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Blackhawk School Board
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Via Email

To the Blackhawk School Board:

The Education Law Center was contacted by several members of the Blackhawk school community following the unilateral removal of nine books from school library shelves, in circumvention of the district's existing board policy. ELC was also asked to review and comment on newly proposed Policy 109 - Resources Materials and proposed Policy 109.1 - Request for Reconsideration of Resources Materials. For the reasons set forth in the accompanying Policy Statement, ELC urges members of the Blackhawk School Board to vote against the proposed policies because they violate the First Amendment rights of students and contravene state and federal requirements.

As reflected in the attached Statement, the U.S. Supreme Court in *Board of Education, Island Trees Union Free School District No. 26 et al. v. Pico*, 457 U.S. 853, 866 (1982) held that school boards may not remove books from a school library "simply because they dislike the ideas contained in those books" or in an effort "to prescribe what must be orthodox in politics, nationalism, religion, or other matters of opinion." The Supreme Court also held that a school board "may not, consistently with the spirit of the First Amendment, contract the spectrum of available knowledge" by prescribing a narrow view of "community values" that limits the books available in a school library." It is therefore disconcerting that proposed Policy 109 would eliminate language that prohibits the removal or ban of resource materials from the library resource center "due to partisan or doctrinal disapproval." Moreover, Blackhawk School District already has existing policies that give parents the opportunity to "opt out" their children from reading library books that their parents identify. This allows each parent to determine what books they want their child to read without one parent's "matters of opinion" limiting the "spectrum of available knowledge" for all students.

We urge the Board and Superintendent to ensure that policies and practices regarding library books consider books in their entirety and reject attempts to evaluate books based only on limited passages. Focusing on isolated or specific lines of text as opposed to considering the literary value possessed by an entire book may be evidence that the policy is not tailored to be objective and to identify educational suitability but instead serves to impermissibly enforce a particular viewpoint.

Finally, the proposed policy also strikes existing language in the Policy 109 that states "resource materials shall not be discriminatory in nature (i.e., race, nationality, religion, sexual orientation, or political views of the author)." Such actions are squarely misaligned with longstanding

Supreme Court precedent. Allowing discriminatory resource materials to be used and partisan decisions regarding reading material to be implemented is likely to foster an unlawful, hostile environment that harms students who are most marginalized by our education system, including students of color and students who identify as LGBTQ+.

For these reasons and those more fully delineated in the attached ELC Policy Statement, ELC urges the Board to vote “nay” on the proposed policies. ELC further urges the Blackhawk School Board to ensure that any previously censored books are returned to the shelves, and that constitutional policies are followed when library materials are challenged.

Sincerely:

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Enc.