



April 3, 2025

Board of Directors
Rutherford County Library System
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Dear Board Members:

The Foundation for Individual Rights and Expression (FIRE), a nonpartisan nonprofit that defends free speech, is concerned by the Rutherford County Library System (RCLS) Board of Directors' recent decision to remove certain transgender-related materials from RCLS libraries. The Board's action violates both RCLS policy and the First Amendment.

At its March 17 meeting, the Board voted 5-3 to approve an "action item" to "[r]emove material that promotes, encourages, advocates for or normalizes transgenderism or 'gender confusion' in minors."¹ As a result, it appears such materials will be completely unavailable in RCLS libraries.

Our concerns with this decision are twofold. First, the decision is contrary to RCLS policy, which states: "Individual censorship may be exercised within the scope of the individual choosing materials for check out, but censorship or withholding of library materials for others within the community is not accepted within the institution of the public library."² While the policy authorizes the Collection Development Coordinator to accept and evaluate requests for reconsideration of specific books based on established criteria,³ nothing in RCLS policy

¹ RUTHERFORD CNTY. LIBR. SYS., BOARD MEETING AGENDA (Mar. 17, 2025), <https://rclstn.org/wp-content/uploads/2025/03/Agenda-20250317.pdf>; Audio recording: Meeting of the Rutherford County Library System Board of Directors (Mar. 17, 2025), <https://rclstn.org/wp-content/uploads/2025/03/BoardAudio-20250317.mp3>. The factual narrative in this letter represents our understanding of the pertinent facts, but we invite you to share any additional information.

² *Request for Reconsideration of Library Materials*, RUTHERFORD CNTY. LIBR. SYS., <https://rclstn.org/request-for-reconsideration-of-library-materials>.

³ *Id.*

appears to permit proactive removal of an entire category of materials, let alone proactive removal based on opposition to a particular viewpoint.

More importantly, the Board’s decision constitutes viewpoint-based censorship in violation of the First Amendment. It is a “bedrock principle underlying the First Amendment” that officials cannot restrict speech simply because some find it “offensive or disagreeable.”⁴ The “recognition that viewpoint discrimination is uniquely harmful to a free and democratic society” lies at “the heart of the First Amendment’s Free Speech Clause.”⁵ The government “must abstain from regulating speech when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction.”⁶

These principles apply to restrictions on both self-expression and access to information. The Supreme Court has long recognized that the First Amendment protects not only the right to speak, but also the “right to receive information and ideas.”⁷ This right includes access to information in public libraries, the “quintessential locus of the receipt of information.”⁸

That is not to say public libraries lack discretion in managing their collections. They may add or remove materials based on a variety of factors, such as accuracy, currentness, relevance, physical condition, and patron interest. But this discretion is not a license to censor—it “may not be exercised in a narrowly partisan or political manner,” as “[o]ur Constitution does not permit the official suppression of ideas.”⁹ Books cannot be taken off library shelves simply because government officials or employees “dislike the ideas contained in those books and seek by their removal to ‘prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion.’”¹⁰

⁴ *Texas v. Johnson*, 491 U.S. 397, 414 (1989).

⁵ *NRA of Am. v. Vullo*, 602 U.S. 175, 187 (2024).

⁶ *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 829 (1995).

⁷ *Stanley v. Georgia*, 394 U.S. 557, 564 (1969).

⁸ *Neinast v. Bd. of Trs. of Columbus Metro. Libr.*, 346 F.3d 585, 591 (6th Cir. 2003) (citation omitted); *see also Minarcini v. Strongsville City Sch. Dist.*, 541 F.2d 577, 582–83 (6th Cir. 1976) (“A library is a mighty resource in the free marketplace of ideas. It is specially dedicated to broad dissemination of ideas.”) (internal citation omitted).

⁹ *Bd. of Educ., Island Trees Union Free Sch. Dist. No. 26 v. Pico*, 457 U.S. 853, 870–71 (1982) (plurality op.); *see also id.* at 879–80 (School authorities “may not remove books [from libraries] for the purpose of restricting access to the political ideas or social perspectives discussed in them, when that action is motivated simply by the officials’ disapproval of the ideas involved.”) (Blackmun, J., concurring in part and concurring in the judgment).

¹⁰ *Id.* at 871–72 (plurality op.) (quoting *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943)). Courts have consistently rejected arguments that decisions about the content of libraries are “government speech” beyond the First Amendment’s reach. *See, e.g., GLBT Youth in Iowa Schools Task Force v. Reynolds*, 114 F.4th 660, 668 (8th Cir. 2024) (“[I]t is doubtful that the public would view the placement and removal of books in public school libraries as the government speaking.”); *Crookshanks v. Elizabeth Sch. Dist.*, No. 1:24-CV-03512-CNS-STV, 2025 WL 863544, at *7–8 (D. Colo. Mar. 19, 2025) (“Take, for example, a high school library that includes Hitler’s manifesto *Mein Kampf*. No one would seriously argue that placing this book in a school library constitutes government speech.”); *PEN Am. Ctr., Inc. v. Escambia Cnty. Sch. Bd.*, 711 F. Supp. 3d 1325, 1331 (N.D. Fla. 2024) (“[B]ased on ... the fact that the traditional purpose of a library is to provide information on a broad range of subjects and viewpoints, the Court simply fails to see how any reasonable person would

If “a Democratic school board, motivated by party affiliation, ordered the removal of all [library] books written by or in favor of Republicans, few would doubt that the order violated the constitutional rights of the students denied access to those books.”¹¹ In *Minarcini v. Strongsville City School District*, the U.S. Court of Appeals for the Sixth Circuit—the decisions of which bind RCLS—held that a school board violated the First Amendment by removing three novels from libraries “because it found them objectionable in content and because it felt that it had the power, unfettered by the First Amendment, to censor the school library for subject matter which the Board members found distasteful.”¹² While neither the state nor the school board had a constitutional obligation to create a library, once having done so, “neither body could place conditions on the use of the library which were related solely to the social or political tastes of school board members.”¹³

These principles “have even greater force when applied to public libraries” serving the whole community like those in Rutherford County, as they “do not serve the same inculcative functions” as school libraries and instead are “designed for freewheeling inquiry.”¹⁴ Recently, in *Viriden v. Crawford County*, a federal court held that a public library system violated the First Amendment by adopting a policy requiring branches to remove LGBTQ-themed books from their children’s sections, affix a color label to those books, and place them in a separate “social section.”¹⁵ The court determined this policy was “motivated in substantial part by a desire to impede users’ access to books containing viewpoints that are unpopular or controversial,” citing, among other evidence, a library board member’s comment that such books were inappropriate for children’s sections because they “normaliz[ed] homosexual relationships.”¹⁶

view the contents of the school library (or any library for that matter) as the government’s endorsement of the views expressed in the books on the library’s shelves.”); *Viriden v. Crawford Cnty.*, No. 2:23-CV-2071, 2024 WL 4360495, at *5 (W.D. Ark. Sept. 30, 2024) (“[T]he Supreme Court has not extended [the government speech] doctrine to the placement and removal of books in libraries.”).

¹¹ *Pico*, 457 U.S. at 870–71.

¹² 541 F.2d 577, 582 (6th Cir. 1976).

¹³ *Id.*

¹⁴ *Sund v. City of Wichita Falls*, 121 F. Supp. 2d 530, 548 (N.D. Tex. 2000) (quoting *Pico*, 457 U.S. at 915 (Rehnquist, J., dissenting)).

¹⁵ No. 2:23-CV-2071, 2024 WL 4360495 (W.D. Ark. Sept. 30, 2024).

¹⁶ *Id.* at *3. *Viriden* is consistent with numerous other court decisions holding that viewpoint-based library book removals violate the First Amendment. *See, e.g., Crookshanks*, 2025 WL 863544, at *16 (ordering school district to immediately return to library shelves books removed “based on the authors’ and books’ content and viewpoints on issues such as race, sexual orientation, gender identity, [and] LGBTQ content,” and declaring that “[s]uch ideological justifications for removal fail under all the potentially relevant First Amendment standards”); *Little v. Llano Cnty.*, No. 1:22-CV-424-RP, 2023 WL 2731089 (W.D. Tex. Mar. 30, 2023) (ordering public library system to return to its collection books removed because they promoted ideas with which local officials disagreed), *aff’d as modified*, 103 F.4th 1140 (5th Cir. 2024), *reh’g en banc granted*, 106 F.4th 426 (5th Cir. 2024); *Sund v. City of Wichita Falls*, 121 F. Supp. 2d 530, 552 (N.D. Tex. 2000) (holding unconstitutional a resolution that required removal of books from children’s to adult area of public library if 300 library cardholders signed petition supporting removal—and which was used to remove two books portraying same-sex parents: “There simply is no interest, *let alone a compelling one*, in restricting access to non-obscene, fully-protected library books solely on the basis of the majority’s disagreement with their perceived message.”).

The RCLS Board’s decision is even more extreme than the policy struck down in *Virden*. Rather than merely relocating books, the Board is categorically removing all material that, in library officials’ view, “promotes, encourages, advocates for or normalizes transgenderism or ‘gender confusion’ in minors.” This sweeping ban is unconstitutional because it explicitly targets materials based on their perceived message about gender. By banning these materials outright, the policy denies access not only to minors but also to adults simply because some find the content objectionable. But the government “may not ‘reduce the adult population ... to reading only what is fit for children,’”¹⁷ nor may it wield a “free-floating power to restrict the ideas to which children may be exposed.”¹⁸

Even books intended for adult readers could be entirely banned under the new policy, such as Zeyn Joukhadar’s novel *The Thirty Names of Night*, which tells the story of a “Syrian American trans boy,” or the memoir *Redefining Realness: My Path to Womanhood, Identity, Love & So Much More*, which chronicles Janet Mock’s journey as a transgender individual from childhood to adulthood. Meanwhile, the policy places no restrictions on books that express different views on transgender issues, such as Abigail Shrier’s *Irreversible Damage: The Transgender Craze Seducing Our Daughters*, which criticizes “hip trans YouTube stars and ‘gender-affirming’ educators and therapists who push life-changing interventions on young girls—including medically unnecessary double mastectomies and puberty blockers that can cause permanent infertility.”¹⁹ This is classic viewpoint discrimination.

The specific viewpoint targeted is not the issue. No book addressing transgender issues can or should come off library shelves based purely on opposition to its actual or perceived message—whatever that message. Last year, the Blue Hill Public Library in Maine faced backlash for carrying *Irreversible Damage*—and it, too, would have violated the First Amendment had it buckled under pressure and removed the book.²⁰ Instead, despite intense criticism and his own disagreement with the book’s message, library director Rich Boulet defended the library’s decision to retain the book, putting principle above his personal political views. “I want the library to be there for everybody, not just people who share my voting record,” he explained. “The presence of an item in the library is not an endorsement of the ideas contained therein.”²¹

Boulet’s handling of the Blue Hill Public Library controversy serves as a model for library officials nationwide, including this Board. Public libraries exist to provide access to books

¹⁷ *Bolger v. Youngs Drug Prods. Corp.*, 463 U.S. 60, 73–74 (1983) (quoting *Butler v. Michigan*, 352 U.S. 380, 383 (1957))

¹⁸ *Brown*, 564 U.S. at 794.

¹⁹ *Irreversible Damage: The Transgender Craze Seducing Our Daughters*, AMAZON, <https://www.amazon.com/Irreversible-Damage-Transgender-Seducing-Daughters/dp/168451228X>.

²⁰ Elizabeth Williamson, ‘My Heart Sank’: In Maine, a Challenge to a Book, and to a Town’s Self-Image (Feb. 3, 2024), N.Y. TIMES, <https://www.nytimes.com/2024/02/03/us/libraries-book-bans.html>.

²¹ *Id.*; see also Aaron Terr, *America’s public libraries must not take up arms in the culture war*, FIRE (June 30, 2023), <https://www.thefire.org/news/americas-public-libraries-must-not-take-arms-culture-war> (criticizing attempts to deny public library meeting room space to those seeking to “pray, sing, and read Brave Books and other books of virtue” as part of initiative organized by actor Kirk Cameron and conservative publisher Brave Books).

covering a broad range of subjects and perspectives. As the Sixth Circuit proclaimed, a “library is a storehouse of knowledge,”²² not a storehouse of government-approved ideas.

FIRE calls on the Board to rescind its unconstitutional decision to “[r]emove material that promotes, encourages, advocates for or normalizes transgenderism or ‘gender confusion’ in minors.” We respectfully request a substantive response to this letter no later than April 17, 2025.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Terr", with a long horizontal flourish extending to the right.

Aaron Terr
Director of Public Advocacy

²² *Minarcini*, 541 F.2d at 581.