

December 6, 2016

Superintendent Chris Holland
Accomack County Public Schools
P.O. Box 330
Accomac, VA, 23301

By electronic mail: chris.holland@accomack.k12.va.us

Dear Superintendent Holland:

As organizations dedicated to protecting the freedom to read, the First Amendment, and high quality public education, we write to comment on the legal and educational implications of the recent challenge to *The Adventures of Huckleberry Finn* and *To Kill a Mockingbird* and their removal from libraries and classrooms in Accomack County. Although immediate removal of challenged books prior to a review of their educational value is apparently authorized by District Policy KLB, the practice is problematic from both a legal and educational perspective. We strongly urge the district to modify its policies so as to allow books to remain accessible while under review. Because they have unquestionable educational value, there is no plausible ground for removing the books from either the library or the classroom based solely on the fact that they contain racially-charged language.

Both books under review are critically acclaimed masterpieces with recognized literary and pedagogical merit. Each is included on the Library of Congress' list of "Books That Shaped America" and has been taught in countless schools throughout the country for many years. Both are lauded for their discussion of racial issues and their ability to help students understand the role of race in American history.

Mark Twain's *The Adventures of Huckleberry Finn*, first published in 1885, is an iconic American novel, perhaps *the* iconic American novel. Publisher's Weekly calls it "the first great American novel." Ernest Hemingway said "All modern American literature comes from one book by Mark Twain called *Huckleberry Finn*" (quoted in Norman Mailer, "Huckleberry Finn Alive at 100," *New York Times*, 12/9/84).¹ The educational value of the book has been widely recognized. For example, according to African-American Twain scholar Jocelyn A. Chadwick, "Twain's novel, in the tradition of all great literature, is invaluable for transporting readers to a time, place, and conflict essential to understanding who we are today. Without this work there would be a hole in American history and a blank page in the history of African-Americans. To avoid this work in the classroom is to miss the opportunity to remember."²

¹ <http://www.nytimes.com/1984/12/09/books/mailler-huck.html>

² <http://www.upress.state.ms.us/books/417>.

Harper Lee's *To Kill a Mockingbird* is also considered an essential part of the American literary canon. Winner of the Pulitzer Prize in 1961, the novel has sold over thirty million copies since its publication in 1960. In 1998, the *Library Journal* named it the "Best Novel of the Century." In 2007, Lee was awarded the Presidential Medal of Freedom for "help[ing] focus the nation on the turbulent struggle for equality."

While the use of historically accurate language in conversations about racism is deeply discomforting to many readers, it is a necessary aspect of any realistic account of our nation's history. A pedagogically sound approach to curricular selection requires educational professionals to ask whether a book has educational value, not whether it is comfortable. Indeed, the books' examination of race relations during two distinct historical periods by authors from those times can only enhance students' knowledge and understanding of the history of racism in this country. Students' education would be deficient if they graduated from high school without reading these iconic texts.

In addition to these educational considerations, **removing the books would raise serious 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). The Eighth Circuit has recognized an unconstitutional "chilling effect" on First Amendment rights when material is removed because of objections to the ideas contained therein. See, for instance, *Pratt v. Independent School District No. 831*, 670 F.2d 771, 779 (8th Cir., 1982). Indeed, the Ninth Circuit, faced with a similar challenge to *Huck Finn*, not only upheld the use of the book in response to the argument that it contributed to a racially discriminatory environment, but also held that students have a constitutional right to read books selected for their "legitimate educational value." The court further suggested that schools might be liable for damages to other students for removing pedagogically-sound materials in response to objections to content: "a student's First Amendment rights are infringed when books that have been determined by the school district to have legitimate educational value are removed from a mandatory reading list because of threats of damages, lawsuits, or other forms of retaliation." *Monteiro v. Tempe Union High School District*, 158 F.3d 1022, 1029 (9th Cir., 1998).

Because these books are clearly educationally valuable and there is therefore no legitimate basis to remove them, we have particular concerns about suspending their use pending review.³ **Removing challenged works before reviewing them allows a single complainant to disrupt the education of all students.** It privileges the views of the complaining parent over those of other parents and the teachers and librarians who selected the works. It also puts the district in legal jeopardy for violating the rights of other students whose parents do not object to the books.

The temporary removal policy potentially enables parents to wreak havoc upon a curriculum. The same parent can, by filing multiple complaints, obtain the temporary removal of books until the teacher finally selects a book of which the parent approves. This conflicts with the law as articulated by multiple federal appellate courts, which have held that no parent has the right "to tell a public school what his or her child will or will not be taught." *Blau v. Fort Thomas Public School District, et al.*, 401 F.3d 381, 395 (6th Cir. 2005). See also *Parker v. Hurley*, 514 F. 3d 87, 102 (1st Cir. 2008), *Leebaert v. Harrington*, 332 F.3d 134, 141 (2d Cir. 2003), *Swanson v. Guthrie Indep. School Dist.* 135 F.3d 694, 699 (10th Cir.

³ As of this writing, the district has not responded to multiple inquiries, and we have consequently been unable to determine whether a written complaint has been filed, as required by school policies. If not, the legitimacy of the entire process by which the books were removed is questionable.

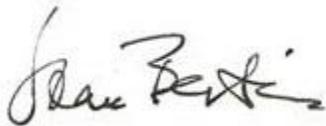
1998), *Littlefield v. Forney Indep. School*, 268 F.3d 275, 291 (5th Cir. 2001), *Fleischfresser v. Directors of School Dist. 200*, 15 F. 3d 680 (7th Cir. 1994), *Mozert v. Hawkins County Board of Education*, 827 F.2d 1058 (6th Cir. 1987).

The overwhelming majority of school districts with which we have worked—both in Virginia and across the nation—allow challenged materials to remain in classrooms and libraries unless and until the educational value of the material has been professionally assessed. We strongly urge the District to reinstate the books pending review, and to suspend application of Policy KLB pending an evaluation of its educational and policy implications.

As a final matter, a recent report indicates that the principal of Nandua High School confiscated a student petition to reinstate the books.⁴ If the report is true, this action may well violate the First Amendment rights of that student, and others exercising their right to engage in non-disruptive protests and to petition the school for a “redress of grievances.”

We strongly urge the district to reinstate *To Kill a Mockingbird* and *The Adventures of Huckleberry Finn* in classrooms and libraries and to promptly reaffirm the educational value of these texts. The complaint at issue surely deserves discussion for the heartfelt and legitimate concerns it raises about ensuring that students in the school are not discriminated against on the basis of race in any way. However, denying students the ability to read and study important literature will not advance that goal; it will merely undermine the education of students.

Sincerely,



Joan Bertin, Executive Director
National Coalition Against Censorship



Millie Davis, Director
Intellectual Freedom Center
National Council of Teachers of English



Claire Gastaña, Executive Director
American Civil Liberties Union of Virginia

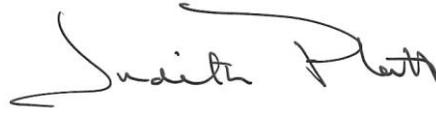


Mary Rasenberger, Executive Director
Authors Guild

⁴ <http://www.delmarvanow.com/story/news/local/virginia/2016/12/02/harper-lee-mark-twain-books-suspended-protest/94839096/>



Chris Finan, Director
American Booksellers for Free Expression



Judith Platt, Director
Free Expression Advocacy
Association of American Publishers



Charles Brownstein, Executive Director
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