

**NATIONAL
COALITION
AGAINST
CENSORSHIP**

**YOUTH
FREE
EXPRESSION**

August 17, 2021

Karen Watts - Executive Superintendent
Brooklyn North NYCDOE Borough Office
131 Livingston Street - Room 501A
Brooklyn, NY 11201

Dear Ms. Watts:

As an organization dedicated to promoting free speech, including freedom of artistic expression, we were deeply concerned to learn that Park Slope's P.S. 295 removed a mural created by several fifth graders because of apparent discomfort with some of its content. This act of silencing of student expression, based purely on dislike of the viewpoint expressed in it, is inconsistent with freedom of expression principles and may violate the public school's First Amendment obligations. It also sends a terrible message to the kids that their passionately held views and months of work on the piece could be erased on the whim of school administrators. We understand that the school has subsequently apologized to the students, but we strongly urge the district to also take steps to ensure that similar acts of censorship do not occur in the future.

It is our understanding that several students were selected by the school to work with a non-profit organization, Groundswell, to produce a mural for display in the school. Shortly after the works were placed on public display, Frank Giordano, the principal of New Voices Middle School, which shares a building with P.S. 295, reportedly demanded that Lisa Pagan, P.S. 295 principal, remove the work on the ground that it was, in the view of Mr Giordano and purportedly other school officials, "too divisive" and not "inclusive" enough. The specific elements that were subjectively deemed "too divisive" included, among other things, a "Black Trans Lives Matter" sign and a quote from author Audre Lorde that stated, "Your Silence Will Not Protect You."

The removal and possible destruction of the students' work raised serious First Amendment concerns. Our courts have time and again reaffirmed that the First Amendment prohibits public school officials from censoring student speech, including student artistic expression, merely because they find it offensive or provocative. More than fifty years ago, in *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503 (1969), the Supreme Court declared that students have the right to speak on school grounds as long as they do not substantially disrupt the activities of the school. Mere disagreement with the students' speech is obviously not enough to meet that standard.

Nor does the artwork fall within any of the other narrow exceptions to student freedom of speech, such as profane speech, or speech which advocates illegal drug use. Finally, although the mural might well have been school-sponsored speech, schools may control the content of such speech only “so long as their actions are reasonably related to legitimate pedagogical concerns.” *Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260, 271 (1988). Censoring student speech because some people disagree with the political views expressed therein does not fall within that exception. *Collins v. Putt*, 979 F. 3d 128, 135 (2nd Cir. 2020) [“Our Circuit has held that school-sponsored speech may not be regulated in a viewpoint discriminatory manner ‘even if [doing so] is reasonably related to pedagogical concerns.’”].

No one was well served by this violation of expressive freedom, certainly not the students at P.S.295, who have been illegitimately deprived of the opportunity to view and evaluate artistic work for themselves. The action opens the door to suppressing speech in an arbitrary fashion, leaving decisions to the subjective opinions of school officials. It also goes against NYS Education Culturally Responsive Sustaining Education Framework (CR-S) to which the school subscribes.

To avoid the recurrence of such incidents in the future, we urge the district to develop guidelines governing the display of artwork in school spaces. The guidelines should recognize the freedom of student artists to express their views. They should also establish a process of communication between the administrators of schools sharing building space. We would be happy to work with you in developing such guidelines.

Thank you for your attention to this important issue.

Sincerely yours,



Christopher Finan
Executive Director
National Coalition Against Censorship

Co-signed by PEN America

Cc: Chancellor Meisha Porter