



SENT VIA ELECTRONIC MAIL

May 4, 2010

Dr. Michael D. Moskalski, Superintendent/Principal
Members of the School Board
Rancocas Valley Regional High School
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Dear Dr. Moskalski and Members of the Board,

I write on behalf of Lambda Legal Defense and Education Fund (“Lambda Legal”), the oldest and largest national legal organization committed to achieving full recognition of the civil rights of lesbians, gay men, bisexuals, transgender (“LGBT”) people and those with HIV through impact litigation, education, and public policy work. Lambda Legal’s civil rights and public education work has specifically included the rights of LGBT students to a well-protected school environment free of discrimination, harassment, and bullying, which will allow all students to learn, grow, and express themselves free of discrimination based upon sexual orientation or gender identity. Our work in the schools context ranges from our landmark constitutional challenge to a school’s failure to protect a student harassed for being gay (see *Nabozny v. Podlesny*, 92 F.3d 446 (7th Cir. 1996)) to our recent publication of a guide to promoting the wellbeing of students of all sexual orientations and gender identities (see *Out, Safe & Respected: A Guide to LGBTQ Youth in Schools for Educators and Parents*, available at <http://www.lambdalegal.org/publications/out-safe-respected-admin/>).

We are well aware of attacks on LGBT-themed books in public school libraries, and write to oppose the current effort to remove three such books from the library of Rancocas Valley Regional High School. We have reviewed excellent input you have already received, including the National Coalition Against Censorship’s letter dated April 8, 2010, which sets forth much of the developed First Amendment law that has for many years protected student access to books in school libraries. We therefore direct our letter toward supplementing that information with material specific to public schools’ interests and obligations to protect LGBT students’ safety and wellbeing.

The composition, theme, and background materials underlying the challenge to these three books transparently demonstrates that LGBT materials are being specifically targeted. Students and families concerned with preserving access to such materials have mounted multiple successful legal challenges against campaigns targeting such books in a variety of contexts, including public school libraries. See, e.g., *Case v. Unified Sch. Dist. No. 233*, 908 F. Supp. 864 (D. Kan. 1995), *aff’d in part and rev’d in part on other grounds*, 157 F.3d 1243 (10th Cir. 1998)

(school board violated junior and senior high school students' First Amendment rights by ordering removal of novel depicting relationship between two teenaged girls from library shelves); *Sund v. City of Wichita Falls, Tex.*, 121 F. Supp. 2d 530 (N.D. Tex. 2000) (enjoining enforcement of a city resolution that granted card holders of a public library the right to have LGBT-themed books for young children moved from the children's area to the adult section on the basis that it violated patrons' First Amendment rights to receive information); *Parker v. Hurley*, 514 F.3d 87 (1st Cir. 2008) (LGBT-focused materials in public elementary school curriculum did not violate parents' constitutional rights).

In addition to the traditional, well-established First Amendment grounds for resisting such challenges, Lambda Legal urges that the school officials consider how maintaining these books comports with obligations to protect students from discrimination and harassment under the New Jersey Law Against Discrimination, federal law such as Title IX, and other legal guideposts.

Removing books that are LGBT-themed or concern individuals who do not comport with traditional sex-stereotypes undermines the school's obligation and ability to protect students regardless of sex, sexual orientation, or gender identity. A high-profile caving-in to ideological pressure groups set against LGBT-themed materials is not the modeling school officials and educators should present to students; additionally, it undercuts both the perception and reality of official support for students of diverse sexual orientations and gender identities -- particularly at a time when research and reports show that New Jersey schools need to be providing more in this area, not less.

Mere weeks ago, on December 15, 2009, the New Jersey Commission on Bullying in Schools, from the New Jersey Office of the Child Advocate, issued its report, "There Isn't A Moment To Lose: An Urgent Call for Legal Reform and Effective Practices to Combat Bullying in New Jersey Schools" (12/15/09) ("Commission Report"). (*Available at* <http://www.state.nj.us/childadvocate/publications/PDFs/Bullying%20Report%20December%202009%20-%20%20Final.pdf>).

The commission report delineates "student populations at high risk for HIB [harassment, intimidation, and bullying], especially students with special health and learning needs, those of racial or religious minorities, and *those who are perceived to be lesbian, gay, bisexual or transgender (LGBT)*." (Commission Report at 35, emphasis added) Among its top recommendations, the commission urged that schools "[i]nclude the study of HIB [harassment, intimidation, bullying], civil rights, human relations and diversity in school curriculum provisions of existing laws." (Commission Report at 33-34) Removing library books that cover these topics related to students observed to be at "high risk" moves in the wrong direction: "The Commission heard considerable testimony about the need to direct assets and attention specifically to the most vulnerable of students....Students with disabilities, those who are religiously observant, and *those who are gay, lesbian, bisexual or transgender* are particularly at risk of HIB [harassment, intimidation, bullying] and are most vulnerable." (Commission Report at 36, emphasis added). Again, both the act of acceding to pressures to remove LGBT-themed books, as well as the removal of such materials, undermine rather than reinforce supports for students recognized by the state of New Jersey to require more support and acceptance of their identities.

The editor of one of the books you are currently considering removing, the LGBT youth-authored anthology *Revolutionary Voices*, has published a letter from “Lewis W. in Ann Arbor, MI, who was 15 when he found the book in his teen center library. He wrote, ‘My friends and I passed around a single copy of this book for weeks... I was fascinated and relieved that there were other people out there who shared elements of my identity. At the same time, it was really important for me as a pretty sheltered young person to see that I was by no means identical to other LGBTQ youth, that there was a wide diversity of voices within the community. This was an illuminating and strengthening part of the book for me.’

(<http://bannedlibrarian.wordpress.com/2010/04/11/from-glenn-beck-to-your-backyard-targeting-gay-books/> (last visited May 3, 2010)).

Lambda Legal shares the concern articulated by the *Revolutionary Voices* editor, Amy Sonnie: “Queer students may not feel safe speaking up when LGBTQ books are challenged. But, they certainly deserve a chance to discover the ‘diversity of voices’ that make balanced library collections so crucial for the health of our communities and democracy.” *Id.* Holding in mind the values of New Jersey’s diversity, the health of Burlington County’s LGBT students, and the constitutional principles underlying access to materials the state has so recently deemed important to supporting students most likely targeted for harassment and bullying, we urge that school officials of Rancocas Valley Regional High School and Burlington County resist pressures to censor these targeted books.

Sincerely,



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