

October 2, 2014

Patricia Lock-Dawson, President
Riverside Unified School District Board of Education
3380 14th Street
Riverside, CA 92501

Christine Allen, Chair
District Reconsideration Committee
Arlington High School
2951 Jackson St.
Riverside, CA 92503

Chuck Hiroto, Interim Principal
Frank Augustus Miller Middle School
17925 Krameria Ave.
Riverside, CA 92504

Dear Ms. Lock-Dawson, Ms. Allen, and Mr. Hiroto,

It has come to our attention that Riverside Unified School District recently ordered the removal of the best-selling youth fiction book *The Fault In Our Stars* from all of the district's middle school libraries. As you may know, *The Fault In Our Stars*, by John Green, is a critically acclaimed novel about two teenagers with cancer who fall in love. It was selected as one of the Best Children's Books of 2012 by *Kirkus Reviews*, was named the No. 1 Fiction Book of 2012 by *TIME Magazine*, received the 2013 Children's Choice Teen Book of the Year Award and was recently adapted into a major motion picture. We write to express our concerns about the legality of the District's actions, and to urge the District to reinstate the book in its libraries consistent with the First and Fourteenth Amendments of the United States Constitution.

The First Amendment protects against censorship by the State, including Boards of Education. *W. Va. State Bd. of Ed. v. Barnette*, 319 U.S. 624, 637 (1943). Thus, "the discretion of . . . local school boards in matters of education must be exercised in a manner that comports with the transcendent imperatives of the First Amendment." *Bd. of Ed., Island Trees Union Free Sch. Dist. No. 26 v. Pico*, 457 U.S. 853, 872 (1982). "[L]ocal school boards may not remove books from school library shelves simply because they dislike the ideas contained in those books." *Id.* Indeed, public schools have a special obligation to protect First Amendment

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*deceased

values: “That they are educating the young for citizenship is reason for scrupulous protection of Constitutional freedoms of the individual, if we are not to strangle the free mind at its source and teach youth to discount important principles of our government as mere platitudes.” *Barnette*, 319 U.S. at 637.

Here, we understand that the District removed the *The Fault In Our Stars* because certain individuals objected to its content – specifically, its theme of mortality and isolated portions of the book that reference sex. This is not permissible under the Constitution. In upholding the First Amendment, courts have widely condemned the removal of books from school libraries based on the subject nature, ideas, or viewpoints they contain – even when those books include challenging or controversial content. For instance, in *Pico*, the Supreme Court held that a local board of education could not remove certain books from high school and middle school libraries for the purpose of restricting access to the ideas and social perspectives contained in them, even though the board characterized the books as “anti-American, anti-Christian, anti-[Semitic], and just plain filthy.” *Id.* at 857. In *Case v. Unified School District No. 233*, 908 F.Supp. 864 (D. Kan. 1995), a federal court ordered a school district to return the book *Annie On My Mind* to school libraries after the district removed it due to the homosexual subject nature of the book. And in *Counts v. Cedarville Sch. Dist.*, 295 F. Supp. 2d 996 (W.D. Ark. 2003), a federal court held that it was unconstitutional for a school board to remove *Harry Potter* books from school libraries based on concerns that the books referenced the occult and included themes promoting disobedience and disrespect for authority. *See also Pratt v. Independent Sch. Dist. No. 831*, 670 F.2d 771 (8th Cir. 1982) (holding that it was a violation of the First Amendment to remove a film from a school curriculum based on parents’ concerns that the film’s content would have a negative impact on the “religious and family values of students”).¹

The District’s removal of the book from middle school libraries is also not legally justified by the complaint of a parent. It is fundamental that children’s education not be held hostage to the particular viewpoints of parents who are otherwise free to make educational decisions with respect to their own children. By removing *The Fault In Our Stars* from school libraries, the District has privileged the opinions of the parents and educators who object to the book over the opinions of others, who do not. As reported in news articles about the book’s removal from library shelves (and as evident in the online comments posted in response to those articles), some parents and educators in Riverside believe that *The Fault In Our Stars* can be appropriate reading for middle school students.² The District’s removal of the book does the community a disservice by failing to respect the diversity of opinions that exists within it, and by

¹*See also Sund v. City of Wichita Falls*, 121 F.Supp.2d 530 (N.D. Tex. 2000) (removal of children’s books regarding homosexual parents from public library was unconstitutional); *Bowman v. Bethel-Tate Bd. of Ed.*, 610 F. Supp. 577 (D. Oh. 1985) (school board violated First Amendment rights of students by halting production of a play because the board believed it “glorifie[d] cowardice, denigrate[d] patriotism, and disparage[d] the aged”).

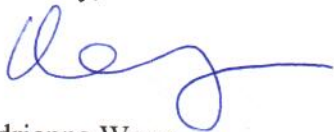
²Suzanne Hurt, *'Fault in Our Stars' banned from middle schools*, Press Enterprise (Sept. 22, 2014), available at <http://www.pe.com/articles/book-750585-school-committee.html> (“Parent and committee member Julie Boyes, who voted against banning the book, said she thought Green was trying to show what a dying 16-year-old girl might go through.”); Stephen Wall, *'Fault in Our Stars' Author Criticizes Book Ban*, Press Enterprise (Sept. 28, 2014), available at <http://www.pe.com/articles/book-750958-school-committee.html> (“School board member Kathy Allavie said Sunday she read the novel and thinks it’s ‘great.’ She said she favors reinstating the book at middle schools.”).

institutionalizing the viewpoints of a few.³

Such viewpoint discrimination is particularly troubling from a Constitutional perspective, because the book was not part of the assigned curriculum for middle school students; it was simply available in the school library. As courts have recognized, school libraries constitute a special space, where *voluntary* inquiry and learning takes place. *Pico*, 457 U.S. at 869; *Bowman*, 601 F. Supp. at 580-81. In other words, no student was required to read *The Fault In Our Stars*, and parents who might object to the book were free to supervise their own children and enforce their own standards with respect to reading that material. Removing the book, in contrast, necessarily interferes with the First Amendment freedoms of middle school students who wish to read the book, as well as parents who wish to read or discuss the book with their children. *Monteiro v. Tempe Union High Sch. Dist.*, 158 F.3d 1022 (9th Cir. 1998) (students have a First Amendment right to retain access to reading material at school, even when that material is offensive to some parents and students).

For these reasons, we strongly urge the District to reinstate *The Fault In Our Stars* to the shelves of Frank Augustus Miller Middle School's library and to all other middle school libraries in the district. It is our understanding that the District will discuss the removal of this book, as well as the reconsideration process, at the Board's upcoming October 6 meeting. The District should take immediate steps to resolve the issues discussed in this letter at that meeting, precluding the need for further action such as litigation. Thank you for your time and attention to this matter.

Sincerely,



Adrienna Wong
Staff Attorney, Inland Empire Office
ACLU of Southern California

³Additionally, it does not appear that the Reconsideration Committee conducted its proceedings with an appropriate level of transparency, public notice, or public participation. We did not see a notice of the Reconsideration Committee's meeting regarding *The Fault In Our Stars* on the District's website, and news reports suggest that interested individuals – including Board members – were unaware that the Committee was considering the book's removal. *Cf. Frazer v. Dixon Unified Sch. Dist.*, 18 Cal. App. 4th 781 (1993) (school district violated Ralph M. Brown Act, California's open meeting law, by failing to ensure that curriculum review committee's meetings were accessible to the public). The robust public debate that has surrounded the District's removal of *The Fault In Our Stars* demonstrates that there should have been an opportunity for members of the community interested in retaining the book to voice their views to the District.