



AMERICAN CIVIL LIBERTIES UNION

Missouri

November 22, 2021 (*sent via e-mail to jan.kauk@nkcschools.org*)

Jan Kauk, President
North Kansas City Schools Board of Education
2000 N.E. 46th Street
Kansas City, Missouri 64116

Re: NKC School District Book Banning

Dear President Kauk:

I am reaching out to you, as President of the North Kansas City School Board (the “Board”), regarding the removal of books from NKC school libraries. It has come to the attention of the ACLU of Missouri that the NKC School District has been considering requests to ban books containing LGBTQ+, sexual, violent, and race-related content and themes. We are aware that the books *All Boys Aren’t Blue* and *Fun Home* were recently pulled from school library shelves. We urge the Board to retract the removal of these books and to decline to ban any additional books.

Removing books from school libraries implicates the First Amendment. It is well-established that the Constitution “protects the right to receive information and ideas.” *Stanley v. Georgia*, 394 U.S. 557, 564 (1969). In *Bd. of Educ., Island Trees Union Free Sch. Dist. No. 26 v. Pico*, 457 U.S. 853 (1982) (plurality opinion), the Supreme Court held that the First Amendment prohibits removal of books from school library shelves based on the viewpoints contained in the books. *See id.* at 872 (holding that “local school boards may not remove books from school library shelves simply because they dislike the ideas contained in those books and seek by their removal to ‘prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion’”). Here, the viewpoint-based decision to remove books from school library shelves directly violated NKC students’ First Amendment rights by restricting their access to ideas.

The Constitution prohibits community members or school officials from imposing their own personal views and concerns upon an entire school community. The Board has no basis for denying student access to a specific book based on the disagreement and discomfort of certain parents with the book’s content. *See, e.g., Case v. Unified Sch. Dist. No. 233*, 908 F. Supp. 864, 876 (D. Kan. 1995) (finding that school board removal of book that depicted a romantic same-sex relationship violated plaintiffs’ First Amendment rights). Removing a book from library shelves constitutes unconstitutional viewpoint discrimination while also impermissibly stigmatizing students who would choose to read the book. *See, e.g., Parents, Fams., & Friends of Lesbians & Gays, Inc. v. Camdenton R-III Sch. Dist.*, 853 F. Supp. 2d 888, 899 (W.D. Mo. 2012) (holding that school library engaged in unconstitutional viewpoint discrimination by restricting access to websites with positive viewpoints toward LGBT individuals). By respecting and upholding student rights, the Board will promote learning and engagement through access to a diversity of ideas and information.

It is our understanding that the Board will continue to consider these issues at the next Board meeting scheduled for November 22, 2021, and may make further determinations regarding whether certain books should be pulled from shelves and/or banned from school district libraries. **We demand that the Board reverse the recent determination to remove books, including *All Boys Aren't Blue* and *Fun Home*, and that the books be returned to school library shelves no later than 10:00 p.m. on November 22, 2021.** Even if the Board plans to review the applicable policies and procedures, the removed books should be returned to shelves for continuous availability to students in the meantime. Additionally, the ACLU of Missouri encourages the Board to: (i) deny further requests to ban books; (ii) review the applicable policies, practices, and procedures relating to the selection of books available to students in the libraries and classrooms at NKC Public Schools for conformity with constitutional law; and (iii) ensure that student advocates have an opportunity to be heard on this issue.

We plan to continue monitoring this situation and will determine how to proceed following the November 22, 2021 board meeting. A prompt correction to the decision to remove books is necessary. Be aware that the above-reference court decision involving the Camdenton R-III School District came after that District failed to take timely corrective action upon receiving a letter similar to this. While the District capitulated early in the litigation, it was nonetheless required to pay \$125,000.00 for the plaintiffs' fees and costs.

Please do not hesitate to contact me with any questions. We are available to discuss a resolution by phone or in person. I look forward to the Board's decision to immediately return the removed books to the shelves and hearing from the District about reaching an amicable final resolution.

Sincerely,

/s/ Anthony E. Rothert
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