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May 30, 2025

Cromaine District Public Library
Board of Trustees
3688 Hartland Road
Hartland, MI 48353

Re: Proposed Revised Cataloging and Shelving of Books Policy

Dear Board of Trustees:

The ACLU of Michigan has been made aware of a proposed policy that would give the Cromaine Library Board of Trustees ultimate authority to make decisions concerning the cataloging and shelving of books, particularly in the context of challenges to books in the Cromaine library collection. Based on statements by some Board members and residents, we believe that the impetus for this policy is opposition to LGBTQ+-related materials. As such, the proposed policy raises serious civil liberties concerns under the First Amendment.

It is our understanding that currently, the Library Director makes decisions regarding the location of books by relying on publisher data and reviewing recommendations from various library and literary associations. In addition to those recommendations, the Director has discretion to change the location of a book if they believe it would be more appropriate to house it in a different section of the library. The proposed policy allows the Library Board to unilaterally override the Library Director's decisions with regard to cataloging and shelving books by allowing the Library Board to move books that it deems "age inappropriate" to other sections of the library. While age appropriateness can be a consideration in determining where a book should be shelved, this determination lies in the sound discretion of the Library Director and should not be overridden at the whim of the Library Board without an open, detailed, and transparent process for reviewing challenges.

In addition to the proposed policy, it is our understanding that the Board has also considered other forms of censorship, such as moving children's books to an "adult section," putting certain books behind glass or the circulation desk so that a patron must ask to access them, and creating a "social section" for controversial books. At the February 20, 2025 Library Board meeting, President Bolin stated that he is working with the Livingston County Sheriff and the Prosecutor to place a sticker or label on certain books, indicating that "the Library Board has deemed this publication to contain possible Sexually Explicit Material. Allowing a minor access to this book is contrary to MCL 722.674 and MCL 722.675 and may subject you to criminal prosecution."

Restricting access to books is a form of censorship.

Requesting that titles be moved to a different part of the library is a recent trend that is being used to make the ultimate goal of impeding access to these materials seem more reasonable. The requester often reasons that they are not asking that the book be removed, rather, they are “just” asking that it be moved to a different section of the library, or behind the circulation desk. This has the effect of making any opposition seem irrational, as the act of moving the book is not as severe as banning the book. But actions other than banning materials can constitute censorship. Censorship is “an amalgamation of practices, including the redaction of text in a document, cutting pages out of a book, or denying access to materials.”¹ It also includes “a change in the access status of material, based on the content of the work and made by a governing authority or its representatives. Such changes include exclusion, restriction, removal, or age-grade-level access limitations.”²

The American Library Association, which is the oldest and largest library association in the world, and the Michigan Library Association, which is the oldest and largest library association in Michigan, both oppose book challenges or other restrictions on the access to titles.³ The American Library Association explains that book challenges “do not simply involve people expressing their point of view, but rather are an attempt to remove materials from curricula or libraries, thereby curtailing the ability of others to access information, views, ideas, expressions, and stories. . . . Any reduction in access to library materials based on an individual or group’s belief that they are harmful or offensive is an act of censorship.”⁴ Its council adopted a statement opposing the use of prejudicial labeling systems and restrictions, and affirmed its support of “the rights of individuals to form their own opinions about resources they choose to read, view, listen to, or otherwise access.”⁵ Similarly, the Michigan Library Association’s Board of Directors adopted a statement that defined intellectual freedom as a library user’s right “to read, seek information, and speak freely as guaranteed by the First Amendment,” and “a basic right in our

¹ Knox, Emily, “*The Books Will Still Be in the Library*”: *Narrow Definitions of Censorship in the Discourse of Challengers*, 62 *Library Trends* 740 (Spring 2014).

² *Challenge Support*, American Library Association, <https://www.ala.org/tools/challengesupport> (last updated 2022, last visited March 13, 2025).

³ *About ALA*, American Library Association, [https://www.ala.org/aboutala/about-ala/home#:~:text=The%20American%20Library%20Association%20\(ALA,Equity%2C%20Diversity%2C%20and%20Inclusion.](https://www.ala.org/aboutala/about-ala/home#:~:text=The%20American%20Library%20Association%20(ALA,Equity%2C%20Diversity%2C%20and%20Inclusion.) (last visited March 13, 2025); *About MLA*, Michigan Library Association, <https://www.milibraries.org/about-mla> (last visited March 13, 2025).

⁴ *Book Ban Data*, American Library Association, <https://www.ala.org/bbooks/book-ban-data#:~:text=Challenges%20do%20not%20simply%20involve,materials%20to%20be%20a%20ban.> (last visited March 13, 2025).

⁵ *Labeling Systems: An Interpretation of the Library Bill of Rights*, American Library Association, (adopted on June 30, 2015), <https://www.ala.org/advocacy/intfreedom/librarybill/interpretation/labeling-systems#:~:text=The%20prejudicial%20label%20is%20used,%2C%202015%2C%20by%20ALA%20Council.>

democratic society.”⁶ The Michigan Library Association went on to express that everyone has a right to “receive and impart information and ideas,” and oppose “any restrictions to access which may include ... challenges to literature.”⁷

Limiting access to material based its content violates the First Amendment to the United States Constitution.

The library associations’ conclusions find support in cases that have analyzed restrictions on access to reading material under First Amendment principles. For example, a federal court in Texas struck down a resolution that allowed a certain number of library patrons to petition the library to move books from the children’s section into the adult section. *Sund v. City of Wichita Falls, Tex.*, 121 F.Supp.2d 530 (N.D. Texas, 2000). In reaching this conclusion, the Court noted that “[t]he First Amendment to the United States Constitution . . . indisputably protect[s] the right to receive information,” and that this right is “vigorously enforced in the context of a public library.” *Id.* at 547. It held that the resolution placed a “significant burden” on this right, because neither people searching for the relocated titles nor people browsing the children’s section of the library would be able to find the titles that had been moved. *Id.* at 550. The Court also held that it was unconstitutional to permit “vocal minorities veto power over any children’s book with which they disagree” based on their own reaction to it. *Id.* at 534; 549. Regulations that confer this type of censorship power are known as creating a “heckler’s veto.” The Court in *Sund* noted that the Supreme Court has repeatedly invalidated such regulations “as antithetical to core First Amendment values. *Id.* at 549.

Another court held that requiring a student to obtain a signed permission slip from her parents before checking out certain titles burdened her First Amendment rights, noting that “the right to read a book is an aspect of the right to receive information and ideas, an ‘inherent corollary of the rights of free speech and press that are explicitly guaranteed by the Constitution.’” *Counts v. Cedarville School Dist.*, 295 F.Supp.2d 996, 998-999 (W.D. Ark. 2003), citing *Board of Education v. Pico*, 457 U.S. 853, 867 (1982). The Court in *Counts* also found that “the stigmatizing effect of having to have parental permission to check out a book constitute[d] a restriction on access,” as was the student’s inability to simply go into the library, take the book off the shelf, and thumb through it. *Counts* at 1002.

The Court in both *Sund* and *Counts* also rejected arguments that no First Amendment rights were implicated because the books in question were not removed from the library. In *Sund*, the Court noted that “[a]lthough . . . petitioned books are not banned entirely from the library, the burdens on Plaintiffs’ First Amendment rights imposed by the Resolution are nonetheless constitutionally objectionable.” *Sund* at 549. In *Counts*, the fact that the student had other access to the restricted books did not prevent the Court from striking down the restriction. It noted that “[t]he Supreme Court has held that ‘one is not to have the exercise of his liberty of expression in appropriate

⁶ *Statement of Principle – Intellectual Freedom*, Michigan Library Association (Sept. 10, 2021), <https://www.milibraries.org/intellectual-freedom#:~:text=Libraries%20are%20vital%20repositories%20of,that%20infringe%20on%20informed%20choice.>

⁷ *Id.*

places abridged on the plea that it may be exercised in some other place.” *Counts* at 1000, citing *Reno v. American Civil Liberties Union*, 521 U.S. 844, 880 (1997). It has long been observed that “the possibility the Government could have imposed more draconian limitations on speech never has justified a lesser abridgement. Indeed, such an argument almost always is available; few ... First Amendment cases involve outright bans on speech.” *Denver Area Educ. Telecomm. Consortium, Inc. v. FCC*, 518 U.S. 727, 809 (1996) (Kennedy, J., concurring in part and dissenting in part). The fact that particular books that the Library Board may find offensive or inappropriate can still be physically in the library does not change the First Amendment implications of restricting access to them.

Clearly the threat of criminal prosecution will have the effect of dissuading patrons from accessing library materials that the Board of Trustees has subjectively determined to be sexually explicit, even if such materials do not meet the definition as defined by Michigan’s statute.

Statements and Actions by Board President Bolin and Some Residents Indicate Disapproval of LGBTQ+-Related Library Materials and The Desire to Limit Access to Them

In addition to the First Amendment issue, comments made and actions taken by certain Board Members, would appear to indicate that disapproval of LGBTQ+ related books and materials and the desire to limit access to those materials is a motivating factor for this policy change. During the February , 20, 2025 Library Board meeting, Library President Bill Bolin made several statements that reveal his motivation for supporting the new policy. For example, Bolin stated that he opposes materials related to sexuality being in the library and that “controversial” books should be labeled as such and moved to “age restricted” places in the library. He opposed having a Pride Month display at the library, and stated apparently in reference to the transgender community that “it is good that, as a library board, we are making a sympathy statement to anyone who has been unduly influenced to undergo transition surgery and treatment only to regret the decision they made as a child and are suing those who influenced their decision. Someone needs to stand up for the children.”⁸

With regards to working with law enforcement to label books that are sexually explicit with a criminal prosecution warning, Bolin stated that a list of at least 80 books was already being compiled for presentation to the Library Director for labeling and with a suggestion that they be moved to the an “age appropriate” section of the library. Throughout the course of these discussions, the Board is aware that a patron of the library filed more than 200 challenges to books in the library’s collection. A majority of those books feature LGBTQ+ related subject matter, including characters who identify as transgender and or gender non-binary. Mr. Bolin stated at

⁸ This statement implies that transgender minors can consent to and receive gender affirming surgery as treatment for their diagnosed condition of gender dysphoria. It should be noted that in general, the World Professional Association for Transgender Health (WPATH) Standards of Care **do not** include surgical procedures for minors diagnosed with gender dysphoria. In general, transgender minors do not and cannot receive gender affirming surgeries and any form of non-surgical gender affirming medical care for minors must be recommended by the minor’s physician who specializes in gender affirming care, and consented to by their parents or legal guardians.

the April 17, 2025 Board meeting that the list of books that he is compiling is based on the list of books that this patron has challenged. It should be noted that books that feature LGBTQ+ characters and or subject matter are not synonymous with sexually explicit material.

In February 2025, the Board received a legal memorandum from attorney Ann M. Seurnyck, advising against the proposed policies and practices, including labeling books deemed controversial and age inappropriate by the Board, citing First Amendment concerns. The Board then decided to engage the services of attorney Logan Spena, with the Alliance Defending Freedom (ADF)⁹ to draft the proposed policy currently under consideration by the Board.

All of the above indicates that certain members of the Board are motivated to limit access to books and materials because they contain LGBTQ+ themes.

Conclusion

Restricting access to titles, even when the titles remain in the library, is an act of censorship. Doing so impedes the rights of library patrons and runs afoul of the First Amendment. It can also harm marginalized communities who may come to places like public libraries hoping for an inclusive space, and in this particular instance, doing so with regards to LGBTQ+ titles will exacerbate that harm. We strongly urge you to reject the proposed policy regarding cataloguing and placement of library books and materials.

Sincerely,



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⁹ The ADF has a long record of opposing LGBTQ rights, including advocating for LGBTQ books and materials to be banned from public libraries and schools. <https://www.hrc.org/news/alliance-defending-freedom-staunch-enemy-of-equality>