



To: Maria Ramadane, SCPS Director of Teaching & Learning
Laurie Gallup, SCPS Assistant Director of Teaching & Learning

From: Mark B. Taylor, Esq., Superintendent

Date: March 28, 2023

Re: 14 Book Challenges

This memorandum addresses the disposition of the following 14 book challenges that have been presented to SCPS and during the 2022-2023 academic year with regard to the following titles:

1. All Boys Aren't Blue: A Memoir-Manifesto by George Johnson
2. Like a Love Story by Abdi Nazemian
3. Dime by E. R. Frank
4. Sold by Patricia McCormick
5. Out of Darkness by Ashley Hope Perez
6. Beloved by Toni Morrison
7. America by E. R. Frank
8. Looking for Alaska by John Green
9. The Perks of Being a Wallflower by Stephen Chbosky
10. Water for Elephants by Sarah Gruen
11. Neanderthal Opens the Door to the Universe by Preston Norton
12. More Happy Than Not by Adam Silvera
13. The Bluest Eye by Toni Morrison
14. Nineteen Minutes by Jodi Picoult

All of these challenged materials are books that have been found in SCPS school libraries.

Instructional materials include library resources. See, Policy & Regulation on Selection and Review of Instructional Materials. In general, any library materials may be used for completion of an assignment, or as part of an academic or extracurricular educational program. It is unknown whether or when any or all of the challenged books have been or may in the future be assigned in connection with the completion of an instructional assignment. There is some support for the view that library books are not technically instructional materials unless they are assigned. This distinction is not clear, however, in the above-mentioned division policy. In the broader sense of the policy library books including all of the listed books are instructional materials.

Each of these challenges has been processed by SCPS staff as a challenge of an instructional material in accordance with SCPS policy and regulation IIA *-R. The complainant indicated in our meeting that she was instructed by school administration to bring her book challenges under this policy. Having consistently treated library book challenges as challenges of instructional materials under



our own policy, the division cannot now reasonably treat these 14 library books as anything other than instructional materials. Following committee review, these 14 books were recommended to remain in our libraries. Notably, committee reviews have resulted in 18 other books being recommended for removal from our libraries.

As the new SCPS Superintendent (since November 1, 2022), I will take this opportunity to thank the SCPS staff and especially the review committee members who have given their time and care to the review of these books. I appreciate your efforts and your commitment to our division.

All of the books listed above have been challenged because they contain sexually explicit content and themes. Extractions of the specific content that was asserted to be objectionable was submitted for each of the challenges. A compilation of those extractions is provided as an attachment to this memorandum.

New law took effect in 2022 concerning sexually explicit content in instructional materials used in public schools in the Commonwealth of Virginia. It is important for SCPS to recognize that state law supersedes our division policies and regulations. Virginia Code § 22.1-16.8 required the Virginia Department of Education (VDOE) to develop model policies to:

1. Ensure parental notification of any instructional material that includes sexually explicit content;
2. Directly identify the specific instructional material and sexually explicit content; and
3. Permit the parent of any student to review instructional material that includes sexually explicit content and provide, as an alternative, nonexplicit instructional material and related academic activities to any student whose parent so requests.

As used in this new law, "sexually explicit content" means (i) any description of or (ii) any picture, photograph, drawing, motion picture film, digital image or similar visual representation depicting sexual bestiality, a lewd exhibition of nudity, as nudity is defined in § 18.2-390, sexual excitement, sexual conduct or sadomasochistic abuse, as also defined in § 18.2-390, coprophilia, urophilia, or fetishism.

The following definitions from Virginia Code § 18.2-390 apply:

(2) "Nudity" means a state of undress so as to expose the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered or uncovered male genitals in a discernibly turgid state.

(3) "Sexual conduct" means actual or explicitly simulated acts of masturbation, homosexuality, sexual intercourse, or physical contact in an act of apparent sexual stimulation or gratification with a person's clothed or unclothed genitals, pubic area, buttocks or, if such be female, breast.



(4) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(5) "Sodomasochistic abuse" means actual or explicitly simulated flagellation or torture by or upon a person who is nude or clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

In December of 2022, our school board adopted revisions to Policy IIA Instructional Materials to comply with the foregoing requirements and parameters.

Library books and materials pose several practical problems in relation to the legal requirements mentioned above:

1. The requirement of parental notification places the onus on the school division to be aware of all sexually explicit content, make parents aware of such content, and offer them an opportunity to request non-explicit alternative material before the sexually explicit content is assigned or made available to the student.
2. Our school division lacks the resources that would be needed to review all of the volumes in all of our school libraries in search of sexually explicit content. Reportedly, there are all together about 390,000 books in our libraries. Books have typically been evaluated for inclusion in our libraries on the basis of short summary reviews only.
3. While individual materials can be flagged in the library systems to restrict check-out to students based on student and/or parent choice, there is no reliable means of restricting student reading of books that include sexually explicit content while they are in the library. There is no practical means of tracking or reporting such in-library access to materials.

Our division is poised to reconsider our approach to evaluating instructional materials, including library books. Under the new Virginia law, any literary merit, socially relevant theme, or redeeming literary quality are not relevant. Any subjective sense that materials that include sexually explicit content may be appropriate for students of a certain age or grade level is inapplicable. The law's only concern is whether the material includes sexually explicit content. Sexually explicit content is the only issue. Under the law, inclusion of a single element of sexually explicit content is the legal basis upon which the requirements of the statute are activated.

Each of the 14 books listed above includes sexually explicit content as it is defined in the law. In order to keep such books in our libraries and comply with the law, the division would have to devise and implement a system to notify all parents of the sexually explicit content of these books, offer parents a reliable means of choosing that their child shall have no opportunity to read these books, and offer alternative resources without sexually explicit content.

I am aware that through the computerized library circulation systems, parental choice could be implemented to prevent individual students from checking out selected books. But that alone would not fully comply with the law. Under the new statute, parents are to be notified of sexually explicit content before it is made available to their children. So long as sexually explicit books remain on the open shelves in our libraries, they remain available for any student to read while in the library.



The full control over sexually explicit books that is required to comply with the law would necessitate setting aside secure, controlled space in each library to store the sexually explicit books and a system to make them available to students only upon request and after checking for any parental prohibition. This would be a cumbersome and burdensome process at best. Meanwhile, no law requires SCPS to keep books that include sexually explicit content in our school libraries.

I find that none of the 14 books listed above truly needs to be included in any SCPS school library. So, having met with the complainant, it is my decision and direction on our further course of action as a division (pursuant to Procedure G.9. in Regulation IIA *- R) that all 14 of the books listed above are to be excluded from our SCPS school libraries. All copies of these books are to be removed from our libraries and delivered to the School Board Office, and I will recommend that they be declared surplus property and donated to a public library.

I will also directly address those who might be tempted to misinterpret or falsely characterize this decision as a "ban" on certain books. This decision is driven by our school division Policy IIA and the Virginia law. Note that this decision does not prohibit teachers from including any of the books listed above in classroom assignments with parental notification, etc., in accordance with the applicable law and policy.

Our mission is great, our challenges are many, and our resources are limited. As school board member Nicole Cole astutely observed at the board meeting this past January, our division has much bigger issues to deal with. As she put it: "We need to handle the big rocks."

This decision is crafted to achieve the least disruptive, most efficient, and most cost-effective means of ensuring our division's compliance with division policy and state law. While other solutions may be available, the decision announced herein is most clearly within our limited means.

Upon all of the foregoing and having met with the complainant in each of these cases, I direct the following course of further action:

1. All copies of the 14 books listed above shall be removed from SCPS school libraries, with all copies of these books to be delivered the Superintendent's Office before 4:00 p.m. on Friday, March 31, 2023.
2. Director of Operations Kenneth Forrest is directed to determine whether the removed books may be deemed "excess" materials. In such event, I would recommend that they be donated to the Central Rappahannock Regional Library or another public library system.
3. SCPS Chief of Staff Jon Russell is directed to prepare a draft, with input from Teaching & Learning Director Marie Ramadane and Teaching & Learning Assistant Director Laurie Gallup, of an amendment to IIA *-R, Selection and Review of Instructional Materials, in accordance with this memorandum.

CC: School Board
Deputy Superintendent
Chief of Staff
Director of Communications
Complainant