



September 26, 2013

VIA FACSIMILE AND U.S. MAIL

Tom Heidemann, Chair
Anoka-Hennepin School Board
Anoka-Hennepin School District
2727 N. Ferry St.
Anoka, MN 55303

Dear Chair Heidemann & the Anoka-Hennepin School Board:

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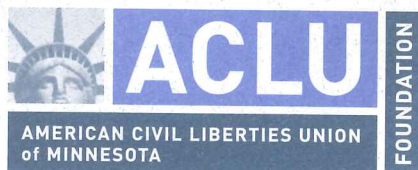
We write to urge you to not remove the book *Eleanor & Park* from your school libraries. We saw that the Parent's Action League filed a request asking that the books be removed from your libraries and that the media specialists who added the book to the summer reading list be punished among other requests. We believe that taking the requested actions would constitute clear violations of the First Amendment to the United States Constitution, as made applicable to the State of Minnesota and its political subdivisions (including the Anoka-Hennepin School District) through the Fourteenth Amendment to the United States Constitution. Moreover, taking such action would also violate Article 1, Section 3 of the Minnesota Constitution. Accordingly, we urge you not to violate the federal or state constitutions and to refrain from taking action as requested by the Parent's Action League.

Eleanor and Park is a critically acclaimed work of fiction for young teens,¹ telling the story of budding romance between two teens who feel like they don't quite fit in. It deals with serious and relevant (to teens) issues such as sexual abuse, poverty, bullying, and romantic relationships. While the novel certainly includes many words and situations that might offend some people such as those who have brought this matter to your attention, we believe it is safe to assume that most of those words and situations are of the type with which a substantial number of teenagers have familiarity.

For at least the past twenty years, it has been clear that "the First Amendment rights of students may be directly and sharply implicated by the removal of books from the shelves of a school library." *Island Trees Union Free Sch. Dist. v. Pico*, 457 U.S. 853, 866 (1982). The plurality opinion in that case recognized the unique role of school libraries, holding that

students must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding. The school library is the principal locus of such freedom. . . . [where] a student can literally explore the unknown, and discover areas of interest and thought not covered by the prescribed curriculum. . . . Th[e] student learns that a library is a place to test or expand upon ideas presented to him, in or out of the classroom.

¹The book has received praise from notable reviewers such as the NY Times (<http://www.nytimes.com/2013/03/10/books/review/eleanor-park-by-rainbow-rowell.html>), MacMillan Publishers: <http://us.macmillan.com/eleanorpark/RainbowRowell>.



Id. at 868-69 (citations and quotations omitted). Although school officials still retain discretion to remove books based on their “educational suitability,” or because they are “pervasively vulgar,” *id.* at 871, we do not believe such a rationale could be applicable to the book in question. More importantly, it is clear that books *cannot* be removed simply because they offend the “personal values, morals, or tastes” of some administrators (or parents). Indeed, the defendants in *Pico* admitted that their evaluation of the books at issue in that case was based on precisely those factors, something that the plurality thought was evidence the decision was improper. *Id.* at 873 & n.23.

Both before and after *Pico*, lower federal courts have repeatedly and consistently invalidated decisions to ban books from school library shelves, in cases that are markedly similar to the decisions at issue here. For example, in *Counts v. Cedarville Sch. Dist.*, 295 F. Supp. 2d 996 (W.D. Ark. 2003), the court held that a school board’s decision to restrict access to books in the Harry Potter series (by requiring parental permission to borrow them) because they would “promote disobedience and disrespect for authority” and because they dealt with “witchcraft,” and “the occult,” *id.* at 1002, violated the students’ First Amendment rights. In *Case v. Unified Sch. Dist. No. 233*, 908 F. Supp. 864 (D. Kan. 1995), the court held that a school board’s decision to remove *Annie on my Mind*, a novel depicting a romantic relationship between two teenage girls, violated the First Amendment. In *Sheck v. Baileyville Sch. Comm.*, 530 F. Supp. 679 (D. Maine 1982), the court granted a preliminary injunction ordering the book *365 Days*, a compilation of soldiers’ accounts of the Vietnam War, returned to school library shelves after it had been removed due to the expletives therein. *Minarcini v. Strongsville City Sch. Dist.*, 541 F.2d 577 (6th Cir. 1976) invalidated a school board’s decision to remove *Cat’s Cradle* and *Catch 22* from the school libraries, utilizing an analysis very similar to that later adopted by the Supreme Court in *Pico*. In *Salvail v. Nashua Bd. of Educ.*, 469 F. Supp. 1269 (D.N.H. 1979), the court found that a school board violated the First Amendment when it decided to remove *Ms. Magazine* from a high school library, because the magazine contained ads for vibrators, and contraceptives, and had articles “dealing with lesbianism and witchcraft, and gay material.” *Id.* at 1272. Finally, in *Right to Read Defense Committee of Chelsea v. Sch. Committee of City of Chelsea*, 454 F. Supp. 703 (D. Mass. 1978), the court held that a school board’s decision to remove an anthology of student prose and poetry, following complaints from a parent about offensive language in the book, violated the First Amendment.

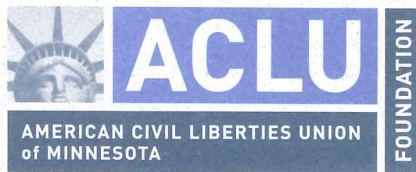
We are greatly concerned by removing books from the school libraries because they deal frankly and honestly with problems that teens face, because they deal with controversial subjects, or because they contain profanity. As to the latter, Justice Brandeis famously said that “one man’s vulgarity is another’s lyric.” *Cohen v. California*, 403 U.S. 15, 25 (1971) More importantly, he pointed out that “much linguistic expression serves a dual communicative function: it conveys not only ideas capable of relatively precise, detached explication, but otherwise inexpressible emotions as well. In fact, words are often chosen as much for their emotive as their cognitive force.” *Id.* at 26. In short, profanity is often a powerful and necessary part of fine literature, and its use is as old as human language. See, e.g. Natalie Angier, *Almost Before We Spoke, We Swore*, *New York Times*, Sept. 20, 2005 (available at <http://www.nytimes.com/2005/09/20/science/20curs.html?8dpc>) (summarizing recent linguistic research on swearing).

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It is particularly ironic because this is the American Library Association's Banned Book Week, which is dedicated to promoting the freedom to read, and to draw attention to the problem of censorship. If we have misunderstood, or been misinformed, about what has happened, we would very much like to know that. We are happy to meet with you at your convenience to discuss our concerns. Thank you for considering our views.

Sincerely,

Charles Samuelson, Executive Director
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