

NATIONAL YOUTH COALITION FREE AGAINST EXPRESSION CENSORSHIP

December 1, 2025

Board of Directors
Rutherford County Library System
1127B Dow Street
Murfreesboro, TN 37130

Dear Members of the 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 are writing to you concerning the recent letters issued by Tennessee Secretary of State Tre Hargett directing all public libraries to “undertake an immediate age-appropriateness review (over the next 60 days) of all materials” in their children’s sections.¹ We urge you to remember that the First Amendment prevents a library from making viewpoint-based removals and trumps any federal or state law to the contrary. Any legal counsel advising the Board on its obligations should remind the library of the First Amendment’s supremacy over other laws, and certainly over partisan or political fights.

A public library is meant to include a broad selection of books that provide value to its patrons. But if every library book were required to appeal to every patron, the shelves would be bare. The plain text of the First Amendment prohibits the government from making any law “abridging the freedom of speech.”² The Supreme Court has long recognized that this restriction creates an inherent right to receive information and ideas.³ That right is violated, as is any other right in the First Amendment canon, when the government picks and chooses based on the viewpoint of private speakers. “If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.”⁴

The discretion of government officials to remove library books is particularly limited to ensure the protection of patrons’ First Amendment right to access information and “may not be exercised in a narrowly partisan or political manner.”⁵ Removing books from the shelves of the public library based on the intent to deny children access to materials that are not “age-appropriate”—an arbitrary and standardless term—exposes the library board to

¹ Letter from Tre Hargett, Secretary of State, to Cassandra Taylor and Cody York (Oct. 31, 2025), <https://bloximages.newyork1.vip.townnews.com/nashvillescene.com/content/tncms/assets/v3/editorial/7/6c/76c971d6-ec6f-441b-bd1d-11810701d855/6912210abc0bf.pdf.pdf>.

² U.S. Const. amend. I.

³ *Stanley v. Georgia*, 394 U.S. 557, 564 (1969) (noting the right was already “well established”).

⁴ *Texas v. Johnson*, 491 U.S. 397, 414 (1989).

⁵ *Board of Education v. Pico*, 457 U.S. 853, 870 (1982).

constitutional liability.⁶ Minors are not a monolith and what may be “inappropriate” for one child may be perfectly relevant to another. As the United States Sixth Circuit Court of Appeals, where Rutherford sits, has stated in the context of a school library, it is unconstitutional to “place conditions on the use of the library which [are] solely related to the social or political tastes of the school board members.”⁷ The same rule applies with even more force with regard to public libraries.

Executive orders may not, under any circumstances, violate or circumscribe constitutional rights, including the right to receive information and ideas under the First Amendment. When the President issues an executive order, that order has the force of law within the executive branch of the federal government, assuming that it does not conflict with existing law. While “a President has broad discretion to use written directives when he is lawfully exercising one of his constitutional or statutorily delegated powers,”⁸ the idea that the President could direct or authorize any level of government—from the Library of Congress to a local library board—to engage in the viewpoint-based removal of books is ludicrous. Secretary Hargett stated that “each grant recipient must be mindful of the requirements of state and federal law,” citing Executive Order 14168, “Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government” as an example.⁹ While libraries must indeed comply with state and federal law, this executive order has no force of law as impacting the state of Tennessee.¹⁰

To the extent that Executive Order 14168 affects federal grants, it has been enjoined by multiple federal courts. In *San Francisco A.I.D.S. Foundation v. Trump*, the United States District Court for the Northern District of California preliminarily enjoined enforcement of Executive Order 14158’s requirement that “[f]ederal funds should not be used to promote gender ideology.”¹¹ Likewise, the United States District Court for the District of Massachusetts found that the removal of articles authored by physicians and professors from an online patient-safety resource run by the federal government pursuant to Executive Order 14158 “was a textbook example of viewpoint discrimination.”¹² Given the tenuous legal status of the order, library boards should be disinclined to remove books pursuant to its unclear and likely unconstitutional requirements.¹³

We acknowledge that book removals on these sorts of bases are often highly contentious and emotional. They risk draining the resources and collections of public libraries. Nonetheless, public libraries have a duty to abide by the First Amendment. We urge the Board not to comply

⁶ See *id.* at 871.

⁷ *Minarcini v. Strongsville City Sch. Dist.*, 541 F.2d 577, 582 (6th Cir. 1976).

⁸ Todd Gaziano, *The Use and Abuse of Executive Orders and Other Presidential Directives*, The Heritage Foundation (Feb. 21, 2001),

<https://www.heritage.org/political-process/report/the-use-and-abuse-executive-orders-and-other-presidential-directives>.

⁹ Letter from Tre Hargett, Secretary of State, to Library Director (Sept. 8, 2025)

<https://bloximages.newyork1.vip.townnews.com/nashvillescene.com/content/tncms/assets/v3/editorial/b/13/b136abb-c-ea90-4d5b-86e0-b7927300abea/691220ef9e8cf.pdf.pdf>.

¹⁰ For further exploration of the force of executive orders as applied to states, see Limits to the Tennessee Secretary of State’s Library Shutdown Directive, *EveryLibrary Institute* (Nov. 25, 2025), https://www.everylibraryinstitute.org/limits_tn_sos_shutdown_directive.

¹¹ *San Francisco A.I.D.S. Foundation v. Trump*, Case No. 25-cv-01824-JST (N.D. Cal. 2025).

¹² *Schiff v. U.S. Office of Personnel Management*, Case 1:25-cv-10595-LTS (D. Mass. 2025).

¹³ For more information on the dubious legal status of Executive Order 14168, particularly as it relates to Secretary Hargett’s directives, see Limits to the Tennessee Secretary of State’s Library Shutdown Directive, *supra* note 10.

with Secretary Hargett's directives in order to both avoid constitutional liability and retain the widest possible selection of reading material to the community, as that is the purpose of public libraries.

Please let us know if you have any questions or need any further support.

Thank you for your attention and consideration to this matter.

Sincerely,

The National Coalition Against Censorship

Co-Signed by: EveryLibrary