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**KENT MEMORIAL LIBRARY COMMISSION**

REC'D BY: 

Policy Subcommittee Special Meeting -- Agenda

March 20, 7:00 PM

Suffield Police Station Conference Room

Zoom Option

Meeting ID: 882 0981 6807

Passcode: 480131

Phone: 1-646-876-9923

<https://us02web.zoom.us/j/88209816807?pwd=p31Yhw7mrkY9jUjJEO990YN3zKShrY.1>

**I. ROLL CALL**

Christine Sinopoli (Chair)

Joe Craven

Despina Tartsinis

Corbin Adzigirey

Jim Irwin

Julie Bodnar

Nina Kendrick

**II. PRIORITY OF POLICIES FOR CREATION/REVISION DISCUSSION**

**III. FUNDING AND CONTENT INDEPENDENCE POLICY PRESENTATION & DISCUSSION**

**IV. YOUTH COLLECTION ACQUISITION AND RETENTION POLICY PRESENTATION & DISCUSSION**

**V. NEXT COURSE OF ACTION AND TIMELINE**

**VI. ADJOURNMENT**

# Funding and Content Independence Policy

## **Purpose:**

This policy establishes criteria to ensure the independence of our programming and collection development from external funding influences.

## **Policy Statement:**

Kent Memorial Library gratefully accepts gifts or donations of funding or resources in accordance with the criteria and policies in the collection policies adopted by the Kent Memorial Library Commission. Donors may suggest the general nature, subject, or user age for consideration by the Library Commission, but the donations cannot be accepted unless any and all conditions are accepted by the Library Commission, and, where appropriate, the Board of Selectmen.

## **Scope:**

To the extent this policy conflicts with any policy previously adopted by the Commission, this policy controls.

This policy applies to all library programs, events, and collection development activities, including but not limited to:

- Adult and children's programs
- Workshops and classes
- Book selection for all age groups
- Digital and physical collections

## **Guidelines:**

### **1. Funding Sources:**

- The library will accept funding from external sources only if such funding does not impose conditions that affect the content, format, or delivery of library programs or materials.
- Funding agreements and donations must be reviewed by the Library Director to ensure compliance with this policy, and recorded in a ledger, and included in the monthly Director's Report.

### **2. Transparency:**

- The library shall maintain transparency regarding funding sources for its programs and collections. All funding sources will be disclosed in library

communications, the Director's Report, annual reports, and relevant public documents.

**3. Compliance:**

- Library staff is trained to adhere to this policy and are responsible for reporting any attempts by outside groups to influence content or programming in violation of this policy.

**4. Policy Review:**

- This policy will be reviewed biennially to ensure its effectiveness and relevance.

**Conclusion:**

The Kent Memorial Library Commission is committed to providing an open and accessible environment for learning and engagement. By adhering to this policy, we ensure that our library remains a space where all community members can explore a wide range of ideas without the influence of external funding sources.

**Approved by:**

Kent Memorial Library Commission

[Date]

## Youth Collection Acquisition and Retention Policy

### Purpose:

This policy establishes clear and consistent criteria for acquiring and maintaining library materials and programs for the children's department at the Kent Memorial Library. It also ensures transparency throughout the acquisition process.

### Policy Statement:

Kent Memorial Library's mission is to serve "the community by providing learning resources and information services that support and improve individual, family, and community life." (KML Mission Statement). To fulfill this mission, the library aims to offer an intellectually engaging, age-appropriate collection for its youth patrons while maintaining a welcoming environment.

This policy guides the development and management of a well-balanced youth collection, ensuring access to high-quality materials and programs.

### Scope:

This policy applies to the acquisition, retention, and removal of all youth materials and programs. It covers materials for the following age groups:

- Pre-Kindergarten (generally ages 0-4)
- Elementary (grades K-4, generally ages 4-10)
- Intermediate (grades 5-6, generally ages 10-12)
- Middle School (grades 7-8, generally ages 12-13)
- Teen/Young Adult (grades 9-12, generally ages 13-17)

The terms "juvenile," "children," and "youth" are used interchangeably in this policy to refer to any patrons in these age groups. This policy also applies to materials donated or gifted.

To the extent this policy conflicts with any policy previously adopted by the Commission, this policy controls.

1. **Authority: The Kent Memorial Library Commission Has Broad Discretion To Decide Which Materials Would Be Of The Greatest Benefit For The Library Collection. In The Exercise of Its Discretion, The Commission Has A Compelling Interest In Protecting Youth Patrons From Content Which May Be Harmful To Them.**

Public library decisionmakers "necessarily consider content in making collection decisions and enjoy broad discretion in making" those decisions. United States v. American Library Ass'n., Inc., 539 U.S. 194, 205 (2003).

[P]ublic libraries must have broad discretion to decide what material to provide their patrons. Although they seek to provide a wide array of information, their goal has never been to provide universal coverage.



Instead, public libraries seek to provide materials that would be of the greatest direct benefit or interest to the community. To this end, libraries collect only those materials deemed to have requisite and appropriate quality. The librarian's responsibility . . . is to separate out the gold from the garbage, not to preserve everything.

United States v. American Library Ass'n., Inc., 539 U.S. 194, 204 (2003).

"The interest in protecting young library users from material inappropriate for minors is legitimate, and even compelling, as all Members of the Court appear to agree."<sup>1</sup>

With respect to Kent Memorial Library, "The Kent Memorial Library Commission has the power and duty 'to establish policies for the operation and use of the library,' and it charges the Library Director with the administration of those policies."<sup>2</sup>

Accordingly, the Commission has a compelling interest in protecting children from potentially harmful content, particularly sexually explicit content, and has the broad legal discretion in making collection decisions to do so.<sup>3</sup>

**2. Policy: Materials In The Youth Sections Of The Library Must Be Age And Developmentally Appropriate. Materials Must Be Organized By Reading Level In A Clear And Structured Way To Allow Young Readers And Their Parent Or Guardian To Easily Identify Appropriate Materials, Make Informed Reading Choices, And Avoid Unwanted Content.**

The Kent Memorial Library Commission is committed to protecting minors. This requires careful consideration of age and developmental appropriateness when organizing and developing the Youth Collection. The concerns of parents regarding the appropriateness of youth materials must be taken seriously. Materials selected for children and teenagers must align with their developmental stages and educational needs. Content must be evaluated for age appropriateness based on community standards for minors as

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<sup>1</sup> Id., at 15, (Kennedy, J., concurring in the judgment). The government interest in protecting minors from potentially harmful material is "legitimate and indeed often compelling." Id., at 218, (Breyer, J., concurring in the judgment); "I agree with the plurality that it is neither in appropriate nor unconstitutional for a local library to . . . curtail[ ] children's access to Internet . . . sites displaying sexually explicit images." Id., at 220, (Stevens, J., dissenting); "Like other Members of the Court, I have no doubt about the legitimacy of governmental efforts to put a barrier between child patrons of public libraries and the raw offerings of the internet . . ." Id. at 231-232, (Souter, J., dissenting).

<sup>2</sup> Town Attorney's Opinion of Counsel, October 19, 2021, p. 8, quoting Town Ordinance Section 71-4.

<sup>3</sup> Courts have frequently found that public library activities may create a public forum and therefore must be done in a viewpoint neutral manner. See, e.g., Kreimer v. Bureau of Police, 958 F.2d 1242 (1992). The Supreme Court, however, has determined that viewpoint neutrality is not compatible with the discretion that public library decisionmakers must have when deciding which materials should be in the library's collection. United States v. Am. Library Ass'n, 539 U.S. 194, 206 (2003). Public library decisionmakers "necessarily consider content in making collection decisions and enjoy broad discretion in making" those decisions. Id., at 205.

determined by the Library Commission. An author's suggestion that a book is appropriate for readers of a certain age is not the final word on the subject.

Young readers often seek to challenge themselves with increasingly complex and mature materials as they grow, gradually transitioning from parental guidance to independent reading as they become adults. The library has an obligation to facilitate this developmental process by organizing materials by broadly defined reading levels to allow children and their parents or guardians to confidently identify appropriate content and avoid content they may find potentially harmful. The Library Director has an obligation to exercise reasonable discretion in selecting materials that are developmentally appropriate for each reading level. Library patrons come from diverse cultural and faith traditions. Parents and residents have a right to express their objections to items in children's collections. Librarians must address these objections in good faith on the presumption that objections stem from sincerely held beliefs about child-rearing, not hatred or bigotry.<sup>4</sup>

**3. Policy: Materials and Services Presenting Gender Identity Ideology Are Only Permitted In the Young Adult Section Of The Youth Collection And Only If Balanced By Other Viewpoints Regarding Gender Identity Ideology Directed To The Same Age Group.**

Many books aimed at very young, even preschool aged children, present the principles of gender identity ideology – which have been described as “the supposed social construction of biological sex and the ability to change gender at will”<sup>5</sup> - as undisputed fact. By way of example, *It Feels Good To Be Yourself: A Book About Gender Identity* is aimed at children aged 4-8. It reads as follows:

This is Ruthie. She's a transgender girl. That means when she was born, everyone thought she was a boy. Until she grew a little older – old enough to tell everyone that she's actually a girl. GIRL is Ruthie's gender identity. This is Ruthie's brother Xavier. Xavier is a cisgender boy. That means when Xavier was born, everyone thought he was a boy, and as he grew older, it turned out everyone was right – he is a boy. BOY is Xavier's gender identity . . . This is Ruthie's friend Alex. Alex is BOTH A BOY AND A GIRL. When Alex was born, everyone thought Alex was a girl, but Alex is both boy and girl. This is Alex's gender identity. This is Alex's friend JJ. JJ is NEITHER A BOY NOR A GIRL. Ever since JJ was very little, they never felt exactly like a boy or a girl – they just felt like themselves. This is JJ's gender identity. Alex and JJ are both NON-BINARY . . . See, when you were born, you couldn't tell people who you were or how you felt. They looked at you and made a guess. Maybe they got it right, maybe they got

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<sup>4</sup> This section is adapted from “The Culture War, the Library Bill of Rights and the Protection of Minors: Why the ALA's Library Bill of Rights – as it concerns children – may no longer be fit for purpose,” by Michael Dudley, *Heterodoxy in the Stacks*, April 29, 2024. Available at: [HXLibraries](https://www.hxl.org/libraries/), last accessed March 6, 2025.

<sup>5</sup> See footnote 4.

it wrong . . . When people guess wrong, it's okay to let them know. Ruthie was five when she told her parents. "I know you think I'm a boy, but really I feel like a girl." Oops! Ruthie was a girl all along – they just didn't know it at first."<sup>6</sup>

This book has many messages for a four-year-old child:

- When your parents tell you that you are a boy or a girl, they are just guessing;
- Your parents might be wrong about whether you are a boy or a girl;
- Whatever your parents tell you, you might be a boy, or you might be a girl;
- You can be a boy *and also* be a girl;
- Or maybe you're not boy *or* a girl. You might be something else!
- If you are 5 years old, then you know more than your parents. You decide if you're a boy or a girl, not your parents.
- If your parents can be wrong about something as fundamental as whether you are a boy or a girl, what *can't* they be wrong about?

Another book of this genre aimed at readers aged 11-15 is *The Gender Binary Is A Big Lie: Infinite Identities Around The World* by Lee Wind.

Gender identity ideology is a disputed and controversial set of claims and ideas. The benefit of introducing these concepts to 4-year-olds or even teenagers is unclear.

a. Studies Strongly Indicate Gender Dysphoria Is Temporary For Most Children And Teenagers.

In 2020, the National Health Service (NHS) in England commissioned Dr. Hilary Cass to chair an Independent Review of Gender Identity Services for children and young people. Dr. Cass is a past President of the Royal College of Pediatrics and Child Health, past Chair of the British Academy of Childhood Disability, and has been awarded an Order of the British Empire (OBE) for her services and accomplishments. She published her report in April of 2024.

Dr. Cass found the medical literature indicates that children with gender dysphoria do not remain gender dysphoric after puberty and do not live as transgender adults. Several early studies suggested that only about 15% of children presenting with gender incongruence before puberty continue to experience gender incongruence as adults. More recent studies have found that only 10% - 33% of children who have been diagnosed with gender dysphoria before puberty continue to experience gender dysphoria as adults.<sup>7</sup>

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<sup>6</sup> *It Feels Good To Be Yourself: A Book About Gender Identity*, written by Theresa Thorn, illustrated by Noah Grigni, (2019).

<sup>7</sup> Hilary Cass et al., *The Cass Review Independent Review of Gender Identity Services for Children and Young People: Final Report*, p. 67 (2024); Wallien MS, Cohen-Kettenis PT. *Psychosexual outcome of gender-dysphoric children. J Am Acad Child Adolesc Psychiatry.* 2008 Dec; 47(12):1413-23. doi: 10.1097/CHI.0b013e31818956b9. PMID: 18981931; Drummond KD, Bradley SJ, Peterson-Badali M, Zucker KJ. *A follow-up study of girls with gender identity disorder. Dev Psychol.* 2008 Jan; 44(1):34-45. doi: 10.1037/0012-1649.44.1.34. PMID: 18194003.

Gender dysphoria appears to be a temporary diagnosis for most teens as well.<sup>8</sup> A 2024 study which followed 2,772 people over time found that 64% of participants who expressed “gender non-contentedness” in early adolescence did not continue to do so as adults.<sup>9</sup>

Dr. Cass and her team concluded that “a diagnosis of gender dysphoria . . . is not predictive of whether that young person will have longstanding gender incongruence in the future . . .”<sup>10</sup> “The evidence is weak and clinicians have told us they are unable to determine with any certainty which children and young people will go on to have enduring trans identity.”<sup>11</sup>

It is more difficult to justify including materials in the Youth Collection exposing children or teenagers to the ideas and concepts of gender identity ideology if the great majority of the children and teenagers who experience gender dysphoria no longer do so as adults.

b. Research Demonstrates That Suicide Among Gender Dysphoric Youth Is Both Rare And No More Likely Than In Non-Dysphoric Youths With Similar Psychiatric Profiles.

Some residents have suggested in the past that the Youth Collection should include materials presenting gender identity concepts in a positive light because of an increased rate of suicide for gender dysphoric youth. The medical literature does not support this.

The existing research on the link between gender-related distress and suicide . . . includes four findings: first, individuals who identify as transgender or experience distress associated with their sex are at higher risk of suicide than age-matched controls. Second . . . that risk, though elevated, is quite low . . . (For example, the suicide rate among youths referred to the U.K.’s Gender Identity Development Service between 2010 and 2020 was 0.03 percent). Third, the elevated risk is best explained by psychiatric comorbidities which are extremely common in this population . .

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<sup>8</sup> See, Leor Sapir, *Adolescent Gender Dysphoria Is a Temporary Diagnosis for Most Teens*, *City Journal*, August 30, 2024, and studies referenced therein: Pien Rawee et al., *Development of Gender Non-Contentedness During Adolescence and Early Adulthood*, 53 *Archives Sexual Behav*, p. 1813 (2024); Christian Bachmann et al., *Gender Identity Disorders Among Young People in Germany: Prevalence and Trends, 2013–2022*, 121 *Deutsches Ärzteblatt Int'l* 370, 370–71 (2024); Sun C-F, Xie H, Metsutnan V, et al. *The mean age of gender dysphoria diagnosis is decreasing*. *General Psychiatry* 2023;36:e100972. doi:10.1136/gpsych-2022-100972.

<sup>9</sup> Pien Rawee et al., *Development of Gender Non-Contentedness During Adolescence and Early Adulthood*, 53 *Archives of Sexual Behavior*, p. 1813 (2024). In this study, gender non-contentedness referred to a person’s unhappiness with their birth sex.

<sup>10</sup> Hilary Cass et al., *The Cass Review Independent Review of Gender Identity Services for Children and Young People: Final Report*, p. 29 (2024).

<sup>11</sup> *Id.*, at 22.

. Fourth, adults who undergo full 'gender reassignment' remain at elevated risk relative to matched controls even years after their procedures . . .<sup>12</sup>

Medical research indicates gender dysphoric youths are not significantly more likely to commit suicide than non-dysphoric youths with similar psychiatric profiles.<sup>13</sup> As an attorney for the ACLU recently admitted during oral argument before the Supreme Court, suicide by gender dysphoric youths is "rare."<sup>14</sup> The attorney also admitted that there is no evidence that sex trait modification reduces the risk of suicide for these youths.<sup>15</sup> "[D]eaths by suicide in trans people of all ages continue to be above the national average, but there is no evidence that gender-affirmative treatments reduce this. Such evidence as is available suggests that these deaths are related to a range of other complex psychosocial factors and to mental illness."<sup>16</sup>

There is also a potential cost in suggesting that placing certain books in the Youth Collection may prevent suicide, especially in the absence of any evidence that is true:

In 2017, major LGBT rights organizations partnered with suicide prevention experts and groups to produce a guideline for how to discuss suicide in this population. Among their recommendations: DON'T attribute suicide death to a single factor (such as bullying or discrimination) or say that a specific anti-LGBT law or policy will 'cause' suicide. Suicide deaths are almost always the result of multiple overlapping causes, including mental health issues that might not have been recognized or treated. Linking suicide directly to external factors like bullying, discrimination or anti-LGBT laws can normalize suicide by suggesting that it is a natural reaction to such experiences or laws. It can also increase suicide risk by leading at-risk individuals to identify with the experiences of those who have died by suicide.<sup>17</sup>

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<sup>12</sup> Leor Sapir, *ACLU Attorney Confesses: Transgender Suicide is a Myth*, City Journal, December 5, 2024.

<sup>13</sup> Ruuska S- M, Tuisku K, Holttinen T, et al., *All-cause and suicide mortalities among adolescents and young adults who contacted specialised gender identity services in Finland in 1996–2019: a register study*, *BMJ Ment Health* 2024; 27:1-6; Hilary Cass et al., *The Cass Review Independent Review of Gender Identity Services for Children and Young People: Final Report*, p. 195 (2024).

<sup>14</sup> Transcript of Oral Argument, *United States v. Skrmetti*, (23-477) Dec. 4, 2024, p. 87-89, [https://www.supremecourt.gov/oral\\_arguments/argument\\_transcripts/2024/23-477\\_c07d.pdf](https://www.supremecourt.gov/oral_arguments/argument_transcripts/2024/23-477_c07d.pdf), accessed February 23, 2025.

<sup>15</sup> Id.

<sup>16</sup> Hilary Cass et al., *The Cass Review Independent Review of Gender Identity Services for Children and Young People: Final Report*, p. 195 (2024).

<sup>17</sup> Leor Sapir, *ACLU Attorney Confesses: Transgender Suicide is a Myth*, City Journal, December 5, 2024, *quoting* *Talking About Suicide & LGBT Populations*, 2<sup>nd</sup> Edition, Available at [talking-about-suicide-and-lgbt-populations-2nd-edition.pdf](https://www.talking-about-suicide-and-lgbt-populations-2nd-edition.pdf).

c. It Is Appropriate For The Commission To Be Cautious About Exposing Children And Teenagers To Controversial And Hotly Disputed Material Which The Young Reader's Parent Or Guardian May Object To.

The Commission recognizes that some clinicians who provide sex trait modification/gender affirming care disagree with some of the methodology and findings of the Cass Review, and disagree with other studies which are critical of sex trait modification/gender affirming care.<sup>18</sup> They complain, for example, that Dr. Cass does not have personal experience providing sex trait modification/gender affirming care, and that not all members of her team have been identified, so the objecting clinicians cannot vet those team members for conflicts of interest.<sup>19</sup> Among other things, they complain of Dr. Cass's alleged "fixation on 'high quality' evidence" as the basis for medical decision making.<sup>20 21</sup>

A comprehensive review and analysis of all the medical literature relevant to the consideration of books presenting gender identity ideology in the Youth Collection of the library is beyond the scope of this policy. Nonetheless, there is medical research indicating that most children with gender dysphoria do not remain gender dysphoric after puberty, that gender dysphoria is a temporary diagnosis for most teens, and that a diagnosis of gender dysphoria is not predictive of whether that young person will have gender dysphoria or enduring trans identity in the future. There are medical professionals who dispute some or all of these findings. The Commission recognizes but need not resolve the disputes among the medical professionals to decide what books should be included in the Youth Collection.

As stewards of a publicly funded library, it is appropriate for the Commission to be cautious about exposing children and adolescents to controversial and hotly contested material which the young reader's parent or guardian may object to. Accordingly, the Commission has determined in its discretion that books and materials presenting the principles of gender ideology are only permitted in the Young Adult Section of the Youth Collection and only if balanced by other viewpoints regarding the principles of gender identity ideology directed to the same age group.

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<sup>18</sup> McNamara et al., *An Evidence Based Critique of "The Cass Review" on Gender Affirming Care for Adolescent Gender Dysphoria*, Available at [https://law.yale.edu/sites/default/files/documents/integrity-project\\_cass-response.pdf](https://law.yale.edu/sites/default/files/documents/integrity-project_cass-response.pdf).

<sup>19</sup> *Id.*, at p. 3.

<sup>20</sup> *Id.*, at 12-16.

<sup>21</sup> McNamara, et al., claim that what they refer to as gender affirming medical treatments result in "reduced suicidality." They do not claim that gender affirming care results in a reduced rate of suicide for gender dysphoric youths. *Id.*, at 10.

**4. Policy: Sexually Explicit Content Is Neither Age Appropriate Nor Developmentally Appropriate And Therefore Is Not Permitted In The Youth Collection. Books And Other Materials In The Youth Sections Of The Library Shall Not Contain Images, Illustrations, Performances, Representations, Depictions Or Detailed Written Descriptions Of The Following Sexually Explicit Content: Erotic Fondling, Sexual Excitement, Sado-Masochistic Abuse, Masturbation, Sexual Intercourse, Or Nude Performance As These Terms Are Defined In Appendix A.**<sup>22</sup>

The following section contains a discussion of sexually explicit content:

The Library Commission has determined that the potential harm to minors from sexually explicit materials outweighs any literary, artistic, political, or scientific value these materials may arguably have. Materials with sexually explicit content are neither age appropriate nor developmentally appropriate for the Youth Collection of the library.<sup>23</sup>

- a. Highly sexualized books have made their way into the children's section of libraries over the past several years.

For example, *Lawn Boy*, contains explicit references to oral sex between two ten-year-old boys. *Lawn Boy* also includes an explicit description of the main character losing his virginity.<sup>24</sup> *All Boys Aren't Blue* contains an explicit description of the protagonist's sexual assault by an older cousin at age thirteen and later experimentation with oral and anal

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<sup>22</sup> By the terms "age appropriateness" and "developmental appropriateness" in this context of youth books, the Commission is referring to the suitability of a book's content, themes, language, and complexity for a child's cognitive, emotional, social, and moral development at a given age or stage. This ensures that books align with children's abilities, experiences, and comprehension while fostering growth and engagement. Research suggests that books match children's developmental stages to support literacy, critical thinking, and emotional regulation (Vygotsky, 1978; Piaget, 1964). For instance, early childhood books emphasize simple narratives, repetition, and concrete concepts, while books for older children introduce abstract thinking, more complex emotions, and moral dilemmas. Vygotsky, L. S. (1978). *Mind in society: The development of higher psychological processes*. Harvard University Press; Piaget, J. (1964). *Development and learning*. In R. E. Ripple & V. N. Rockcastle (Eds.), *Piaget rediscovered: A report of the conference on cognitive studies and curriculum development* (pp. 7-20). Cornell University.

<sup>23</sup> The Commission is not adopting the harmful to minors standard referenced in some library collection policies and the Children's Internet Protection Act (CIPA) at issue in United States v. American Library Ass'n., Inc., 539 U.S. 194 (2003). The harmful to minors standard set forth in CIPA only prohibits material which "taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors." The subjective nature of an inquiry into whether a specific book does or does not lack merit when taken as a whole notwithstanding the inclusion of sexually explicit content does not provide helpful criteria for decisions to be made in a clear, transparent, and consistent manner. Accordingly, the Commission adopts the criteria set forth above instead.

<sup>24</sup> Evison, Jonathan, *Lawn Boy* (2018). In 2019, *Lawn Boy* was awarded the American Library Association's Alex Award. The ALA's Alex Award is given each year to ten books written for adults which, according to the ALA, "have special appeal for young adults, ages 12 through 18." <https://www.ala.org/yalsa/2019-alex-awards>, accessed January 21, 2025.



sex.<sup>25</sup> *Gender Queer* contains graphic art depiction of oral sex, a vibrator, and use of a strap-on phallus.<sup>26</sup> *Flamer* includes a scene where a group of boy scouts masturbate and ejaculate into a bottle, and one of the boys tells the protagonist, “if you don’t cum you have to drink it.”<sup>27</sup> *Let’s Talk About It: The Teens Guide to Sex, Relationships, and Being a Human* encourages teens to exchange nude photographs of themselves with others (sexting) and encourages teens to consume online pornography as a safe way to explore sexual fantasies.<sup>28</sup>

b. Librarian Organizations Recognize An Ethical Obligation To Protect Minors.

Librarians have frequently recognized an ethical obligation to protect minors. Take, for example, the Association of Library Professionals:

ALP respects the protection of minors while ensuring that does not negatively impact the information rights of adults. This means due consideration for age-appropriateness in the organization and collection development policies of children’s collections in public libraries . . .<sup>29</sup>

An approach which recognizes an ethical obligation to protect minors is consistent with the role and mission of Kent Memorial Library as a taxpayer funded municipal government entity. It is appropriate for a public library like Kent Memorial Library to be cautious about the exposure of children and adolescents to overtly sexual content because of the potential psychological, cognitive, and emotional impact of that content. Indeed, it is the approach recommended by child development specialists.

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<sup>25</sup> Johnson, George M., *All Boys Aren’t Blue: A Memoir-Manifesto* (2020). In 2021, *All Boys Aren’t Blue* was a Top Ten selection by the American Library Association’s Young Adult Library Services Association (YALSA). The ALA selected it as one of 2021’s “Amazing Audiobooks for Young Adults,” where it was described as “[v]ulnerable and sometimes incredibly raw.” <https://www.ala.org/yalsa/2021-amazing-audiobooks-young-adults>, accessed January 21, 2025.

<sup>26</sup> Kobabe, Maia, *Gender Queer: A Memoir* (2019). *Gender Queer* was a 2020 winner of the American Library Association’s Alex Award, which, once again, recognizes books written for adults which according to the ALA, “have special appeal for young adults, ages 12 through 18,” <https://www.ala.org/yalsa/2020-alex-awards>, accessed January 21, 2025.

<sup>27</sup> Curato, Mike, *Flamer* (2020). In 2021, the American Library Association identified *Flamer* as one of the Great Graphic Novels for Teens, <https://www.ala.org/yalsa/2021-great-graphic-novels-teens>, accessed January 21, 2025.

<sup>28</sup> Moen, Erika, and Nolan, Mathew, *Let’s Talk About It: The Teens Guide to Sex, Relationships, and Being a Human* (2021). The American Library Association’s Young Adult Library Services Association named *Let’s Talk About It* a 2022 Great Graphic Novel for Teens, <https://www.ala.org/news/2022/02/yalsa-names-2022-great-graphic-novels-teens>, accessed January 22, 2025.

<sup>29</sup> Association of Library Professionals, *About, Frequently Asked Questions, What about children’s intellectual freedom?* Available at: [ALP Libraries](#), accessed January 26, 2025. See also, International Federation of Librarian Associations Code of Ethics (*IFLA Code of Ethics for Librarians and Other Information Workers, full version*), p. 2, *Responsibilities towards individuals and society*. Available at: [IFLA Repository](#), accessed January 26, 2025.



- c. Child Development Research Indicates That Early Exposure To Sexually Explicit Content Poses An Increased Risk Of Problematic Sexual Behaviors.

Child development researchers have found that early exposure to even nonviolent sexual content is associated with increased problematic sexual behavior. Even when controlling for other factors, early exposure to sexually explicit content has been linked to risky sexual behavior including:

- Sexual conduct with much younger children;
- the use of aggression or coercion;
- sexual harassment or touching oneself in public;
- early sexual debut;
- the failure to engage in “safe sex,” i.e., the failure to use a condom to avoid conception or the transmission of sexually transmitted diseases; and
- multiple sexual partners.<sup>30</sup>

**5. The First Amendment Does Not Confer The Rights For Minors Or The Obligations For Public Libraries Which The ALA Library Bill Of Rights Suggests It Does.**

- a. The American Library Association Opposes Any Limitation Of Any Kind On What Any Child May Read At The Library – No Matter How Young The Child May Be. The ALA Claims That Minors Have A First Amendment “Right To Receive Information Through The Library.”

The American Library Association opposes any restriction on a child’s ability to access any materials in a public library’s collection. The ALA Library Bill of Rights claims that “[a] person’s right to use a library should not be . . . abridged because of . . . age.”<sup>31</sup> “The American Library Association opposes *all* attempts to restrict access to library services, materials, and facilities based on the age of library users . . .” [Emphasis added].<sup>32</sup> The ALA thus favors “unrestricted use of the library and library materials to minors to the same extent [as] adults.”<sup>33</sup> The ALA further claims that “[c]hildren and young adults

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<sup>30</sup> *Sexual Content and Problematic Sexual Behaviors in Children and Adolescents*, Mori, et al., *Child Abuse and Neglect*, Volume 143, September 2023; *Exposure to Sexually Explicit Media in Early Adolescence is Related to Risky Sexual Behavior in Emerging Adulthood*, by W.H. Lin, et al., *PLOS ONE* 15(4), February 26, 2020. “[W]hile . . . other factors have been related to risky sexual behaviors, studies have shown even controlling for these important precursors, one particular factor still has a strong relationship with risky sexual behaviors – sexual content in the media or sexually explicit media.”

<sup>31</sup> ALA Library Bill of Rights, V. Available at: [ALA Library Bill of Rights](#), last accessed January 12, 2024.

<sup>32</sup> *Access to Library Resources and Services for Minors: An Interpretation of the Library Bill of Rights*, American Library Association, July 26, 2006. Available at: [ALA Access to Library Resources](#), accessed November 29, 2024.

<sup>33</sup> *Reality Bites: The Collision of Rhetoric, Rights, and Reality and the Library Bill of Rights*, Shirley A. Wiegand, *Library Trends*, Spring 1996, p. 79.

unquestionably possess First Amendment rights, including the right to receive information *through the library* . . . Constitutionally protected speech cannot be suppressed solely to protect children or young adults from ideas or images a legislative body believes to be unsuitable for them.”<sup>34</sup> [Emphasis added].

This is a claim that minors have a First Amendment “right” to require a public library to produce any books or materials the minor demands and is also a claim that no library commission or any other government entity has any ability whatsoever to place any safeguards on what materials will be available to children. The Supreme Court has never interpreted the First Amendment to operate this way.

b. The ALA Does Not Have Any Regulatory Power Over Kent Memorial Library Or The Librarians Who Work There.

The ALA Library Bill of Rights “does not displace the lawful administrative authority of a public body charged with making library policy,”<sup>35</sup> which in this case is the Kent Memorial Library Commission. The Library Commission members are appointed by the Board of Selectmen and charged with establishing policies for the use and operation of the library consistent with the Town Charter and Town Ordinance.

The American Library Association does not have any regulatory power over Kent Memorial Library. Nor does the ALA have any regulatory power over the librarians who work at KML. The ALA Library Bill of Rights, “offers no protection to a library employee who defies the authority of a lawful decision maker.”<sup>36</sup>

The American Library Association only has whatever persuasive power library decisionmakers assign to it.

c. Minors Do Not Have the Same First Amendment Rights As Adults. And A Public Library Does Not Have An Obligation To Add Material To Its Collection Even If The Material Is Constitutionally Protected.

The First Amendment does not confer the rights for minors - the obligations for public libraries - which the ALA claims it does. The Library and Information Science literature has recognized this *for decades*.<sup>37</sup> The Supreme Court has said on many occasions, however, that minors *do not* have the same First Amendment rights as adults.

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<sup>34</sup> Access to Library Resources and Services for Minors: An Interpretation of the Library Bill of Rights, American Library Association, July 26, 2006. Available at: [ALA Access to Library Resources](#), accessed March 11, 2025.

<sup>35</sup> *The Library Bill of Rights: A Critique*, Gordon B. Baldwin, *Library Trends*, Spring 1996, p. 24.

<sup>36</sup> *Id.*

<sup>37</sup> See, e.g., “The Culture War, the Library Bill of Rights and the Protection of Minors: Why the ALA’s Library Bill of Rights – as it concerns children – may no longer be fit for purpose,” by Michael Dudley, *Heterodoxy in the Stacks*, April 29, 2024. Available at: [HXLibraries](#), last accessed March 6, 2025; *Reality Bites: The Collision of Rhetoric, Rights, and Reality and the Library Bill of Rights*, Shirley A. Wiegand, *Library Trends*, Spring 1996 (“No matter how strongly the library profession believes in the minor’s right of

In fact, this point was made in Erznoznik v. Jacksonville, 422 U.S. 205 (1975), which is the case the ALA relies upon for its claim that “Constitutionally protected speech cannot be suppressed solely to protect children or young adults from ideas or images a legislative body believes to be unsuitable for them.”<sup>38</sup>

In Erznoznik, a municipal ordinance prohibited drive-in movie theatres from showing movies with nudity if the movie screen was visible to the public outside the theatre.<sup>39</sup> It was uncontested that the ordinance extended beyond obscenity and therefore was valid only if it did not violate the First Amendment.<sup>40</sup> The municipality claimed that it was a reasonable means of protecting minors.<sup>41</sup> The Court found, however, that the statute went far beyond prohibiting sexually explicit content, and was therefore not narrowly drawn to accomplish that purpose.<sup>42</sup> In so doing, however, the Court said that “[i]t is well settled that a State or municipality can adopt more stringent controls on communicative materials available to youths than on those available to adults.”<sup>43</sup>

The First Amendment rights of minors are not coextensive with those of adults. A State may permissively determine that . . . a child . . . is not possessed of that full capacity for individual choice which is the presupposition of First Amendment guarantees. In assessing whether a minor has the requisite capacity for individual choice, the age of the minor is a significant factor.

Erznoznik v. Jacksonville, 422 U.S. 205, 214, n. 11 (1975). The actual quotation from the case is, “Speech that is neither obscene as to youths *nor subject to some other legitimate proscription* cannot be suppressed solely to protect the young from ideas or images that a legislative body thinks unsuitable for them,” a much more limited proposition than the one the ALA claims Erznoznik stands for.<sup>44</sup>

The general language relied upon by the ALA from Erznoznik – a case that once again has nothing to do with a public library - does not in any limit the authority of the Commission to decide what materials belong in the KML Youth Collection, especially in

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access, no matter how strongly worded the Library Bill of Rights, an argument in favor of providing minors with the full panoply of rights would fail in a court of law”); *The Library Bill of Rights: A Critique*, Gordon B. Baldwin, *Library Trends*, Spring 1996, p. 24.

<sup>38</sup> Access to Library Resources and Services for Minors: An Interpretation of the Library Bill of Rights, American Library Association, July 26, 2006. Available at: [ALA Access to Library Resources](#), accessed March 11, 2025.

<sup>39</sup> Id., at 206-207.

<sup>40</sup> Id., at 208.

<sup>41</sup> Id., at 212.

<sup>42</sup> Id., at 213-214.

<sup>43</sup> Id., at 212.

<sup>44</sup> Id., at 214-215.

light of the Court's subsequent and specific recognition of the broad discretion to do so in United States v. American Library Ass'n., Inc., 539 U.S. 194 (2003).

d. The Supreme Court Has Never Recognized A "Right To Receive Information Through The Library" – For Adults Or Minors.

The Supreme Court has recognized a limited First Amendment right of expression for minors in a public school, for example, the right to wear an arm band protesting the Vietnam War or to refuse to participate in a flag salute ceremony.<sup>45</sup> Recognizing a minor's limited right of expression in a public school, however, is not the same thing as and in no way implies that the First Amendment confers upon a minor the right to read and receive information and ideas "through the library" as the ALA contends.<sup>46</sup> This is a claim that the taxpayers funding the library must provide whatever materials the minor demands. A necessary corollary of the claimed right would be that a library must also provide whatever materials an adult may demand. Otherwise, the ALA's "right to read" would be a claim that minors have greater First Amendment rights than adults.

e. The Case Which The ALA Relies Upon For Its Purported Right To Receive Information Through A Library Has Nothing To Do With Libraries.

In support of its assertion that minors "unquestionably possess . . . the right to receive information through the library," the ALA relies upon Brown v. Entertainment Merchant's Association, 564 U.S. 786 (2011).<sup>47</sup> But Brown was about the video game and software industry's First Amendment rights to produce and sell violent video games.<sup>48</sup> Brown in no way established a right to read and receive information for minors anywhere, least of all "through" a public library. If Brown has any application in the context of libraries, it is that writers have First Amendment rights to write and publishers have First Amendment rights to publish, not that a library must provide whatever is written or published to any minor who demands it. Brown did not hold that any First Amendment rights minors have are equal to those of adults. Brown did not hold that the First Amendment requires that public libraries must provide minors unrestricted use of library resources to the same extent as adults. The word "library" is absent from the opinion.

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<sup>45</sup> Tinker v. Des Moines School Dist., 393 U.S. 503 (1969); West Virginia Bd. of Education v. Barnette, 319 U.S. 624 (1943).

<sup>46</sup> First Amendment and Censorship, American Library Association, <https://www.ala.org/advocacy/intfreedom/censorship>, (Accessed February 24, 2025).

<sup>47</sup> Access to Library Resources and Services for Minors: An Interpretation of the Library Bill of Rights, American Library Association, July 26, 2006. Available at: ALA Access to Library Resources, accessed March 11, 2025.

<sup>48</sup> Id., at 804, ("Our task is . . . to say whether or not such works constitute a well defined and narrowly limited class of *speech* . . ."). [Emphasis added].

- f. Only Three Of The Nine Justices On The Supreme Court Were Willing To Recognize A Minor's Purported Right To Receive Information Through A School Library When They Had The Opportunity To Do So Over Forty Years Ago.

Another case the ALA relies upon for its claim that minors have a First Amendment right to receive information through a library is Board of Ed. v. Pico, 457 U.S. 853 (1982).

In Pico, a local school board determined that nine books should be removed from the school libraries.<sup>49</sup> Five students brought suit against the school board. The trial court granted summary judgment in favor of the school board, a determination that there was no question of any material fact, and the school board was entitled to judgment as a matter of law.<sup>50</sup> The Court of Appeals reversed and remanded the case for a trial to determine whether the decision to remove the books had been motivated by a desire to remove books containing vulgarity and sexually explicit content, or to suppress ideas. At the Supreme Court, the plurality opinion written by Justice Brennan was joined in its entirety by only two of the other justices on the Court.<sup>51</sup> It was in this portion of the opinion speaking for only three out of the nine justices on the Court that the plurality cited a prior case, Stanley v. Georgia, 394 U.S. 557, 564 (1969), for the proposition that “the Constitution protects the right to receive information and ideas” in the context of a school library.<sup>52 53</sup> The plurality was in favor of affirming the decision of the Court of Appeals and remanding the case for trial.

A fourth justice, Justice Blackmun, joined the portion of the plurality opinion affirming the decision of the Court of Appeals, but did not join the portion of the opinion finding a right to read.<sup>54</sup>

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<sup>49</sup> Pico v. Board of Ed., 474 F.Supp. 387 (E.D.N.Y. 1979).

<sup>50</sup> Id., at 859.

<sup>51</sup> Id., at 854.

<sup>52</sup> Id., at 866-867.

<sup>53</sup> Stanley v. Georgia, 394 U.S. 557, 564 (1969), recognized a First Amendment right for an adult to read or watch obscene materials in the privacy of his or her own home. It hardly bears stating that an adult's First Amendment right to read or watch legally obscene material at home is not a right for minors to read or receive information at a public library. Stanley does not require a public library to provide sexually explicit or potentially harmful materials to its youth patrons. “[A] public library has no obligation to add material to its collection simply because the material is constitutionally protected.” United States v. American Library Ass'n., Inc., 539 U.S. 194, 209 n. 9 (2003). The First Amendment does not require taxpayer funded public libraries to provide minors sexually explicit material which may be harmful to them.

<sup>54</sup> In a separate opinion Justice Blackmun said, “In my view . . . the principle here is both narrower and more basic than the ‘right to receive information’ identified by the plurality. I do not suggest that the State has any affirmative obligation to provide students with information or ideas, something that may well be associated with a ‘right to receive.’” Id., at 878. If Justice Blackmun did not outright reject the notion that the First Amendment provides minors a right to receive information, he did not sign the portion of the plurality opinion purporting to recognize such a right, and he at least expressed skepticism of it.

The four justices in dissent all agreed that the First Amendment does not confer any right to receive information and ideas in a library.<sup>55</sup>

With the four-justice plurality in favor of affirming the Court of Appeals decision remanding the case for trial and the four dissenting justices in favor of reinstating the trial court decision granting summary judgment in favor of the school board, the case was decided by the ninth member of the Court, Justice White. Justice White agreed with the plurality that the case should be remanded for trial. But he expressly refused to even consider whether minors have a “right to receive information and ideas” in a school library.<sup>56</sup> Instead, Justice White opined the Supreme Court should not consider any constitutional question in the case until after a trial produced the full record and findings necessary to do so. Justice White’s opinion is not consistent with the notion that he recognized the existence of a “right to receive information through a library,” or that he recognized even the possibility of a violation of the students’ First Amendment rights.<sup>57</sup> Justice White’s opinion was “in effect a single vote to dismiss the writ of certiorari as improvidently granted.”<sup>58</sup> In other words, Justice White concluded that the Supreme Court should never have taken the case.

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<sup>55</sup> Id., at 885-921.

<sup>56</sup> Id., at 883-884.

<sup>57</sup> Justice White said in relevant part that the, “Court of Appeals . . . concluded . . . there was a material issue of fact that precluded summary judgment sought by [the school board]. The unresolved factual issue, as I understand it, is the reason or reasons underlying the school board’s removal of the books. I am not inclined to disagree with the Court of Appeals on such a fact-bound issue and hence concur in the judgment of affirmance. Presumably this will result in a trial and the making of a full record and findings on the critical issues. The plurality seems compelled to go further and issue a dissertation on the extent to which the First Amendment limits the discretion of the school board to remove books from the school library. I see no necessity for doing so at this point. When findings of fact and conclusions of law are made by the District Court, that may end the case . . . if there is an appeal . . . there will be time enough to address the First Amendment issues that may then be presented. . . I . . . prefer the course taken by the Court in Kennedy v. Silas Mason Co., 334 U.S. 249 (1948) . . . This Court [held] that summary judgment was improvidently granted and remanded for trial so that a proper record could be made. The Court expressly abjured issuing its advice on the legal issues involved. Writing for the Court, Justice Jackson stated: ‘We consider it the part of good judicial administration to withhold decision of the ultimate questions involved in this case until this or another record shall present a more solid basis of findings based on litigation or on a more comprehensive statement of agreed facts. While we might be able, on the present record, to reach a conclusion that would decide the case, it might well be found later to be lacking in the thoroughness that should precede judgment of this importance and which is the purpose of the judicial process to provide.’ We took a similar course in . . . Dombrowski v. Eastland, 387 U.S. 82 (1967). There we overturned a summary judgment since it was necessary to resolve a factual dispute . . . We remanded saying, ‘In absence of the factual refinement which can occur only as a result of trial, we need not and, indeed, could not express judgment as to the legal consequences of’ ” [the factual questions to be resolved at trial]. We should not decide constitutional questions until it is necessary to do so, or at least until there is a better reason to address them than are evident here.” Id., at 883-884.

<sup>58</sup> Id., at 904 n. 1, (Rehnquist, J., dissenting).

g. A Majority Of The Supreme Court Refused To Recognize A Minor's Right To Receive Information In A School Library In Pico.

Justice White refused to consider and did not reach any constitutional question in the case, and the four dissenting justices all agreed that no such right exists. So at least five out of the nine members of the Supreme Court – *a majority of the Court* – refused to recognize any First Amendment right for minors to receive information and ideas in a school library in Pico. Pico did not recognize a right for minors to read and receive information and ideas through a school library.

“When a fragmented Court decides a case and no single rationale explaining the result enjoys the assent of five Justices, the holding of the Court may be viewed as that position taken by those Members who concurred in the judgments on the narrowest grounds.” Marks v. United States, 430 U.S. 188, 193 (1977). In Pico, Justice White’s deciding opinion concurred with the plurality on the narrowest grounds, so his opinion expresses the holding of the Court. He remanded the case for trial for findings of fact before the consideration of any constitutional questions. That is the holding of the case.<sup>59</sup>

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<sup>59</sup> It has been suggested that by affirming the Court of Appeals Justice White necessarily agreed that minors have a First Amendment right to read and receive information. See, e.g., Viriden v. Crawford County, No. 2:23-cv-02071-PKH at 10-11 (W.D.Ark. September 12, 2024) (“The dispute between the Justices which prevented a majority from being reached in Pico was not over whether a right to access information existed at all, but rather over how it should be balanced against unique pedagogical and disciplinary concerns that are present in a public-school environment”). The judge deciding Viriden concluded that Pico was not relevant because Viriden involved a public library – like Kent Memorial Library – not a school library as in Pico, so the court’s discussion of Pico is dicta. To the extent the Viriden court is suggesting a majority in Pico agreed that minors have a right to receive information at a school library, that claim is at variance with Justice White’s opinion and the four dissenting opinions.

The Viriden court even suggested that Justice Rehnquist recognized a minor’s First Amendment right to receive information in Pico. In support of this claim, the Viriden court relies on less than one half of one sentence in Justice Rehnquist’s 16-page dissent. But Justice Rehnquist “entirely disagree[d]” with the plurality’s “treatment of the constitutional issue.” Id., at 907. He also dissented because the plurality opinion was “not remotely tethered to the facts presented by this case.” Id.

Because the record facts should always establish the limits of the Court’s constitutional analysis, and are particularly relevant in cases where the trial court has granted summary judgment, I think [the plurality’s] approach violates our long considered practice not to decide abstract, hypothetical or contingent questions, or to decide any constitutional question in advance of the necessity for its decision.”

Id., at 905. Justice Rehnquist quoted the portion of the plurality opinion which said that a board of education may not exercise its discretion in determining the content of a school library “in a narrowly partisan or political manner” to order the “removal of all books written by or in favor of Republicans,” or “to remove all books authored by blacks or advocating racial equality and integration.” Id., at 907. Justice Rehnquist said that he could “cheerfully concede” this claim by the plurality, not because he agreed minors had a right to receive information as the Viriden court seems to suggest, but because, “[i]n *this case* . . . nothing of this sort happened.” Id. The students’ challenging the board action removing the books did not claim the board acted “in a narrowly partisan or political manner.” Id., at 906 n 4. Accordingly, Justice Rehnquist “would save for another day – feeling quite confident the day will not arrive – the extreme examples posed in” the plurality opinion. Id., at 908.



h. Even If The Pico Plurality Opinion Has Some Minimally Persuasive Power For School Libraries, It Has No Application For A Public Library Such As Kent Memorial Library.

The decisive question for the four justices of the plurality opinion in *Pico* was the motivation for removing books from a school library. There is no First Amendment violation if a book is removed because it is “pervasively vulgar,” “educationally unsuitable,”<sup>60</sup> based on “good taste,” “relevance,” or “appropriateness to age and grade level,”<sup>61</sup> because according to the plurality these motivations are not aimed at suppressing ideas. But if the same book was removed from the school library for “narrowly partisan or political reasons,” if the board “intended by their removal decision to deny [students] access to ideas with which [the board] disagreed, and if this intent was the decisive factor in [the] decision,” that for the four justices of the plurality was “suppression of ideas” which violated the First Amendment.<sup>62 63</sup>

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<sup>60</sup> *Id.*, at 871.

<sup>61</sup> *Id.*, at 873.

<sup>62</sup> [Emphasis in original]. *Id.*, at 870-871.

<sup>63</sup> The dissenting justices ridiculed the notion that the school board’s motivation could be decisive. “[B]ad motives and good motives alike deny access to the books removed.” *Id.*, at 917, (Rehnquist, J., dissenting). They were even less impressed with the notion of a minor’s right to receive information through a school library:

It is true that the Court has recognized a limited version of [an adult’s right to receive information] in other settings, and Justice Brennan quotes language from five such opinions . . . . But not one of these cases concerned or even purported to discuss elementary or secondary educational institutions . . . . Nor does the right-to-receive doctrine recognized in our past decisions apply to schools by analogy . . . . Justice Brennan rightly characterizes the right of access to ideas as an inherent corollary of the rights of free speech . . . . which follows ineluctably from the *sender’s* First Amendment right to send them . . . . But he then fails to recognize the predicate right to speak from which the student’s right to receive must follow. It would be ludicrous, of course, to contend that all authors have a constitutional right to have their books placed in . . . school libraries. And yet without such a right our precedents would not recognize the reciprocal right to receive information. Justice Brennan . . . . fails to explain the constitutional or logical underpinnings of a right to hear ideas in a place where no speaker has a right to express them.

[Emphasis in original]. *Id.*, at 911-912. For the four dissenting justices, a school board has broad discretion to decide what books and materials should and should not be available to students in the school library. “[T]he issue comes down to two important propositions: *first* whether local schools are to be administered by elected school boards, or by federal judges and teenage pupils; and *second*, whether the values of morality, good taste, and relevance to education are valid reasons for school board decisions concerning the contents of a school library.” *Id.*, at 885.

If, as we have held, schools may legitimately be used as vehicles for inculcating fundamental values necessary to the maintenance of a democratic political system, school authorities must have broad discretion to fulfill that obligation . . . . How are ‘fundamental values’ to be inculcated except by having school boards make content-based decisions about the appropriateness of retaining materials in the school library and curriculum. In order to fulfill its function, an elected school board must express its views on the subjects which are taught to its students. In doing so those elected officials express the views of



The Supreme Court dispensed with that approach for public libraries like Kent Memorial Library when it decided United States v. American Library Ass'n. Inc., 539 U.S. 194 (2003), twenty years after Pico. “[P]ublic libraries must have broad discretion to decide what material to provide their patrons . . . [H]eightedened judicial scrutiny [is] . . . incompatible with the discretion that public libraries must have to fulfill their traditional missions. Public library staffs necessarily consider content in making collection decisions and enjoy broad discretion to do so.” United States v. American Library Ass'n., Inc., 539 U.S. 194, 204-205 (2003).

Whatever persuasive power the Pico plurality opinion may have in the context of a school library does not apply to a public library such as Kent Memorial Library.

**6. This Is Not About Minors’ Rights Or Censorship. Its About Decision-Making Authority And Which Books Are Available To Children At The Public Library.**

The American Library Association claims that parents and residents who raise concerns about the age appropriateness of books with sexually explicit content are engaged in a “political agenda” “to silence marginalized or historically unrepresented voices,” “book banning,” and “censorship.”<sup>64</sup> None of these claims accurately describe the approach adopted by this Commission.

Age appropriateness concerns are about ensuring content aligns with the developmental needs of children, not about suppressing voices.

For example, age and developmental concerns about *Lawn Boy* would remain if the ten-year-olds engaging in oral sex were a boy and a girl instead of two boys. Age and developmental appropriateness concerns about *All Boys Aren't Blue* would remain if the older male relative sexually assaulted a thirteen-year-old girl rather than a thirteen-year-old boy. Although the ALA contends *Lawn Boy* and *Gender Queer* have “special value” for 12-year-olds, both of these books were intended for adults.<sup>65</sup>

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their community; they may err, of course, and the voters may remove them. It is a startling erosion of the very idea of democratic government to have this Court arrogate to itself the power the plurality asserts today.

*Id.*, at 889. A public library, like a public school, does not exist for writers and publishers to express themselves, but instead “to facilitate research, learning, and recreational pursuits by furnishing materials of requisite and appropriate quality.” United States v. American Library Ass'n. Inc., 539 U.S. 194, 206 (2003). It is “ludicrous” to suggest that writers or publishers have a constitutional right to demand that public library collections include their materials. There can be no “right to hear ideas in a place where no speaker has a right to express them.” Pico, at 912. The four dissenting justices in Pico much more closely aligns with the approach subsequently adopted by the Court in United States v. American Library Ass'n., Inc., than the four justices of the Pico plurality.

<sup>64</sup> American Library Association Releases Preliminary Data on 2022 Book Bans, September 16, 2022, <https://www.ala.org/news/press-releases/2022/09/ala-releases-preliminary-data-2022-book-bans>, accessed January 22, 2025.

<sup>65</sup> See footnotes 24 and 26.

As for the charges of censorship and book banning, censorship refers to government action to “alter, delete, or ban completely” a work “before publication.”<sup>66</sup> A “book ban” means “to prohibit . . . the dissemination or use of . . . a book.”<sup>67</sup> The Commission obviously took no action on any book before it was published and has not altered or deleted any portion of any books, so it has not engaged in censorship. Nor has the Commission prohibited the use or dissemination of any book, so it is not engaged in book banning. Nothing in this Youth Collection Policy interferes with the publication or sale of any book. Each of these books may be purchased online or at brick-and-mortar bookstores by any resident who chooses to do so. None of these books are being censored or banned. “[A] public library has no obligation to add material to its collection simply because the material is constitutionally protected.” United States v. American Library Ass’n., Inc., 539 U.S. 194, 209 n. 9 (2003).

Finally, if there is any political agenda, it is that of the American Library Association.

- It is the ALA which claims that books with sexually explicit content have “special appeal” for twelve-year-olds;
- It is the ALA which describes concerns about the age and developmental appropriateness of books with sexually explicit content and which present the principles of gender identity ideology as undisputed fact as “censorship” and “book banning”;
- It is the ALA which fails to warn parents about the contents of these books;<sup>68</sup> and
- It is the ALA leadership which has openly promoted a political agenda for public libraries.

Emily Drabinski, president elect from 2022-2023 and president of the ALA from 2023 - 2024, describes herself as “openly socialist . . . I absolutely am a Marxist.” She campaigned to become ALA president on “the importance of libraries as part of . . . a socialist vision,” and hoped as ALA president she could help “people access the language of a socialist vision of . . . the role of the library.”<sup>69</sup>

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<sup>66</sup> A censor is “[a]n official in some countries whose duty it is to inspect all books . . . **before publication**, to secure that they shall contain nothing immoral, heretical, or offensive to the government.” [Emphasis added]. The Oxford English Dictionary, Second Edition, Volume II, p. 1029, (1991). To censor is “to alter, delete, or ban completely after examination.” Webster’s Third New International Dictionary of the English Language, Unabridged, p. 361, (2002).

<sup>67</sup> Webster’s Third New International Dictionary of the English Language, Unabridged, p. 169, (2002).

<sup>68</sup> For example, in its Top 10 Most Challenged Books of 2023, the ALA states that *All Boys Aren’t Blue* by George M. Johnson was challenged for “LGBTQIA+ content” and because it was “*claimed to be sexually explicit*.” A statement that a book is “claimed to be sexually explicit” clearly falls short of warning parents and young readers that the book describes sexual assault, oral sex, and anal sex in moment-by-moment detail.

<sup>69</sup> “*Creating a Socialist Vision for Public Libraries: A Conversation with Emily Drabinski*,” *Red Fault*, July 7, 2022.

In its discretion, the Kent Memorial Library Commission may consider the American Library Association's political objectives when deciding whether books receiving ALA awards should be included in the Youth Collection.

The debate is not about minors' rights or censorship but instead about decision-making authority. The issue is which group of adults should decide what books are made available to children in a public library: the library commission and the community, or external organizations like the ALA.<sup>70</sup>

## **7. Requests**

Patrons and residents may provide input on what books, resources, and services are desirable and worth providing. Requests for the addition, gifting, revising, or removal of materials, displays, and services are considered in accordance with the policies, guidelines, and standards adopted by the Library Commission. Library personnel, resources, and shelf space are finite. Requests are not automatically granted and may be rejected, especially if they fall outside the policies adopted by the Commission. Requests are not considered from anonymous sources, and resident requests are prioritized over non-resident users. A list of requests for children's material will be included in the director's report at the monthly KMLC meeting. The name of the person requesting the material must be included.

## **4. Transparency, Monitoring, Review, and Retention**

The acquisition process will be transparent, with a detailed list of youth materials and programs reported monthly to the Kent Memorial Library Commission. For collection acquisition of materials, the list will include title, author, brief summary, photo of cover. For programs, the list will include a brief summary of program content, description of represented organizations, promotional images used, and the source of any outside funding. Lists will be available to the public upon request. Community members may request reconsideration of specific materials or programs.

The Library Director and Kent Memorial Library Commission will periodically review the Youth Collection to ensure it aligns with these criteria. Community feedback and requests for reconsideration of specific materials will be addressed in a timely manner.

Weeding (or removal) of materials is necessary to keep a current and relevant collection. The Library Director, with input from the KMLC, will consider the following criteria for weeding decisions: lack of demand, obsolete or erroneous information, poor condition, and non-compliance with Children's Collection Acquisition policies. The Library Director will provide a complete list of all materials weeded and/or replaced as a part of the monthly Director's Report.

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<sup>70</sup> Rita Koganzon, *There Is No Such Thing as a Banned Book: Censorship, Authority, and the School Book Controversies of the 1970s*, *American Political Thought*, Vol. 12, No. 1, Winter 2023, pp. 21-23.

**Conclusion:**

The Kent Memorial Library is dedicated to providing an enriching environment for all patrons, while maintaining a well-balanced collection that reflects the values and interests of the community.

By adhering to this Youth Collection Acquisition and Retention policy the Kent Memorial Library aims to: foster a diverse and intellectually stimulating collection; ensure that the collection maintains viewpoint neutrality and aligns with community standards; uphold a safe and appropriate environment for youth patrons; and support transparency to the Kent Memorial Library Commission and the public.

**Approved by:**  
Kent Memorial Library  
[Date]

DRAFT

## APPENDIX A

### Definitions

“Erotic fondling” means touching a person's clothed or unclothed genitals, pubic area, buttocks, or if such person is a female, breast.

“Sexual excitement” means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

“Sado-masochistic abuse” means flagellation or torture by or upon a person 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.

“Masturbation” means the real or simulated touching, rubbing or otherwise stimulating a person's own clothed or unclothed genitals, pubic area, buttocks, or, if the person is female, breast, either by manual manipulation or with an artificial instrument.

“Sexual intercourse” means intercourse, real or simulated, whether genital-genital, oral-genital, anal-genital or oral-anal, whether between persons of the same or opposite sex or between a human and an animal, or with an artificial genital.

“Nude performance” means the showing of the human male or female genitals, pubic area or buttocks with less than a fully 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 male genitals in a discernibly turgid state in any play, motion picture, dance or other exhibition performed before an audience.