Christmas break' cannot be initiated or driven based on a religious agenda. This board does not wish to expend the district's limited resources on legal issues which in all likelihood would not be successful."

The Freedom from Religion Foundation, a national association of atheists and agnostics that advocates for church-state separation, had [objected to the Christmas break move in a letter to Petoskey school officials last week](#).

In his e-mail calling for the change, Waldvogel said school officials had two possibilities to consider: change the holiday-break terminology voluntarily, or "I will make a motion to change it at the next board meeting and raise such a stink, and bring out every redneck Christian conservative north of Clare to compel the district to do so ... our children need to know that we are a Christian nation, and taking all reference to a higher being out of our educational vocabulary is wrong ... don't assume this is a joke, I'm being as serious as I possibly can here."

Waldvogel has said the message was intended for the school board and administration, but ended up being sent to all district staff by accident. He added that the message was intended to be "tongue-in-cheek," and that he would have tempered his remarks if he had known how wide its audience would turn out to be.

Freedom from Religion Foundation co-president Annie Laurie Gaylor said her organization was alerted to the situation in Petoskey by a local member — who did not want to be publicly identified.

"Changing the wording to Christmas break so that Petoskey school children know we are a 'Christian nation' violates the most basic and fundamental principles of Establishment Clause jurisprudence," Freedom from Religion staff attorney Rebecca Kratz wrote in the letter to school officials.

She also noted the federal-court finding that requires governmental action to have a secular purpose.

"Mr. Waldvogel's intent and purpose for recommending the change was based wholly on religion," Kratz wrote.

The foundation's letter said it was "imperative" for the Petoskey board and superintendent's office to issue a statement disassociating themselves from Waldvogel's comments.

Board members' position against continuing with the Christmas break change was part of a directive that the board formulated for its contract-negotiating team, school superintendent John Scholten said. After agreeing on this directive in closed session, the board returned to an open meeting and decided to release the public statement.

Closed session stirs questions

The Petoskey school board's recent consideration of holiday-break terminology in closed-session was an approach that's raised some questions, but one that the board's president has stood by.

Board president Tom Rellinger said it's long been school officials' standard practice to formulate the district's calendar through labor-contract negotiations with the Petoskey Education Association, which represents teaching staff. Michigan's Open Meetings Act allows public bodies to discuss strategy for collective bargaining in closed session.

But attorneys with a law firm that represents the Michigan Press Association said it's questionable how closely the terminology matter fits into the purpose of bargaining strategy.

"I think we could fairly say that there are 'serious questions' about whether the Petoskey Board of Education violated the Open Meetings Act," said Omar Chaudhary, an attorney with the downstate Butzel Long law firm that advises press association-affiliated newspapers on public-access issues. "Certainly, we think that it violates the spirit of the act."

With negotiations continuing toward a new contract, Rellinger noted that the board entered closed session on Aug. 18 to discuss bargaining strategy.

This type of strategy is one of the topics which Michigan's Open Meetings Act allows governmental bodies to discuss behind closed doors.

During the Aug. 18 session, Rellinger said board member Jack Waldvogel brought up the matter of changing the name of the "winter holiday break" to "Christmas holiday break" — after advocating for the change eight days earlier in a now-controversial e-mail.

Given the calendar's relationship to the contract, Rellinger said the closed session was an appropriate setting for it to be considered.

The change in holiday-break terminology won't be effective until the sides agree to the new contract's terms, school officials have noted. Once the sides sort through various contract matters, Rellinger said the board will make its final decision on the terms in a meeting that's open to the public.

— Ryan Bentley

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