

# National Coalition Against Censorship

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Joan E. Bertin  
*Executive Director*

May 11, 2016

Gary Giordano, Principal  
Susan E. Wagner High School  
12 Manor Road  
Staten Island, New York 10314  
[ggiorda@schools.nyc.gov](mailto:ggiorda@schools.nyc.gov)

Dear Mr. Giordano,

I am writing on behalf of the Arts Advocacy Program at the National Coalition Against Censorship (NCAC), an alliance of 55 national non-profit organizations united in defense of free expression, to urge you to reconsider your recent decision to prohibit the display of a student artwork on the Susan E. Wagner High School campus and to adopt clear policies as to the display of student art in the future. The administrative prohibition of a work eloquently expressing students' position on an important human rights issue raises serious legal concerns, interferes with the process of education in the arts, and potentially undermines the civic mission of public education.

According to [reports in the local press](#), a photographic collage created by two students in fulfillment of a photography class assignment was removed from an exhibition in the school's lobby recently following your decision that the work was not appropriate for display because the student who modeled the exposed back of her upper body for the photo was a minor. Subsequently, the student artists met with you and agreed to create and submit a new work in which the images of the female back were fully clothed. Our understanding is that this new work, an image of which was provided to us by the New York City Department of Education press office, is now on display.

It is well recognized that students do not "shed their constitutional rights to freedom of speech or expression at the school-house gate." *Tinker v. Des Moines Independent Community School Dist.* (1969). Student expression in general may only be restricted, pursuant to applicable law, if it belongs to a category of speech that is constitutionally unprotected or that school officials are legally permitted to regulate, such as speech that can reasonably be forecast to cause substantial disruption to the educational process.

## NCAC PARTICIPATING ORGANIZATIONS

Actors' Equity Association  
American Association of School Administrators  
American Association of University Professors  
American Association of University Women  
American Booksellers for Free Expression  
American Civil Liberties Union  
American Ethical Union  
American Federation of Teachers  
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  
Comic Book Legal Defense Fund  
The Creative Coalition  
Directors Guild of America  
Dramatists Guild of America  
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  
National Youth Rights Association  
The Newspaper Guild/CWA  
PEN American Center  
People for the American Way  
Planned Parenthood Federation of America  
Project Censored  
SAG-AFTRA  
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  
Woodhull Sexual Freedom Alliance  
Writers Guild of America, East  
Writers Guild of America, West

Subjective evaluations of the “appropriateness” of a work and concerns about offense to community standards, however well intentioned, provide no grounds for limiting students’ constitutional rights. The work, as originally created, is not in the least sexually explicit, let alone “harmful to minors” by law. On the contrary, it constitutes political speech, the type of speech that enjoys the highest constitutional protection. The inclusion of a nude image of the back of a person does not change that in any way. On the contrary, it is essential to conveying the message of the work. The work as modified does not have the same impact and cannot convey the same message – as the students have themselves apparently realized when they changed the text of the piece. The administration’s exercise of its discretionary powers lacked a legal basis and arguably breached the fundamental rights of two young people under its authority.

A statement released in your name by the New York City Department of Education press office asserts that artistic expression is “highly valued, encouraged and celebrated at Susan Wagner High School and schools across the city.” Vital to artistic expression and thus to arts education is a vibrant and open culture in which students may develop and exercise their skills of aesthetic, ethical, and civic judgment, taking responsibility for the works they produce and the reactions they elicit from various audiences. Such a culture is integral not only to the educational mission of a public school, but also to its civic mission: to model and foster the habits of citizenship befitting a free, democratic, and pluralistic society.

Having assisted in many such cases at public schools, we appreciate the many competing demands and pressures that public school administrators face. In our experience, the best way to protect the rights and interests of students while minimizing the risk of divisive controversies within the larger community is to adopt and follow a sound policy for the selection and display of student artwork on campus. Such a policy makes clear to students, teachers and the general public the educational rationale for the exhibition of student art, the objective criteria and procedures for the selection of works for exhibition, and fair processes for handling potential concerns and complaints regarding student works.

Please find attached some guidelines for crafting such a policy. We would be happy to assist you in developing a policy that suits your particular circumstances. In the meantime, we urge you to find a possibility to display the original work and demonstrate your respect for the creative freedom and civic engagement of Susan Warner High School’s students. Please do not hesitate to contact us if we can be of further assistance.

Sincerely,

A handwritten signature in cursive script, appearing to read "Svetlana Mintcheva".

Svetlana Mintcheva  
Director of Programs