

Reconsideration of Library Materials

An ongoing obligation of a public library is to reflect within its collection differing points of view on controversial or debatable subjects. The Pamunkey Regional Library (PRL) does not promote particular beliefs or views, nor does the selection of an item express or imply an endorsement of the author's viewpoint.

Further, PRL takes seriously its obligation to “pursue the worthy missions of facilitating learning and cultural enrichment.”¹ PRL does this by “aid[ing] in the acquisition of knowledge through reading, writing, and quiet contemplation.”² Thus, the communities served by PRL have a rightful expectation that their library be “a place dedicated to quiet, to knowledge, and to beauty.”³ Indeed, “a library is a mighty resource in the free marketplace of ideas.”⁴ Never should materials be removed from a branch or from PRL simply because the Library Board or PRL staff “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.’”⁵

Given the importance and role of the public library in American culture, libraries have historically held wide discretion to only include materials in their collection which are of “requisite and appropriate quality” that “would be of the greatest direct benefit or interest to the community.”⁶

Further, libraries have also had wide discretion to exclude pornography and other sexually explicit material of prurient value from its collections.⁷ These exclusions are particularly important given the number of minor patrons PRL serves as a place of learning, wonder, and imagination. A library’s interest in protecting its minor patrons from harmful sexual materials is not only legitimate, but compelling.⁸

Library materials will not be marked or identified to show approval or disapproval of the contents, nor will items be sequestered, except for the purpose of protecting them from damage or theft or to ensure compliance with the collection development policy on Protecting Children from Harmful, Sexually Explicit Material.

¹ United States v. Am. Libr. Ass'n, Inc., 539 U.S. 204 (2003).

² Doe v. City of Albuquerque, 667 F.3d 1111, 1130 (10th Cir. 2012) (external citations omitted).

³ Brown v. State of La., 383 U.S. 131, 142 (1966).

⁴ Minarcini v. Strongsville City Sch. Dist., 541 F.2d 577, 582 (6th Cir. 1976).

⁵ West Virginia Board of Education v. Barnette, 319 U.S., at 642, 63 S.Ct., at 1187) Bd. of Educ., Island Trees Union Free Sch. Dist. No. 26 v. Pico, 457 U.S. 853, 872 (1982).

⁶ ALA, 539 U.S. at 204 (internal citations omitted).

⁷ ALA, 539, U.S. at 208 (“We do not subject these decisions to heightened scrutiny”).

⁸ United States v. Am. Libr. Ass'n, Inc., 539 U.S. 194, 218-19 (2003) (J. Breyer Concurring); Reno v. Am. C.L. Union, 521 U.S. 844, 869-70 (1997); New York v. Ferber, 458 U.S. 747, 756-57 (1982).

Library Materials Reconsideration Policy

Comments from members of the community about the collection or individual items in the collection frequently provide useful information about interests or needs that may not be adequately met by the collection. PRL welcomes expression of opinion by patrons but will be governed by this Collection Development Policy in making additions to or removing items from the collection.

Individuals who live within the jurisdictions served by PRL and qualify for a PRL library card, or the parent or legal guardian of a minor who qualifies for a PRL library card (together, these individuals will be referred to in the remainder of this policy as “patrons”), have the right to request reconsideration of specific materials in any of PRL’s collections. A patron may bring concerns about the inclusion of library material to a library branch manager. A manager’s first course of action is to try to resolve the patron’s concerns verbally. If the patron is not satisfied, the patron who requests the reconsideration of library materials has the right to put his/her request in writing by completing and signing the "Request for Reconsideration of Library Materials" form (see Appendix A Form #1). If the patron is challenging more than one title, a separate form shall be submitted for each title.

Each PRL branch will prominently display instructions for how a patron may obtain a Request for Reconsideration Form. The instructions will have a brief explanation of the forms, how they can be submitted, and a copy of the PRL Collection Development Policy. Hard copies of the Reconsideration form should be located on or near the main library desk and near the Juvenile and Young Adult sections. The Reconsideration form will also be easily accessible on the PRL website in a fillable format.

Once a patron has submitted a completed form, copies of the submission will be provided to the branch manager and the Library Director. If the person submitting the form has not made a copy for themselves, PRL staff shall provide a copy of the form to them. The Library Director will notify the Library Board within three working days of the submission and will forward a copy of the form to all Library Board members. A copy of the submitted form shall also be available to the public, in unredacted form, in accordance with the provisions of the Virginia Freedom of Information Act. It is the branch manager’s responsibility to communicate with PRL staff at the branch as to which material(s) have been challenged.

The following shall govern requests for reconsideration:

1. When the completed form is returned, the Library Director will work with his administrative staff to retrieve reviews of the material(s) in question. The Library Director will determine whether the material(s) should be withdrawn or retained in the collection, paying particular attention to whether the material violates PRL’s

Collection Development Policy on Protecting Children from Harmful, Sexually Explicit Material for materials in the juvenile or young adult collections; as part of this review, if the Library Director determines that the materials are not located in the appropriate section of a PRL branch, PRL staff shall relocate the materials to the appropriate section. Within twenty (20) working days of receiving the request, the Library Director shall provide a written determination to the patron and the Library Board.

2. If the patron is dissatisfied with the Library Director's determination, the patron may appeal the Request for Reconsideration decision to the Library Board. In order to submit an appeal, the patron must submit a request, in writing, to the Library Director within twenty (20) working days of the date of the Library Director's decision letter.
3. After receiving a request for an appeal, the Library Director shall, within three (3) working days, forward the written appeal to the Library Board. The materials provided to the Library Board shall include the Request for Reconsideration form submitted by the patron, the Library Director's determination, and all documents provided by the patron as part of the appeal.

Materials subject to reconsideration shall not be removed from use or relocated during the reconsideration process until a final decision on the request has been made, either by the Library Director, or the Library Board (after the procedure described below).

The Library Board will consider the appeal of the patron's Request for Reconsideration at its next regular meeting. If the appeal is received less than fourteen (14) days prior to a regular board meeting, the appeal may be scheduled for the next regular board meeting scheduled thereafter. Appeals are scheduled on a first come first served basis and may be rescheduled to a later meeting based on time constraints. No more than two appeals may be considered at any regular meeting of the Library Board. The following shall govern the order of proceedings before the Library Board:

- Patrons shall have the right to address the Library Board in support of their appeal, including the ability to state their concerns with the material and why the patron believes the material does not conform to PRL's Collection Development Policy. The patron will present the appeal, beginning with a brief introductory statement outlining their appeal argument. The patron's appeal presentation will be limited to no more than ten (10) minutes, and Library Board members may ask questions once the appeal presentation is complete.

- The Library Director shall then have an opportunity to present the basis for the original determination and to respond to additional information provided by the patron, whether before the meeting or during the statements made by the patron.
- The patron shall then have the opportunity to respond to new issues raised by the Library Director. When the appeal is presented by the patron at the meeting, no public comment will be allowed.

Challenges to the inclusion of materials, or to the location of materials within a PRL branch, must indicate which library policy has been violated. Disagreements with the decisions of the Library Director, do not, in and of itself, constitute a valid challenge. When appealing a determination by the Library Director, the patron must reference the specific library policy which has been violated. Failure to do so shall result in the appeal not being heard by the Library Board until the patron provides such information. Presentations made to the Library Board should address why the prior decisions are a violation of library policy and shall not be focused on arguing the original challenge of the collection item. Presentations shall also not question the motives of the Library Director or PRL staff.

The Library Board will then deliberate on the appeal. If the Library Board determines that additional discussion is necessary, the matter may be continued until the next meeting for further discussion, following which a vote will be taken. After considering the appeal and the information provided, the Library Board will determine whether the Library Director's determination conforms with PRL's Collection Development Policy. If the Library Board determines that the Library Director's determination is inconsistent with the PRL Collection Development Policy, the Board grants the appeal. If the Library Board grants the appeal, either the material shall be removed from all PRL branches or the Library Board has determined that the material violates PRL's Collection Development Policy for materials in the juvenile or young adult collections and may direct PRL Staff to relocate the material in all PRL branches to an appropriate section in order to comply with the Policy for Protecting Children from Harmful, Sexually Explicit Material in Areas Designated for Minors. If the Library Board denies the appeal, the material shall be retained in its original location as it is determined to be in line with PRL's Collection Development Policy. If the Library Board's decision results in the material remaining in the collection, either in its original location or relocated to an appropriate section, the title may not be rechallenged again for three years from the date of the Library Board's decision.

The Library Director will communicate the Library Board's decision, and the reason(s) for it, in writing, to the patron who initiated the Request for Reconsideration at the earliest possible date, but in no instance later than fourteen (14) working days after the Library Board's decision.

Request for Reconsideration of Library Materials

Name _____

Pamunkey Regional Library Card Number: _____

Email Address _____

Title of Material: _____

Author: _____

Have you read, listened to, or viewed the material? _____

What is your specific concern about this material? (Attach additional pages if necessary.)

Signed: _____ Date: _____

You will receive a written response regarding this request within 20 working days.

For Staff Use Only

Received by: _____ Date: _____

Original given to Library Director . Copy to Branch Manager and Patron .