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Mike Dunn, President
Board of Education
Conejo Valley Unified District
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Dear Board President Dunn and Members of the CVUSD Board of Education:

As organizations who believe in students' right to read and the application of First Amendment principles in public schools, we write to ask you **not to approve the amendments to BP 6161.1 on Selection and Evaluation of Instructional Materials**, Item 11A on your agenda for tonight. This policy has several flaws that will *not* serve the students, their parents, or the school district well. This proposed policy revision:

- has been developed by board member Sandee Everett and not by or in consultation with the board-appointed committee of teachers and administrators,
- lacks an appreciation for the expertise of educators who are trained to select texts used to complement the district curriculum and state standards,
- sets the district's students up for a sub-par education that relies on texts chosen not for their value to the curriculum, but by the personal beliefs of some,
- misconstrues the terminology "community standards," which has no static or legally-binding definition, (see, *Miller v. California*, 413 US 15 (1972)), and
- puts inexperienced parents and community members in charge of curricular development, which is the legal responsibility of educators.

Text selection and curricular development are educators' jobs, even if the Board of Education has final say on what's been developed. NCTE's [*Guidelines for the Selection of Materials in English Language Arts Programs*](#) refers to the "professional guidance" that is crucial to the selection of texts to meet the aims of the curriculum. It goes on to note,

Selecting materials requires in-depth knowledge: not just of students' backgrounds and learning experiences, but also of their abilities and interests; not just of educational objectives, but of the best practices and range and quality of materials for meeting them; not just of the particular work being considered, but of its place within the medium, genre, epoch, etc., it represents.

Ms. Everett's beliefs about literature in the schools fail to recognize that focusing only on particular words, passages, or segments of a work distorts the ethical and literary value of

the text. In fact, when individuals focus only on aspects of a text that are offensive to them, all the reasons teachers would select a text are ignored. These reasons may include the author's broad moral vision, total treatment of theme, and commitment to realistic portrayal of characters and dialogue, alignment with the curriculum and educational standards.

Unfortunately, there *is* shock value in isolating and listing selected passages from a book, as evinced by the heated discussions about *The Absolutely True Diary of a Part-Time Indian* this summer in Conejo Valley. As we learned then, decontextualized passages cannot and do not encapsulate the fundamental message or theme in a work, and they certainly do not provide insight into the educational value of a text—the **very reasons why the text was chosen as part of the curriculum.**

Many courts have recognized that 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). “[W]hile parents can choose between public and private schools, they 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). Any other rule would put schools in the untenable position of having “to cater to 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 *CN v. Ridgewood Bd. of Educ.*, 430 F. 3d 159, 182 (3rd Cir. 2005) (recognizing limits on parents’ rights in public school setting), *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), *Blau v. Fort Thomas Pub. Sch. Dist.*, 401 F.3d 381, 395 (6th Cir. 2005), *Fields v. Palmdale School Dist.*, 427 F. 3d 1197 (9th Cir. 2005), amended 447 F.3d 1187 (9th Cir. 2006). In addition, courts have held that students have certain legal rights to receive information, even if controversial, and schools and teachers have an obligation to teach controversial material even when they find it objectionable. In our experience with school curricula, there are few instructional materials that do not include *something* that is objectionable to *someone*. If literary works duly selected by teaching professionals are removed before they can be taught and because they carry labels such as “sexually explicit” or offend particular individuals or groups, there will scarcely be any good literature left to teach in our schools. Further, it would be wrong to assume that educators and authors endorse profane language, negative events, and other elements portrayed in instructional texts. Rather these concepts are part of the “world” of the text and classroom study provides fertile ground for students to contextualize and interpret surface aspects of literature, while exercising critical thinking as they discuss the work’s characters, issues and literary characteristics.

In practice, [flagging](#) one type of potentially controversial content invites demands to identify other types of content which some find offensive, including LGBT-themed materials, racial references, religious content, and so on. As we mentioned before, there are few instructional materials that do not include content objectionable 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.* 333 U.S. 203, 235 (1948) (Jackson, J. concurring).

The proposed policy invites confusion about the constitutional obligations of public school officials, who are prohibited from discriminating against “the expression of an idea simply because society finds the idea itself offensive or disagreeable.” *Texas v. Johnson*, 491 U.S. 397, 414 (1989). If the policy results in the removal of material solely to satisfy those who object to its content, it could inadvertently expose school districts to liability for violating the

First Amendment rights of other students. See *Monteiro v. Tempe Union High School District*, 158 F. 3d at 1028, rejecting a challenge to books because of racial content, and recognizing the First Amendment right of students to read books selected for their “legitimate educational value.”

Your district already has sound processes for selecting texts and for reconsidering challenged texts. Parents presently have the ability to review content and make decisions for their student; however, flagging texts based on words or incidents some find objectionable is not a responsible way to choose the texts your students need to succeed with the curriculum and meet educational standards.

Every community is home to a diversity of opinions on moral and religious questions. This policy would privilege the beliefs of those parents who object to books for all sorts of personal reasons. It is precisely this form of viewpoint discrimination by government that our constitutional system is designed to prevent. Parents who wish to shield their children from certain content can always review the curriculum themselves and request an alternative assignment on an individual basis.

Each parent has a right to say what texts his or her student may read. But, hopefully, parents take time to chat with teachers about why and how a particular text is being taught, and to read the entire text, before objecting. Parents have every right to know about the school’s education program and to play a role in ensuring the best education for the students of the district. However, their role as parents and concerned citizens cannot supplant the professional and legal role of the educators. While a parent has every right to object to a particular text for her/his student and in most cases to receive an alternative text for the student, that parent has no right to deny other parents’ children the texts selected to support the curriculum and standards of the school.

Teachers respect the parental right to object and the responsibility of parents to be actively involved in the education of their children. The kind of parental curriculum development proposed in Ms. Everett’s revision suggestions for Board Policy 6161.1 will serve no one well –certainly no students or parents.

Please vote no tonight on Agenda Item 11A, Amendments to Board Policy 616.1 – Selection and Evaluation of Instructional Materials.

Sincerely,



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



Chris Finan, Executive Director
National Coalition Against Censorship