

National Coalition Against Censorship

August 1, 2016

Superintendent Dr. James F. Lane
Chesterfield County Public Schools
9990 Krause Road
Chesterfield, VA, 23832

Dear Superintendent Lane,

As a coalition of organizations dedicated to protecting the freedom to read and preserving First Amendment principles in public institutions, we are deeply concerned with recent issues surrounding the Chesterfield School District's treatment of allegedly controversial books. We have considerable experience working with school districts across the country on similar issues, and we write to offer suggestions about the approaches that have been most successful in addressing such situations.

During its June 16 meeting, the Chesterfield School Board created a panel in order to address two issues: whether to remove challenged books from the libraries, and whether to adopt a labeling and a rating system to flag controversial content. Based on educational, legal and policy considerations, we strongly urge your district's panel to recommend keeping the books in the libraries and to reject the idea of labeling and rating books.

I. School Libraries

Some Chesterfield parents have reportedly objected to several books on the District's optional summer reading list, alleging that the novels contained objectionable content, specifically sex and profanity. They have also demanded that the books be removed from the District's libraries in effect depriving all students of access to them. We urge the panel to advise against the removal of the books for the following reasons:

The challenged books are all **critically acclaimed** novels aimed at teen readers. *Eleanor & Park* by Rainbow Rowell, is the winner of numerous awards including the American Library Association's prestigious Michael L. Printz Award, given annually to the best book for teens. *Tyrell* by Coe Booth won the *LA Times* Book Prize for Best Young Adult Novel. The School Library Journal called it a "thrilling, fast-paced novel whose strong plot and array of vivid, well-developed characters take readers on an unforgettable journey." *Dope Sick* by Walter Dean Myers was named by the American Library Association as a 2010 Top Ten Quick Pick for Reluctant Readers. Myers, a literary icon, has been recognized with the Michael L. Printz Award, the Newbery Honor twice, and the Coretta Scott King Award five times.

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NCAC PARTICIPATING ORGANIZATIONS

Actors' Equity Association
American Association of
School Administrators
American Association of
University Professors
American Association of
University Women
American Booksellers Foundation
for Free Expression
American Civil Liberties Union
American Ethical Union
American Federation of Teachers
American Federation of Television
& Radio Artists
American Jewish Committee
American Library Association
American Literary Translators
Association
American Orthopsychiatric Association
American Society of Journalists
& Authors
Americans United for Separation of
Church & State
Association of American Publishers
Authors Guild
Catholics for Choice
Children's Literature Association
College Art Association
Directors Guild of America
The Dramatists Guild of America
Educational Book & Media Association
First Amendment Lawyers Association
International Reading Association
Lambda Legal
Modern Language Association
National Center for Science Education
National Communication Association
National Council for the Social Studies
National Council of Churches
National Council of Jewish Women
National Council of Teachers of English
National Education Association
PEN American Center
People For the American Way
Planned Parenthood Federation
of America
Screen Actors Guild
Sexuality Information & Education
Council of the U.S.
Society of Children's Book Writers
& Illustrators
Student Press Law Center
Union for Reform Judaism
Union of Democratic Intellectuals
Unitarian Universalist Association
United Church of Christ
Office of Communication
United Methodist Church
United Methodist Communications
Women's American ORT
Writers Guild of America, East
Writers Guild of America, West

These books all explore **themes of importance to teenagers**. For instance, *Eleanor & Park* provides its readers with the opportunity to better recognize, understand, and discuss bullying and domestic abuse, a topic that must be covered under the District's own Family Life Education program (Policy 3013). *Dope Sick* and *Tyrell* address similarly significant social issues: drug abuse, poverty, and homelessness.

A decision to remove the books would **ignore the diversity of opinion in Chesterfield County** and prioritize the ethical, moral, and religious views of a small but vociferous group of parents who object to the books. Such an action would discount the opinions of the many parents who want their children to read such books and thus sacrifice democratic values to the demands of those demanding that library holdings include only those materials consistent with their personal values.

A decision to remove the books would also be **detrimental to the educational program**. Removing the books would set a dangerous precedent and invite additional demands, which if granted would result in a library devoid of thought-provoking or stimulating novels. As Justice Jackson warned in *McCullum v. Board of Education* 333 U.S. 203, 235 (1948), "If we are to eliminate everything that is objectionable [...] we will leave public education in shreds. Nothing but educational confusion and a discrediting of the public school system can result."

Finally, removing books with educational and literary value raises **First Amendment concerns**. The Supreme Court has cautioned that school officials may not remove books from library shelves "simply because they dislike the ideas contained in those books" *Board of Education v. Pico* 457 U.S. 853, 872 (1982) (plurality opinion). Many courts, like the Eighth Circuit, recognize the unconstitutional "chilling effect" on First Amendment rights when material is removed because of objections to the ideas contained therein. See, e.g., *Pratt v. Independent School District No. 831* 670 F.2d 771, 779 (8th Cir., 1982). The Ninth Circuit specifically recognized that students have a constitutional right to read books selected for their "legitimate educational value." See *Monteiro v. Tempe Union High School District* 158 F.3d 1022, 1029 (9th Cir., 1998).

There is no reasonable argument that the presence of the challenged books in a school library or on an *optional* reading list compromises the rights of the parents who challenged the books. The complainants are at perfect liberty to refuse to allow their children to read books they consider objectionable, and students who choose not to read them face no consequences.

II. Labeling and Rating

Some parents, including State Senator Amanda Chase, advocate labels and ratings to notify parents of potentially objectionable content in books. However, **leading national teachers' and librarians' organizations oppose the use of ratings and warning labels for books on pedagogical grounds**, and we urge the District to follow their recommendations.

The National Council of Teachers of English *Position Statement Regarding Rating or "Red-Flagging" Books* states, "Letter ratings and "red-flagging" is a blatant form of censorship; the practice reduces complex literary works to a few isolated elements -- those that some individuals may find objectionable -- rather than viewing the work as a whole."

NCTE further explains that the process of rating casts “a negative light on listed books regardless of their literary worth [and] defers to a minority who object to a book -- often for random, personal, or ideological reasons -- rather than the thousands who have read, taught, enjoyed, and benefitted from the book. More importantly, ‘red-flagging’ privileges the concerns of would-be censors over the professional judgment of teachers and librarians...[and] narrow[s] the curriculum to only books that are deemed ‘safe.’” Instead of rating books, NCTE encourages schools to “explain how and why certain books are used as well as the pedagogical purposes these materials serve.”¹

Similarly, the American Library Association rejects ratings and labels, calling them “prejudicial [and] designed to restrict access, based on a value judgment [about] the content, language, or themes.... The prejudicial label is used to warn, discourage, or prohibit users or certain groups of users from accessing the resource.”² The ALA further notes, “The adoption, enforcement, or endorsement of any of these [private] rating systems by a library violates the American Library Association’s *Library Bill of Rights* and may be unconstitutional.”

Indeed, labels such as “sexually explicit” or “violent” **emphasize decontextualized passages** and do tremendous disservice to the works they accompany by detracting from students’ understanding and appreciation of the works as a whole. They also inevitably invite demands for alternative assignments, which in turn encourage teachers to avoid selecting valuable literature that some parents might consider offensive. As the Ninth Circuit observed in *Monteiro v. Tempe Union School District*, *supra*, 158 F.3d at 1028 n.7, “due to the practical burdens, schools would be unlikely to choose to teach alternate works separately to students objecting to a portion of the curriculum. Instead, they would probably simply remove books that they believed to be educationally valuable, but that might be controversial, or offensive to some.”

Finally, we would like to note the importance of following District policy. According to Chesterfield County School Board Policy 3031-R, challenged materials are to remain in the library until the challenge is fully resolved. Before a book may be removed from the library, a parent must meet with a principal and librarian to discuss the issue. The parent must then fill out Material/Media Consideration Form 3031-F. A Local School Review Committee reviews the form, and a principal then writes a response containing the Committee’s recommendation to the parent and superintendent. The parent may appeal the Committee’s decision to the Chesterfield County Public School Review Committee.

According to Spokesman Timothy Bullis, despite the fact that no parent has filled out Form 3031-F, the District has chosen to accept oral complaints made at a board meeting in lieu of a formal written complaint. Mr. Bullis has stated that Policy 3031-R does not apply because the challenges to the books “were directed at the division level and not directed at a school.” However, Policy 3031-R clearly states that it was adopted to “establish a procedure for reviewing challenges of instructional materials.” It contains no provision allowing the district to bypass these specified processes. Disregarding applicable policy offends fundamental notions of due process of law, which requires public official to comply with published rules and

¹ <http://www.ncte.org/positions/statements/rating-books>

² <http://www.ala.org/advocacy/intfreedom/librarybill/interpretations/labelingrating>.

regulations, and it creates a precedent encouraging future complainants to appeal directly to the Board by-passing the need for a written complaint and school level review.

Thank you very much for your consideration of our advice. Please let us know if we can be of any further assistance in this matter.



Joan Bertin, Executive Director
National Coalition Against Censorship



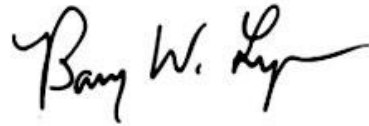
Charles Brownstein, Executive Director
Comic Book Legal Defense Fund



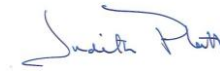
Millie Davis, Director
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National Council of Teachers of English



Chris Finan, Director
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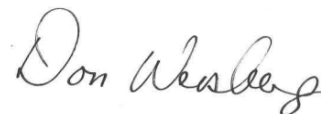
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