

Ms. Claire Maxwell, Chair  
Board Members  
Rutherford County Schools Board of Education  
2240 Southpark Drive  
Murfreesboro, TN 37128

*Via Email*  
September 16, 2024

**Re: Rutherford County Schools Book Removals**

Dear Ms. Maxwell and RCS Board of Education Members:

I write to you on behalf of concerned students and parents of Rutherford County and the American Civil Liberties Union of Tennessee — an organization that is dedicated to protecting students’ First Amendment rights in schools.

On September 19, 2024, as members of the Rutherford County Schools Board of Education, you will gather to decide whether to retain or remove the following titles under the Age-Appropriate Materials Act (Tenn. Code Ann. §49-6-3803):

- *Beloved*, by Toni Morrison
- *Queen of Shadows*, by Sarah J. Maas
- *Tower of Dawn*, by Sarah J. Maas
- *Homegoing*, by Yaa Gyasi
- *Skin and Bones*, by Sherry Shahan
- *The Perks of Being a Wallflower*, by Stephen Chbosky
- *Wicked*, by Gregory Maquire

As Rutherford County School Board Policy 4.403 states: “The Rutherford County Board of Education supports principles of intellectual freedom inherent in the First Amendment of the United States.” I write to emphasize to you that the First Amendment does not permit school board members to remove books from school library shelves simply because they dislike the ideas contained within those books. *See Bd. of Educ., Island Trees Union Free Sch. Dist. No. 26 v. Pico*, 457 U.S. 853, 867 (1982)(plurality); *see also, Minarcini v. Strongsville City Sch. Dist.*, 541 F.2d 577 at 581–82 (6th Cir. 1976) (school board could not remove books from library because members found the content “objectionable,” because it “occasioned their displeasure or disapproval,” or “solely [due] to the[ir] social or political tastes”).

Under the First Amendment, books cannot be removed from school libraries simply because they are about same-sex relationships or contain characters with LGBTQ+ identities — as many of the titles you are considering removing do. *See, e.g., Case v. Unified Sch. Dist. No. 233*, 908 F. Supp. 864, 871 (D. Kan. 1995)(school officials could not remove a “novel depicting a fictional romantic relationship between two teenage girls” because they believed the book “promoted or glorified” a “lifestyle” they viewed as sinful and abnormal).



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Likewise, books cannot be removed from school libraries simply because they tell stories about race, racism and the history of racism in the United States — as *Beloved* and *Homegoing* do. See Settlement Agreement, *Parnell et al v. School Bd. of Nassau County, et al*, Case No. 3:24-cv-00492 (M.D. Fla. Sept. 12, 2024) (school board agreeing to return 36 banned books, including *Beloved*, to school library).

Finally, books cannot be removed from school libraries simply because they contain references to sex or the human body. Mere mention of sex or bodies does not make a material obscene. As the Supreme Court has instructed, a person deciding whether speech is obscene must consider: “(a) whether the average person, applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest, (b) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and (c) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.” *Miller v. California*, 413 U.S. 15, 24, 93 S. Ct. 2607, 2615 (1973)(internal citations and quotations omitted). To be obscene, a material, taken as a whole, must meet all three of these criteria.

It is extremely unlikely that any book, film, periodical or other material currently or recently available in any RCS library meets this exceedingly narrow definition. The label “obscenity” is typically reserved for pornographic, sadomasochistic, and purely, patently offensive, sexual material. Accordingly, any books already removed from RCS libraries for being “obscene” should be reconsidered and returned to the library.

Libraries are revered, protected places where students should be able to encounter a marketplace of ideas. *Minarcini*, 541 F.2d at 582. If you continue banning books at this pace, RCS students will be shopping in a marketplace with nothing but empty shelves.

Please engage thoughtfully in this process and do not remove these books from RCS libraries. Additionally, I strongly urge you to return any books that have been previously removed — especially those that were removed pursuant to the City of Murfreesboro’s “Decency Ordinance.” As you may be aware, Ordinance 23-O-22 was enjoined by court order pursuant to litigation brought by ACLU-TN, see *Tennessee Equality Project v. City of Murfreesboro, et al.*, Case No. 3:23-cv-01044 (M.D. Tenn. Oct. 23, 2023), and subsequently repealed by the City Council.

Regards,

Stella Yarbrough  
Legal Director

