

**NATIONAL
COALITION
AGAINST
CENSORSHIP** **KIDS'
RIGHT
TO READ**

August 8, 2022

School Board
Auburn Enlarged City School District
78 Thornton Avenue
Auburn, NY 13021

Dear Members of the School Board,

The National Coalition Against Censorship is an alliance of national nonprofit groups dedicated to protecting freedom of expression, including the rights of K-12 students, teachers, and staff. We have almost 50 years of experience advising public institutions in developing best practices that are consistent with First Amendment principles. We are writing regarding recent proposed policy updates to the Auburn Enlarged City School District's *Objection to Instructional Materials and Controversial Issues* (policy #8330). We encourage you to strengthen your policy by adding separate evaluation guidelines that minimize the risk that review committees will employ improper criteria in violation of the law.

We are concerned that your proposed policy does not adequately outline how to evaluate challenges to instructional material. It says only that the review committee "will evaluate the challenged material according to the District's criteria for the evaluation and selection of instructional materials." That is problematic, because under *Board of Education v. Pico*, 457 U.S. 853, (1982), a school district's power to remove books from a school library is far more limited than its power to select books for that library. Specifically, the *Pico* court held that public schools may not remove books due to disagreement with the political perspectives or ideas contained within them, because "students must always remain free to inquire, to study, and to evaluate, to gain new maturity and understanding" and "the school library is the principal locus of such freedom."

Therefore, the District's new policy should ensure that committee members understand the limits on their power. To guide them, Policy #8330 should affirmatively state that when a resource is challenged, the principles of free expression and free inquiry will be prioritized. Further, adjudicators should be aware of their responsibility to protect unpopular opinions and encourage debate, as the Supreme Court expressly held just last year in *Mahanoy Area School District v. B. L.*, 141 S. Ct. 2038, 2046 (2021) ["the school itself has an interest in protecting a student's unpopular expression[.]"].

We are attaching a copy of our Guidelines for Administrators, which includes sample book challenge procedures from school districts across the country. We believe that a robust and clear policy is in everyone's best interest. An effective book challenge

procedure helps ensure that the district continues to uphold the rights of its students to free inquiry and free expression, while ensuring that all parties feel that their concerns have been heard and considered by the district.

Thank you for your attention and consideration to this matter.

Sincerely yours,



Christopher Finan
Executive Director
National Coalition Against Censorship

Co-signed by: American Booksellers for Free Expression
The Authors Guild
National Council of Teachers of English

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