

By Electronic Mail
By Fax: 724-258-2288

August 15, 2014

Ms. Mariann Bulko, President
Members of the Ringgold School District Board of Education
400 Main Street
New Eagle, PA 15067

Re: *The Handmaid's Tale* by Margaret Atwood

Dear President Bulko and Members of the Ringgold Board of Education:

As organizations concerned with the freedom to read and the application of First Amendment law and principles in public institutions, we have been following the challenge to *The Handmaid's Tale* by Margaret Atwood, which was assigned summer reading for seniors at Ringgold High School. We write in the hope that we can assist you in understanding some of the legal and policy issues that such book challenges pose for public school boards and officials.

As we understand it, one person, the brother of an incoming senior who requested and had received an alternative reading assignment, objected to the book being assigned to *other students*, complaining about its "adult nature" and "grossly inappropriate content." In response, the Board voted on June 23rd to "suspend the use" of the book, leaving the summer reading assignment in limbo for almost two months.

While the impact of the board's vote is mitigated by the decision on August 12 to rescind the earlier vote, the board's action in suspending the book is still troubling for three reasons: 1) it was made solely in response to a complaint about the content and message of the book and without consideration of the book's educational or literary value; 2) the decision has not been rescinded in its entirety, because students who had not already begun reading it for their summer reading assignment no longer have the option to do so; and 3) the decision was made in apparent violation of the school's policy on challenges to instructional materials (#109.1), which requires the Board to engage in "careful examination and discussion of the materials with the appropriate school personnel, any other individuals the Board may wish to consult, and the permanent advisory committee consisting of administrators, professional staff, and community members."

The Handmaid's Tale, first published in 1985, is now considered standard, even required reading. A

critically acclaimed dystopian novel about an unnamed country following a terrorist attack, it has received many awards, including the 1986 *Los Angeles Times* Best Fiction Award and the 1987 Arthur C. Clarke Award for Best Science Fiction, and a nomination for the Booker Prize. In addition, it is recommended by the Pennsylvania Department of Education and is a frequent part of advanced placement language and composition tests. It explores themes of theocracy and women's rights as well as the general feelings of helplessness of people in a society who have no control of their lives. As such it is increasingly relevant in countries worldwide and touches on issues that many people, including teenagers, are trying to understand themselves.

Removing a book because some object to, or disapprove of, it raises serious constitutional questions. The First Amendment "protects the citizen against the State itself and all of its creatures—Boards of Education not excepted." *West Virginia Board of Education v. Barnette* (1943). Thus, government officials, including public school administrators, may not prohibit "the expression of an idea simply because society finds the idea itself offensive or disagreeable." *Texas v. Johnson* (1989); see also *Board of Education, Island Trees Union Free School District No. 26 v. Pico* (1982) ("local school boards may not remove books from school libraries simply because they dislike the ideas contained in those books ...") While school officials have considerable discretion over curricular materials, schools may only remove materials for educationally sound reasons, not because some object to their content, message, or ideas.

Sound educational decisions cannot always accommodate the personal, moral, or religious views or values of everyone in the community. Every community is home to a diversity of opinions on political, moral and religious questions. For every person who objects to an assigned book there will be others who favor it. In practice, the attempt to alter school curricula in response to individual objections means privileging the beliefs of some individuals over others. It is precisely this form of viewpoint discrimination by government that our constitutional system is designed to prevent.

For this reason, among others, courts have recognized that parents do not have a "constitutional right to 'direct how a public school teaches their child.'" *Parker v. Hurley*, 514 F. 3d 87, 102 (1st Cir. 2008). Rather, public schools have an obligation to "administer school curricula responsive to the overall educational needs of the community and its children." *Leebaert v. Harrington*, 332 F.3d 134, 141 (2d Cir. 2003). Any other rule would put schools in the untenable position of having "to cater a curriculum for each student whose parents had genuine moral disagreements with the school's choice of subject matter." *Brown v. Hot, Sexy and Safer Productions, Inc.*, 68 F.3d 525, 534 (1st Cir. 1995), cert. denied, 516 U.S. 1159 (1996). See also *Swanson v. Guthrie Indep. School Dist.*, 135 F.3d 694, 699 (10th Cir. 1998); *Littlefield v. Forney Indep. School*, 268 F.3d 275, 291 (5th Cir. 2001).

The board's course of action has created an especially anomalous situation for students who had not yet started to read the book, but wish to and can't, because that option is no longer available. Leaving aside simple fairness, this raises additional First Amendment questions. See *Monteiro v. Tempe Union High School District* (9th Cir. 1998) (recognizing the First Amendment right of students to read books selected for their "legitimate educational value" even if offensive to some parents and students), *Pratt v. Independent School Dist. No. 831* (8th Cir. 1982) and *Case v. Unified School Dist. No. 233* (D. Kan. 1995) (First Amendment violated by removing materials because of hostility to content and message).

There are few instructional materials that do not include something that is offensive to someone. Any attempt "to eliminate everything that is objectionable...will leave public schools in shreds. Nothing but educational confusion and a discrediting of the public school system can result...." *McCollum v. Board of*

Educ. (1948) (Jackson, J. concurring). The practical effect of acceding to a request to remove materials is to invite other requests, leaving schools vulnerable to multiple, possibly conflicting, demands. Each person is entitled to his or her own opinion about any book. However, no person is entitled to impose his or her views on others, or to expect school decisions to be based on their views or sensitivities.

Decisions about instructional materials should be based on sound educational grounds, not because some people do or do not agree with the message, ideas, or content of a particular book. This approach is consistent with constitutional and educational principles and will serve the interests of both the district and its students. We urge you to demonstrate your commitment to these goals by unequivocally reinstating *The Handmaid's Tale* for all purposes, pending a professional and objective review of the book.

If we can be of further assistance in this matter, please do not hesitate to contact us.

Sincerely,



Joan Bertin, Executive Director
National Coalition Against Censorship



Chris Finan, President
American Booksellers Foundation For Free Expression



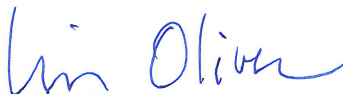
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