

newsletter  
on  
intellectual  
freedom



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## ***And Tango Makes Three* tops ALA's 2006 list of most- challenged books**

Justin Richardson and Peter Parnell's award-winning *And Tango Makes Three*, about two male penguins parenting an egg from a mixed-sex penguin couple, tops the list of most-challenged books in 2006 due to the issues of homosexuality. The list also features two books by Nobel Prize-winning author Toni Morrison. *The Bluest Eye* and *Beloved* are on the list due to sexual content and offensive language.

The ALA Office for Intellectual Freedom (OIF) received a total of 546 challenges last year. A challenge is defined as a formal, written complaint, filed with a library or school, requesting that materials be removed because of content or appropriateness. Public libraries, schools, and school libraries report the majority of challenges to OIF.

"The number of challenges reflects only incidents reported," said Judith F. Krug, director of the ALA Office for Intellectual Freedom. "For each reported challenge, four or five likely remain unreported."

The "10 Most Challenged Books of 2006" reflect a range of themes, and consist of the following titles:

- *And Tango Makes Three* by Justin Richardson and Peter Parnell, for homosexuality, anti-family, and unsuited to age group;
- Gossip Girls series by Cecily Von Ziegesar, for homosexuality, sexual content, drugs, unsuited to age group, and offensive language;
- Alice series by Phyllis Reynolds Naylor, for sexual content and offensive language;
- *The Earth, My Butt, and Other Big Round Things* by Carolyn Mackler, for sexual content, anti-family, offensive language, and unsuited to age group;

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*Published by the ALA Intellectual Freedom Committee,  
Kenton L. Oliver, Chair*

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Views of contributors to the **Newsletter on Intellectual Freedom** are not necessarily those of the editors, the Intellectual Freedom Committee, or the American Library Association.

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## teen authors unite against censorship

In May 2005, Cary McNair told the St. Andrew's Episcopal School in Austin, that if they did not remove Annie Proulx's short story "Brokeback Mountain" from its twelfth-grade reading list, he would pull a donation of \$3 million to the school's rebuilding fund. St. Andrew's board of trustees opted to leave the story on the reading list and let McNair keep his money. Board member Bill Miller said, "St. Andrew's has a policy not to accept conditional gifts, whether it's \$5 or \$500,000."

The school's decision caught the attention of author Lisa Yee, who posted the story on an electronic discussion list for young adult fiction authors. Two other authors had the same immediate response. Jordan Sonnenblick said, "[Mark Williams] and I posted back at the same time, 'We need to all send books to that school to support them.'"

With that, AS IF! (Authors Supporting Intellectual Freedom) was born. Forty young adult fiction writers agreed to send signed copies of their books to the school to show their appreciation. Sonnenblick said, "I called the school and asked if they could put up a Freedom Library display, showing the signed books that all the authors sent to them."

Since then, AS IF! has been weighing in on book challenges across the country. The community's members, including Brent Hartinger, Rosemary Graham, and Sarah Darer Littman, post stories about challenges on AS IF's blog and in the Friends of AS IF discussion group. Debates often occur in the blog's comments. "We've had some really interesting intellectual conversation," said Sonnenblick. "Rosemary Graham writes really eloquent logical responses, backed up by all sorts of information from the ALA and other sources. Thank God for Rosemary."

However, the group does more than just write about controversies. "I contact the people who are on the receiving end of the challenge—librarians, typically," he said. "I also contact local media." He later said, "I'm sort of AS IF's media hellraiser."

AS IF! can even bring a story to national attention, as evidenced by press coverage of the *The Higher Power of Lucky* controversy. Objections to the Newbery Award-winning book were raised on the school library media discussion list LM\_Net because of author Susan Patron's use of the word "scrotum" on the first page.

In a *Publishers Weekly* article, Durango, Colorado, librarian Dana Nilsson said, "The inclusion of genitalia does not add to the story one bit and that is my objection. Because of that one word, I would not be able to read that book aloud. There are so many other options that the author could have used instead." In a post on LM\_Net about the book, Nilsson wrote, "It seems as if it is there just for

shock." This and other posts expressed concerns that parents would challenge the book.

"People were saying Susan Patron put the word 'scrotum' in her book to boost sales, like that would be a good plan," Sonnenblick said. "People think authors are cynical and manipulative, and, in my experience, that is never true in the kid-lit world. There is more pressure not to be controversial."

Sonnenblick read about the posts in the LM\_Net archives and said to himself, "It's a Newbery Award-winner. Of course, you're going to have it." He added, "I waited for people to stand up for intellectual freedom, and I ended up posting to child\_lit asking people who could post there to take a stand."

A *Publishers Weekly* editor saw the post on child\_lit and assigned reporter Shannon Maughan to write about it around the same time Sonnenblick had contacted her about the story himself. "I felt like I had helped to plant the seed in two ways at once," he said. "I was asked, 'Why don't you blog about this' and I thought, 'Why blog when you can ask *Publishers Weekly* to write about it?'"

From there, the controversy was covered the front page of the Sunday *New York Times*. CNN aired a piece on the story, while the NPR program "Wait Wait . . . Don't Tell Me" joked about the uproar. Barbara Walters even read the novel's first page on *The View*. Sonnenblick said his work on this story was "my crowning moment so far."

Many of the authors on AS IF's roster have been subjected to challenges themselves. "It's really painful for an author to get challenged," he said. "People say horrible things about them." For example, "Brent [Hartinger] really gets hammered by censors because he deals with a lot of raw and more explicit themes in his writing. Altruistically, he hates it for this to happen to other authors."

Because Sonnenblick hasn't faced a challenge of his work, he said, "I can honestly say that I'm not doing this out of self-interest. I am more passionate about this as an ex-teacher."

During his teaching days, he was never involved with "a hardcore challenge, but I did sit at a meeting with teachers and administrators discussing *The Diary of Anne Frank* because a mother had asked, 'Don't you have something more uplifting for a child to read?'"

Not to say that he doesn't understand the other side of the battle. "I have empathy for parents, because they're trying to protect their kids. I have two children of my own."

That said, there are often situations such as Laura Mallory's crusade to get the Harry Potter books banned in Gwinnett County, Georgia. "[Y]ou look at someone like Laura Mallory . . . who won't give up, appealing it to Georgia's Superior Court, and she is so clearly out of line. Someone has to say, 'You're being unreasonable.' But rea-

sonable people are too measured to handle them. They're not holding back, and you're fighting with Band-Aids and teddy bears, and they've got sticks and stones." Reported in: BooksLut.com, April 2007. □

## FBI director questioned on misuse of NSLs

At a March 27, 2007, Federal Bureau of Investigation (FBI) oversight hearing, members of the Senate Judiciary Committee asked sharp questions of FBI Director Robert Mueller. After opening remarks, the first question asked by Judiciary Chair Patrick Leahy (D-VT) to Mueller was about the number of National Security Letters (NSLs) served on libraries and other educational institutions. Mueller could not provide the number, but promised Leahy he would provide the answer by the end of the week.

Senator Leahy went on to note the sweeping request by the FBI to the Library Connection, a non-profit consortium of twenty-seven public and academic libraries in central Connecticut, for library records about all patrons and materials in 2005.

In Leahy's opening statement, he noted:

"From the FBI's illegal and improper use of National Security Letters (NSLs), to the Bureau's failure to be accountable for and secure its own computers and weapons, to the politically motivated dismissal of eight of the Nation's U.S. Attorneys, there are growing concerns about the competence of the FBI and the independence of the Department of Justice. This pattern of abuse of authority and mismanagement causes me, and many others on both sides of the aisle, to wonder whether the FBI and Department of Justice have been faithful trustees of the great trust that the Congress and American people have placed in them to keep our Nation safe, while respecting the privacy rights and civil liberties of all Americans."

Many other pointed questions were asked during the approximately three-hour-long hearing. In response to Director Mueller noting that "... the warrant applications are very long and contain thousands of facts," Ranking Member Arlen Specter (R-PA) remarked, "I am not impressed with your assertion that there are thousands of facts. That's your job, you asked for these powers; we gave them to you. If these applications are wrong, you're subjecting people to an invasion of privacy that ought not to be issued."

A significant finding of the Office of the Inspector General (OIG) involved the use within one unit at FBI Headquarters of so-called "exigent letters." These letters, which numbered in excess of 700, were provided to telephone companies with requests for toll billing informa-

tion regarding telephone numbers. All of the letters stated that there were exigent circumstances. Many of the letters stated that federal grand jury subpoenas had been requested for the records—even though, in fact, no such request for grand jury subpoenas had been made—while others promised future National Security Letters. Reported in: ALA Washington Office Newswire, April 2.

In a related development, the Senate Judiciary Subcommittee on the Constitution heard testimony April 11 from George Christian, one of four former plaintiffs in the *John Doe v. Gonzales* lawsuit that contested the constitutionality of the FBI's use of National Security Letters (NSLs). Christian, the executive director of the Connecticut nonprofit library consortium Library Connection, submitted his testimony on behalf of the American Library Association.

"Our saga should raise a big, patriotic American flag of caution about how our civil liberties are being sorely tested by law enforcement abuses of National Security Letters," Christian said in his statement. "The questions raised vindicate the concerns that the library community and others have had for over five years about the broad powers expanded under the USA PATRIOT Act."

The hearing followed a March 9 audit by Justice Department Inspector General Glenn Fine that concluded the FBI habitually neglected to follow NSL regulations from 2002 to 2005, during which time 143,074 letters were delivered and another 8,850 letters went unrecorded in the official NSL tracking database maintained by the FBI's Office of the General Counsel.

Subcommittee Chair Sen. Russell Feingold (D-WI) remarked at the hearing, "'Trust us' doesn't cut it when it comes to the government's power to obtain Americans' sensitive business records without a court order and without any suspicion that they are tied to terrorism or espionage."

"It is widely believed that some civil liberties were restored in [the March 2 revision of] the PATRIOT Act, but they were not," said Christian, describing a loophole that allows the FBI to issue an NSL if "electronic communication services" are offered by the library in question. "Thus, any library providing internet service can still be served with an NSL—that is essentially every library in the United States today."

Christian detailed the harmful effects of being served with an NSL, and how the accompanying gag order created difficulties for the plaintiffs when dealing with coworkers, patrons, the media, and even their families. "I pride myself on my integrity and openness," said Christian. "I worried if, knowing I was participating in this court case behind their backs, the members of the [Library Connection] board and other library directors were starting to wonder what else I might be concealing."

The lawsuit, filed by the American Civil Liberties Union against the U.S. Attorney General, was eventually abandoned by the FBI. "In doing so, they removed the PATRIOT Act from the danger of court review," said Christian. He asked

that Congress reconsider parts of the PATRIOT Act, in particular the gag order that prevents elected officials and the public from knowing anything about potential abuses. Reported in: American Libraries Online, April 13. □

## **Connecticut John Does receive 2007 ProQuest-SIRS State and Regional Achievement Award**

Four Connecticut librarians known as the Connecticut John Does are the 2007 recipients of the ProQuest-SIRS State and Regional Achievement Award presented by the American Library Association (ALA) Intellectual Freedom Round Table (IFRT).

The award, funded by ProQuest-SIRS, consists of a citation and \$1,000 and recognizes successful and effective intellectual freedom coalitions or committees that have made a contribution to the freedom to read or to the intellectual freedom environment in which libraries function.

The Connecticut John Does are honored for defending intellectual freedom when they challenged the constitutionality of National Security Letters (NSLs) and the gag provisions of NSLs issued under the USA PATRIOT Act.

The four librarians are George Christian, Executive Director of the Library Connection; Peter Chase, Director of the Plainville (Conn.) Public Library and Chair of the Intellectual Freedom Committee of the Connecticut Library Association; Barbara Bailey, Director of the Wells-Turner Memorial Library in Glastonbury, Conn.; and Janet Nocek, Director of the Portland (Conn.) Public Library.

In 2005, the John Doe librarians served as the Executive Committee of the Library Connection—a consortium of central Connecticut public and academic libraries sharing an automated library system and telecommunications network—when it was required by a NSL to turn over patron information to the FBI.

“What these four people endured in order to protect free intellectual inquiry and patron privacy in libraries is amazing,” said Steve Norman, Chair of the ProQuest-SIRS Award Committee. “They stood up against improper use of National Security Letters—and the gag order that prevented them from saying anything about it—and their lives were turned upside down for almost a year.” □

## **Wisconsin librarians seek privacy-law amendment**

A police investigation into whether a crime occurred April 2 at the Neenah Public Library has intensified efforts

already underway by the Wisconsin Library Association (WLA) and state legislators to enable librarians to share surveillance tapes with law enforcement in criminal cases without a subpoena. The investigation involves a patron’s report that a man was masturbating in a second-floor book aisle; by the time police arrived the suspect was gone.

Although Neenah Public Library Director Stephen Proce preferred to give police the pertinent surveillance tape immediately, he had to decline until he was served with a subpoena April 18 due to an informal opinion in November 2006 from the Wisconsin Attorney General’s office. The request stemmed from several thwarted investigations, including one in which the Sun Prairie Public Library wished to share with police a surveillance tape that might help identify who had stolen SPL’s donation box during library hours, according to WLA.

WLA is seeking a “new narrow exception to the court order requirement for release of library records for library administrative purposes including collection of fines and penalties, and the protection of library staff, library users, and library property.” State Sen. Michael Ellis (R-Neenah) and Rep. Dean Kaufert (R-Neenah) announced April 17 that they would introduce such an amendment. “The right to privacy is important, but it should not trump the right of the public to be protected,” Ellis said.

Ironically, neither police nor library officials were able to identify the suspect from the subpoenaed video, from which several still photos were made. “We had thirty-three employees look at the video, and no one recognized this person,” Proce said. Reported in: American Libraries Online, April 20. □

## **EPA libraries still disposing and dispersing materials**

According to an Environmental Protection Agency (EPA) procedural document issued April 9, the agency is still requiring its libraries to “disperse or dispose of their library contents when appropriate,” despite a February 6 commitment from EPA Administrator Stephen Johnson during Senate hearings to a moratorium on further library closings and discarding of holdings. Another April 9 document, from the EPA’s own Office of Enforcement and Compliance Assurance (OECA), expresses concerns about the agency’s effectiveness in prosecuting polluters if data and documents are dispersed outside the EPA to other libraries.

The documents were disclosed May 2 by the Public Employees for Environmental Responsibility (PEER), a national alliance of local state and federal resource professionals that has repeatedly expressed concern over the EPA’s downsizing of its libraries.

“EPA is determined to leap before it looks as it barrels ahead to shut libraries,” said PEER Associate Director Carol Goldberg, who noted that nearly one-third of the agency’s twenty-seven libraries have either closed or had services reduced. “EPA has declared war on libraries and the services they provide without offering an adequate substitute.”

The procedural document predates an April 26 letter written to Johnson by four House committee chairmen requesting an update on EPA library activities. Signed by Rep. Bart Gordon (D-TN), John Dingell (D-MI), Henry Waxman (D-CA), and Jim Oberstar (D-MN), the letter requested a May 4 response to specific questions about the status of EPA libraries and its plans for digitization of agency materials.

The procedural document, which refers to itself as an “interim policy,” specifies the types of materials EPA libraries should keep, disperse to EPA repository libraries, donate and disperse to non-EPA libraries, or recycle. It does contain a cautionary note: “Although it may be tempting to dispose of library materials quickly, the loss of important and unique materials could have serious future consequences if the Agency cannot document scientific findings or enforcement actions.”

The OECA document listed concerns about access to dispersed EPA materials, the accessibility of digitized information, the timeliness of responses to document requests needed by litigators, the reliability of interlibrary loans, and associated costs not taken into consideration by the agency. Reported in: *American Libraries Online*, May 4. □

## student play heads to off-broadway

Students at a Connecticut high school whose principal canceled a play they were preparing on the Iraq war arranged to perform the work in June in New York, at the Public Theater, a venerable off-Broadway institution, and at the Culture Project, which is known for staging politically provocative work. A third show at a Connecticut theater was also being discussed.

“We are so honored and thrilled, there’s no words to describe how excited we are,” Bonnie Dickinson, the teacher whose advanced theater class at Wilton High School put the play together, said.

After barring the scheduled performance of the play, a series of monologues mainly from soldiers titled *Voices in Conflict*, school officials have cleared the way for an off-campus production. In a letter, Thomas B. Mooney, a lawyer for Wilton’s board of education, wrote that the district and its superintendent, Gary Richards “have no objection to students privately producing and presenting the play on their own.”

While defending the school’s initial decision to halt production pending “concerns about balance, content, and copy-

right,” Mooney wrote that “school officials have no interest in interfering with the private activities of students.” The letter goes on to say that Dickinson, the teacher of the advanced theater class that initiated the project, could also participate in an independent production “as long as she makes clear that she is acting as an individual and that the play is not sponsored in any way by the Wilton Public Schools.”

In canceling the play in March, the school principal, Timothy H. Canty, cited concerns about political balance, sourcing, and the possibility of hurting Wilton residents “who had lost loved ones or who had individuals serving.”

But administrators said that they might yet allow the play to be performed on school grounds in some modified form, but probably not this spring, when about half the fifteen cast members are scheduled to graduate.

The Public Theater, which was tentatively scheduled to stage the show June 15, and the Culture Project, where it was slotted for the prior weekend, were among scores of off-campus venues, including church basements and college auditoriums, that offered the students a platform after the play’s cancellation.

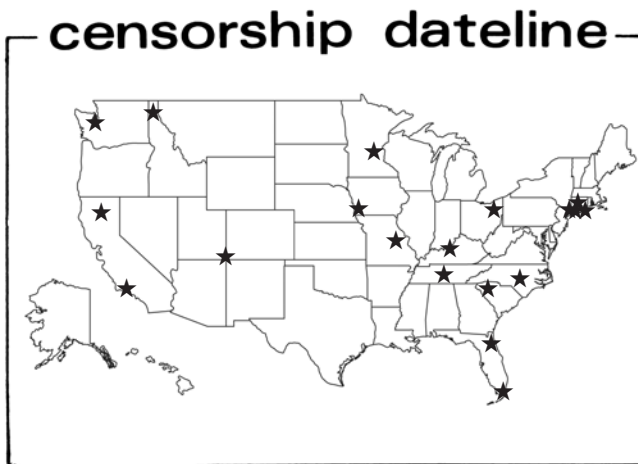
“We started in the school, but we don’t have to finish in the school,” Devon Fontaine, 16, a cast member, said. “Wherever we do the play, I think we will all be happy and grateful that that venue has allowed us to do so.”

The students were also awarded a Courage in Theater award for their non-performance from Music Theater International, a New York agency that licenses many high school productions. In addition, theater greats such as Edward Albee, Christopher Durang, John Weidman, Marsha Norman, Doug Wright, John Guare, and John Patrick Shanley, under the auspices of the Dramatists Guild of America, joined the National Coalition Against Censorship in calling for the school district to allow the play to go on.

Martin Garbus, a First Amendment lawyer who has been working pro bono with Dickinson and several parents of cast members said that schools are allowed to regulate speech that has the potential to disrupt learning. But canceling the initial production only increased the likelihood that its eventual performance on school grounds might stir up trouble, he said. “Had the school not done any of this stuff, it would have just gone through uneventfully,” Garbus said.

Dickinson said the script was a work in progress, and that students would now be rushing to polish it and rehearse amid other spring concerns, like the prom. “We’re looking forward to finishing writing the play or putting it together, as it were, and coming up with some kind of ending that feels right with the kids and then rehearsing it,” said Dickinson, adding that the show may be performed on-book, with the cast reading from scripts, to relieve anxiety about memo-

*(continued on page 170)*



## libraries

### Bentonville, Arkansas

The father of two teenage boys has asked city officials to fine the Bentonville Public Library for keeping *The Whole Lesbian Sex Book*, by Felice Newman, on the open shelves where his sons could find it. Earl Adams said his fourteen- and sixteen-year-old sons discovered the book in January while browsing for literature on military academies and were “greatly disturbed,” causing “many sleepless nights in our house.”

Adams wants the city to pay him \$10,000 per child, the maximum allowed under Arkansas obscenity law. “God was speaking to my heart that day and helped me find the words that proved successful in removing this book from the shelf,” Adams said.

City Attorney Camille Thompson said the book was not pornographic and Adams has no “valid legal concern.” After receiving his original complaint, the library advisory board voted April 3 to remove the book from circulation and look for a similar, less graphic resource for the open stacks. “I thought we had a very intelligent—I almost want to say high-minded—discussion about the book,” said board member George Spence.

Library Director Cindy Suter said she disagreed with Adams’s conclusion that having Newman’s book in the

library follows an “immoral social agenda,” adding, “My focus was to develop an inclusive collection and not an exclusive collection.” Reported in: *American Libraries Online*, April 20.

### Gillette, Montana

A parent whose fifteen-year-old learned from a school library book how to sniff nail polish remover wants books with such specific drug information removed. At the very least, Sherri Walter and her mother, Stephanie Kelly, say certain books should be flagged and require parental permission before they can be checked out by their children.

“This information is too much,” Kelly said. “They cave pretty fast at that age.”

But school officials say removing books about drugs is not a solution because the books are used to teach children that drugs are harmful.

Jan Burke, school district media coordinator, said the books are important because they supplement the health curriculum at the schools. Librarians also read reviews of books and verify that they are age-appropriate before adding them to school libraries, Burke said.

“We’re certainly not buying books that are glorifying drug use,” Twin Spruce librarian Diane Adler said. “It’s the parents’ responsibility with the books (students) check out. . . . As a library, we need to provide information.”

Most local elementary and secondary schools contain at least some books about the harmful effects, history, or composition of various drugs. While the books are intended to inform readers about the dangers, they contain some information that Walter and Kelly see as extraneous: drug ingredients and recipes, street names, how drugs are smuggled, and numerous photos of inhalants that kids could easily find in their own homes.

Grant Senef, a health teacher at Twin Spruce, said getting information is part of the curriculum in his class. Learning how to find valid sources that teach students about drugs helps them make good decisions in situations when teachers and parents aren’t around.

Burke said it’s crucial to look at books as a whole and take into account the reasons for the photos and information they contain.

Kelly and Walter see health classes and the D.A.R.E. program as appropriate ways to educate kids about drugs, but they say the drug books are unnecessary. In addition, Kelly said she thinks parents and teachers can only do so much to prevent kids from doing drugs.

“Some of these parents have done everything they could,” she said. “They’re pulling their hair out. . . . But then (kids) are getting this at school. Do you have to know how to make it to know [drugs are] wrong?” Reported in: *Billings Gazette*, April 28.

### Princeton, New Jersey

The Princeton Public Library (PPL) came under fire in mid-May over the inclusion of two documentaries about Cuba among fourteen films in its 2007 Princeton Human Rights Film Festival. The controversy resulted in a shouting match at the May 12 screening of *¡Salud! What Puts Cuba on the Map in the Quest for Global Health*, as well as accusations in the conservative blogosphere that the library was disseminating pro-Castro propaganda.

PPL Director and ALA President Leslie Burger said that the purpose of the festival, now in its third year, is to highlight “what we think are human rights issues, like the right to clean water or the right to a safe environment or the right to clean air.” Emphasizing that the two-and-a-half-day event is “not about the human rights records of countries around the world,” Burger said that the film-selection committee chose *¡Salud!* to spark discussion about what constitutes a quality public health system.

But area resident Faustia Wertz blogged May 8 that she saw PPL’s choice of *¡Salud!* as well as *The Power of Community: How Cuba Survived Peak Oil* as indicative of the library’s indifference to Castro’s human rights record. “People started organizing letter-writing campaigns,” Burger explained, “pressuring us to remove the films from the screening list, which we refused to do.” She said the library also refused to “uninvite” Ellen Bernstein of Pastors for Peace, who is a frequent traveler to Cuba, as a speaker after the *¡Salud!* screening.

“The thing about the two films is not that they’re being shown. I have no objection to that. The facts on Cuba are not the facts that were shown,” Wertz told the May 18 *Princeton Packet*. “To have a film festival that doesn’t address the blatant and egregious human rights violations in Cuba seems really unbalanced,” agreed Maria C. Werlau of Summit, New Jersey, and executive director of Cuba Archive.

“If we want to have a discussion about people having public health care, we have to choose a film that allows us to have that discussion,” Burger asserted. “Unfortunately, because Cuba appeared in the title of that film, we never had that discussion.” She added that PPL would continue holding the Human Rights Film Festival, “broadening our community involvement in it. We’re willing to take the heat.” Reported in: American Libraries Online, May 25.

### Wisconsin Dells, Wisconsin

The Wisconsin Dells school board voted April 30 in favor of making a controversial book circulating in the Spring Hill School library available only to seventh- and eighth-graders. The book, *What My Mother Doesn’t Know*, by Sonya Sones, previously was available to students as young as age eleven. Its circulation was left to the discretion of the librarians, according to Spring Hill School librarian Miranda Ladwig.

The book, through poems, tells the story of a fourteen-year-old girl named Sophia. It explores her relationship with her mother, friends, and her first love as well as how she comes to discover the changes to her own body that come with puberty.

Sherry Volkey complained to the district about the book after her eleven-year-old daughter checked it out and showed it to her. “I was deeply appalled when she brought this book to my attention and read to me a poem in here about getting undressed and taking your bare chest and sticking it up against a winter window,” Volkey told the board. She said she wanted the book, which deals with masturbation, groping, and sexual fantasy, among other themes, to be removed from the library and the accelerated reading program.

“I just don’t feel that that is appropriate for the school district to be supplying this as casual reading for kids in the library,” she said.

The school board’s vote followed a committee’s recommendation. The committee included Spring Hill Middle School principal Dan Wenkman, Spring Hill Elementary School principal Carol Coughlin, two library media specialists, and a reading specialist. Ladwig was among the members of the committee.

“We felt that, based on positive reviews of the book from established library journals and after reading the book ourselves, that it was relevant to middle school lives, that girls have thoughts and feelings that they don’t necessarily always feel that it’s OK to share. They think that they’re alone in how they’re feeling and their thoughts, whether they feel that they’re appropriate or inappropriate,” Ladwig said.

Reviews of the book state that it is intended for students in sixth through eighth grades, but Ladwig said the committee took Volkey’s concerns into account. “We felt, though it was appropriate for sixth grade and up, we would compromise and put it at a seventh- and eighth-grade level,” Ladwig said.

Unsatisfied with the committee’s decision, Volkey appealed to the school board.

School board president Dave Schulz agreed with Volkey that the book warrants supervision. “I’d want my daughter to read it. I would rather have her read it, have me sit down with her and go through it, see if she understands it,” he said. “I’m not sure I’m sold on the fact that it should just be put on the shelf,” he added.

Schulz and school board vice-president Bob McClyman voted against making the book available to seventh- and eighth-graders in the library. After the meeting, McClyman said the book shouldn’t be on the accelerated reading list because the program encourages students to read the book.

Others defended the book.

While Volkey referred to the book as “soft porn” on the complaint form she filled out, school board member Gisela Hamm called the book “charming.”



“There are a lot of themes in there that are not sexual. I thought one of the most interesting was the relationship that she had with her mother, and I think that’s very typical of her age,” she said. Hamm said the book also dealt with friendship and anti-Semitism in interesting ways.

“I think it’s a very appropriate book for that level,” Hamm said, adding that the book would even be appropriate for sixth-graders. But because there was an objection to the content, Hamm said she could understand a compromise of only offering the book to seventh and eighth graders.

“Kids are growing up a lot faster today, and I think it’s important for them to be aware of what is out there and what is going on in the world,” she said. “I don’t think we should ever restrict kids from having access to books. Not only that, but it’s good literature, aside from what it talks about, it’s done in free verse and it’s good literature,” she said. Reported in: *Baraboo News Republic*, May 2.

## **schools**

### **Burlingame, California**

Citing his concern for “the morals of our society,” Burlingame schools superintendent Sonny Da Marto has stopped four eighth-grade classes from reading *Kaffir Boy*, an award-winning memoir of growing up in a South African ghetto during apartheid.

Da Marto banned the book from the Burlingame Intermediate School in late March when the thirteen- and fourteen-year-old students were nearly halfway through it, said their English teacher, Amelia Ramos, who was required to take the books back from 116 students.

“The kids were angry,” Ramos said. “They were frustrated. They were appalled. And some were so upset that they couldn’t muster any type of verbal response. They were very quiet.”

A divided Burlingame Board of Education discussed the issue at a public meeting April 10 but declined to reverse Da Marto’s decision.

The book has been challenged frequently since its publication in 1986 because of two graphic paragraphs describing men preparing to engage in anal sex with young boys. Although Ramos taught *Kaffir Boy* last year without incident, a parent complained this year—and Da Marto agreed.

At the board meeting, Da Marto called *Kaffir Boy* an outstanding book, but said the paragraphs in question rendered it “inappropriate for this grade level.” He said he would allow an abridged version in which the controversial words were removed.

In *Kaffir Boy*, Mark Mathabane tells his brutal but ultimately triumphant story as one of nine children growing up in poverty during the 1960s and 1970s in a nation where the civil rights of black people were nonexistent. In South Africa, “kaffir” is a gross racial slur.

As poignant as it is painful, *Kaffir Boy* reached the top of the *Washington Post* best-seller list and number three on the *New York Times* list. It earned the 1987 Christopher Award for literature, “affirming the highest values of the human spirit.” It was also a finalist for the Robert F. Kennedy Award for books representing “concern for the poor and the powerless.”

“*Kaffir Boy* has been taught in eighth grade and in many high schools across the United States,” Ramos said. “I wanted to challenge and motivate my students, to broaden their perspectives on life beyond the borders of Burlingame.”

That strategy worked last year, when Ramos freely taught the memoir after it was approved by the Burlingame School District’s Core Literature Committee of parents, teachers, a librarian, a student, and a school board member. But in late March, Ramos received an e-mail from a parent complaining about a description of child prostitution witnessed by Mathabane when he was younger than Ramos’ students.

He runs away rather than participate in the sex-for-food arrangement with migrant workers that his starving companions agree to—but not before he sees that “the boys, now completely naked, had begun lining up along the bunks.” In two paragraphs, Mathabane uses the words “anuses,” “Vaseline” and “penises” as he describes preparations for the worst.

Ramos forwarded the parent’s e-mail to her principal, Ted Barone, who sent it to Da Marto. That very day, Ramos said, the superintendent ordered the class to stop reading the book.

“I’m very concerned about the morals of our society and that children who don’t have support are not prepared emotionally to read it,” the superintendent said at the board meeting. “They’re already exposed to violence and sex. As a public agency, are we going to contribute to it?” An abridged version of the book has been ordered, Barone told him.

Parents have been vocal about the book on a Burlingame blog site, [burlingamevoice.com](http://burlingamevoice.com). The first entry, on March 26, came from the parent of an eighth-grader objecting to the “graphic and detailed description of grown men raping young boys, as young as 5 years old.” The parent said the child was disturbed by the passages.

Some bloggers agreed, while others, including students, said they would read it no matter what. Some said that Ramos had sent a note to parents offering them the chance to opt their children out of reading the book. Some parents said they hadn’t seen the note.

But some school board members said the district’s discussion about removing the book hadn’t been frank at all. Board member Liz Gindraux, who also sat on the Core Literature Committee that approved *Kaffir Boy*, said the process had been “disrespected.”

“Two parents object, and the book is pulled without any discussion,” she said. “I feel we jumped the gun a little.”

Board vice-president Michael Barber said, “I don’t want to be the censor board.”

Parent Kerbey Altmann said the banning decision had “echoes of a police state. I feel my right as a parent was usurped unceremoniously and quickly. There was not full disclosure,” he said.

His son, eighth-grader Tom Altmann, asked the board how “shielding us from the scene in the book will benefit us.”

No one spoke in favor of the ban.

In 1999, Mathabane wrote an essay that appeared in the *Washington Post* titled, “If You Assign My Book, Don’t Censor It.” In the essay, he called *Kaffir Boy* disturbing, but not pornographic. He explained the prostitution paragraphs: “My father, the only breadwinner in a family of nine, had been arrested for the crime of being unemployed. There was no food in our shack. . . . Desperate for food, one afternoon I linked up with a group of 5-, 6- and 7-year-old boys on the way to the nearby men’s hostel. Their pimp, a 13-year-old boy named Mphandlani, promised that at the hostel we would get money and ‘all the food we could eat’ in exchange for playing ‘a little game’ with the migrant workers who lived there.”

Mathabane wrote that he was shunned by the boys for running away. He concludes that “resisting peer pressure is one of the toughest things for young people to do. That is the lesson of the prostitution scene. It’s a lesson that seems to be lost on the people who want to censor my book.” Reported in: *San Francisco Chronicle*, April 12.

### Chicago, Illinois

A girl and her grandparents have sued the Chicago Board of Education, alleging that a substitute teacher showed the R-rated film *Brokeback Mountain* in class. The lawsuit claims that Jessica Turner, twelve, suffered psychological distress after viewing the movie in her eighth-grade class at Ashburn Community Elementary School last year.

The film, which won three Oscars, depicts two cowboys who conceal their homosexual affair.

Turner and her grandparents, Kenneth and LaVerne Richardson, are seeking around \$500,000 in damages. “It is very important to me that my children not be exposed to this,” said Kenneth Richardson, Turner’s guardian. “The teacher knew she was not supposed to do this.”

According to the lawsuit filed May 11 in Cook County Circuit Court, the video was shown without permission from the students’ parents and guardians. The lawsuit also names Ashburn principal Jewel Diaz and a substitute teacher, referred to as “Ms. Buford.”

The substitute asked a student to shut the classroom door at the West Side school, saying: “What happens in Ms. Buford’s class stays in Ms. Buford’s class,” according to the lawsuit.

Richardson said his granddaughter was traumatized by the movie and had to undergo psychological treatment and counseling.

In 2005, Richardson complained to school administrators about reading material that he said included curse words. “This was the last straw,” he said. “I feel the lawsuit was necessary because of the warning I had already given them on the literature they were giving out to children to read. I told them it was against our faith.” Reported in: Associated Press, May 14.

### Newton, Iowa

A father and son’s concerns about profanity and the portrayal of Jesus Christ in the 1937 classic novel *Of Mice and Men* by John Steinbeck will spur Newton school officials to review whether the book should continue to be read in American literature class.

Terry Mapes and his son Troy, 17, a high school junior, brought their concerns to the Newton school board. Troy, a Christian, said the way Jesus’ name is used in the book made him uncomfortable.

“It’s more about my son’s beliefs. He has aspirations of going into the ministry,” Mapes said. “Clearly, the book offends his sense of decency. In his view, it is blasphemous. It certainly goes against the religious convictions that he has. We simply had asked for alternative reading.”

The book tells the tragic story of George and Lennie, two displaced migrant farmworkers in California during the Great Depression. In the book, George eventually kills Lennie, who is mentally retarded. Some school libraries across the country have banned the book for promoting euthanasia.

Mapes’ concerns will be reviewed by Newton’s nine-person reconsideration committee, made up of community members, library media specialists, and teachers, said Tom Hoover, the district’s director of educational services. The committee can recommend removal of the book from the school’s required reading list, take no action, or agree on a limited use of the book. The school board will make the ultimate decision, which can be appealed to the superintendent.

“This is the first time I’ve had a taxpayer complain about any of the material,” said Newton school board President Don Poynter, a former English teacher. “I’ve read it. That would be something by Steinbeck every American should have read.”

Newton High School has required students to read the book since at least the early 1980s. In neighboring Des Moines, it is on the recommended reading list for ninth-grade English, and it’s used for some special education students in the eleventh and twelfth grades, said Jo Ellen Latham, the district’s literacy coordinator.

Mapes said mandating students to read the book implies that what’s in it is acceptable behavior. Refusal to read it could affect a student’s grade-point average. Mapes was also unhappy at the initial reaction to his son’s concerns.

“When a student says this isn’t acceptable for me, is there something else I can do—if they’re chastised, ridiculed, harassed or bullied . . . I think we’ve stepped over

the line,” Mapes said. Reported in: *Des Moines Register*, April 12.

### **Louisville, Kentucky**

Eastern High student Leo Comerlato was just thirty pages from the end of Toni Morrison’s classic novel *Beloved* when his teacher told him to stop reading. Why? Because at least two parents had complained that the Pulitzer Prize-winning novel about antebellum slavery depicted bestiality, racism, and sex—inappropriate reading, they said, for 150 senior Advanced Placement English students.

So principal James Sexton ordered teachers to start over with *The Scarlet Letter* by Nathaniel Hawthorne in preparation for upcoming AP exams that include questions on classic novels.

The decision outraged some parents and students.

Many parents “think it’s just ridiculous,” said Paula Wolf, a PTA member whose daughter is in the class. “That book has been read for several years.” Leo, 17, called it “censorship” and said “students are furious.”

Sexton said he was trying to make the best of a difficult situation. “People think I’m censoring, but I’m not,” he said. “The only reason we stopped the discussion process is that we didn’t have a good process to challenge books . . . they can finish it at home.”

There is no procedure for challenging books before the school council, but Sexton said the council will create such a policy. Normally students who object to books are assigned an alternative, Sexton said. But because the class had almost finished *Beloved* before complaints were raised, he said he wanted to spare a small number of students from being “ostracized” and having to study a new book.

Sexton wouldn’t identify the parents who complained, and he said he’s not ruling out that the book could be taught again.

Senior AP English teachers may choose from among twenty-four books, ranging from Mark Twain’s *The Adventures of Huckleberry Finn* to Dostoevsky’s *Crime and Punishment*. Students are supposed to read and discuss eight books by the time of the exams.

However, of *Beloved*, Sexton said he believes “some of the language and some of the points made, from this principal’s perspective, are hard to have in high school.”

Sexton said that in eighteen years, he’s only had four complaints such as the ones about *Beloved*—and one of them was about another Morrison novel. *Beloved* is the story of an escaped slave haunted by memories of her murdered child. It portrays her plantation days and life after the Civil War. Considered a classic of literature and written by one of America’s foremost African-American women novelists, the book frequently has been challenged in schools across the country, partly because of its depiction of rapes, beatings, and murders.

“At one point, it’s talking about a plantation. And there’s no females. So the men resort to bestiality,” Leo Comerlato said, adding that he didn’t object because “we’re in a college-level class.” Reported in: *Louisville Courier-Journal*, March 28.

### **Harford County, Maryland**

Responding to complaints from about forty parents, the Harford County schools superintendent decided to remove a book from the high school curriculum, saying its message on the dangers of bullying is overshadowed by instances of vulgar language, including homophobic slurs.

In a memo on the county school system’s Web site, superintendent Jacqueline C. Haas said that the novel *The Chocolate War* by Robert Cormier will not be permitted in a social studies curriculum for county ninth-graders. It is the first time a book intended for use in Harford schools has been removed, according to Haas’ memo.

“This decision was a very difficult one,” said Mark M. Wolkow, president of the school board. “I have every confidence in the superintendent’s process in making the decision.”

In August, teachers sent home a syllabus for a new class called “Living in a Contemporary World,” created to help students with the transition from middle school to high school. The curriculum included the 1974 novel, which tells the story of a boy who is bullied because he refuses to participate in his school’s chocolate-selling fundraiser.

The book, which has won numerous awards, has been commended as a realistic portrayal of the dangers of bullying and harassment.

But several parents who objected to some of the content in the book began complaining to school officials through phone calls, e-mails, and appearances at school board meetings.

Objections raised at a board meeting last fall included concerns about profanity, sexual content and references to homosexuality, and worries that the book promotes bullying, according to minutes from board meetings.

John Wagner, whose son attends Fallston High, was among the parents who spoke out against the book at a board meeting last fall. He said the mere fact that the book generated controversy meant it was better to remove it from the curriculum.

“When I spoke at the board meeting last year, I said [that] we don’t tell our children to go out at midnight because nothing good can come from it,” the fifty-one-year-old Army officer and Bel Air resident said.

“Offering a controversial book as part of the curriculum seemed to be a similar situation. I’m not an advocate for stopping free speech, but I am very pleased the school system isn’t advocating the book as part of the curriculum,” Wagner said.

Others at meetings spoke in support of keeping the book, pointing out that students in the class could opt out of having to read the book if their parents so chose.

“I knew going into it that the book was controversial,” said George Toepfer, the supervisor of social studies for county schools who included the book in the curriculum. “It’s a dark novel because at the end, the good guys don’t seem to win. But I thought it had a strong lesson to teach students,” he said.

Some parents expressed frustration with the superintendent’s move. “I was disappointed and angry when I heard about the superintendent’s decision to ban the book,” said Laura Krebs, a Bel Air resident and mother of three children in county schools. “I don’t think [Hass] put a lot of faith in the parents who made the decision to let their children read the book. It allows for discussion, and no good comes from not talking about something.”

Though the book will be banned from use in classes, it still can be included among collections in school and public libraries, said Jennifer Ralston, materials management administrator for the county public library.

When the issue broke, demand for the book shot up, she said. “We had so many people reading the book that we had to order more copies,” Ralston said, adding that there are fifty-one copies of the book in the library system. Reported in: *Baltimore Sun*, April 10.

### Helena, Montana

Christy Dighans said her son, a sophomore at Helena High School, brought *Fools Crow* by James Welch to her, saying he didn’t like reading it. At first, Dighans said she told her son to do as he was told by his teacher and read the book. A couple of days later, he came to her again saying he didn’t like the images the book was leaving in his head. She agreed, and requested that it be removed from the curriculum.

*Fools Crow*, a historical novel about the Blackfoot Indians published in 1986, is the tragic story of a young man, Fools Crow, and his transition from a boy to a man. The book is set during a time in the 1870s when American Indians were faced with the choice of going to war or cooperating with the advancing white settlement. There are passages throughout the book with disturbing descriptions of rape, mutilation, and murder. Supporters of the book say its literary value—specifically its insights into American Indian society and Montana history—outweighs the controversial passages.

The book meets the state standard for teaching Montana literature, and has been through the district’s review process as accepted material at the sophomore level in the English department. Some teachers and professors say it is a powerful book and should not be censored to Montana students.

But Dighans disagrees.

A former military police officer, Dighans says she is

not a prude and realizes students will be exposed to this type of material, but doesn’t feel this venue is an appropriate one.

“He showed me what he was referring to and I was appalled,” she said. “I scanned through it one time to see if it was just in one area. When I found it was throughout the whole book, I read it all in one night.”

She said she would have been perfectly happy if they would have told her son he had an alternative. The district does have an alternative book list, but Dighans was told her son had to ask for it, which he did not.

This isn’t the first time *Fools Crow* has been contested in Montana schools. In 2000, the Bozeman School District voted unanimously to keep the novel in its sophomore English classes after a three-hour hearing attended by more than seventy people at Willson School. A year earlier the school board in Laurel voted to remove the book from the curriculum.

“They say it’s censorship, but the school censors stuff all the time when they make a decision to approve or not to approve a list of materials,” Dighans said. Reported in: *Helena Independent Record*, April 13.

### Fargo, North Dakota

A Fargo parent who has called for banning at least two books in the past few years wants two more books removed from district classrooms, and charges that her demands have not been acted upon quickly.

Pamela Sund Herschlip said *Finding Laura Buggs* and *Until They Bring the Streetcars Back*, both novels by Stanley Gordon West, are at times violent and include passages on such topics as sexual bondage, incest, murder, and infanticide.

Herschlip has communicated by phone and e-mail with school district superintendent David Flowers since mid-February, and with assistant superintendent Bob Grosz. Herschlip said she hadn’t brought the issue to the school board. “I feel that’s a total dead-end street,” she said.

However, in a March 15 e-mail to the state Department of Public Instruction (DPI), she called for complaints to be filed against the Fargo School District and DPI for not properly overseeing curriculum matters. She also sent the e-mail to Fargo Reps. Rick Berg, Bette Grande, and Al Carlson.

Herschlip said she found out about *Finding Laura Buggs* from a student who approached her. She said a student who now attends college told her about *Until They Bring the Streetcars Back*.

According to district policy, Herschlip does not have standing to request either informal or formal reviews because she does not have a child in classes using the books.

Flowers and Grosz said they will have a reconsideration committee of teachers, parents, and administrators read the books and determine whether, on the whole,

they are appropriate. If a person is still dissatisfied with the results of the committee, he or she can bring it to the school board, Grosz said.

"I think Pamela believes that our policy should have provisions to call the superintendent or the assistant superintendent and get a book removed when she complains," Flowers said. "I don't think anyone should censor in that manner," he said. "We think that we're being as accommodating as possible."

Other books Herschlip has challenged are *A Time to Kill* by John Grisham, and *Mick Harte Was Here* by Barbara Park. She called Grisham's novel sensational, brutal, and violent. She wanted the Park book removed from the Centennial Elementary School library because of the damaging nature of the material. The school board denied both requests. Reported in: *The Forum*, March 28.

### Lake Oswego, Oregon

When Kimberly Wall flipped through the book her thirteen-year-old son Greg was reading for language arts extra credit, she thought someone had made a mistake. The novel, *Shattering Glass*, was peppered with—at her estimation—fifty profanities, ranging from derogatory slang terms to sexual encounters and violence.

Wall wondered why Greg and his peers at Lake Oswego Junior High School (LOJHS) had access to the book in the first place. She thought the school may have distributed *Glass*—along with *Whale Talk*, *Alt Ed*, and *The Chocolate War*—by accident.

"I was saddened to find out they were all chosen by the school," Wall said.

Now Wall is asking district officials to take a closer look at the types of books junior high school students are reading and establish a parental permission process. Most of all, she prefers to see the four books come off LOJHS shelves. Wall believes the material in all of them is inappropriate for thirteen-year olds, and does not belong in an eighth-grade curriculum.

"The stories are pretty good but they got covered in smut," she said. "The morals just got lost in the garbage."

Wall, a mother of four children in the district, brought her complaints before the Lake Oswego school board. She presented each board member with photocopies of excerpts where she highlighted words she deemed questionable.

"If they don't allow that language or behavior in school, why teach it to the [kids]?" she asked. "I'm not advocating book burning, but it shouldn't be in the schools."

The district's entire language arts curriculum is up for an extensive review this year. Superintendent Bill Korach told Wall that a teacher committee and the board would look into the appropriateness of the disputed books in conjunction with the review. Wall was invited to sit in on committee meetings, and Korach said the books would not be offered again until they've been critiqued.

"I know from talking to the board that they're very interested in having the ability to approve any reading options we're providing to students," Korach said. "I think we can come up with a very satisfactory outcome to suit (Wall's) interests."

The four books in question were included as optional selections in a bullying unit developed in 2003 by LOJHS teachers as part of a districtwide respectful culture plan. The unit is meant to teach students about situations and people they could be confronted by in the future so they can think about and discuss how they would react. The negative language is always associated with unsavory characters.

"Part of what we are teaching in eighth grade [is] seeing other people's perspective and how you fit in," said Principal Ann Gerson. "It's the first time [many students] really get excited and want to read more because it's meaningful to them and they can relate to it," she said. "It's about their world."

Typically, required core and extended reading materials are assigned to students after a lengthy approval process that includes piloting each selection and getting an OK from the board. The books being disputed by Wall, however, did not go through that approval process. Korach said the board might decide to change that practice.

In the case of optional books, it's ultimately left to the student to decide whether to read it, Korach said. A student can also opt out of a required reading assignment for personal reasons.

Since the unit was put into place three years ago, only Wall has come forward to complain about the books and met with teachers and administrators.

"I think nobody's said anything because the kids haven't said anything to their parents," she said.

The students are given a list of the books' summaries and a letter to take to their parents. Four out of the eight optional books offered are labeled as having "mature content/language." Parents are not asked to approve their child's book selections, and Wall believes they should—"Not everything makes it home," she said. A "mature content" label is too vague, she added.

"There could be a place to use these in the future, but parents need to know," Kimberly Wall said. "We know what our kids are ready for." Reported in: *Lake Oswego Review*, May 24.

### Manheim Township, Pennsylvania

Manheim Township school board sought on May 17 to "clear up some of the confusion" about changes to the high school English curriculum prompted by parents' complaints about two books taught to ninth-graders. District officials said a newspaper article about the changes gave the impression the books were being taken out of the curriculum altogether and the school board approved the move, which was not the case.

After the story appeared, district officials said, they received numerous complaints from members of the public accusing the school board of banning the books.

The texts in question are Barbara Kingsolver's *Animal Dreams* and Maya Angelou's *I Know Why the Caged Bird Sings*. Parents in recent months have complained about sexual references in both books.

In response, the district submitted the texts for a review before an advisory committee of administrators, teachers, librarians, and community members. The district administration, after consulting with the committee and the English department, decided to move *Animal Dreams* to the eleventh-grade curriculum, beginning in the 2009/2010 school year. It also decided to keep *I Know Why the Caged Bird Sings* in the ninth-grade curriculum, but to teach the book later in the 2007/2008 school year, after a public forum is held with parents to discuss that book and the entire literary canon of the English department.

The challenged books were discussed during a school board work session May 10.

In a prepared statement, board president Hannah Bartges said: "The board did not pull the books, (and) we did not approve the action of the advisory committee, nor is it necessary for us to vote on any of the information that was presented at our work session."

She said the board "never puts itself in the position of making a decision based on pressure from parents, nor do we make decisions about specific books that our students read."

"As it is appropriate, we leave that decision to our well-qualified staff and administration," she said.

Bartges also said the opinions expressed at the work session "were the personal opinions of individual board members. They were not part of any deliberation, nor did they represent a vote taken," she said. "I hope that this will help to dispel some of the frustration and clear up some of the confusion about this issue." Reported in: Lancaster Online, May 19.

## student press

### Woodlan, Indiana

The column in the student newspaper seemed innocent enough: advocating tolerance for people "different than you." But since sophomore Megan Chase's words appeared January 19 in *The Tomahawk*, the Woodlan Junior-Senior High School's newspaper, her newspaper adviser has been suspended and is fighting for her job, and charges of censorship and First Amendment violations are clouding this conservative northeastern Indiana community.

At issue is whether Chase's opinion column advocating tolerance of homosexuals was suitable for a student

newspaper distributed to students in grades seven through twelve, and whether newspaper adviser Amy Sorrell followed protocol in allowing the column to be printed.

Media advocates say the debate has deeper ramifications. "This is a real threat to quality student journalism if an adviser can be removed for not having censored a perfectly legitimate story that there was no legal reason why it shouldn't have been published," said Mark Goodman, executive director of the Student Press Law Center in Arlington, Virginia.

School officials in this community of 1,600 residents located ten miles east of Fort Wayne say the issue isn't First Amendment rights but a teacher's failure to live up to her responsibilities. They contend Sorrell should have alerted principal Ed Yoder to the article because of the sensitivity of the material.

"The way we view it is the broad topic of homosexuality is a sensitive enough issue in our society that the principal deserves to know that it's something the newspaper is going to write about," said Andy Melin, assistant superintendent of secondary education and technology. Melin said Yoder would have allowed the article to be printed, but likely would have suggested some changes.

Sorrell has been placed on administrative leave, and the school district has recommended she be fired.

Lucy Dalglish, executive director of the Reporters Committee for Freedom of the Press, argued that students have access to much more mature material in the school library and on the Internet.

"Advocating tolerance is controversial?" she said.

Chase's column, which she wrote after a friend told her he was gay, said society teaches that "it is only acceptable for a boy and a girl to be together," which makes declaring one's sexual orientation difficult. "I can only imagine how hard it would be to come out as homosexual in today's society," she wrote. "I think it is so wrong to look down on those people, or to make fun of them, just because they have a different sexuality than you. There is nothing wrong with them or their brain; they're just different than you."

She said she was surprised by school officials' reaction. "I didn't think it was any big deal," Chase said of the column.

Sorrell, 30, said she showed the principal four stories about teen pregnancy, including an opinion piece advocating teaching safe-sex practices over abstinence education, for the same January 19 issue because she thought that "was going to cause the stir." But she acknowledged she never mentioned Chase's column. "There isn't anything controversial about tolerance," she said.

Stan Pflueger, president of the Fort Wayne chapter of Parents, Families, and Friends of Lesbian and Gays and a graduate of the school district, said he was disappointed

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## from the bench



### libraries

#### Gwinnett County, Georgia

The adventures of boy wizard Harry Potter can stay in Gwinnett County school libraries, despite a mother's objections, a judge ruled May 29. Laura Mallory, who argued the popular fiction series is an attempt to indoctrinate children in witchcraft, said she still wants the best-selling books removed and may take her case to federal court.

"I maybe need a whole new case from the ground up," Mallory said. The woman, who said two of her four children attend public schools in the county, was not represented by an attorney at the hearing.

The ruling by Superior Court judge Ronnie Batchelor upheld a decision by the Georgia Board of Education, which had supported local school officials. County school board members have said the books are good tools to encourage children to read and to spark creativity and imagination.

J. K. Rowling's Harry Potter books, published by London-based Bloomsbury Publishing PLC, tell stories of children with magic powers. They are the most-challenged texts of the twenty-first century, according to the American Library Association.

At the hearing, Mallory argued in part that witchcraft is a religion practiced by some people and, therefore, the books should be banned because reading them in school violates the constitutional separation of church and state.

"I have a dream that God will be welcomed back in our schools again," Mallory said. "I think we need him."

Victoria Sweeny, an attorney representing county school officials, said the judge has to respect their authority to leave the books on library shelves. "I'm not here to defend Harry Potter," Sweeny said. "I'm here to defend the Gwinnett County Board of Education's right to make lawful decisions." Reported in: Associated Press, May 29.

### schools

#### Indianapolis, Indiana

On April 9, the Indiana Court of Appeals ruled in favor of a female middle-school student known only as A. B., and against Indiana's Attorney General. A juvenile court had declared A. B. to be a "juvenile delinquent" because she had posted comments attacking her school principal and his anti-piercings policy on a MySpace page—acts that the juvenile court judge accepted as constituting the crime of harassment. However, the appellate court directed the juvenile court to vacate the finding of delinquency, holding that the comments were protected as political speech under the Indiana Constitution's counterpart to the First Amendment.

The case against A. B. arose when another student, known as R. B., created a MySpace page that she falsely claimed belonged to middle school principal Shawn Gobert, and invited her friends—including A. B.—to post comments on it.

First, A. B. posted this comment: "Hey you piece of greencastle shit. What do you think of me [now] that you can[t] control me? Ha ha guess what I'll wear my fucking piercings all day long and to school and you can[t] do shit about it. Ha ha fucking ha! Stupid bastard! Oh and kudos to whomever made this ([I'm] pretty sure I know who). Get a background." (Note: The bracketed material is from the appellate court's decision, and indicates what the court interpreted the comment to mean.)

The next day, A. B. simply posted as a comment, "die.. gobert.die." Also, she soon created a MySpace group titled, "Fuck Mr. Gobert and GC Schools." There were other messages, as well, but the case against A. B. was solely based on the two posted comments and the MySpace group.

After learning of the comments, the principal reported A. B. to the authorities.

The Indiana Court rested its decision solely on the protection of free speech embodied in Article 1, section 9, of the Indiana Constitution: "No law shall be passed, restraining the free interchange of thought and opinion, or restricting the right to speak, write, or print, freely, on any subject whatever: but for the abuse of that right, every person shall be responsible."

Arguably, this provision could be read to provide less protection for speech than the First Amendment because—unlike the First Amendment—it specifically mentions responsibility for the abuse of speech rights. On the other

hand, its mention of speech on “any subject whatever” indicates a broad protection for speech—potentially even broader than that of the First Amendment, which has always been thought to have political speech at its core.

In the end, the court decided not to speak to the First Amendment issue, and to rest its decision instead on the Indiana Constitution alone. One possibility is that the court wanted to insulate the eventual decision from Supreme Court review. If the Indiana Supreme Court agrees with this decision, there will be no reason for the Supreme Court to take the case, for in the federal system, states’ highest courts legally have the last word when it comes to the interpretation of state law.

Alternatively, the court may have simply thought the question, under Indiana law, was easier and clearer—as it noted an “abundance” of related precedent on at least one of the analytical issues raised by the case.

The juvenile court had deemed A. B.’s remarks “obscene,” but the appellate court disagreed. Nowadays, virtually no written material is ever deemed obscene; only photographs or films are criminally prosecuted under the obscenity laws. Moreover, while the FCC regulates language such as that used by A. B. as “indecent,” this communication occurred on the Internet, not on television or radio.

The appellate court, however, still needed to ask if, pursuant to the Indiana Constitution’s language, A. B. had “abuse[d]” her broad right to speak. The court held that her speech was “political speech,” in that it criticized a government actor’s policy (the anti-piercings policy). Therefore, the court concluded, a particularly demanding legal test applied—and the state had not passed it. Reported in: FindLaw.com, April 16.

### Seattle, Washington

Gregory Requa is not the annoying young man caught on camera making rabbit ears and thrusting his hips behind Joyce Mong’s back. Nor is he the student who admitted to secretly filming Mong’s English class at Kentridge High School to mock its clutter and her hygiene, and to capture the teacher at unbecoming angles. Those two students have completed their punishment. Now, while Requa still denies any role in making the film or posting it online, it appears he also will serve his time.

On May 22, Judge Marsha J. Pechman of United States District Court in Seattle upheld the forty-day suspension Requa received from the Kent School District, outside Seattle, for his involvement in making the film, which was posted on YouTube and MySpace.

If it is not every day a federal judge weighs in on individual cases of school discipline, it is also not every day that a student invokes the First Amendment in part so he can go to his graduation ceremony. Even as he denied involvement, Requa, an eighteen-year-old senior with a

2.97 grade point average, took the freedom of speech claim to federal court to seek an injunction of his punishment. He essentially said the school district was punishing him for making a video that criticized a teacher.

The suspension had begun on May 8. He is scheduled to graduate on June 16. Now, he can take part in the ceremony only if he completes a research paper on sexual harassment that would cut the suspension in half.

Requa is known for his skills as a video editor, and school officials suspended him largely based on comments by fellow students who said he either helped make the video or edited it and posted it online. He does not appear in the film.

Jeannette Cohen, a lawyer for Requa, had argued that the student statements were merely rumors, not legal affidavits. At the same time, Requa did not dispute that he, like many other students, had linked to the video on his MySpace site.

Becky Hanks, a spokeswoman for the Kent School District, said that the district was not punishing the students because they made the video but that the “video depicted the conduct that was punished.” She said the district regarded the gestures and camera angles as a form of sexual harassment. Cohen had said before the ruling that the video was “a critique of the teacher,” not sexual harassment.

Judge Pechman said criticizing a teacher was not wrong, nor was merely linking to the video. But she did not dispute the district’s conclusion that Requa had been involved in making the video. She said much of the video was “lewd and offensive and devoid of political or critical comment,” despite Requa’s claims. Reported in: *New York Times*, May 23.

## colleges and universities

### Denver, Colorado

A federal judge ruled May 18 that Colorado is entitled to bar state scholarship funds from going to students at “pervasively sectarian” institutions. The ruling rejected a suit brought by Colorado Christian University, which did not challenge a state agency’s determination of the university’s religious nature, but said that applying a test of whether an institution is “pervasively sectarian” amounts to a violation of some religious institutions’ freedom to express their faiths.

But Judge Marcia S. Krieger ruled that despite a general skepticism in federal courts of late about barring religious institutions from receiving government funds, Supreme Court rulings still gave Colorado the right to limit the use of its funds as the state has done.

The ruling could be significant beyond Colorado. The university is taking the case to a federal appeals court, where any ruling will have more value as a precedent. The U.S. Justice Department is also involved in the case, and tried to use it (without success before Judge Krieger) to ease the process by which religious colleges receive government aid. The university is also receiving support from



the Alliance Defense Fund, which has been successful in challenging limits on religious groups in higher education. In fact, the decision is notable in being a rare victory for strict separation of church and state in higher education, at a time when many courts have been adopting a more porous church-state wall in academe.

At issue are a series of student aid programs created by Colorado for state residents who attend colleges, public and private, in the state. A Colorado student at a private college in the state could gain \$2,500 a year in assistance under the programs. Students are not barred from using the grants at any religious college, and the funds flow to Regis University and the University of Denver, which are Roman Catholic and Methodist institutions, respectively.

The Colorado Commission on Higher Education found that Colorado Christian University, unlike Regis and Denver, fit certain characteristics of “pervasively sectarian” in that its faculty and student body must share certain religious views, participate in religious services and theological instruction, and so forth. The university has never shied away from its religious identity, which is clear in its Statement of Faith, which declares the Bible infallible.

The university’s challenge was based on the fact that its students have similar majors to those at other public and private colleges: business, education, humanities, sciences, and so on. The argument was in essence that business students at Colorado Christian are suffering unconstitutional religious discrimination because they enroll at a Christian university instead of a secular one. The Bush administration backed that argument, accusing the state of entering “the dangerous thicket of deciding what is too religious and what is permissibly religious.”

Much of the legal discussion on the case focused on a 2004 Supreme Court ruling in *Locke v. Davey* that Washington State was entitled to bar theology students from receiving state student aid. The Bush Justice Department argued that the ruling limited the ability of states to bar student aid from supporting non-theological majors at religious institutions.

Judge Krieger disagreed. She noted that the Locke decision was based on the idea that theology students were not being barred from engaging in their desired programs of study, were not being excluded from public life, and were not being forced to abandon their faith. Rather, Judge Krieger noted the language of the Supreme Court ruling that the state “has merely chosen not to fund a distinct category of instruction.” She said that finding also fit in Colorado.

On the question of students’ majors, Judge Krieger said that wasn’t relevant once an institution had been found to be “pervasively sectarian.” Colorado Christian’s “contention that the bulk of its students major in secular subjects may be nominally accurate, but ignores what it means to be found to be a ‘pervasively sectarian’ institution,” Krieger wrote. She cited a U.S. Supreme Court definition of “per-

vasively sectarian” as describing “an institution in which religion is so pervasive that a substantial portion of its functions are subsumed in the religious mission.” And she cited a Colorado Supreme Court definition of such a educational institution as such a place “whose educational function is not clearly separable from its religious mission.”

“CCU’s argument equating the ‘secular’ education it offers and secular classes at public and generally sectarian schools such as Regis University and the University of Denver is misplaced, as the fact that those schools have not been found to be ‘pervasively sectarian’ indicates that the secular character of instruction at those schools is readily severable from any religious teaching,” Judge Krieger wrote. “Even though there are classes or programs at CCU designed to prepare students for secular jobs or careers, because CCU is a ‘pervasively sectarian’ institution, even its secular instruction is infused with religious components. Thus the unchallenged determination that CCU is ‘pervasively sectarian’ makes even its secular instruction an ‘essentially religious endeavor,’ akin to the theological instruction in Locke.”

Because the university did not challenge (in the court case) its designation as “pervasively sectarian,” the judge wrote that she did not consider whether the evaluation was fair. But in several footnotes she pointed to evidence suggesting that secular courses at the university may not be the same as those at the University of Colorado at Boulder. For example, she quoted Colorado Christian officials saying that all courses “are framed within the Christian worldview.”

The university issued a statement Friday pledging to appeal and blasting Judge Krieger’s analysis.

“The effect of the ruling is to say that Colorado students will be denied state tuition aid for college if they want to attend a religious school,” said Bill Armstrong, the university’s president. “Judge Marcia S. Krieger’s decision is a setback for the students involved and for religious liberty. Reported in: [insidehighered.com](http://insidehighered.com), May 21.

### **Philadelphia, Pennsylvania**

After hearing a day and a half of testimony, on April 26 a federal judge abruptly dismissed a lawsuit brought against Temple University by a former student who alleged that his professors retaliated against him for his political views.

The student, Christian M. DeJohn, sued the university and two of his professors in February 2006, contending that the professors had thwarted his efforts to finish a master’s degree in history after he complained about receiving “antiwar” e-mail messages that were circulating in the history department.

The professors were Richard H. Immerman, director of the university’s Center for the Study of Force and Diplomacy, and Gregory J. W. Urwin, a professor at the military-history center and DeJohn’s former academic adviser. The profes-

sors argued in court that DeJohn's difficulties in finishing his degree were entirely his own. In an interview, their lawyer, Joe H. Tucker Jr., described DeJohn as a "marginal learner, barely passing" his courses, who had turned in a master's thesis that had "flabbergasted" the professors.

The judge, Stewart Dalzell of the U.S. District Court in Philadelphia, said that DeJohn's lawyers had presented no evidence that Immerman retaliated against the student. And the judge said that, while the jury may have discerned some evidence that Urwin had retaliated against DeJohn, the professor deserved "qualified immunity," which means that he behaved toward DeJohn in a way that could reasonably be seen as within his rights.

The case sparked the interest of some of the biggest national players in the debate over allegations of liberal bias and academic freedom on American campuses. DeJohn was represented by David A. French, who is senior legal counsel with the Alliance Defense Fund, a conservative, Christian legal-advocacy group based in Arizona, and a former president of the Foundation for Individual Rights in Education. In early 2006, DeJohn testified before Pennsylvania state legislators about his perception of bias at Temple as part of the legislature's investigation of whether the state's public colleges were indoctrinating students in left-wing ideology and discriminating against those with conservative points of view.

However, the halt on DeJohn's case may not be permanent: French said that he was considering an appeal.

Shortly after beginning the master's-degree program at Temple in 2002, DeJohn, a sergeant in the Pennsylvania National Guard, was deployed to Bosnia, along with some other Temple students in the same guard unit. At that point, lawyers from both sides agree, DeJohn had a good relationship with Urwin. While he was gone, Urwin printed a six-hundred-word article about DeJohn's deployment in the center's newsletter, saying the student was making "military history" while serving overseas. (The center usually goes by the distinctly military-sounding acronym Cenfad, and many of its students and alumni are in the armed forces.)

It was while he was serving in Bosnia that DeJohn claimed he received the "antiwar" messages that were circulated on a history-department e-mail list. He wrote to his professors asking them to ensure that he did not receive such messages anymore.

The original legal complaint filed by DeJohn said that the e-mail messages had come from Immerman, the center's chairman. However, lawyers from both sides in the case later agreed that the messages appeared to have come from the James A. Barnes Club, a graduate student history association.

When DeJohn and other students in his guard unit returned to Temple, they received letters in stern, bureaucratic language telling them that they had been dropped from the student rolls. Tucker, the professors' lawyer, said

this was the result of a technical glitch. But DeJohn went to the president of the university, saying that the history department was treating veterans unfairly.

As DeJohn continued with his degree program, he began butting heads with Urwin, who had been angered by DeJohn's message to the president, according to French. The adviser and student also disagreed over whether DeJohn should get academic credit for an internship, a conflict that was only exacerbated when DeJohn found a way to receive the credit without going through Urwin.

Hence, Urwin said in court, part of his frustration with DeJohn was that he did not feel the student took direction from him. However, Urwin also complained that DeJohn was, in class and in meetings, "obsessed" with the notion of liberal bias in academe. Urwin and other members of the center began to share their growing frustration with the student in e-mail messages to one another.

French, however, said that he could get Urwin to recall only two specific instances when DeJohn had brought up his belief that academe was biased against conservatives.

Soon after their disagreement over the internship, Urwin told DeJohn that he would no longer serve as his academic adviser. That became one of the pivotal actions under scrutiny in the lawsuit. French argued that when Urwin dropped DeJohn as an advisee, that was a form of retaliation against the student for his protected political speech.

However, Judge Dalzell granted Urwin qualified immunity from the lawsuit regarding his decision to step down as DeJohn's adviser. That means the judge decided that a reasonable person in Urwin's situation could have believed he was within his rights in making such a decision, and that the law is not clearly established in this area.

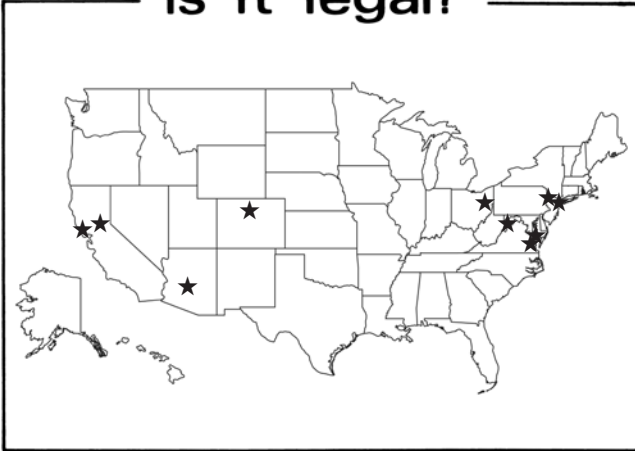
"That's something we disagree with," said French, who called the decision disappointing.

French did argue that the lawsuit generated a partial victory for him and DeJohn. Entirely separate from the claim that professors had retaliated against DeJohn, the suit also contended that the university's sexual harassment policy was unconstitutional because it was overly broad. (The suit did not claim that DeJohn had been uniquely affected by the policy, just that his constitutional rights had been violated for as long as the policy applied to him as a student.)

In late March, Judge Dalzell ruled that Temple could no longer enforce the sexual-harassment policy mentioned in DeJohn's lawsuit, and he awarded DeJohn damages of one dollar.

"As a result of this case," said French, "every student at Temple has greater free speech rights." However, said Tucker, the university had already rewritten its sexual harassment policy in January, two months before the judge's decision. "We didn't consult with him," Tucker said of French. "We changed our policy on our own." Reported in: Chronicle of Higher Education online, April 30. □

## is it legal?



## libraries

### Redding, California

Redding Library trustees deadlocked May 21 on whether to adopt an extrarestrictive Internet porn filter policy. The Redding City Council, acting as the trustees board, split 2-2 on getting rid of the old Shasta County Libraries practice of shutting off the porn filter for any patron eighteen years or older who requests it. The Shasta County practice was in line with policies adopted nationwide after Congress passed the Children's Internet Protection Act in 2000.

Trustees Ken Murray and Rick Bosetti favored a policy that would have gone a step further, forbidding access to "any sexually oriented material for the purpose of appealing to prurient interests." The filter would target online obscenity, child pornography, and other material harmful to minors as defined in state and federal regulations.

Murray had objected to the Shasta County Libraries' practice as too porn-permissive. A library that doesn't stock *Hustler* or *Penthouse* in its stacks should not allow people to cruise porn sites on its computers, Murray has said.

City Attorney Rick Duvernay drew up the more restrictive policy at the board's request.

Trustees Mary Stegall and Dick Dickerson wanted to formalize the Shasta County Libraries' practice of leav-

ing pornography undefined. That practice worked for years without any complaint, they said. "We're acting like many legislative bodies," Dickerson said. "If it's not broken, they'll fix it until it is." The council and Board of Supervisors-appointed Shasta Public Libraries Advisory Committee also unanimously endorsed sticking with the old filtering practice. The new policy would have saddled librarians with monitoring computer users for porn surfing, committee members noted.

Linda Mielke, acting library director for library systems and services, said the new policy could create a liability for the city. "This policy could open us up to attack" from First Amendment advocates, Mielke said.

Murray proposed striking the language requiring library staffers to monitor computer users and make the policy strictly complaint-based. Stegall and Dickerson still voted it down. Reported in: [redding.com](http://redding.com), May 22.

### Longmont, Colorado

Reversing their previous policy, city officials plan to delete the requirement that all meetings at the Longmont Public Library be open to the public. The change followed a February 13 meeting at the library of the Colorado Immigrants Rights Coalition, which had asked nonmembers to RSVP as space was limited. Boulder resident Stan Weekes, who heads an immigration reform group that opposes CIRC's goals, had not reserved a seat and was denied entrance, as were a reporter for the *Longmont Times-Call* newspaper and two others.

The Boulder County chapter of the American Civil Liberties Union (ACLU) sent the city a letter asking for clarification of the library's policy. In response, Longmont community services director Karen Roney wrote the ACLU that while "it may seem somewhat counterintuitive," the open-meeting policy "could actually violate" some groups' First Amendment rights. The letter cited court cases that ruled that forcing a group to open their meetings to those with differing views could infringe on the group's right to "expressive association"—the ability to join with other people to promote a particular outlook or goals. In the most prominent example, in *Boy Scouts of America v. Dale*, the U.S. Supreme Court found that forcing the Scouts to admit a gay scoutmaster would violate the organization's right of expressive association.

Roney concluded the letter by inviting a conversation with the ACLU to discuss how the library "might balance the sometimes competing rights and interests" of groups and individuals. Reported in: [American Libraries Online](http://AmericanLibrariesOnline.com), April 6.

### Springfield, Illinois

Library Internet service in several Illinois libraries went dark May 14 in protest against the passage in the Illinois

House of Representatives of a demanding library Internet filter bill. The Illinois Library Association (ILA) urged librarians to “communicate and/or demonstrate the negative effects of this legislation”; while some turned off the Net, others installed filters at draconian levels or simply handed out literature explaining the potential effect of House Bill 1727, the Internet Screening in Public Libraries Act.

If HB 1727 becomes law, public libraries would be forced to filter all public computers and to provide a companion older than twenty-one for any minor requiring unfiltered computer use, such as for homework research. The language tracks that of the federal Children’s Internet Protection Act, requiring the blocking of obscenity, child pornography, and, for minors, “harmful to minors” material—though no filter actually meets those precise standards. Unlike with CIPA, which has been interpreted, according to the American Library Association, as allowing the disabling of a filter upon the request of an adult, the Illinois bill would require the user to be pursuing “legitimate research or some other lawful purpose” to get the filter turned off.

Illinois librarians, on the “Day of Unity” online forum, described their experiences. Some used test filters and turned them up all the way—a dramatic response, given that the law would not require all filter settings to be enabled. Ruth Faklis of the Prairie Trails Public Library District, Burbank, noted that her library now allows parents to decide if their children may gain unfiltered access, but the law would take that decision away. Mike Jackiw, a longtime computer technician at libraries, observed that filters don’t block pornographic emails or image searches, and that the term “obscene” remains subjective. However, Denise Varenhorst, president of Family Friendly Libraries, criticized libraries for denying service to library users “simply because of the librarians’ political views.”

Given that libraries would be required to attest to compliance in writing or lose state per capita aid and grant funds, ILA warned the libraries might have to remove public computers because of potential “liability incurred by attesting to compliance when we know that filters do not work in all instances.” The bill is an unfunded mandate, which means that libraries would have to purchase their own filtering software. ILA has argued that the issue is one of local control, and that filters are expensive, inflexible, and don’t work as advertised. The bill is pending in the Illinois Senate and would have to be approved before the legislative session concludes at the end of May. Reported in: *Library Journal*, May 16.

## **schools**

### **Fulton County, Georgia**

People have told Don C. Keenan that an argument he had at the U.S. Court of Appeals for the Eleventh Circuit in

late April could not have come at a worse time. The lawyer pressed the case of a high school student challenging her punishment for writing a story in which the narrator dreams of shooting her math teacher. But Keenan said his case on behalf of Rachel Boim and her parents stands in stark contrast to the Virginia Tech massacre a week before.

Boim, he said, was a writer on the school newspaper with an unblemished conduct record, and therefore did not deserve to be considered a threat. “They take a sweet kid like Rachel Boim and expel her for a year? I mean, give me a break,” said Keenan.

However impervious the judges may be to the emotions from the shootings, the Boim case may give guidance on how far school officials may go in responding to student speech they perceive to be threatening or disruptive.

The case stems from October 2003, when Boim was a ninth-grader at Roswell High School. She brought a notebook to school containing a story she had written at home. The story reaches its climax in the narrator’s sixth-period class. “Yes, my math teacher,” wrote Boim. “I lothe [sic] him with every bone in my body. I stand up and pull the gun from my pocket,” the story continues. “BANG the force blows him back and everyone in the class sits there in shock.”

On October 7, 2003, Boim gave the notebook to another student during an art class at school. The other student was writing on another page in the notebook when the teacher, Travis Carr, confiscated it.

Boim told officials it was a work of fiction. But officials noted Boim had math class sixth period, and school principal Edward J. Spurka suspended Boim for ten days. A hearing officer in the school district’s disciplinary system ruled Boim should be expelled but waived the expulsion to allow her to attend another Fulton school, a decision that was stayed on appeal to the county Board of Education. The board decided not to expel Boim but affirmed the suspension.

The student became a bit of a cause célèbre for those opposing overreaction to Columbine, appearing for an interview on CNN and getting an editorial endorsement from *The Atlanta Journal-Constitution*. She’s now a senior at a Hebrew secondary school, said Keenan, and is applying to colleges.

Boim and her parents brought suits to recover legal fees and expenses they had incurred in dealing with the disciplinary proceedings and to seek a court order requiring the school to expunge the suspension from Boim’s record.

But U.S. Senior District Judge Marvin H. Shoob of Atlanta rejected those claims in an August 2006 order granting the school defendants’ summary judgment motions. He did not reach the school officials’ argument that Boim’s speech wasn’t protected because it constituted a threat of violence, instead relying on the broader leeway schools have to curb disruption of school activities.

“Rachel’s story alone, when read in light of the recent history of school shootings, was sufficient to lead school officials reasonably to forecast substantial disruption of or material interference with school activities,” wrote Shoob, “specifically, that Rachel might attempt to shoot her math teacher.”

On appeal, Keenan emphasized evidence that school officials viewed Boim’s writing as nothing more than a fictional story, contending she’s been punished for exercising her First Amendment rights.

But the school district’s lawyers argue in their appellate brief that the story did disrupt the work and discipline of the school. They cite statements of school administrators who said they thought at the time that the story was possibly a plan in disguise and note Boim’s math teacher said he felt somewhat threatened and didn’t want Boim back in his class.

“We did feel that there was a genuine threat,” said Brewton. He also said he thought it was wise of the Supreme Court to give school officials leeway when it comes to student expression.

Watching the case are lawyers in another federal suit over discipline of a student for a violent story. In that case, Murray County, Georgia, school officials suspended an eighth-grader for the remainder of the school year after he showed his teacher a poem in January 2005 that says “Something Bad is going to happen at school” and describes a scene where “guns go off, bodies drop.”

In their summary judgment motion pending before U.S. District Judge Harold L. Murphy in Rome, lawyers for the student—who is unnamed in court pleadings but is suing through his mother, Diane Upton—argue that there’s no evidence the student’s story constituted a threat or disrupted school.

Instead, they say, it was inspired in part by a television documentary reporting soldiers in Iraq finding blueprints of American schools and describes the author’s “horror, terror and fear” and feeling he “must do something like Paul Reveare [sic]” to warn other students.

Gerald R. Weber Jr., the American Civil Liberties Union of Georgia’s legal director, said in general, with certain limitations, it’s appropriate for school officials to get mental health counselors involved if a piece of writing is perceived as threatening. But too often, he said, schools skip that first step.

Weber, who along with B. Parker Miller of Alston & Bird is representing Upton’s son, said schools dealing with a violent piece of writing should consider a student’s mental health, the student’s disciplinary record, and whether the writing is fictional.

His court filings say that even after a mental health clinic told his client and his mother that the student had no reason to be at the clinic because he wasn’t a threat to himself or others, the school still would not let him return.

“I think that what has happened in the outside world informs the judges’ views of these cases,” said Weber, “but it is still ultimately a balance that needs to be struck by the courts.” Reported in: *Fulton County Daily Report*, April 24.

## **Cary, Illinois**

Told to express emotion for a creative writing class, high school senior Allen Lee penned an essay so disturbing to his teacher, school administrators, and police that he was charged with disorderly conduct, officials said.

Lee, 18, a straight-A student at Cary-Grove High School, was arrested April 24 near his home and charged with the misdemeanor for an essay police described as violently disturbing but not directed toward any specific person or location.

Neither police nor the school would release a copy of the essay. School officials declined to say whether Lee had any previous disciplinary problems, but said he was an excellent student. Authorities said Lee had never been in trouble with the police.

The charge against Lee came as schools in the Chicago area and across the country wrestled with how to react in the wake of the massacre at Virginia Tech. Bomb threats at high schools in Schaumburg and Country Club Hills caused evacuations. And extra police were on duty at a Palos Hills high school because of a threatening note found in the bathroom of a restaurant a half-mile away.

Cary Police Chief Ron Delelio said the charge against Lee was appropriate even though the essay was not published or posted for public viewing. Disorderly conduct, which carries a maximum penalty of thirty days in jail and a \$1,500 fine, is often filed for such pranks as pulling a fire alarm or dialing 911 unnecessarily, he said. But it can also apply when someone’s writings disturb an individual, Delelio said.

“The teacher was alarmed and disturbed by the content,” he said.

The teen’s father said he understood concerns about violence, but not why a creative-writing exercise resulted in charges against his son. “I understand what happened recently at Virginia Tech,” said Albert Lee. But he added, “I don’t see how somebody can get charged by writing in their homework. The teacher asked them to express themselves, and he followed instructions.”

Some legal experts said the charge was troubling because it was over an essay that even police admit contained no direct threats against anyone at the school. A civil rights advocate said the teacher’s reaction to an essay shouldn’t make it a crime.

“One of the elements is that some sort of disorder or disruption is created,” said Ed Yohnka, a spokesman for the American Civil Liberties Union of Illinois. “When something is done in private—when a paper is handed in to

a teacher—there isn't a disruption." Yohnka also said that it was inevitable that schools would focus on potentially threatening writings in the aftermath of what happened at Virginia Tech, where a gunman killed thirty-two students and teachers, then fatally shot himself.

"After so much attention was paid last week to what was written by the shooter at Virginia Tech, I think there is no question people will be paying more attention to things like this," he said.

The April goals for Lee's Creative English class were for students to communicate ideas and emotions through writing. But students were warned that if they wrote something that posed a threat to self or others, the school could take action, said Community High School District 155 superintendent Jill Hawk.

Lee's English teacher, whom officials declined to identify, read the essay and reported it to a supervisor and the principal. After a lively discussion, district officials decided to report it to the police, Hawk said.

"Our staff is very familiar with adolescent behavior," she said. "We're very well-versed with types of creativity put into writing. We know the standards of adolescent behavior that are acceptable, and that there is a range." But Hawk added, "There can certainly be writing that conveys concern for us even though it does not name names, location, or date."

Simmie Baer, an attorney with the Children and Family Justice Center at Northwestern University School of Law, said the school's action was an example of zero-tolerance policies gone awry. Children, she said, are not as sophisticated as adults and often show emotion through writing or pictures, which is what teachers should want because it is a safe outlet. "They should be able to show their feelings or thoughts without fearing they will be arrested because of them," she said.

Some students at the school rallied behind Lee, organizing a petition drive to have him readmitted. They posted on walls quotes from the English teacher that encouraged students to express their emotions through writing.

"I'm not going to lie. I signed the petition," said senior James Gitzinger. "But I can understand where the administration is coming from. I think I would react the same way if I was a teacher." Reported in: *Chicago Tribune*, April 26.

### **Hermitage, Pennsylvania**

A Pennsylvania school principal has filed a lawsuit against four former students, claiming they falsely portrayed him as a pot smoker, beer guzzler, and pornography lover and sullied his reputation through mock MySpace profiles.

Eric Trosch was principal of Hickory High School in Hermitage at the time the short-lived profiles went up on the popular social networking site. He claims that the

students committed defamation by posting three separate profiles bearing his name, official school portrait, and a host of "unsubstantiated allegations, derogatory comments and false statements" about him, according to a complaint filed last month in Mercer County civil court.

Each of the disputed sites, which went online during the course of one week in December 2005, was removed within days of its appearance after school officials contacted MySpace.com. Trosch has since become principal of Hermitage Middle School.

One profile, which the complaint claims was created by a student named Thomas Cooper, listed an unnamed pornographic film as Trosch's favorite movie, according to the complaint. Another profile, allegedly posted by students Christopher and Brendan Gebhart, claimed he "liked to have sex with students and brutalize women." A third profile said he "kept a keg of beer behind his desk at school, was on steroids, and smoked marijuana," the court filing said.

The latter posting, which the complaint attributes to Justin Layshock, is already the subject of a federal lawsuit that has been wending its way through court since early last year.

Layshock, then a seventeen-year-old Hickory High School senior with a 3.3 GPA, and his parents sued Trosch and the Hermitage school district over the school's response to the incident. Its response included suspending him from school and placing him in an alternative education program that allegedly prevented him from progressing with his normal coursework. That complaint argues the school's actions were excessive, violated Layshock's First Amendment free speech rights, and interfered with his parents' freedom to judge how best to raise and educate their son. Reported in: *news.com*, April 10.

### **Austin, Texas**

A Texas legislator wants to require the state's nearly 1,700 public school districts to teach the Bible as a textbook, "not a worship document." The House Public Education Committee was set to consider a bill by Rep. Warren Chisum, R-Pampa, mandating high schools to offer history and literacy courses on the Old and New Testaments. The courses would be elective.

The Texas measure goes a step farther, requiring school districts to make such courses available, advocates on both sides agreed. "We're not going to preach the Bible, we're going to teach the Bible and how it affects all of our writings, documents, and the formation of our government," said Chisum. "We're taking it as a document that has historical value. It's the most widely distributed book in the world."

A study by the liberal watchdog group Texas Freedom Network (TFN) last year identified twenty-five high schools

in the state already offering such courses, and said that many have serious problems. The proposed legislation puts school districts in legal jeopardy, said Kathy Miller, TFN's director, who was joined at a news conference by theologians and clergy members opposed to the bill.

"These courses are often more about the religious beliefs of the teachers rather than true academic studies of the importance of the Bible in history and literature," she said.

The Chisum bill says the Old and New Testaments should each be the "basic textbook" for the courses.

The bill says the courses must be taught in an "objective and nondevotional manner" that does not attempt to indoctrinate students. But Mark Chancey, an associate professor in religious studies at Southern Methodist University in Dallas, said Judaism fares poorly in such courses. Students, he said, are taught how to read the Bible from a Christian perspective. "'Christian' here means Protestant, by the way. Roman Catholic interpretations are almost invisible in most courses," he said. Reported in: *Houston Chronicle*, April 3.

### **Odessa, Texas**

In a lawsuit filed May 16 in the Western District of Texas, eight parents are contesting that the Bible course offered in their local high schools violates their religious liberty by promoting particular religious beliefs to children in their community.

In December 2005, the Ector County School Board voted to adopt a Bible course created by a private organization called the National Council on Bible Curriculum in Public Schools (NCBCPS). The elective course, "The Bible in History and Literature," is now taught in two high schools in Odessa—Permian High School and Odessa High School. Rather than teaching about the Bible objectively, the course promotes religion generally as well as a particular religious viewpoint that is not shared by Jews, Catholics, Orthodox Christians, and many Protestants.

The NCBCPS course has been deeply criticized by Bible scholars for its lack of accuracy, ignorance of scholarly research, and biased promotion of a particular religious interpretation of the Bible. Although the NCBCPS defends its curriculum as being constitutional, its own Web site reveals a different agenda, urging people to contact NCBCPS as a "first step to get God back in your public school."

Doug Hildebrand, one of the parents bringing the lawsuit and an ordained elder and deacon at a local Presbyterian Church, said, "Religion is very important in my family, and we are very involved in our religious community. But the public schools are no place for religious indoctrination that promotes certain beliefs that not all the kids in the school share. It seems like a church has invaded our school system—and it's not my church!"

"This class is not about educating students. It is about proselytizing one set of religious beliefs to the exclusion of others," said Daniel Mach, director of litigation for the American Civil Liberties Union's Program on Freedom of Religion and Belief.

The Bible course uses the King James Version as its main textbook, which is not the Bible of choice for a wide range of Christian denominations, nor for members of the Jewish faith. It requires students to give "true" or "false" answers to questions that are a matter of religious faith, uses the Bible to instill religious life lessons, and presents an unbalanced viewpoint of American history that promotes specific religious beliefs that are in conflict with objective scholarly standards.

The lawsuit asks that the Ector County School Board be ordered to refrain from teaching the Bible course or any course like it that would unconstitutionally promote religion generally and particular religious beliefs specifically. Reported in: ACLU Online, May 16.

### **Gig Harbor, Washington**

The principal of Gig Harbor High School said April 26 that a school official should not have shown the parents of a student the video surveillance footage of the girl kissing another girl in the cafeteria, and he vowed that such an incident wouldn't happen again. But principal Greg Schellenberg said an investigation has found that no rules or policies were broken.

"It wasn't a violation of policy and procedure . . . but we all agree it was not a good use of surveillance," Schellenberg said. "It was an abnormal use of our equipment and it won't happen again. This is not a Big Brother institution."

Even so, a spokesman for the American Civil Liberties Union of Washington said the group plans to look into the matter. "I have a hard time believing this incident would've been handled the same way if it was a heterosexual couple," said spokesman Doug Honig.

Earlier this year, Schellenberg said, the parents of the sophomore girl asked the school's dean of students, Keith Nelson, to alert them if school officials noticed their daughter engaged in any "unusual behavior." Then in early February, a video camera in the cafeteria recorded a kiss between the sophomore and a senior girl, Schellenberg said.

Nelson showed the video to the sophomore's parents, who then transferred her to a school outside the Peninsula School District, Schellenberg said.

An investigation ensued after the seventeen-year-old senior complained that her privacy had been invaded, the principal said. But there is nothing in district policy addressing these particular circumstances, he said. The video has since been automatically erased from the school's system.

Honig said the incident raises “several concerns about the use of video cameras to track students’ lives. If the cameras are being used to deal with security and vandalism problems, their use should be limited to that,” Honig said.

Lisa Kelly, a University of Washington law professor who heads a Children and Youth Advocacy Clinic, said that the teens don’t have a very high expectation for privacy in a public place such as a cafeteria. Even so, Kelly agreed that it was troubling that school officials would interpret a kiss between two girls “as unusual or aberrant behavior.”

“If she’d been making out with a boy, would that be unusual behavior?” Kelly said.

Schellenberg granted that Nelson could have simply told the girl’s parents what had happened without showing them the video. But he said that the school would have handled it the same way had she been kissing a boy. Reported in: *Seattle Times*, April 27.

## colleges and universities

### San Diego, California

Comp 101 doesn’t tend to be the most controversial of courses. But at the University of California at San Diego (UCSD), a campaign officially begun in April to alter a required freshman writing and social science curriculum has already claimed two casualties.

Benjamin Balthaser and Scott Boehm, two graduate teaching assistants (TAs) who have led the campaign to restore the year-long “Dimensions of Culture” sequence to what they say is its original form, have not been rehired for the upcoming academic year, a circumstance all parties agree is attributable to their efforts to change the curriculum from within.

The graduate students charge that the year-long course sequence designed in the early 1990s to “challenge hegemonic assumptions about race, class, gender and sexuality” has lost its coherence as the program has been watered down into “a form of uncritical patriotic education that fails to interrogate the injustice integral to the founding of the U.S. and the current state of U.S. society.”

A coalition of fifteen to twenty graduate and undergraduate students presented a list of grievances and demands, including the development of a faculty and student advisory committee, to the administration late in April after what its leaders characterized as unsuccessful negotiations earlier in the academic year.

In turn, the program’s administrator said that he was resisting efforts “to turn this into a program of political indoctrination,” while ensuring that the university maintains an atmosphere of collegiality.

The sequence is required for all freshmen at UCSD’s Thurgood Marshall College, which, as one of the university’s six undergraduate colleges, has a unique mission. Conceived by faculty and students and founded in 1970,

the college has been distinguished by a particular commitment to issues of diversity and social justice. The Dimensions of Culture program specifically is supposed to consider the question of “how scholars move from knowledge to action” as a central, overarching course objective in each of three quarters focusing, respectively, on diversity, justice and imagination. Billed by the college as a “study in the social construction of individual identity,” the curriculum covers a range of issues surrounding the human relationship to the self, work, community, and nation.

But while the course has come under fire on the one hand for what the grad students say is its growing conservatism, so too does it come under fire for being too leftist to begin with. Students consistently complain of a left-leaning bias in the curriculum on evaluations, said Abraham Shragge, the Dimensions of Culture program director—even still.

Depending on whom you ask, the critics of the Dimensions of Culture program as it’s currently taught are either political ideologues who want to see their own ideals perpetuated, or students and scholars committed to maintaining the heritage of the college by challenging freshmen to critically examine everything they’ve ever understood about the world they live in.

“From the beginning, the program was meant to be a de-territorializing experience that would make students question mainstream assumptions. It would be a very critical approach to questions of race, class, gender, and sexuality in the United States,” said Boehm, a third-year literature student who, along with Balthaser (a fourth-year), was not rehired for his teaching assistant position this April after becoming an active and outspoken critic of the current Dimensions of Culture curriculum.

“We unapologetically feel that the program is there to raise very particular questions and particular issues,” adds Balthaser. “It’s okay that this program has a viewpoint.”

Yet, Boehm said that, probably in response to complaints of a left-leaning bias, the course began to change. Balthaser and Boehm describe a gradual retreat from controversial subject matter, a “militarization” of the curriculum, and a gradual sense of incoherence caused by the uncritical introduction of “alternative” viewpoints to the syllabus.

By failing to critically examine texts brought in for the sake of balance, such as a Family Research Council article on gay marriage, Boehm charged that course instructors perpetuate a false notion that there are only two sides to every argument. “The both sides issue is used by the right often to oversimplify the issue and ensure that their viewpoint is included,” says Boehm.

Shragge, the program’s director for three years now and a historian who studies civilian and military relations, takes issue with the argument that the program has been watered down, and questions the political motivations of those behind the campaign.



“The TAs who have been so critical of the program have argued that this should be a program in political indoctrination; it’s supposed to lead our students to political and social action. That’s not the purpose and it never was: This is social sciences, humanities, writing, with social justice as the backbone of the readings,” Shragge says.

“One thing we have done in recent years is add some material that does articulate the other side of the argument. . . . I know some of the TAs really object to the fact that our reader could include a reading from [free-market economist] Milton Friedman. ‘How can we do that?’”

But, he continues, “If you look at the syllabus, there’s a lot of pretty hard-hitting material in there. I don’t believe that the course is conservative in any way: We’re criticized by many of our students for being too liberal, too left-wing.”

Boehm (who won a teaching award in 2006) and Balthaser say it was very clearly indicated to them that the reason they might not be considered for renewals of their TA positions in the Dimensions of Culture program this coming year had nothing to do with their teaching. When other TAs received notification last week they’d be returning, they received no word whatsoever.

“They get good ratings as teachers. That’s a fact,” says Shragge, who describes the TAs as undermining faculty autonomy and working outside the program guidelines. “But because I was not moving in the right direction and not moving quickly enough to address their demands that Dimensions of Culture be turned into a course in political indoctrination, they have gone all over the campus to stir up a lot of campuswide dissent that I find very damaging to the program. They’ve created a very hostile atmosphere; they’ve been very hostile to me. This is a working environment that depends on collegiality.”

Not surprisingly, not all faculty are pleased with the decision. “As TAs, as intellectual workers, they have a right to have a say,” says Luis Martin-Cabrera, an assistant professor in the literature department who works closely with Boehm. “It’s very clear to me that because they are using their freedom of speech they are being punished.” Reported in: [insidehighered.com](http://insidehighered.com), May 4.

### **Boston, Massachusetts**

Emmanuel College urged all professors to talk to students about the tragic shootings at Virginia Tech. One adjunct who did so for about ten minutes—but not in the way Emmanuel envisioned—was promptly fired and barred from the campus.

Nicholas Winset and his supporters see his dismissal as a violation of academic freedom and an example of the way colleges may overreact to a nationally traumatic event. Winset also says that key details about his class discussion provide context that has been lacking in some initial reports on the incident.

Winset’s course was in financial accounting, and he brought up Virginia Tech because the Boston-based college was urging instructors to discuss the situation to reassure students. Winset, who is in a transition from a business career to one in academe, said that he tells students on the first day of class that he’s not the most formal of professors and may swear in class from time to time, and that if they aren’t comfortable with that, other sections of the course may be better.

On April 18 he said that he started class by saying that there would be an exercise related to Virginia Tech. During a period of about ten minutes of discussion about Virginia Tech, Winset said he picked up a marker and made a “bang bang bang” noise, and that a student made a “bang bang” noise back at him. During the discussion, Winset said he told students that “his heart goes out” to the victims’ families, but that he didn’t agree with the idea that this is a national crisis for students.

He said that students do not face a real danger of being killed by a mass murderer any more than they are in danger of being hit by lightning. He said his students were scared by the Virginia Tech killings, and that’s because people who run such places as Emmanuel and the national press like to focus on tragedies rather than talking about such issues as rape or AIDS, which pose real dangers to many college students but don’t tend to make CNN much.

Further, he said that he suggested that press accounts of the victims have focused on those viewed as most photogenic and tragic (which he said has a strong correlation with being white in American society). He told his students, he said, that if all of the victims had been poor, minority individuals, press interest would have been lessened.

He critiqued the way some proponents of gun control have used Virginia Tech to argue their points. He said he called for students to have an “open mind” about gun control. “Do I really like the idea of every idiot in the country having a gun? No, but I’m not sure I like the idea of reasonable people not having them either,” he said.

Per his pattern, Winset said that he probably called the killer in last week’s shootings “an asshole” and he makes no apologies. “I think it’s appropriate.”

After the discussion, Winset returned to the regular material, and didn’t see any signs that he had offended any of his students. Two days later he received a dismissal notice by messenger, banning him from campus immediately. He said that Emmanuel had previously offered him two courses for the fall semester, but that he’ll be an adjunct at another college, which he declined to name given the current controversy.

Winset said that the college never asked him what had happened in class, but that he suspects that the reports the college received about it came from a student who is failing. (A college spokeswoman said that Emmanuel tried to call him on Thursday, and Winset, who was away from

his home number on Thursday, said that when he arrived Friday, he had messages from late Thursday afternoon and his dismissal notice.)

So why did the college fire Winset? Emmanuel first released a statement saying that it responded to “an inappropriate incident” in which “an adjunct faculty member made statements regarding the shootings at Virginia Tech University which prompted students and parents to contact the administration with complaints.”

The statement went on as follows: “Emmanuel College has clear standards of classroom and campus conduct, and does not in any way condone the use of discriminatory or obscene language by any member of the college community. Emmanuel College, like other colleges in the country, cannot tolerate any behavior or action which makes light of or mimics the terrible tragedy at Virginia Tech. At Emmanuel College, the well-being of our student body is a primary concern, and the action taken, which was to dismiss the adjunct faculty member, reflects this belief.”

A spokeswoman for Emmanuel, asked what specifically led to Winset’s dismissal and whether he had any due process rights, said that the college would say nothing beyond the statement.

Then Emmanuel issued a second statement, with more detail. This statement said that Winset “was dismissed because he was reported by several witnesses to have violated the standards of conduct and civility we require of all members of the college community. According to students in his class, Mr. Winset staged a dramatization during a financial accounting class, mimicking the shootings at Virginia Tech and disparaging the victims as rich white kids combined with an obscene epithet. He did not do this as part of an open debate with his students. His insensitivity toward the students who were murdered at Virginia Tech expressed during class time, but far afield from the subject matter of his course, and his use of obscene and discriminatory language, which is not tolerated from students, faculty, or staff at this institution, led to his dismissal from his adjunct position.”

The college also released a statement from Tom Wall, professor of philosophy and chair of the Faculty Senate, who said, “This is not an issue of academic freedom. In my thirty-eight years at Emmanuel College there has never been a case in which academic freedom has been violated. In fact, Emmanuel has a broader sense of academic freedom than many institutions since we encourage the discussion of controversial issues in all of our disciplines, as long as the discussion is carried out in a fair and civil manner. This was decidedly not the case in Mr. Winset’s class. Creating fear and anger in his students with outrageous and disrespectful behavior and language is clearly about power. In no work place would such behavior be tolerated.”

Reached after Emmanuel released the second statement, Winset reiterated that his comparison of the media treat-

ment of black and white victims of various tragedies is a legitimate point of social commentary, and that he did not believe his students “were frightened by a magic marker.” He said that students are encouraged to argue with him about all issues he raises in class, and that some disagreed with his analysis of Virginia Tech.

Winset said he was stunned that the head of the Faculty Senate would back the administration without talking to him, and said he objected to the language in Wall’s quote. While Winset said he does not believe he has or would scare a student, he said professors should anger students by raising tough ideas, and that Wall’s reference to Emmanuel as a work place was telling. “They think it’s a business and if you offend the clients, you’ve done something wrong,” Winset said. “Well it’s not just a work place. It’s a university, and universities are different.”

Several of Winset’s students are angry—not about his lecture, but about his removal. Peter Muto, a sophomore business management major, said he wasn’t at all offended by the discussion, and wonders why more students weren’t asked for their views on what happened that day. “I have numerous friends in the class, and none of them took offense to this, nor were any of them scared or freaked out,” he said. Muto said Winset is his favorite professor in part because of his informal tone. He is bright, funny, and talks with students “like a regular person,” Muto said, unlike professors who “give boring lectures every class.”

Muto said it was “outrageous” that Emmanuel fired Winset, and that students are being forced into another section just as the semester is drawing to a close.

Winset said he was bothered in numerous ways by Emmanuel’s first statement. Among other things, he said, they have “banned joking,” which isn’t what he did in class that day, but which he doesn’t think the college has any business banning. By raising the issue of discrimination, he said, the college is “using the standard PC thing—if you are in doubt, call your opponent a bigot and see if it sticks.”

And while Winset freely admits to swearing, he questions whether he is really the only one at the college who has ever used an “obscene” word, in whatever definition the college would use. “Sometimes I curse in my class. Sometimes my students curse in class. My students and I curse outside of class,” he said. “When I curse in class, I slap myself and say ‘bad teacher.’”

As for academic freedom for adjuncts, Winset said it is “abysmal” at Emmanuel if an adjunct can be fired without a hearing based on saying some unpopular things one day in class. “The whole point of tenure and free speech is to protect speech that is unpopular. If it is popular speech, you don’t need to protect it.”

Jonathan Knight, who handles academic freedom issues for the American Association of University Professors, said

*(continued on page 165)*

## success stories



### libraries

#### Lodi, California

The story of two penguins has caused at least one Lodi Public Library patron to request a children's book be removed from the library's toddler section or labeled to indicate mature content. At an April 16 public meeting, Lodi resident Stephanie Bramasco asked the Lodi Public Library board of directors to either remove the book *And Tango Makes Three*, deriding what she called its "homosexual story line that has been sugarcoated with cute penguins."

The directors shot down Bramasco's request with a 4-1 vote, noting that the book is popular and critically acclaimed. It also is not the library's interest to censor material or suggest to parents what is appropriate for their children, board member Cynthia Neely said.

*And Tango Makes Three*, by Justin Richardson and Peter Parnell, is based on the true story of New York City's Central Park Zoo penguins Roy and Silo. The two male penguins did everything together, including swimming, singing, and sleeping, according to several reviews of the book attached to the library staff report.

Zookeepers even found the penguins attempting to build a stone nest, as mating penguins do, where they attempted to

hatch a rock, according to the book. "They must be in love," a zookeeper says in the book, and provides the chinstrap penguins, recognized by a thin line of black feathers under their chins, with an abandoned fertilized egg to raise as their own.

Bramasco described the book as "deceiving" because the cover illustration, a picture of two adult penguins and one baby penguin, does not indicate the adult penguins are a same-sex couple. Bramasco said she struggles with the idea of explaining to her seventeen-month-old the reasons why two male penguins would be unable to hatch an egg on their own or why two male penguins would have such an intimate relationship together.

"I don't have a problem with the book being at the library, but it is not appropriate material for children in that [one- to three-year-old] age group," Bramasco said. "I'd feel the same way if the penguins were murderers or rapists. Don't sugarcoat that type of material by making it pertain to cute penguins, or dogs or kittens, or whatever. It's not appropriate material for a three-year-old to see and hear."

Bramasco admitted she did not check the book out, but her friend, the mother of a three-year-old, did. Bramasco had a stronger urge to present the issue to the board of directors than her friend did, however. Reported in: *Stockton Record*, May 5.

#### Marshall, Missouri

The Marshall Public Library Board of Trustees passed a revised materials selection policy March 14, and decided to place two novels that had been in question back on the shelves. Formation of the policy came as a result of a request by Marshall resident Louise Mills to remove two graphic novels from the shelves.

The novels, *Fun Home* by Alison Bechdel and *Blankets* by Craig Thompson, were deemed offensive by Mills and other members of the community who aired their views at a public hearing on October 4.

The committee read through a number of material selection policies from other libraries around the state and the country and took note of things in them that they deemed important to be included into the new policy for the Marshall Public Library.

The meeting began with John Carton, executive director of Butterfield Youth services, speaking about the two novels in question. Carton said that he went to the library to read these novels because he wanted to be better informed.

"I felt offended by not being allowed to check them out and read them, so I went and bought them," he said. "I found them intriguing."

He told of the personal identity issues of the characters in the books and the isolation the characters went through.

"We should encourage those processes, not discourage them," Carton said. Isolation can be devastating to kids, he said.

Board member Katy Elsea moved to approve the material selection policy and Ann Aulgur, vice president, seconded the motion.

Treasurer Connie Grisier asked questions and pointed out some problem areas in the discussion time. "We did meet with the city attorney and he told us that it was all legal," Grisier said. She pointed out that the board is not a judicial body but "we do have the powers."

Grisier was concerned that the new policy does not include a provision for labeling materials. "I think we have taken away a possible avenue we could have used," she said.

"I think we have tried really, really hard to be fair to all sides," said President Anita Wright. "We put in a lot of safeguards and [I] hope not to find ourselves back in this position."

With a roll-call vote, seven members approved the policy, with Grisier abstaining.

When the question of the fate of *Blankets* and *Fun Home* came up, Elsea said, "There is no way we can remove those from the library from what we adopted."

Aulgur made the motion to put the novels back on the shelf, and board member Kathleen Sharon seconded.

Elsea said that she would like to see *Blankets* relocated to the adult section, as it is classified as a teen or adult book. Library director Amy Crump said that *Blankets* was put in the teen section due to the age of the protagonist, but that it also is commonly categorized as adult fiction. With more discussion on the matter, board member Jeanne Simonton said "from what we have written, they need to stay."

With a roll-call vote, seven members gave the approval for the books to stay shelved, and Grisier voted no. In a subsequent motion, the board recommended that *Blankets* be moved from the young adult section to the adult section of the library. The vote was seven to one, with Grisier voting no.

*Fun Home* was, and will remain, in the adult fiction section, according to Crump. Reported in: *Marshall Democrat-News*, March 15.

## **schools**

### **St. Louis Park, Minnesota**

After a racially charged complaint about Mark Twain's *The Adventures of Huckleberry Finn*, the famous novel will remain on the honors reading list at St. Louis Park High School.

District superintendent Debra Bowers said she decided to keep the book, but with provisions for other readings that describe different views of African-American values and family life. She also said the district will conduct staff training about race issues and revise the way it weighs requests for curriculum changes. The district also will let its staff offer alternative assignments on racially sensitive issues in ways "that students do not feel ostracized because they have opted out of the assignment."

The issue arose after Ken and Sylvia Gilbert objected that Twain's book was required reading in their daughter Nia's tenth-grade honors class. Gilbert said he was particularly disturbed by the book's repeated use of the N-word. The word carries so many negative meanings for blacks, he said, that he felt he should speak up.

The Gilberts' request to remove the book from the required list but not from the school was turned down by a twelve-member committee. The Gilberts appealed to Bowers, and Ken Gilbert said that if his request failed he would urge his daughter to leave the St. Louis Park school system.

"Every time someone has a concern, it merits consideration," Bowers said.

Before announcing her decision, she called two meetings with school officials from St. Louis Park and the West Metro Integration District as well as with the Gilberts and another parent. Bowers said both sides were interested in pursuing higher levels of achievement for African-American students. That resulted in the additional decision to back programs that help those students succeed in "higher level coursework."

Ken Gilbert said that "I have hope" the steps described by Bowers will be fulfilled. "We will measure and monitor" them, he said, adding, "I sensed they understood. . . . They're trying to support achievement."

Bowers said that Nia Gilbert has become involved in a school program to "help us with closing the achievement gap. We're working together." Reported in: *Minneapolis Star-Tribune*, April 19.

### **Billings, Montana**

A room full of supporters joined Ronda Kiesser in the Billings School District 2 board room May 10 in her attempt to have *Red Sky at Morning* by Richard Bradford removed from the reading list for freshman English classes.

In February, Kiesser filed a formal, written "request for reconsideration of media" and said the book contains excessive profanity and includes sexually suggestive passages that she believes are not appropriate for fourteen-year-olds.

But in the end, the three-member board panel of chair Malcolm Goodrich and trustees Kathy Kelker and Mary Jo Fox did not make any ruling on the book. Instead, they ruled that the district's media review committee followed board policy when it reviewed the book. The committee, made up of a teacher, librarian, principal, and parent, decided in March that the book should remain on the reading list.

*Red Sky at Morning* is a coming-of-age story about a teenage boy who moves to New Mexico from Alabama during World War II. The boy experiences culture shock in the mostly Mexican community where he lives while his father serves in the U.S. Navy. The book has been in use in the district for more than twenty years.

The profanity and sexual references in the book were brought to Kiesser's attention by her fourteen-year-old

daughter, who told her mother she was uncomfortable reading the book. Kiesser first voiced her concern to her daughter's teacher, who offered an alternative book that could be used to teach the same concepts taught using Bradford's book. Kiesser said she and her daughter were not told they could request a different book until they talked to the teacher.

The alternative was *Warriors Don't Cry* by Melba Pattillo Beals, a memoir on racial integration at a high school in Little Rock in 1957. Kiesser's daughter and another girl in the class both chose to read the alternative book. They were given assignments on the book, but were required to sit in the hall outside the classroom during the two weeks *Red Sky at Morning* was discussed.

Skyview English teacher Kathy Pfaffinger, who is on the review committee, said most all the books on the high school reading lists at every grade level include profanity and other possibly offensive themes, including racism and sexual references.

"I can think of very few that would be left (on the list)" Pfaffinger said. "No Nobel Prize books would be left or any of the books used in the AP classes." Reported in: *Helena Independent*, May 11.

### Webster, New York

A controversial book removed from a summer reading list for high school students in the Webster Central School District, near Rochester, last year is back on the list. *Rainbow Boys* by Alex Sanchez, an award-winning, gay-themed novel, was taken off the list in August 2006 after a parent complained about explicit sexual content, district officials said.

Students are required to read at least two books over the summer and write reports due at the start of the next school year. Students can read books not on the list if they get permission.

Critics of the removal contend the gay story line was a factor in the decision, but district officials said the book was temporarily removed while they reviewed the process used to select books for the list.

Ove Overmyer, a library assistant at the Rochester Public Library, said he expected that the book would be returned to the list. "Those lists should be lists of inclusion, nothing should be excluded. That's a good thing. I think we learned something from the whole process," he said.

"Parents should be responsible for what their children read, but other parents shouldn't tell other parents what their kids should read," Overmyer said.

Released in 2001, the book about gay teen life won the International Reading Association's 2003 Young Adults' Choice award, and the American Library Association selected it as a Best Book for Young Adults.

Sanchez was pleased to hear that his book is back on the list. "I've been delighted to receive so many enthusiastic e-mails in support of my books from students and com-

munity members in the Rochester area, individuals who have actually read my books and recognize their value and worth," he said via e-mail.

Webster Superintendent Adele Bovard sent an e-mail message saying the district "reviews feedback from parents, teachers and students about the Summer Reading program to make adjustments to the program for the next summer."

In her message, Bovard said a committee of teachers, librarians, a student, and an administrator met throughout the year "to refine the summer reading program."

"One of the most significant changes in the implementation process is the assurance that every book on the middle and high school reading lists have been read by one of the committee members, using criteria from the National Library Association [sic] to determine books for the lists," Bovard wrote in the message.

"The committee reviewed [*Rainbow Boys*] utilizing the criteria listed and made the recommendation for including the book as suggested reading for [high school] students," she said in a separate message.

Webster school board president Laura Harder said the board "approved the process by which they make their book selections and trusts that they'll give it due diligence." Reported in: *Rochester Democrat & Chronicle*, May 20. □

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*(Is It Legal? . . . from page 162)*

he had concerns about the Winset case. "At a minimum, the administration should have met with the instructor" prior to taking action, he said. It's a "terribly serious" matter to make a dismissal decision based on some student and parent complaints, without providing an opportunity to respond, Knight said.

As for what Winset did in class, Knight said that "the administration wants to have it both ways and it's unacceptable. They want to say 'we want you to discuss this matter, but to discuss it in a particular way.'"

There is a risk of colleges' taking offense at things professors say or do after a tragedy such as the Virginia Tech killings, Knight said, and there is "a risk of overreaction." He said colleges can't expect everyone to agree on what an event means or how it should be discussed. "There is no playbook about how people should react and how they do react," Knight said. "How they do react cannot fit into any easy prescription of what is appropriate." Reported in: *insidehighered.com*, April 24.

### Cambridge, Massachusetts

Professors at the Massachusetts Institute of Technology (MIT) were perplexed: How could a membership organiza-

tion that gladly accepts and archives their scholarly work turn around and limit transmission of the material?

MIT faculty have contributed roughly 350 papers in the last eight years to the Society of Automotive Engineers' (SAE) digital database, according to Ellen F. Duranceau, scholarship publishing and licensing consultant for MIT Libraries. They were used to sharing the technical papers found through the site with colleagues and viewing the material in multiple sittings.

But a policy enacted by SAE about two years ago changed the nature of the service. The group began requiring users to download a plug-in that prevented sharing encrypted documents over a network. Users could only view a paper on a single desktop computer and were allowed one printed copy per access code. No saving a copy to the computer. No photocopying. SAE also changed pricing models so that users were charged per view, Duranceau said.

In April, MIT Libraries explained in a blog posting its decision to cancel access to the database because of the restraints. The decision set off a chain of events that has led SAE to reconsider its policy. The case shows, among other things, the extent to which faculty members will go to protect the free flow of academic information in a time when technology allows for greater research sharing.

Wai K. Cheng, a professor of mechanical engineering at MIT and an SAE fellow who led the faculty charge against the restrictions, presented his concerns to SAE's publications board last month. The organization prides itself on its efficient search engine and comprehensive database, he said in an interview, which made the change in policy all the more annoying.

"It is a step backwards," Cheng said. "All of the sudden we're back to archiving papers by printing them out. They want to put a lock on this thing and make it more difficult to operate."

As a result of his and others' lobbying efforts, the panel announced plans to form a task force of professors, librarians, its own board members and others to rethink the policy. An SAE spokeswoman declined to explain why the policy was initially changed, saying only that decisions will be made by the end of the summer after the task force finishes its review. Cheng said he has never received a clear answer on whether the decision to restrict access was primarily an economic or philosophic one, or both.

MIT faculty members grew concerned about the policy as its March database subscription renewal date approached. Since SAE grandfathered in the policy, the university didn't have to adhere to any new changes until its contract ran out. Cheng said some colleges whose contracts ran out before MIT's stopped subscribing to the database service.

In the meantime, as SAE looks into its policy, subscribers are again seeing the more relaxed access rules that they grew accustomed to before a few years ago. Instead of using the SAE service, MIT Libraries purchased from the

group CD-ROM and PDF versions of the published papers, and is working on a digital catalogue.

Duranceau, the licensing consultant, said faculty at MIT are committed to keeping their papers open to as many eyes as possible.

"The core issue is the reaction of the authors here in discovering that when they had written papers and given SAE the right to the materials, [the group] betrayed their trust," she said. "No one was under a naive assumption that everything should be free, but there was an understanding that things should be made as barrier-free as possible." Reported in: [insidehighered.com](http://insidehighered.com), May 21.

### **Tulsa, Oklahoma**

The American Association of University Professors (AAUP) has protested the University of Tulsa's decision to suspend an assistant professor of law and ban him from the campus without a hearing and without any charges being brought against him.

The faculty member, Gregory M. Duhl, also was prohibited from contacting colleagues or students. He will continue to be paid during his suspension.

Two faculty committees have asked the university's administration to reinstate Duhl, whose courses were abruptly canceled on the first day of the spring semester in January. He taught two sections of a course in selling and leasing, neither of which was rescheduled.

David Hamby, a spokesman for the university, said no one could comment on the matter because it involved personnel issues. Duhl referred questions to his lawyer, Elaine K. B. Siegel. She said that her client denied wrongdoing, but that she could not comment on the specifics of the case.

The Tulsa law school's Committee on Rights and Responsibilities concluded in January that the suspension was unauthorized and should be immediately revoked. The committee complained that the administration had never brought any formal charges against Duhl or provided the committee with any explanation of why such an extreme action was necessary.

In a report, the committee said the dispute that led to his suspension, on January 9, apparently involved allegations by two students that he had violated the law school's practice of grading anonymously and had favored certain students.

"The immediate suspension of a professor is a very severe sanction," the committee wrote. "When that suspension is accompanied by a directive to move out of one's office and refrain from speaking with colleagues or students except through the Office of General Counsel, and expulsion from the university premises . . . the potential for damage to reputation and emotional distress is gravely intensified."

That kind of action should be taken only if a faculty member poses a physical threat to students or other employ-

ees, the committee argued, adding that no one has claimed that Duhl is a threat to anyone.

Jonathan Knight, director of the AAUP's program on academic freedom and tenure, wrote a letter to the university's president, Steadman Upham, urging him to reinstate Duhl, pending the outcome of an investigation.

About the same time that Duhl's suspension was creating controversy on the campus, the administration disbanded the university's legal office, dismissing the general counsel, Barbara F. Geffen, and four members of her office in February.

Hamby, the spokesman, said the university would save money by outsourcing its legal work, and he denied speculation by some faculty members that Geffen's dismissal was linked to Duhl's suspension.

Raymond L. Yasser, a tenured professor of law at the university, said his colleagues were upset about the suspension. "The thing that's so stunning to us is that the administration imposed a suspension without a hearing," he said. "The effect is to make everyone—even tenured people—feel vulnerable. We're law faculty, for heaven's sake. We believe in due process."

The university's provost, Roger N. Blais, referred to the grading dispute in his written response to the faculty committee's report. "I must continue Professor Duhl's suspension, not as a punitive measure, but as a protection of the right of process for all individuals in this situation, particularly those most vulnerable: the students who were in Professor Duhl's contracts class," the provost wrote.

He added that "Professor Duhl's presence on campus, even if limited to his office, would only lead to disruption, speculation, and vulnerability for the students who have not yet received their grades, as well as other individuals involved as witnesses to the multiple pending matters." Reported in: Chronicle of Higher Education online, April 20.

### **Millersville, Pennsylvania**

A twenty-seven-year-old Millersville University graduate filed a federal lawsuit April 26 against the college for denying her an education degree and teaching certificate after a controversial Internet photograph surfaced last year shortly before graduation.

The picture shows Stacy Snyder of Strasburg wearing a pirate hat while drinking from a plastic "Mr. Goodbar" cup. The photograph taken during a 2005 Halloween party was posted on Snyder's MySpace Web page with the caption "Drunken Pirate."

"The day before graduation, the college confronted me about the picture," Snyder said. "I was told I wouldn't be receiving my education degree or teaching certificate because the photo was 'unprofessional.'"

Snyder said she apologized for the photograph, but Jane S. Bray, dean of the School of Education, and provost

Vilas A. Prabhu refused to issue the bachelor of science degree in education and teaching certificate Snyder earned. Instead, the college issued Snyder a bachelor of arts degree in English.

Snyder, a single mother of boys ages nine and seven, works as a nanny for a family in Lititz. "I dreamed about being a teacher for a long time," Snyder said. "When I was growing up, I spent more time with my teachers than my own parents, and it inspired me to someday make a positive impact on children."

Attorney Mark W. Voigt of Plymouth Meeting filed the lawsuit after failing to negotiate a hearing with Prabhu and Bray.

"Stacy deserves to be a teacher," Voigt said. "The bottom line is we want the college to bestow the degree and teaching certificate that Stacy earned during four years of hard work and sacrifice." The lawsuit also seeks \$75,000 in compensatory damages. Reported in: LancasterOnline.com, April 27.

## **broadcasting**

### **Washington, D.C.**

Concerned about an increase in violence on television, the Federal Communications Commission (FCC) on April 25 urged lawmakers to consider regulations that would restrict violent programs to late evening, when most children would not be watching.

The commission, in a long-awaited report, concluded that the program ratings system and technology intended to help parents block offensive programs, such as the V-chip, had failed to protect children from being regularly exposed to violence.

As a result, the commission recommended that Congress move to limit violence on entertainment programs by giving the agency the authority to define such content and restrict it to late evening television.

It also suggested that Congress adopt legislation that would give consumers the option to buy cable channels à la carte—individually or in smaller bundles—so that they would be able to reject channels they did not want.

"Clearly, steps should be taken to protect children from excessively violent programming," said Kevin J. Martin, the agency's chairman and a longtime proponent of à la carte programming. "Some might say such action is long overdue. Parents need more tools to protect children from excessively violent programming."

The commission report, which was requested by Congress three years ago, was sharply criticized by civil liberties advocates and by the cable television industry for proposing steps that both said would be too intrusive.

"These FCC recommendations are political pandering," said Caroline Fredrickson, director of the Washington legislative office of the American Civil Liberties Union. "The

government should not replace parents as decision-makers in America's living rooms. There are some things that the government does well. But deciding what is aired and when on television is not one of them." She added: "Government should not parent the parents."

A spokesman at the National Cable and Telecommunications Association, Brian Dietz, said consumers "are the best judge of which content is appropriate for their household. Simple-sounding solutions, such as à la carte regulation of cable TV packages, are misguided and would endanger cable's high-quality, family-friendly programming, leaving parents and children with fewer viewing options," he said.

A spokesman for the National Association of Broadcasters, Dennis Wharton, said that broadcast television was "far more tame than programming found on pay TV in terms of both sex and violence."

Noting that the association, along with all the networks and major cable groups, is in the middle of a \$300 million marketing effort to help educate parents about the V-chip and other technology to block programs, Wharton said, "Should this not be given a chance to work?"

The report and accompanying recommendations set the stage for a political battle between the commission and three powerful interest groups: the broadcasters, the cable TV industry and satellite television. It comes on the heels of efforts by the agency to penalize radio and television stations for violating the indecency rule. Those penalties have been challenged in courts on the grounds that they violate the First Amendment.

The outcome of the cases, which may wind up in the United States Supreme Court, could determine whether the government would have the authority to impose limits on violent programs.

The report said that research on whether violent programming had caused children to act more aggressively was inconclusive. But it also cited studies, including one by the surgeon general, that say exposure to violent content has been associated with increased aggression or violent behavior in children, at least in the short term.

It said that the V-chip and other blocking technology had failed because, according to recent studies, nearly nine out of ten parents do not use them. And the ratings system was of limited use, the study found, because less than half of parents surveyed had used it.

In addition, many also believed the ratings were inaccurate. Martin and other supporters of à la carte programming say that it would be easier to put in place than content-based regulations because it would not face the same First Amendment challenges.

"There is no First Amendment right to get paid for your channels," Martin said. "All of the versions of à la carte would keep government out of regulating content directly while enabling consumers, including parents, to receive the programming they want and believe to be appropriate for their families."

The groups supporting such an approach range from Consumers Union to the Parents Television Council, an organization that has lobbied for more stringent penalties for obscene and violent programs.

But such a proposal faces formidable obstacles in Congress because of the influence of the industries involved. The cable industry has fought hard against new regulations, and has said that attempts to force à la carte programs would prompt the closing of many educational and local stations.

The broadcasters say that it would be difficult to formulate a definition of "violence," and that tougher regulations could wind up censoring otherwise legitimate programs.

But Martin rejected that argument, noting that the industry has already formulated ratings to describe the level of violence in programs, and therefore government-imposed limits on when programs could run would be constitutional. Reported in: *New York Times*, April 26.

## Internet

### San Francisco, California

A Chinese political prisoner and his wife sued Yahoo! in federal court April 18 accusing the company of abetting the commission of torture by helping Chinese authorities identify political dissidents who were later beaten and imprisoned. The suit, filed under the Alien Tort Claims Act and the Torture Victims Protection Act, is believed to be the first of its kind against an Internet company for its activities in China.

Wang Xiaoning, who according to the suit is serving a ten-year prison sentence in China; his wife, Yu Ling; and other unnamed defendants seek damages and an injunction barring Yahoo! from identifying dissidents to Chinese authorities.

"I hope to be able to have Yahoo! promise that in the future they will stop this kind of wrongdoing," said Yu, speaking through an interpreter from San Francisco.

Yahoo! said it had not yet seen the suit, filed in the Federal District Court for the Northern District of California, and could not comment on the allegations.

"Companies doing business in China are forced to comply with Chinese law," said Jim Cullinan, a Yahoo! spokesman. When government officials present the company with a lawful request for information about a Yahoo! user, he said, "Yahoo! China will not know whether the demand for information is for a legitimate criminal investigation or is going to be used to prosecute political dissidents."

Several American Internet companies, including Cisco Systems, Google, and Microsoft, have come under fire, with some politicians and human rights groups accusing them of helping the government monitor and censor the Internet in China. But Yahoo! has come under particularly sharp criticism. Human rights groups say that Yahoo! has helped identify at least four people, including the journalist



Shi Tao in 2004, who have since been imprisoned for voicing dissent in cyberspace.

“Our concern is that Yahoo!, as far as we know, is continuing this practice,” said Morton Sklar, executive director of the World Organization for Human Rights USA and a lawyer for the plaintiffs.

According to the suit, Wang distributed online several journal articles calling for democratic reform and a multi-party system in China. He did so anonymously by posting the articles in a Yahoo! Group in 2000 and 2001. The suit contends that Yahoo! HK, a wholly owned Yahoo! subsidiary based in Hong Kong, provided police with information linking Wang to the postings.

Cullinan of Yahoo! disputed those claims. “Yahoo! HK does not exchange info with Yahoo! China or give information to mainland Chinese security forces,” he said. Yahoo! transferred its mainland China operations to Alibaba.com in 2005, and owns a minority stake in that company, which is based in China.

On September 1, 2002, Wang was arrested by Chinese authorities, according to the suit, which says he was kicked and beaten and detained until September 2003, when he was sentenced to ten years. The suit says that the Chinese court’s judgment noted that Yahoo! HK told investigators that the e-mail account used to disseminate the postings belonged to Wang.

The Alien Tort Claims Act, enacted in 1789, lets foreigners sue in American courts for fundamental violations of international law, such as torture and genocide. It has been used in recent years to sue people who have violated basic human rights.

But legal specialists say that Wang and Yu face significant hurdles. Allen S. Weiner, a professor of international law at Stanford, said it was unclear whether the law would apply to a company such as Yahoo!, which is only accused of having contributed indirectly to Wang’s predicament. Further, Professor Weiner said that Yahoo! might be excused by courts by virtue of its obligation to comply with Chinese law.

The Torture Victims Protection Act, which was enacted in 1991, allows plaintiffs, including foreign citizens, to file civil suits in the United States. Under either law, the plaintiffs would have to prove that Wang was subject to torture, Professor Weiner said. Reported in: *New York Times*, April 19. □

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*(Censorshop Dateline . . . from page 150)*

with the school system’s reaction. “The spirit of the article is just asking people to consider what your previous beliefs were about this particular subject,” he said.

“There’s a difference between tolerance and agreement.”

Sorrell, the daughter of a newspaper editor, said she thought she knew what was acceptable in the school district where she has taught English for four years. “I’d still make that same judgment,” she said. Reported in: Associated Press, April 22.

## university

### State College, Pennsylvania

Penn State graduate Joshua Stulman, whose art exhibit “Portraits of Terror” was canceled last year by the university, has filed a lawsuit against Penn State for what he says is a violation of his First Amendment rights. The university, director of the School of Visual Arts Charles Garoian, art professor Robert Yarber, and Penn State president Graham Spanier are all named as defendants in the lawsuit.

In April 2006, Garoian canceled a scheduled showing of Stulman’s ten-piece exhibit, which featured images of conflict in Palestinian territories. According to the lawsuit, Garoian said the exhibit violated Penn State’s Policy AD42: Statement on Nondiscrimination and Harassment, and did not promote “cultural diversity” or “opportunities for democratic dialogue.”

Stulman is suing the defendants on the grounds of suppression of his First Amendment rights and defamation of character. Reported in: *Daily Collegian*, April 23.

## military

### Washington, D.C.

Soldiers serving overseas are losing some of their online links to friends and family back home under a new Department of Defense policy. The Defense Department is blocking access “worldwide” to YouTube, MySpace, and eleven other popular Web sites on its computers and networks, according to a memo sent May 11 by Gen. B. B. Bell, the U.S. Forces Korea commander.

The policy is being implemented to protect information and reduce drag on the department’s networks, according to Bell.

“This recreational traffic impacts our official DoD network and bandwidth ability, while posing a significant operational security challenge,” the memo said.

The Defense Department cut off access to about a dozen popular Web sites in May on all department computers worldwide. Warnings of the shutdown went out in February, and allowed personnel to seek waivers if accessing the sites was necessary for their jobs.

The armed services have long barred members of the military from sharing information that could jeopardize their missions or safety, whether electronically or by other means. The new policy is different because it creates a blanket ban

on several sites used by military personnel to exchange messages, pictures, video, and audio with family and friends.

Members of the military can still access the sites on their own computers and networks, but Defense Department computers and networks are the only ones available to many soldiers and sailors in Iraq and Afghanistan.

Iraqi insurgents or their supporters have been posting videos on YouTube at least since last fall, and the Army recently began posting videos on YouTube showing soldiers defeating insurgents and befriending Iraqis. But the new rules mean many military personnel won't be able to watch those videos—at least not on military computers.

If the restrictions are intended to prevent soldiers from giving or receiving bad news, they could also prevent them from providing positive reports from the field, said Noah Shachtman, who runs a national security blog for *Wired* magazine.

"This is as much an information war as it is bombs and bullets," he said. "And they are muzzling their best voices."

The sites covered by the ban are the video-sharing sites YouTube, Metacafe, iFilm, StupidVideos, and FileCabi; social networking sites MySpace, BlackPlanet, and Hi5; music sites Pandora, MTV, i.fm, and live365; and the photo-sharing site Photobucket. Several companies have instituted similar bans, saying recreational sites drain productivity. Reported in: Associated Press, May 14.

## foreign

### Wanganui, New Zealand

Sexually graphic comics available from Wanganui's library have prompted a local woman to launch a petition calling for censorship at the library. Julie Gordon, a mother of five and part-time secondary school teacher, previously complained to the Wanganui Library staff about the explicit nature of some of the titles, but her complaints brought little or no change.

Over the past two years Gordon has sent four library books to the censorship office for its consideration.

Gordon said while she understands many of the comics were aimed at an adult audience, there were some that had no rating and therefore could be taken out on loan by any library cardholder. "Some of these comics showed sexual activity in detail, and, as a teacher, this concerns me a great deal," she said.

"If I'm telling my students to use the comics in the library as a resource in my Japanese language class, how are parents going to react when they see some of the stuff their kids are using as a learning aid? I don't want to be held responsible for directing kids to sexually inappropriate comics."

"Librarians I've spoken to say it's not their role to censor material brought into the library, yet they are the ones choosing the material." Gordon said she had been given the argument by library staff that material in the library was a

part of the democratic process in a country that practised freedom of speech. But she said that with that freedom came responsibility." Reported in: *Wanganui Chronicle*, April 26. □

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(Student Play . . . from page 142)

rising lines before their Off-Broadway debut. Reported in: *New York Times*, April 12. □

## pentagon intelligence chief proposes ending a database

The Pentagon's new intelligence chief intends to dismantle an antiterrorism database that civil liberties groups have criticized for gathering information about antiwar groups, churches, and student activists, Defense Department officials said April 24.

The database was begun in 2003 to house intelligence reports about possible threats to military bases within the United States, but it was expanded to include reports by local law enforcement agencies and military security personnel about nonviolent demonstrations and rallies.

The decision was one of the first moves by James R. Clapper since he took over as the Pentagon's top intelligence official earlier in April. Department officials said Clapper had recommended to Defense Secretary Robert M. Gates that the database, called Talon, be dismantled.

A Pentagon spokesman, Bryan Whitman, said Gates would make the ultimate decision about Talon and called the program "controversial and often misunderstood."

The decision to scuttle the database could be the first step in a broad overhaul of Pentagon intelligence activities under Gates, who has made public his distaste for some intelligence initiatives begun by his predecessor, Donald H. Rumsfeld.

A senior department official, speaking on condition of anonymity because Gates had not made any final decisions, said Clapper was concerned about the negative publicity surrounding the Talon database and told Gates that the Pentagon could find other ways to assess threats to military installations.

Civil liberties groups and some members of Congress criticized the database, which was run by the Pentagon's Counterintelligence Field Activity office (CIFA), suggesting it was an effort by the military to expand its domestic spying operations under the guise of combating terrorism. The Pentagon has long been restricted in conducting domestic intelligence operations and is barred from traditional law enforcement work.

A lawyer with the American Civil Liberties Union (ACLU), Ben Wizner, called Clapper's decision a "positive step," but said he was concerned that the Pentagon could carry out similar activity in the future under different names. "What we don't know about Pentagon surveillance within the United States far exceeds what we do know," Wizner said.

Rumsfeld had long criticized the capabilities of American intelligence agencies and had moved during his tenure to improve and expand military intelligence collection worldwide. Both Rumsfeld and his intelligence chief, Stephen A. Cambone, were viewed with suspicion by many in the intelligence community, who believed the Pentagon was trying a power grab from other spy agencies.

Rumsfeld created CIFA in 2002 to improve coordination of the military's efforts to combat foreign intelligence services and terrorism groups inside the United States. Some civil liberties groups have criticized the office for its efforts to gather information inside the United States, but Pentagon officials have said that CIFA never violated department regulations prohibiting domestic spying.

Most of what is publicly known about the Talon database came in documents released last year by the Pentagon in response to a request from ACLU under the Freedom of Information Act. Among the database entries were one from February 2005 that noted that a "church service for peace" would be held in the New York City area, and another that revealed military officials had labeled a March 2005 "Stop the War Now" rally in Akron, Ohio, a "potential terrorist activity."

Pentagon officials said last year that some of the controversial Talon reports had made it into the database by accident, and that some had been kept in Talon past the ninety days that department guidelines allowed.

The Pentagon purged more than 250 incident reports from Talon last year and tightened procedures to ensure that only actual terror threats were entered in the database.

Gates, who once served as Director of Central Intelligence, took office pledging to smooth over the Pentagon's relations with the intelligence community. Early in his tenure he met with the directors of the other intelligence agencies and asked them to produce an assessment of programs that were working and those that were not. Reported in: *New York Times*, April 25. □

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(And Tango Makes Three . . . from page 137)

- *The Bluest Eye* by Toni Morrison, for sexual content, offensive language, and unsuited to age group;
- Scary Stories series by Alvin Schwartz, for occult/Satanism, unsuited to age group, violence, and insensitivity;
- *Athletic Shorts* by Chris Crutcher, for homosexuality and offensive language;
- *The Perks of Being a Wallflower* by Stephen Chbosky, for homosexuality, sexually explicit, offensive language, and unsuited to age group;
- *Beloved* by Toni Morrison, for offensive language, sexual content, and unsuited to age group;
- *The Chocolate War* by Robert Cormier, for sexual content, offensive language, and violence.

Off the list this year, but on for several years past, are *The Catcher in the Rye* by J. D. Salinger, *Of Mice and Men* by John Steinbeck, and *The Adventures of Huckleberry Finn* by Mark Twain.

A top-ten list of most challenged books is published each year as part of the celebration of the freedom to read, Banned Books Week. This year's celebration begins on September 29 and runs through October 6. □

**SUPPORT  
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# intellectual freedom bibliography

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