

## INTELLECTUAL FREEDOM IN THE ELEMENTARY SCHOOL

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Intellectual freedom in elementary schools is a complex topic to address: two separate sets of principles, laws, and legal decisions are at play, and which set applies may be an area of contention. School and library laws each have their claims to aspects of school life and are interrelated. Add to this already complex area the broad range of chronological and developmental ages of the students that might be in a single elementary school, and intellectual freedom in the elementary school is as perplexing as any area of intellectual freedom study!

The differences between the laws that apply to school libraries and to school curricula are succinctly stated in the *Desktop Encyclopedia of American School Law*: "school administrators have broad discretion in curricular matters and courts are unwilling to closely scrutinize the reasonable exercise of their discretion. However, First Amendment prior restraint protections apply to decisions involving school library books..."<sup>11</sup> Intellectual freedom issues can be raised in schools regarding such varied questions as whether a board can adopt a reading series that contains some stories about witchcraft, whether a teacher can use a particular behavioral modification program in a special education classroom, whether students can be limited to grade level books for book report assignments, whether a board can remove a book from a required or recommended book list, whether a book removed from such a list can be removed from the school library or whether a principal can refuse to allow a student newspaper to print a student review of an R-rated movie. When dealing with these questions, a major consideration is whether the matter is curricular. The broad discretionary power of school administrators over curriculum has significant impact on the exercise of intellectual freedom by teachers and students. School administrators may select for and prohibit materials from use in the curriculum. School boards may set guidelines for the use of controversial materials within the curriculum and in some cases, may even determine whether particular teaching methods may be

used. In *Settle v. Dickson County School Bd.* (53 F.3d, 6<sup>th</sup> cir. 1995), "it was observed that the free speech rights of public school students must be subject to some limitations in order to maintain classroom control and to focus the class on assignments."<sup>12</sup> This statement reflects numerous court decisions that have placed limits of intellectual freedom in the area of curricular matters. In general, courts tend to allow school boards to control matters related to the curriculum without significant interference.

Limits also exist for intellectual freedom in student publications. Although controversies regarding student publications are much more common in middle and high schools, elementary schools may also find themselves needing to define the limits of student rights in this area. In *Muller by Muller v. Jefferson Lighthouse School* (98 F.3d 1560, 7<sup>th</sup> Cir. 1996) it was decided that "elementary schools are not open for unrestricted communication and school administrators may reasonably restrict student expression where it is required to preserve a proper educational environment and prevent younger students from exposure to obscenity, insults and other disruptive speech...schools are free to screen student handouts..."<sup>13</sup> However, as in all policy applications, control over student publications must follow clearly written policies that are consistently enforced.

School libraries have different roles and status in their institutions. This was recognized by the United States Supreme Court in *Board of Education v. Pico* (457 U.S. 853, 102 S. Ct. 2799, 73 L. Ed.2d 435, 1982). Justice Brennan announced the decision of the Court's plurality, stating that "Local school boards have broad discretion in the management of school affairs but this discretion must be exercised in a manner that comports with the transcendent imperatives of the First Amendment; the First Amendment rights of students may be directly and sharply implicated by the removal of books from the shelves of a school library; and local school boards may not remove books from school library shelves simply because they dislike the ideas contained

in those books."<sup>4</sup> William D. North has stated that, "the judicial recognition in *Pico* of a 'right to receive information' and of the special role played by the school library in implementing this right, however limited in its support among the justices, offers a significant line of legal defense against censorship."<sup>5</sup> Thus, a court may decide that a school board has the authority to remove books from required or recommended reading lists, but that it cannot remove the same books from the school library. In *Pico*, middle school and high school students challenged their school board's decision to remove books that the school board had described as "anti-American, anti-Christian, anti-Semitic, and just plain filthy." These separate legal views of the curriculum and library of a single school may cause confusion, even among librarians, teachers, and administrators, and is rarely understood by community members. Thus, school libraries often face demands for the removal of materials that are not required reading for any student; school librarians often find themselves defending the right of students to choose their library materials freely.

The challenge to intellectual freedom in school libraries may actually be significant from school personnel themselves. As Dianne McAfee Hopkins reported: school personnel were more likely to present oral challenges, and oral challenges are more likely than written challenges to result in materials being removed. Challenges brought by principals and teachers were more likely to result in materials being removed than challenges presented by parents.<sup>6</sup> Because children as young as five and as old as thirteen may be in the same elementary school building, the personnel in that building may have very different views of what constitutes appropriate material for their own students. It may be difficult to bring teachers, administrators and staff to understand that the best way to provide appropriate materials to all ages and grades is not to limit all materials in a school to those appropriate to the youngest students. An atmosphere of that kind would stifle the development and maturing of any students beyond the youngest.

How does one foster an attitude of respect for intellectual freedom principles in an elementary school? School librarians will be familiar with many means of safeguarding intellectual freedom in their own facilities, but may not know how to broaden sensitivity beyond the library doors. Some suggestions include:

1) Develop and regularly review collection development policies covering all types of materials collected within the school. School librarians are often involved, as advisors if not participants, in challenges involving curriculum as well as library materials, and having policies in place covering the selection of all types of materials is essential to answering challenges.

2) A reconsideration policy and procedures should be developed to cover curricular as well as library materials. McAfee's study of the effects of several factors on the success of challenges in school libraries found that, "the use of a school board reconsideration policy made a difference in overall retention of challenged [Library Media Center] material."<sup>7</sup>

3) Confidentiality of records should be maintained in the library and in school records. All school personnel should regard divulging student information as a breach of policy, even when the communication is private and informal.

4) Information on intellectual freedom should be presented to school personnel on a regular basis. Heightening the awareness of school personnel of intellectual freedom issues creates an atmosphere that is more likely to be supportive of retention of challenged material. Librarians need allies inside as well as outside of the school building itself, and the existence of that support should never be taken for granted.

5) Regular contact should be maintained with other concerned individuals and groups to help ensure broad-based support for intellectual freedom within the school system and in the community. There are groups of teachers in every school system who might be aware and supportive of intellectual freedom, such as high school English teachers, art teachers or social studies teachers. These groups deal with intellectual freedom issues in their fields and may be naturally sympathetic. There are members of any community that are similarly sympathetic with intellectual freedom concerns. Being active in your community will help you identify these individuals and your involvement will give you standing in the community when you speak on professional issues.

6) Professional organizations' statements on intellectual freedom should be collected and brought to the attention of the organizations' members. Many organizations, such as the National Council of Teachers of English, have statements on intellectual freedom of which their own members may not be aware. Gentle reminders of these statements *before* controversy looms may help in your attempts to create an atmosphere conducive to maintaining intellectual freedom principles.

7) Library instruction should be integrated into the curriculum at all grade levels to provide continuous instruction in the identification, retrieval and evaluation of information sources. In many cases, teaching students to evaluate their sources, online or in print, will help them choose age-appropriate, quality materials.

8) Support systems, such as those within the Indiana Library Federation and the American Library

Association Office for Intellectual Freedom, should be identified, and they should be called upon when you face a challenge. These organizations are familiar with challenges and the actions that might assist in retention of materials. They can advise you informally and privately, if you prefer, or put you in contact with other librarians who have faced the same situation. Having friends can be critical to getting you through difficult times. Being active in the Intellectual Freedom committees of these organizations will keep you informed of current issues and decisions.

9) Reading promotions should include celebrations of intellectual freedom. Reminding students of their intellectual freedom rights through the study of literature is an excellent way to prepare the next generation of decision-makers to be more aware and interested in the issues schools face.

10) One should be prepared to fight for intellectual freedom if challenges occur. We should all take the professional responsibilities outlined by the American Library Association in its Code of Ethics seriously and encourage others to do so as well: "We uphold the principles of intellectual freedom and resist all efforts to censor library resources."<sup>8</sup>

Challenges can occur in any school, but they are guaranteed to succeed only if no one will fight back. The more we understand the issues and circumstances faced by elementary schools and their libraries, the more prepared we are to face challenges, retain materials and preserve intellectual freedom for students and school personnel.

## REFERENCES

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