



FIRE

Foundation for Individual
Rights and Expression

January 9, 2023

Luigi DeFrancesco
President, Penncrest School Board
18741 State Highway 198
Saegertown, Pennsylvania 16433

URGENT

Sent via U.S. Mail and Electronic Mail (defrancescol@penncrest.org)

Dear President DeFrancesco:

The Foundation for Individual Rights and Expression (FIRE), a nonpartisan nonprofit dedicated to defending freedom of speech,¹ is concerned about Penncrest School District's proposed changes to its "Library Materials" policy, which would prohibit district libraries from carrying any materials containing visual, written, or implied depictions of nudity or sexual acts. Although Penncrest has discretion to determine what content to carry in its libraries based on bona fide considerations of educational suitability, a blanket ban on *any* works depicting (even impliedly) sex or nudity in *any* Penncrest school library—including the high school library—is shockingly overbroad. It would instantly ban many classic works of literature from library shelves without any individualized, contextual evaluation of their educational value or age-appropriateness, reducing these works' rich explorations of the human condition to "sexualized content."

Libraries should be a place where students can freely explore a wealth of ideas and information—where they can spark their curiosity and voluntarily learn about the experiences and perspectives of others. Penncrest may pursue its interest in ensuring that age-appropriate content is available for students in school libraries without resorting to the blunt tool of a categorical ban on certain subject matter. FIRE calls on Penncrest to reject the proposed revisions to its Library Materials policy and to preserve its libraries as a resource that offers students a window into the world around them.

¹ For more than 20 years, FIRE defended freedom of expression, conscience, and religion, and other individual rights on America's college campuses as the Foundation for Individual Rights in Education. More information about our recently expanded mission and activities is available at our website, thefire.org.

I. Penncrest Proposes Revisions to Library Materials Policy

Penncrest is considering revisions to its Library Materials policy (Policy 109.2) to ban content that is “inappropriate or unnecessary for minors in a school setting.”² The existing language states in part, “Materials will be chosen to represent diverse points of view on all topics.”³ The revised policy would eliminate the phrase “on all topics.” The proposal also adds a section titled “Avoiding Inappropriate Materials,” which provides:⁴

The district Recognizes there exists a vast array of materials with rich educational value. It is the District’s objective to choose material that provides such rich educational content appropriate to students in the district over material that may provide similar content but with elements that are inappropriate or unnecessary for minors in a school setting.

Sexualized content that falls short of material prohibited by criminal laws is nonetheless generally inappropriate and/or unnecessary for minors in school. Parents/Guardians have a wide range of options outside of the district library system to introduce their child to sexualized content they deem appropriate for their child’s age. As such, the District will prioritize inclusion of quality materials suitable for educational goals and worthwhile for the limited amount of time available to students that do not contain sexualized content.

No Material in District libraries shall contain:

- Visual or visually implied depictions of sexual acts or simulations of such acts,
- Explicit written depictions of sexual acts, or
- Visual depictions of nudity- not including materials with diagrams about anatomy for science or content relating to classical works of art.

The Penncrest School Board is slated to vote on the proposed policy changes tonight.

II. The Proposed Policy is Overbroad and Threatens to Diminish the Educational Value of Penncrest School Libraries

The proposed changes to Penncrest’s library materials policy undermine the libraries’ function as a space where students can voluntarily continue their educational journeys outside the

² PENNCREST SCH. DIST., POLICY MANUAL, LIBRARY MATERIALS, 109.2 (adopted July 14, 2022) (rev. Jan. 12, 2023) (on file with author).

³ *Id.*

⁴ *Id.*

classroom. The proposed revisions are not closely tailored to advancing Penncrest’s interest in making age-appropriate content available for students, and instead exclude a large number of works that would undoubtedly have lasting educational value for many students.

Importantly, this policy governs library collections, not curriculum. School boards have wide latitude to establish curriculum to, in the Supreme Court’s words, transmit “community values” and “promot[e] respect for authority and traditional values be they social, moral, or political.”⁵ But in *Board of Education, Island Trees Union Free School District No. 26 v. Pico*, a plurality of Supreme Court Justices drew a sharp distinction between a school’s curriculum and library collection, concluding that a school board cannot “attempt to extend their claim of absolute discretion beyond the compulsory environment of the classroom, into the school library and the regime of voluntary inquiry that there holds sway.”⁶ Unlike textbooks and assigned readings in class, the “selection of books from these libraries is entirely a matter of free choice; the libraries afford [students] an opportunity at self-education and individual enrichment that is wholly optional.”⁷

That opportunity for self-education and individual enrichment will be considerably narrower if Penncrest approves the proposed policy revisions. Here are just some of the renowned books the policy would ban, even for high school students:

- *Anna Karenina*
- *Ulysses*
- *1984*
- *Siddhartha*
- *The Odyssey*
- *Candide*
- *Gone with the Wind*
- *Dracula*
- *The Great Gatsby*
- *Les Misérables*
- *Catch-22*
- *Brave New World*
- *Invisible Man*
- The Bible

Even the proposed policy itself, by using the word “generally,” acknowledges that material containing nudity or passages about sex is not necessarily inappropriate for all K-12 students in all circumstances. The policy also makes a distinction between “classical” and other works of visual art, without defining what “classical” means or what makes “non-classical” works per se inappropriate for all students in all circumstances. Are students allowed to look at a sculpture of Venus de Milo, but not the more abstract depiction of nudity in Picasso’s *Les Femmes d’Alger (O. J. R. M. and F.)*?

⁵ *Board of Education, Island Trees Union Free School District No. 26 v. Pico*, 457 U.S. 853, 864 (1982).

⁶ *Id.* at 869.

⁷ *Id.*

The policy, which bans even “implied” references to sex, makes no more sense—and is no more tailored to advancing students’ educational enrichment—than a policy banning all books containing a depiction of violence, or all books in which a single swear word appears. The mere fact that a book or artwork references sex, violence, illegal activity, or foul language is simply not enough information to make an informed and reliable judgment about its educational suitability for students of every grade level. Certainly, it’s something for librarians to consider when curating their collections.⁸ But these factors should be considered in the full context of the works in which they appear.

To the extent the proposed policy might be motivated by parents’ demands to keep certain content beyond their children’s reach, Penncrest may easily accommodate those parents’ reasonable concerns without denying *all* students access to the challenged material. The district may readily allow parents to request that a school restrict *their own* child’s access to certain library materials. That would be a preferable alternative to flatly denying *all* students access to material a few parents or community members might consider objectionable. Other parents may *want* their children to have access to the prohibited books or art. After all, different parents inevitably reach different judgments about what content their kids are mature enough to handle or understand.

FIRE strongly urges Penncrest to reject the proposed revisions to its Library Materials policy, and to preserve its school libraries as a space where students can freely explore a rich diversity of information and ideas beyond the classroom, preparing them for “active and effective participation in the pluralistic, often contentious society in which they will soon be adult members.”⁹

We respectfully request a substantive response to this letter no later than the close of business on January 16, 2023.

Sincerely,



Aaron Terr
Director of Public Advocacy

Cc: Tim Brown, Vice President
Jeff Brooks
Theresa Croll
Jennifer Davis
Robert Johnston
Brian Lynch

⁸ In fact, considerations of age-appropriateness are a standard part of librarians’ professional responsibility. For example, the American Library Association’s guidelines recommend that school library selection criteria include, among other factors, the “age, emotional development, ability level, learning styles, and social, emotional, and intellectual development of the students for whom the materials are selected.” *Selection Criteria*, AM. LIBRARY ASS’N, <https://www.ala.org/tools/challengesupport/selectionpolicytoolkit/criteria> [<https://perma.cc/22UD-QSQ9>].

⁹ *Pico*, 457 U.S. at 868.

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