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June 22, 2023

Board of Education
Forest Hills Public Schools
6590 Cascade Rd. SE
Grand Rapids, MI 49546

Re: Book Removals at Forest Hills Public Schools

Dear Board of Education Members:

We write on behalf of the ACLU of Michigan to urge you to respect the constitutional free speech rights of students in Forest Hills Public Schools (FHPS). The following recent issues in FHPS have been brought to our attention: i) The removal of six books over the summer from FHPS school libraries; and ii) The removal of books from the FHPS First Grade curriculum.

i. The Removal Of Books From FHPS School Libraries

It is our understanding that during the summer prior to the 2022-2023 school year, books were removed from the shelves of FHPS school libraries. As you are well aware, on February 8, 2023 the National Coalition Against Censorship authored a letter to the Board of Education, indicating concern regarding a recording of an individual identified as Superintendent Daniel Behm, which appeared to be encouraging the removal of books in violation of Board policy 5407-AG. In the months that followed, it was revealed that six books were indeed pulled from the shelves of FHPS school libraries at the direction of the Superintendent. It is our understanding that these books have since been returned to the shelves at Forest Hills Northern High School, and that the District is now undergoing an effort to update its policies and procedures regarding acquisition and weeding of books available to its students.

The ACLU is troubled that these books were removed from the shelves of FHPS school libraries. It is undisputed that the “[l]oss of First Amendment freedoms, even for minimal periods of time, constitute[s] irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373, 96 S.Ct. 2673, 49 L.Ed.2d 547 (1976). As the ACLU cautioned in its November 1, 2022 letter to Superintendents and School Board Presidents across the State of Michigan: “In debating whether to allow students to check out a controversial book from the school library, it is easy to lose sight of the overarching function of our schools: to train young people to think for themselves.” Today, we again urge you to consider that the future of our country rests upon the ability of our students to thrive in a diverse society that is informed by a diverse array of literature. Numerous organizations, including the Michigan Library Association, have developed models that you should consider as you develop a policy that respects students’ First Amendment rights.

ii. **The Removal Of Books From FHPS First Grade Curriculum**

The ACLU has also learned that books that were designated for the First Grade curriculum for FHPS students, were similarly removed in an ad hoc fashion at the beginning of the 2022-2023 school year. We are deeply concerned that these books were removed based solely on the fact that they include LGBTQIA+ characters.

It is our understanding that the First Grade curriculum includes the Jump Rope Readers program, which consists of multiple series of books, all identified by particular colors such as red, green, blue, etc. There is a series of books that is identified in the Jump Rope Readers program as the “Tangerine Series” which includes a set of books by author Katie Wischow. These are the “Ida and Jake” books. The “Ida and Jake” books feature as a main character, a little girl named Ida, who has two moms.

The books in the “Tangerine Series” include the following titles:

- “Ida and Jake Hunt for Treasure!”
- “Ida and Jake’s Game Night”
- “Ida and Jake Save The Parade”
- “Ida and Jake Do Not Like Babies!”

It is readily apparent that there is no sexual content within these books for first graders. Yet, the ACLU has received documentary evidence demonstrating that the “Tangerine Series” of “Ida and Jake” books were deliberately pulled from the curriculum in September of 2022. We have enclosed with this letter the emails between district administrators and the sales representative for the books, which compel the conclusion that the “Ida and Jake” book set was removed from curriculum, and that the removal of the books was based on the fact that these books feature two moms.

One book in particular about Ida and her moms attending the Pride parade, was initially raised in an email on September 14, 2022, from Paul Baragar in the Instruction Office to Kim Van Antwerp, Director of Instructional Services. (See **Exhibit 1** to this letter). Then, below is the sequence of correspondences that followed:

- The next day, on September 15, 2022, Van Antwerp forwarded the email from Baragar to Assistant Superintendent Scott Haid, stating that the series or book could need additional discussion and asked for a “chat” the following day. (**Exhibit 2**).
- On September 21, 2022, Van Antwerp and at least one other person (the email says “we are on now if you are still available”), met virtually with a sales rep, Diane Tripl, regarding Jump Rope Readers. (**Exhibit 3**).
- On September 22, 2022, Tripl emailed Van Antwerp and told her she had a call with her manager about the “JRR issues” and her manager said, “you could return them.” Tripl requested that Van Antwerp text a picture of “the stickers” to send to her. Van Antwerp

then forwarded the email about the “return” and the request for “the stickers” to Assistant Superintendent Haid, who replied the next day, “They’re trying.” (**Exhibit 4**).

- On September 26, 2022, Tripl emailed both Van Antwerp and Assistant Superintendent Haid, thanking them both for “handling the Jump Rope Readers situation with grace like you have.” She also stated “I know it is extremely frustrating for you . . . Most teachers/admins are okay with **the content**, but are also very conscientious as to **how they will be accepted in your community**. The last thing I want is to sell you products that create additional headaches and emails for you.” (**Exhibit 5**) (Emphasis added).
- On March 22, 2023, Assistant Superintendent Haid forwarded at least some portion of the above-described emails to Superintendent Dan Behm. (**Exhibit 6**).

The removal of the “Ida and Jake” books from curriculum by these two individuals appears to be indicative of a “highly irregular and ad hoc” scenario, which may amount to the type of “improper interference” that raises the specter of official suppression of ideas, in violation of First Amendment rights of the students of FHPS. *Bd. of Educ., Island Trees Union Free Sch. Dist. No. 26 v. Pico*, 457 U.S. 853, 871-875 (1982). Moreover, such actions may violate the Elliott-Larsen Civil Rights Act. Indeed, on May 26, 2023, the Michigan Civil Rights Commission requested an opinion from the Michigan Attorney General on “whether banning and censorship of content and materials ... in educational institutions constitutes a violation of the Elliott-Larsen Civil Rights Act.”

Thus, we are bringing to your attention the above-described disturbing chronology of events, in order to remedy the harm that has occurred. The events documented by the emails included with this letter raise grave concerns regarding not only the potential suppression of ideas, but also, and importantly, the damaging messaging it sends to our LGBTQIA+ students and the community as a whole. To the extent that the administrators who removed the “Ida and Jake” books from curriculum, or other individuals, may have an objection to a curriculum that is “pro-LGBTQ” because it seeks to simply weave principles of inclusion of different kinds of families into the curriculum taught in FHPS, any such objection has no merit. There is “no free exercise right to be free from any reference in public elementary schools to the existence of families in which the parents are of different gender combinations.” *Parker v. Hurley*, 514 F.3d 87, 106 (1st Cir. 2008).

As such, we request that:

- i) the Ida and Jake books be restored to the First Grade curriculum immediately,
- ii) the Board conduct a full investigation of the events and the acts of the individuals described above, which demonstrate a concerning practice of suppressing unpopular ideas, and
- iii) the policies and procedures currently being crafted by FHPS regarding acquisition and weeding of books, be crafted to address and prevent the type of ad hoc scenario that occurred with the removal of the “Ida and Jake” books.

We believe that these measures are reasonable and necessary, in view of the events described above. Please respond as to the Board of Education's commitment to fulfilling the ACLU's requests with respect to these remedial measures.

Additionally, the ACLU of Michigan hereby requests under the Michigan Freedom of Information Act ("FOIA"), MCL 15.231 et seq., the following public records:

1. Any and all communications, including internal and external email communications and any other internal and external correspondence, made in connection with the Jump Rope Readers, and/or any and all "Ida and Jake" books.
2. Any and all communications, including internal and external email communications and any other internal and external correspondence, relating to the inclusion or removal of any or all of the following books from any FHPS school libraries: *Looking for Alaska*, *My Friend Dahmer*, *Me, Earl and the Dying Girl*, *The Handmaid's Tale (Graphic Novel)*, *19 Minutes*, and *Beyond Magenta*.
3. Any and all communications, or records of communications, including email communications, with Stephanie Boone and/or any other individual(s) related to the challenge, review, and/or removal of any book or resource from your school libraries and/or curriculum within the last two years.
4. Any and all current and former policies, guidelines, and instructions related to the challenge, review, and removal of books from school libraries and/or curriculum, including:
 - a. current policies, guidelines, and instructions,
 - b. former policies, guidelines, and instructions,
 - c. draft policies, guidelines and instructions under consideration, and
 - d. documentation regarding any changes to policies, guidelines, and instructions, and the dates when such changes were made or went into effect.
5. Any and all current or former training and/or orientation materials, criteria, or instructions provided to or used by media specialists, administrators, committees, boards, or other school personnel regarding the challenge, review, and removal of books from school libraries and/or curriculum.
6. Any and all notes, minutes, recordings, or other documentation regarding: (i) initial, internal and/or informal reviews or meetings, and (ii) formal and/or reconsideration review or meetings, undertaken by media specialists, administrators, committees, boards, or other school personnel relating to the challenge, review, and/or removal of any book or resource from your school libraries and/or curriculum within the last two years.

The ACLU requests that you waive or reduce any fee associated with this request as permitted by MCL 15.234(2). Waiving or reducing the fee is in the public interest because disclosure of the requested public records can be considered as primarily benefiting the general public in its

understanding of the operation of the FHPS and its school libraries. If this request for waiver of fees is denied and it will cost more than \$100 to process the request, please contact the undersigned before proceeding.

Please process and respond to this request pursuant to the requirements of FOIA, including by responding within five business days of receiving this request, by separating exempt from nonexempt material, explaining the basis for any determination that any requested material is exempt from disclosure, and describing any material that is deleted, redacted or withheld. Further, please provide the requested records in electronic form if it is feasible and economical to do so.

Thank you for your attention to this important matter. We look forward to your prompt response.

Sincerely,

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Encl.