Nerstrand Elementary School Policy 601
Independent Charter School District #4055
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606.5 LIBRARY MATERIALS

I. PURPOSE

The purpose of this policy is to provide direction and to delegate responsibility for selection and reconsideration of library materials.

The charter school board recognizes that library materials serve as a vital component of a student's education by enriching the breadth of the curriculum as a whole and meeting the needs and interests of individual students. The purpose of library materials is to meet the needs of all students. Therefore, questions regarding selection and reconsideration of library materials should be handled differently than those concerning textbooks and instructional materials.

To ensure that library materials fulfill this role, the charter school board delegates to the executive director or the executive director's designee responsibility for administering a process for selection of library materials. Responsibility for selection shall rest with professionally trained charter school staff, with recognition that the school board has the final authority on selection of library materials. Parents and guardians have the right and the responsibility to determine their children's access to library materials.

II. DEFINITIONS

A. "Library" means a charter school library or school library media center that contains library materials for students to access and use free of charge and on an equitable basis. A library must have the following characteristics:

1. ensures every student has equitable access to resources and is able to locate, access, and use resources that are organized and cataloged;

2. has a collection development plan that includes but is not limited to materials selection and deselection, a challenged materials procedure, and an intellectual and academic freedom statement;

3. is housed in a central location that provides an environment for expanded learning and supports a variety of student interests;

4. has technology and internet access; and

5. is served by a licensed school library media specialist or licensed school librarian.

A library may also provide access to electronic materials. This Policy does not govern access to electronic materials that are accessed through the internet.

B. "Library materials" are the books, periodicals, newspapers, manuscripts, films, prints, documents, videotapes, subscription content, electronic and digital materials (including e-books, audiobooks, and databases), and related items made available to students in a library or through access to electronic materials. "Library materials" do not include materials made available to students as part of the curriculum.

C. "Librarian" is the School staff responsible for the library and administration of this policy. They are also referred to as Library Media Specialists.

D. "Obscene" means a work that, taken as a whole, appeals to the prurient interest in sex and depicts or describes in a patently offensive manner sexual conduct and that, taken as a whole, does not have serious literary, artistic, political, or scientific value.

III. RESPONSIBILITY FOR LIBRARY MATERIALS

The Board recognizes the expertise of the School's professional staff and the vital need of such staff to be responsible for selection of library materials. While recommendations by administrators, staff members, students, parents, and other community members may be considered, the final responsibility for selection of library materials shall rest with the librarian/library media specialist, who will administer the procedures for selection and reconsideration of library materials set forth in this Policy.

IV. SELECTION OF LIBRARY MATERIALS

A. **Selection Criteria**. In selecting library materials, the librarian/library media specialist must apply the criteria articulated here. When considered as a whole, library materials should:

1. enrich, support, or supplement the curriculum;

2. promote reading for pleasure by responding to a broad array of personal needs and interests of a diverse student body;

3. reflect the ages and maturity levels of students in the building in which the library is located;

4. reflect artistic value, literary value, and educational significance;

5. promote critical thinking in in daily living or in areas of general importance to members of society, including, but not limited to, politics, science, history, religion, medicine, law, economics, or safety; or

6. promote equity or an understanding of the views, triumphs, or struggles of others.

B. **Prohibited Criteria.** Library materials must not be excluded from selection, banned, removed, or otherwise restricted because of the race, nationality, religion, sex, gender, gender identity, or political views of the author or based solely on the viewpoint or the messages, ideas, or opinions the materials convey.

C. **Donations**. The School may accept donated materials for inclusion in its library subject to confirmation by the librarian/library media specialist that such materials are consistent with the selection criteria and the school's library materials needs, and subject to acceptance by the Board.

V. INDIVIDUAL STUDENT ACCESS TO SPECIFIC LIBRARY MATERIAL

Parents and guardians are responsible for speaking with their children about the library materials they choose to access for independent reading. The School will not honor requests from parents to ban their children from accessing specific materials in the library.

VI. REQUESTS TO RECONSIDER OR REMOVE LIBRARY MATERIALS

The Board seeks to uphold students' access to library materials that meet the educational goals and selection criteria set forth in this Policy. At the same time, it is necessary to have an identified procedure in place for eligible individuals to challenge and seek reconsideration or removal of library materials. The School will consider requests to reconsider or remove library materials in accordance with the following provisions.

A. Eligible Individuals. The following individuals are eligible to initiate a review process to determine whether a specific library material will be reconsidered or removed:

1. student who is at least eighteen years old and attends the school in which the library material is located;

2. the parent or guardian of student who is less than eighteen years of age and attends the school in which the library material is located;

3. the School's Executive Director; or

4. a quorum of the School Board as evidenced by a vote of the Board at an open meeting.

B. Limited Number of Requests. Because of the time required to process a request for reconsideration or removal, the School will process no more than nine requests for reconsideration or removal per school year.

C. Meeting Required. Before requesting reconsideration or removal of a specific library material, an eligible student or eligible parent/guardian considering such request must meet (virtually or in person) with the librarian/library media specialist and building principal to state the objections to the specific library material and to give the librarian/library media specialist and the principal an opportunity to respond.

D. Request for Reconsideration or Removal. An eligible individual may request reconsideration or removal of a specific library material by submitting a written request to the Executive Director's office on a form developed by the librarian/library media specialist. The form must be completed in its entirety. The Executive Director shall notify the librarian/library media specialist of receipt of a written request. The School will not process the request if the specific library material has been the subject of a request for reconsideration or removal during the previous five years or if the form is not completed in its entirety.

E. Appointment of Review Committee. Within a reasonable period of time after receiving the request for reconsideration or removal, the Executive Director or designee, in consultation with the librarian/library media specialist, will appoint a Review Committee to consider the request. The Executive Director or designee and librarian/library media specialist are encouraged, but not required, to include the following individuals on the Review Committee:

1. a member of the school administration;

2. a principal or associate principal;

3. a teacher;

4. a librarian;

5. a community member with no direct connection to the request;

6. any other person(s) who, in the view of the librarian/library media specialist and/or Executive Director or designee, would be helpful in

considering the objection, applying the review criteria, and evaluating whether the specific library material should be reconsidered or removed.

F. Continued Access to Material. Absent extraordinary circumstances, the School will not deny students access to the library material until the review process is completed, unless the library material subject to a reconsideration request has not yet been procured by the School for inclusion in the library. Out of practical necessity, however, copies of the library material may be taken from the library so they can be reviewed by the Review Committee.

G. Legal Standard. A school must not ban, remove, or otherwise restrict access to a library material based solely on its viewpoint or the messages, ideas, or opinions it conveys. Minn. Stat. § 134.51, subd. 1. In *Board of Education v. Pico*, 457 U.S. 853 (1982), the U.S. Supreme court held that school boards generally have discretion to remove books from school libraries as long as the removal does not violate the First Amendment. Whether a removal violates the First Amendment depends on the motivation for removing the book. School boards "may not remove books from the school library shelves simply because they dislike the ideas contained in those books and seek by their removal to 'prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion.'" However, the First Amendment does not prohibit school boards from removing books for other legitimate reasons. For example, the Supreme Court noted that school boards may remove books on the ground that they are "vulgar" or lack "educational suitability." The U.S. Supreme Court has also held that the First Amendment does not prohibit school officials from regulating speech in the educational environment that is "obscene," "vulgar," "lewd," or "plainly offensive." *See Bethel School District No. 403 v. Fraser*, 478 U.S. 675 (1986); *Morse v. Frederick*, 551 U.S. 393 (2007) (interpreting *Fraser*).

H. Review Criteria. The Review Committee may decide to exclude or remove a specific library material if the material is:

1. obscene;

2. vulgar or lewd to a degree that it is educationally unsuitable for students in the school given their ages and levels of maturity;

3. educationally unsuitable because it does not meet the initial selection criteria; or

4. objectively inaccurate as a whole.

The Committee may not vote to exclude or remove specific library material because the Committee, the Board, school officials, or any other person dislikes the ideas contained in the library material or wants to remove the material in an effort to prescribe what is orthodox in the reporting of history or in religion, politics, nationalism, or other matters of opinion.

I. Review and Report. The Review Committee will review the challenged library material as a whole and will apply the review criteria outlined in this Policy. The Review Committee may consult with individuals who have relevant professional knowledge. After this process is complete, the Review Committee will vote, in a manner that records each member's vote, on whether to exclude or remove the material in question. A meeting is not required. After voting, the Review Committee will submit a brief written report to the Executive Director containing the Review Committee's decision to retain, exclude, or remove the specific library material and the basis for the decision.

J. Notice of Decision. The Executive Director or a designee will provide notice of the Review Committee's decision to the eligible individual who requested reconsideration or removal of the library material.

K. Appeal. The eligible individual who made the request may appeal the Review Committee's decision by submitting a written appeal to the Executive Director within fourteen calendar days after receiving notice of the decision. The written appeal must state all reasons the requester believes the Review Committee's decision is incorrect. The Executive Director or designee will review the challenged library material, apply the review criteria that are outlined in this Policy, and then affirm or reverse the Review Committee's decision. The decision of the Executive Director is final, unless a quorum of the Board votes at an open meeting to initiate the process to determine whether the library material should be reviewed. If a quorum of the Board initiates the review process, the Executive Director's decision may be appealed to the Board. On review, the Board is bound by the review criteria outlined in this Policy.

VII. CHALLENGE REPORT

Upon the completion of the review process described in Section VI, the Board must submit a report of the challenge to the Minnesota Department of Education that includes:

A. the title, author, and other relevant identifying information about the challenged library material;

B. the date, time, and location of any public hearing held on the challenge, including minutes or transcripts;

C. the result of the challenge following the review process; and

D. accurate and timely information on who from the school the Department of Education may contact with questions or follow-up.

VIII. EXEMPTIONS

A. This Policy does not prohibit a librarian/library media specialist or other administrator from excluding or removing specific library material because it is outdated, inaccurate, no longer useful for curricular support or reading enrichment, or damaged or in poor physical condition or because it has not been, or has rarely been, utilized by any student for an extended period of time. Library material may be removed for other similar reasons unrelated to content.

B. This Policy does not limit the Board's authority to decline to purchase, lend, or shelve or to remove or restrict access to library materials legitimately based on:

1. practical reasons, including but not limited to shelf space limitations, rare or antiquarian status, damage, or obsolescence;

2. legitimate pedagogical concerns, including but not limited to the appropriateness of potentially sensitive topics for the library's intended audience consistent with this Policy, the selection of books and other library materials for a curated collection, or the likelihood of causing a material and substantial disruption to the work and discipline of the school; or

3. compliance with state or federal law.

IX. RETALIATION PROHIBITED

The School may not discriminate against or discipline an employee for complying with Minnesota Statutes Section 134.51.

Legal References:
Minn. Stat. § 120A.22, subd. 9 (Compulsory Instruction)
Minn. Stat. § 123B.02 (General Powers of Independent School Districts)
Minn. Stat. § 124E.07, subd. 6 (Duties of Board of Directors)
Minn. Stat. § 124D.991(Public School Libraries and Media Centers)
Minn. Stat. § 134.51 (Access to Library Materials and Media Centers)
Minn. Rules Part 8710.4550 (Librarians)
Board of Education v. Pico, 457 U.S. 853 (1982)
Virginia State Bd. of Educ. v. Barnette, 319 U.S. 624 (1943)