



February 28, 2022

Via email

Re: Granbury Independent School District Book Removals

Dear Granbury ISD Board Members and Superintendent Glenn,

As organizations committed to protecting civil liberties and rights, racial justice, LGBTQ+ equality, and education equity, we write to express our deep concern about Granbury ISD's recent removal of books from its library shelves. We urge that Granbury ISD immediately remedy this violation of the First Amendment, the Texas Constitution, and Granbury ISD's own policy by immediate reinstatement of the removed books and a return to long-standing policies and procedures. Further, the District should publicly acknowledge its grave missteps in taking these actions and affirm its commitments to LGBTQ+ and racial inclusivity and to educating its students on the history of racism and racial injustice in the United States. The District must take these urgent steps to protect against the suppression of ideas through book bans.

The attached legal analysis sets out the recent history of concerning actions taken by Granbury ISD and legal implications of such efforts in detail. To summarize, in January 2022, 125 books were carted off in boxes from the Granbury ISD library. The following is just a subset of topics and books targeted by the district:

- **The United States' history of racism:** the National Book Award-winning *Stamped from the Beginning: The Definitive History of Racist Ideas in America*, by Ibram X. Kendi; *They Called Themselves the KKK: The Birth of an American Terrorist Group*, by Susan Bartoletti; and *Separate is Never Equal: Sylvia Mendez & Her Family's Fight for Desegregation*, by Duncan Tonatiuh;
- **LGBTQ+ and racial inclusivity:** *Aristotle and Dante Discover the Secrets of the Universe*, by Benjamin Alire Sáenz; *In Our Mothers' House*, by Patricia Polacco; and *Class Act*, by Jerry Craft;
- **Foundational civil and human rights legal principles:** *Equal Rights*, by Maureen O'Connor, a book about the Universal Declaration of Human Rights; and *Roe v. Wade: A Woman's Choice*, by Susan Dudley Gold; and
- **Sex education:** *Safe Sex 101: An Overview for Teens*, by Margaret O. Hyde.

In addition to the 125 books publicly removed, Granbury ISD has begun disappearing books from the high school library without any public acknowledgment whatsoever. The District

has gone as far as deleting such books from the library catalogue and removing Granbury ISD markings as they are thrown away quietly.

These are serious violations of the First Amendment and of Granbury ISD's own longstanding process for book evaluation. According to the district's own legal policy, the district "shall not remove materials from a library for the purpose of denying students access to ideas with which the district disagrees." Yet, the district appears to have selected books for removal from a list circulated by a state representative, on the basis that the books are not in accordance with what the district has described as the community's conservative values.

Further, Granbury ISD has now issued a new policy for book challenges that strips away First Amendment safeguards and appears to provide for a new review committee. Granbury ISD has put this newly formed group in place without transparency about the selection criteria for members or the group's policies and procedures. The new policy deletes language affirming that books shall not "be removed solely because of the ideas expressed therein." It allows removal of books based solely on "the educational suitability of the resource in question," with no protection to ensure that removals are not intended to suppress ideas. The school board has even stated that it believes the policy provides for removal without review—and the school district is now effectuating such removals in a quiet mass book purge.

Granbury ISD's mass book removals provide a roadmap for further removals that violate the First Amendment's clear protections for access to an array of ideas. As the Supreme Court stated nearly a century ago, "if there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion."¹

Schools, and in particular school libraries, must be a place where students have such broad access to a wide variety of ideas—both the popular and unpopular ones of the moment. Simply put, Granbury ISD cannot remove or ban school library books because district leadership considers the community "conservative" and wishes to keep students from encountering viewpoints that do not align with that perceived viewpoint.² The First Amendment prevents the district from seeking to suppress the idea that LGBTQ+ people belong and deserve acceptance and inclusion in American society simply because district leadership does not wish students to encounter it. It likewise prevents the district from seeking to suppress messages of racial inclusivity and belonging. Nor can the district bar students from accessing accounts of the United

¹ *West Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943).

² Kathy Cruz, *GISD to Review Books for Possible Removal*, Hood County News, Jan. 18, 2022, https://www.hcnews.com/news/gisd-to-review-books-for-possible-removal-from-schools/article_f176f014-7886-11ec-b821-afc0d47071d4.html (quoting Granbury ISD's communications director).

States' long history of racial injustice, simply because they may make some parents or students uncomfortable. The comfort of some cannot come at the expense of students' constitutional rights.

Granbury ISD's mass book removals have already harmed students in the district, both by directly suppressing speech and access to ideas and by sending the message to Black, brown, and LGBTQ+ students that Granbury ISD rejects their history and belonging in the community. Students perform better, both academically and socially, with access to texts that reflect their identities and experiences in the world.³ Granbury ISD is committed to ensuring "all students are equipped with skills to be inspired, contributing citizens excelling in any chosen endeavor within a dynamic global society."⁴ To live up to that goal and to comply with the First Amendment, the district must take steps to remedy the harms from its actions in removing books.

All removed books must be placed back on Granbury ISD shelves as swiftly as possible, and the district must revert to its prior policy for challenges to library books and disband its newly created library review committee. The district must publicly acknowledge these errors and affirm its commitment to LGBTQ+ and racial inclusivity and teaching the history of racism and racial injustice in the United States. These steps are necessary for Granbury ISD to comply with the First Amendment.

Thank you for your attention to this matter. We look forward to your prompt response.

Sincerely,

American Civil Liberties Union of Texas
American Civil Liberties Union
Big Thought
Children's Defense Fund – Texas
Equality Texas
FReadom Fighters
IDRA (Intercultural Development Research Association)
Texas Civil Rights Project
Texas Freedom Network
Young Leaders, Strong City

Addendum: Legal Analysis

³ See, e.g., Rudine Sims Bishop, "Mirrors, Windows, and Sliding Glass Doors," in *Perspectives: Choosing and Using Books for the Classroom*, Vol. 6, No. 3 (summer 1990).

⁴ Granbury ISD, *Granbury ISD: Innovation. Engagement. Leadership.* at 3 (Aug. 2019), https://www.granburyisd.org/cms/lib/TX01000552/Centricity/Domain/3/GISD_Brochure_2019_Web2.pdf.

Addendum: Legal Analysis

I. Background: Book Removals in Granbury ISD

A. The Book Removal Process

In October 2021, State Representative Matt Krause sent a letter to the Texas Education Agency and selected school district superintendents in Texas, asking for the number of copies districts had of certain books from a list of roughly 850 titles.⁵ Analysis of the books on Rep. Krause’s list determined that 62% of the books relate to LGBTQ+ issues or mention LGBTQ+ people; 14% relate specifically to transgender issues or mention transgender people; 14% relate to sex education; and 8% relate to race and racism.⁶ Rep. Krause has declined to explain how he created the list.⁷

Months later, Granbury ISD followed suit, making clear that its intent was to ban books that did not share what it described as the community’s conservative perspectives. Granbury ISD’s Communications Director explained, “While we acknowledge some parents and community members will not agree with the potential removal of any book, we understand the conservative climate of our community and that a large majority recognizes that several social and cultural topics are best left to parents and families to discuss with their children.”⁸ Granbury ISD’s book removals occurred after a school board trustee sent Superintendent Glenn pictures of books from Granbury ISD’s online card catalog, apparently inquiring as to whether they were in fact in Granbury ISD libraries. All books related to LGBTQ+ inclusion.⁹ Screenshots of the card catalog sent by the trustee included the words “gay” and “gender” highlighted in descriptions of the books. In texting with district employees regarding these books, the superintendent said, “We

⁵ Letter from Rep. Matt Krause to Texas Education Agency Deputy Commissioner for Student Programs and selected school district superintendents, Oct. 25, 2021, https://static.texastribune.org/media/files/965725d7f01b8a25ca44b6fde2f5519b/krauseletter.pdf?_ga=2.213430097.416218816.1635283558-609342680.1588008770. The list of roughly 850 books attached to Rep. Krause’s letter is available at https://static.texastribune.org/media/files/94fee7ff93eff9609f141433e41f8ae1/krausebooklist.pdf?_ga=2.142117751.416218816.1635283558-609342680.1588008770.

⁶ Danika Ellis, *All 850 Books Texas Lawmaker Matt Krause Wants to Ban: An Analysis*, Book Riot, Nov. 5, 2021, <https://bookriot.com/texas-book-ban-list/>.

⁷ Brian Lopez, *San Antonio-Area School District Reviews 400 Books Flagged by a Texas Lawmaker’s Inquiry*, Texas Tribune, Dec. 6, 2021, <https://www.texastribune.org/2021/12/06/north-east-isd-books-review/>.

⁸ Kathy Cruz, *GISD to Review Books for Possible Removal*, Hood County News, Jan. 18, 2022, https://www.hcnews.com/news/gisd-to-review-books-for-possible-removal-from-schools/article_f176f014-7886-11ec-b821-afc0d47071d4.html.

⁹ The books highlighted by the trustee to Superintendent Glenn were *My Fairy Godmother is a Drag Queen*; *The Prince and the Dressmaker*; *Trans Voices*; *This Book is Gay*; *Release*; *Another Kind of Cowboy*; *My Awful Popularity Plan*; and *Trans Teen Survival Guide*.

need our librarians to have a since [sic] of urgency.” This text exchange suggests that the board trustee’s inquiry was at least a contributing factor to Granbury ISD’s decision to remove books.

The review process that Granbury ISD has publicly described for these books is contrary to Granbury ISD policy at the time the books were removed—and even newly adopted policy. Under Granbury ISD policy at the time of the initial purge, formal reconsideration of library books is initiated by a complainant making a formal objection to a principal in the district on a signed form. Once the principal receives the form, they “shall appoint a reconsideration committee.” The committee “meets and determines whether the challenged resource conforms to the principles of selection” in district policy “as soon as reasonably possible.”¹⁰ During the review process, “access to a challenged resource shall not be restricted,” except to a specific child on parental request.¹¹

On January 24, the board amended this policy to add to its “guiding principles” provision for Granbury ISD’s removal of books “because they are pervasively vulgar or based solely upon the educational suitability of the resource in question.” The amended policy deletes language in the prior policy stating that “no challenged instructional resource shall be removed solely because of the ideas expressed therein.” For books that do undergo the review process, the policy amendment states only that the principal “shall push [a book] challenge to the reconsideration committee” and does not provide that the principal shall create that committee.¹² The process otherwise remains the same.

In fact, Granbury ISD has contravened both prior and current policy. It has pulled more than 125 books from the shelves for review—apparently carting at least some of them off in boxes labeled “KRAUSE’S LIST.”¹³ The district has not provided a timeline for review. The district has said that the library review committee selection is not by the principal of the school at which the challenged book is located, in accordance with policy, but rather by district administration in cooperation with the board.¹⁴ It has provided no criteria for committee selection, and the selection process was opaque.

B. The Removed Books

Granbury ISD has now publicly removed more than 125 titles from its libraries—with no timeline for definitive decision on retention or permanent removal. At a school board meeting on

¹⁰ Granbury ISD EF (Local) Policy, Instructional Resources (May 18, 2017), at 3.

¹¹ *Id.* at 4.

¹² Granbury ISD EF (Local) Policy, Instructional Resources (Feb. 1, 2022), at 3-4, [https://pol.tasb.org/Policy/Download/669?filename=EF\(LOCAL\).pdf](https://pol.tasb.org/Policy/Download/669?filename=EF(LOCAL).pdf).

¹³ Christopher Tackett (@cjtackett), Twitter (Jan. 27, 2022, 1:50 PM), <https://twitter.com/cjtackett/status/1486788612511383553>.

¹⁴ Cruz, *GISD to Review Books for Possible Removal*, Hood County News, *supra* n. 7.

January 24, Granbury ISD Superintendent Glenn stated that the books removed from the libraries were those that were “sexually explicit” or “pornographic.”¹⁵ But this is plainly false, as a cursory review of the list of books removed makes clear.

Books that Granbury ISD has removed from district libraries, as provided by the district in an open records request,¹⁶ include:

- Books that advance racial equity and inclusion and that explore the history of racism in the United States, such as:
 - *Class Act*, by Jerry Craft
 - *Separate is Never Equal: Sylvia Mendez & Her Family’s Fight for Desegregation*, by Duncan Tonatiuh
 - *Stamped from the Beginning: The Definitive History of Racist Ideas in America*, by Ibram X. Kendi. In 2016, *Stamped from the Beginning* won the National Book Award for Nonfiction.
 - *They Called Themselves the KKK: The Birth of an American Terrorist Group*, by Susan Bartoletti
- Books that advance LGBTQ+ inclusion, such as:
 - *Aristotle and Dante Discover the Secrets of the Universe*, by Benjamin Alire Sáenz
 - *Being Jazz: My Life as a (Transgender) Teen*, by Jazz Jennings
 - *In Our Mothers’ House*, by Patricia Polacco
 - *Queer, There and Everywhere: 23 People Who Changed the World*, by Sarah Prager
- Books about legal principles related to equality and fundamental rights, such as:
 - *Roe v. Wade: A Woman’s Choice*, by Susan Dudley Gold
 - *Roe v. Wade: Abortion*, by Susan Dudley Gold
 - *Equal Rights*, by Maureen O’Connor
- Books that contain descriptions of sex or are about sex education, such as:
 - *Safe Sex 101: An Overview for Teens*, by Margaret O. Hyde
 - *Sex: If You’re Scared of the Truth, Don’t Read This!*, by Carl Sommer
- Dystopian fiction: *V for Vendetta*, by Alan Moore

The ACLU has previously successfully sued to restore books to school libraries, including one found on this list, *In Our Mothers’ House*. The book is a children’s picture book about three adopted children and their two mothers. In that instance, a school district had

¹⁵ GranburyISD, *Granbury ISD School Board Meeting – January 24, 2022*, YouTube (Jan. 24, 2022), https://www.youtube.com/watch?v=BZx6V7SOCHw&ab_channel=granburyisd (video at ~ 3:02:40).

¹⁶ Christopher Tackett (@cjtackett), Twitter (Jan. 27, 2022, 2:45 PM), <https://twitter.com/cjtackett/status/1486802675522060290>.

removed it for “advocacy of homosexuality.” In response to the lawsuit, the school district ultimately agreed to restore the book to the shelves and allow it to be checked out on the same terms as any other children’s book, and to pay \$15,000 in attorneys’ fees.¹⁷

The library review committee process that Granbury ISD has put in place is opaque, and there is no clarity as to whether and when books will be returned to the shelves. It is our understanding that some books have been returned, but that others—including *Stamped from the Beginning* and *V for Vendetta*—remain off the shelves. It is also unclear whether the library review committee or the school board will make the final determination as to whether books remain on the shelves, or what the underlying timeline or process for that decision is. In the meantime, students cannot access these books and have no process through which to contest their removal. Books relating to racial and LGBTQ+ equity and inclusion remain under a cloud in the district—as are the underlying ideas contained in the books.

In addition to these 125 books, Granbury ISD is engaging in other troubling book removals—most notably, disappearing books from the high school library without any public acknowledgment whatsoever. We have learned that the high school library has removed or is in the process of removing titles that appear on a crowdsourced list on the Goodreads website of books for young adults that may include sexual content or mentions of sexual activity. This process appears to be without meaningful review of the literary or artistic merit of the book as a whole, or any other aspect of the book, and without any public acknowledgment or transparency. In fact, the books are being deleted from the library catalogue, and Granbury ISD markings are being removed as they are thrown away quietly.

II. Granbury ISD’s Book Removals Violate the First Amendment

More than 40 years ago, the Supreme Court held that “local school boards may not remove books from their school library shelves simply because they dislike the ideas contained in those books.” *Bd. of Educ., Island Trees Union Free Sch. Dist. No. 26 v. Pico*, 457 U.S. 853, 872 (1982) (plurality). Granbury ISD recognizes that this Supreme Court case controls the district’s actions in decisions regarding the removal of library materials. The district’s own legal policy explains, citing *Pico*: “Students’ First Amendment rights are implicated by the removal of books from the shelves of a school library. A district shall not remove materials from a library for the purpose of denying students access to ideas with which the district disagrees.”¹⁸ Yet Granbury ISD has removed more than 125 books in an irregular process, with the explicit

¹⁷ See Joshua Block, *School Promises In Settlement To Stop Removing Library Books For ‘Advocacy of Homosexuality,’* Jan. 31, 2013, <https://www.aclu.org/blog/free-speech/school-promises-settlement-stop-removing-library-books-advocacy-homosexuality>.

¹⁸ Granbury ISD EF (Legal) Policy, Instructional Resources at 1 (Oct. 22, 2019), [https://pol.tasb.org/Policy/Download/669?filename=EF\(LEGAL\).pdf](https://pol.tasb.org/Policy/Download/669?filename=EF(LEGAL).pdf).

purpose of removing ideas contained in those books from the district’s shelves. This is a plain violation of the First Amendment of the U.S. Constitution and its state corollary, Article I, Section 8 of the Texas Constitution, as well as Granbury ISD policy.

A. Granbury ISD’s Book Removals Are Inconsistent with the Supreme Court’s Decision in *Pico*

As the Supreme Court explained in *Pico*, school districts may not “seek by [books’] removal to prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion.” 457 U.S. at 872. Importantly, school districts cannot exercise discretion over library contents “in a narrowly partisan or political manner.” *Id.* at 870. For example, “if an all-white school board, motivated by racial animus, decided to remove all books authored by [Black authors] or advocating racial equality and integration,” doing so would plainly violate the First Amendment. *Id.* at 871.

In *Pico*, taking into account such evidence, the Supreme Court reversed a decision that had ended the case in favor of the district. *Id.* at 875. The Court explained, “The evidence plainly does not foreclose the possibility that petitioners’ decision to remove the books rested decisively upon disagreement with constitutionally protected ideas in those books, or upon a desire . . . to impose upon the students . . . a political orthodoxy to which [the school board] and their constituents adhered.” *Id.* Although the school board in *Pico* was able to cherry-pick excerpts from many of the disfavored books containing vulgar or sexually explicit language, the Supreme Court held that the school board nevertheless violated the First Amendment if they “intended by their removal decision to deny [students] access to ideas with which [the board members] disagreed, and if this intent was the decisive factor in [the school board’s] decision.” *Id.* at 871. The Supreme Court also emphasized that the school board failed to use “established, regular, and facially unbiased procedures” for reviewing the book, noting that evidence that the book “removal procedures were highly irregular and ad hoc” could undercut the district’s claims of viewpoint neutrality. *Id.* at 874.

Granbury ISD’s book removals directly contravene the settled principles of *Pico*—and in fact, Granbury ISD’s book removals bear a striking resemblance to those at issue in *Pico*. Here, as in *Pico*, school district authorities are acting on an outside-generated list of books. Here, as in *Pico*, the school district has directed unilateral removal of the books for review. Here, too, the district has deviated from settled policy for challenged books. Even the book lists are similar—both including books by Black authors focused on issues of race and belonging, and dystopian fiction. Here, as in *Pico*, district authorities have justified the book removals on the basis of “the conservative climate of our community.”¹⁹ And, most importantly, Granbury ISD is seeking to

¹⁹ Cruz, *GISD to Review Books for Possible Removal*, Hood County News, *supra* n. 7 (quoting Granbury ISD communications director).

bar books from its library in an effort “to prescribe what shall be orthodox” for district students, including to erase the experiences of LGBTQ+ and Black individuals from the district’s shelves. *See Pico*, 457 U.S. at 872.

Pico explained that a district could not bar materials authored by members of an opposing political party, or all books by Black authors or “advocating racial equality and integration.” *Id.* at 871. Yet, Granbury ISD is removing books by Black authors that advocate racial equality and integration—apparently for that reason. While the ostensible justification provided by Granbury ISD is concerns about sexually explicit or vulgar material, that is simply implausible. For example, neither Jerry Craft’s *Class Act* nor Ibram X. Kendi’s *Stamped from the Beginning* contain any material that could remotely fall into this category. Instead, both center on racial inclusion and racism, specifically anti-Blackness. Similarly, Granbury ISD is removing books containing LGBTQ+ characters or relating to LGBTQ+ topics—apparently *because* they advocate for LGBTQ+ equality and inclusion in the broader community. The same is true for its removal of books relating to legal principles and sex education. But *Pico* and Granbury ISD’s own policy are plain: Granbury ISD cannot remove books from its libraries because it is seeking to suppress “ideas with which the district disagrees.” It certainly cannot do so motivated by the narrowly partisan rationale that Granbury is, and ought to remain, a conservative community.

B. Granbury ISD’s Book Removals Are Inconsistent with Post-*Pico* Cases, Including Cases on Censorship of LGBTQ+ Books

Following *Pico*, courts within the Fifth Circuit and throughout the country have reaffirmed these principles. As the Fifth Circuit has explained, “In light of the special role of the school library as a place where students may freely and voluntarily explore diverse topics, [a] School Board’s non-curricular decision to remove a book well after it had been placed in the public school libraries evokes the question whether that action might not be an unconstitutional attempt to ‘strangle the free mind at its source.’” *Campbell v. St. Tammany Par. Sch. Bd.*, 64 F.3d 184, 190 (5th Cir. 1995) (quoting *West Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 637 (1943)).

Both in the Fifth Circuit and throughout the country, courts have affirmed that the First Amendment’s prohibition on viewpoint-based censorship of library books includes a prohibition on viewpoint-based censorship of books because they express support for lesbian, gay, bisexual, and transgender people. *E.g.*, *Case v. Unified Sch. Dist. No. 233*, 908 F. Supp. 864, 875 (D. Kan. 1995) (holding that the removal from school libraries of a book depicting romance between two women violated the First Amendment); *Parents, Fams., & Friends of Lesbians & Gays, Inc. v. Camdenton R-III Sch. Dist.*, 853 F. Supp. 2d 888, 897 (W.D. Mo. 2012) (holding that censorship of LGBT-supportive websites in a school library violated the First Amendment). For example, more than two decades ago, the Northern District of Texas held that the removal of two

children’s picture books about LGBTQ+ inclusion from the children’s section of the Wichita Falls Public Library, and the enactment of a city resolution on book removal procedures to facilitate the books’ removal, were “impermissible content-based and viewpoint-based discrimination” in violation of the First Amendment. *Sund v. City of Wichita Falls, Tex.*, 121 F. Supp. 2d 530, 548 (N.D. Tex. 2000). This logic applies with equal force today, including to Granbury ISD’s removal of books furthering LGBTQ+ and racial inclusion.

When the school “board has used its official power to perform an act clearly indicating that the ideas contained in the [books] are unacceptable and should not be discussed or considered,” that “message is not lost on students and teachers, and its chilling effect is obvious.” *Pratt v. Indep. Sch. Dist. No. 831*, 670 F.2d 771, 779 (8th Cir. 1982). By removing more than 125 books from library shelves in the district, Granbury ISD has done just that—indicated that their ideas are unacceptable. And the message is not lost on students or teachers. As one student who spoke at the school board meeting *in favor of* the book removals explained her understanding of which books had been chosen to be removed: “We have just a fraction of the 850 books [on Rep. Krause’s list]. The books are being reviewed because they’re about abortion, CRT, LGBTQ+, and porn. Texas does not support the topics being used in the schools for education—that’s why they’re being reviewed in the first place.”²⁰ Granbury ISD’s removal of these books from its libraries because of its disagreement with the ideas contained in the books is a plain violation of the First Amendment, and of the Texas Constitution and district legal policy.

We urge that Granbury ISD remedy this violation of the First Amendment, the Texas Constitution, and Granbury ISD’s own policy as swiftly as possible by returning all of the books to library shelves. Any challenges should proceed in accordance with district policy as it existed in mid-January, and Granbury ISD should formally revert to that policy. Further, the district should publicly commit to LGBTQ+ and racial inclusivity and teaching the history of racism and racial injustice, and the district should apologize for the removal of books inconsistent with the First Amendment and with district policy. The initial removals themselves have created a chilling effect on students and teachers that must be remedied.

²⁰ GranburyISD, *Granbury ISD School Board Meeting – January 24, 2022*, YouTube (Jan. 24, 2022), https://www.youtube.com/watch?v=BZx6V7SOCHw&ab_channel=granburyisd (video at ~ 2:26:10).