

April 4, 2022

BY E-MAIL
Rep.James@legis.wisconsin.gov

Victoria Casola and Maddy Hunt
Office of Representative Jesse James

RE: Public Records Request
Our File No.: 31220.0011

Dear Ms. Casola & Ms. Hunt:

Please take notice that this office represents the Eau Claire Area School District. In an e-mail with the subject line “Open Records Request – Library Books,” you made the following request for information:

Representative Jesse James has received numerous contacts from concerned parents over possible inappropriate reading material available to students through their school libraries. Attached to this email is a list of books that have raised concern based on the graphic or explicit content they contain. Representative James would like to know if the libraries in your schools/ school districts have these books available for students to check out, and if so, which grade levels have access to these books. If you can let our office know at your earliest convenience, that would be greatly appreciated. Thank you in advance.

While your e-mail used the phrase “Open Records Request” in its subject line, I do not read the request that follows as being a true public records request. You have not identified any existing governmental record that you want a copy of. Instead, you have asked the District to retrieve certain raw information (i.e. whether any school library in the District contains any titles on a list that you provided). The public records law does not require the District (as a records custodian) to compare your list of books to the lists of books in the District’s various libraries and create an entirely new record (i.e. a list of books that are both on your list and included in one or more District libraries).

The public records law only requires the production of *existing documents*. It does not require the creation of new documents. See Journal Times v. City of Racine Board of Police & Fire Commissioners, 2015 WI 56, 362 Wis.2d 577, 866 N.W.2d 563 and Kriegl v. Stammen, 2011 WI App 27, 331 Wis.2d 730, 795 N.W.2d 492 (unpublished). Pursuant to Wis. Stat. § 19.35(1)(L), a records custodian does not need to create a non-existent record containing the information that the requester seeks. In cases where the information sought by a requester “would have to be extracted from voluminous records, and there [is] no specific document that provided the information” sought by the requester—it is sufficient to deny such a request on the basis that “the information sought does not exist in the form requested.” Id. at ¶7.

That being said, as of April 1, 2022, the District did come to be in possession of a new document that appears to be responsive to your request. The contents of the District’s libraries are searchable by the public. A citizen did the work of running searches and comparing your list of books to the

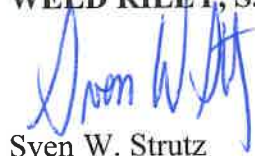
books offered in the various libraries of the District. She then incorporated that information into a spreadsheet and provided that document to the District. Enclosed please find a copy of same. Again, the District did not create this document (and therefore makes no representations concerning its accuracy).

The District does take the concerns of parents and other community members about the appropriateness of books in the school libraries seriously. To that end, the District has established a procedure whereby citizens can challenge books or other instructional materials in the District's library system. Enclosed please find Policy 361, "Instructional Materials Selection & Evaluation." You should direct your attention to the "Challenged Materials" heading for the applicable procedure. In addition, I have enclosed a copy of the form for initiating a challenge to instructional materials ("Citizen's Request for Reconsideration of Instructional Materials"). If any citizens of the Eau Claire Area School District have expressed concerns to your office about books or other materials in the District's libraries, please feel free to share these materials with them. If a challenge is made, the District will address it pursuant to its procedures.

Thank you for your attention.

Very truly yours,

WELD RILEY, S.C.



Sven W. Strutz

A		B	C
1	Title	Author	Located
2	Ask A Queer Chick: A Guide to Sex, Love and Life for Girls	King-Miller, Lindsay	N/A
3	Aristotle and Dante Discover the Secrets of the Universe	Saenz, Benjamin Alire	Delong (Classroom collection), library, Memorial, North, Northstar, South,
4	Beautiful	Reed, Amy	McKinley
5	Beyond The Gender Binary	Vaid-Menon, Alok	available by download
6	Blankets	Thompson, Craig	Memorial, North
7	Boy2Girl	Blacker, Terence	N/A
8	Breathless	Niven, Jennifer	North, Electronic,
9	Crank	Hopkins, Ellen	17 available, McKinley, North (English Textbook), Northstar, South (Classroom collection)
10	Challenger Deep	Shusterman, Neal	McKinley, Memorial, North, Northstar, South,
11	Dear End	Myers, Jason	N/A
12	Eleanor and Park	Rowell, Rainbow	11 available, Memorial, North, Northstar (English Textbook), South (classroom collection),
13	Embrace	Shirvington, Jessica	Memorial, North, Northstar, South
14	Exit Here	Myers, Jason	N/A
15	Full Disclosure	Garrett, Camryn	Memorial, North
16	Gender Identity: Beyond Pronouns and Bathrooms	Cook, Marie	Delong and South
17	George	Gino, Alex	Roosevelt, Sherman, Northwoods, Longfellow, Montessori, Robbins, South, Delong, Northstar, Memorial
18	I Am Not Your Perfect Mexican Daughter	Sanchez, Erika	McKinley and South, Memorial and North
19	It Feels Good to be Yourself: A Book About Gender Identity	Thorn, Theresa	Flynn, Lakeshore, Manz, Northwoods Putnam, Robbins, Sherman
20	It's Perfectly Normal	Harris, Robie H., & Emberley, Michael	Manz
21	Julian Is A Mermaid	Love, Jessica	Sam Davey, Flynn, Lakeshore, Locust Lane, Manz, Memorial, Montessori, Northwoods, Putnam, Robbins, roosevelt, Sherman,
22	L8r G8r (Later Gator)	Myracle, Lauren	Northstar,
23	Lawn Boy	Jonathan Evison	North, Memorial
24	Let's Talk About Love	Kann, Claire	N/A
25	Looking for Alaska	Green, John	Memorial, North, South (There are two different versions of this book) Delong, North, South, 23 available 2005 version at the following: Delong (English textbook), Academy 1, McKinley, Memorial, North (English Textbook), South (classroom collection),
26	Out of the Darkness	Ashley Hope Perez	South, North, Memorial
27	Perfect	Hopkins, Ellen	McKinley, Memorial, North, South
28	Wide Awake	Belge, Kaathy & Biesche, Marke	N/A

A	B	C
29 Sex Is A Funny Word	Silverber, Cory & Smyth, Fiona	Memorial
30 Sloppy Firsts	McCafferty, Megan	N/A
31 Sometimes People March	Allen, Tessa	Northwoods, Robbins, and Sherman
32 The Absolute True Diary of a Part-Time Indian	Alexis, Sherman	32 avail: Academy I, McKinley, North (English Textbook), South (classroom collection), Memorial, Delong, Northstar, South, 509 Textbooks available in the district
33 The Glass Castle	Walls, Jeannette	Memorial, North, 2 different versions one has 241 available North, Memorial, and Northstar
34 The Hate U Give	Thomas, Angie	McKinley, South, Delong, Memorial, 52 available, Delong English textbook, North,
35 The Haters	Andrews, Jesse	Memorial, North, South
36 The Infinite Moment of Us	Myracle, Lauren	Memorial
37 Title	Author	Located
38 The New Queer Conscience	Eli, Adam	Downloadable
39 Stars and the Blackness Between Them	Petrus, Juanuda	McKinley, Memorial, North,
40 The you I've Never Known	Hopkins, Ellen	Memorial, North
41 This Book Is Gay	Dawson, Juno	N/A
42 Traffick: The Sequel to Tricks	Hopkins, Ellen	McKinley and North
43 Tricks	Hopkins, Ellen	McKinley, North, Memorial,
44 Triangles	Hopkins, Ellen	McKinley
45 TTFN	Myracle, Lauren	N/A
46 TTYL	Myracle, Lauren	Northstar, South,
47 Ugies	Westerfield, Scott	Delong (english textbook), McKinley, North, South,
48 Wide Awake	Levithan, David	N/A
49 YOLO	Myracle, Lauren	N/A
50		
51		
52 Other books found		
53 Queer: The ultimate guide for LGBTQ for teens		Memorial and North
54 Two Boys Kissing		
55 The Lovers Dictionary		
56 Every Day		
57 The Full Spectrum		



Book	District Policies / Rules / Exhibits
Section	300: Instruction
Title	Instructional Materials Selection & Evaluation
Code	361
Status	Active
Last Revised	April 5, 2021
Last Reviewed	March 15, 2021

Board Responsibility

The Board of Education of the Eau Claire Area School District is legally responsible for all regulations relating to the operation of the schools (§120.12(1)). It is also responsible for the selection of all instructional materials, including the adoption of textbooks (§118.03). Responsibility for the actual selection of instructional materials is delegated to the professionally-trained personnel employed by the school system.

Objective of Selection

The primary objective in selecting instructional materials shall be to provide materials to meet a wide range of interests on all levels of difficulty, with diversity of appeal, and to provide for presentation of different points of view.

The School Board delegates responsibility to the administration for the establishment of selection criteria, with the understanding that reputable and unbiased professional selection aids will be utilized in selecting instructional materials. Also, whenever possible, personal examination and evaluation of materials will be made. The primary criteria for selecting instructional materials shall be their educational value and their interest for all students.

Selection Procedures

In selecting educational materials, school personnel shall evaluate existing materials and consult reputable, unbiased, professionally-prepared selection aids; consultants; specialists and/or potential users from all departments and/or grade levels; or committees appointed by the administration to serve in an advisory capacity in the selection of materials.

The Superintendent of Schools is charged with responsibility for structuring selection procedures that will ensure involvement of all potential users of the materials while recognizing that degree of involvement will vary.

Challenged Materials

The Board respects the rights of citizens to object to instructional materials they feel are inappropriate for school use and charges the administration with responsibility for developing procedures whereby challenged materials will be objectively reviewed by the Reconsideration Committee. Appeals of reviews may be made to the Board by any District resident who is unsatisfied with the decision rendered by the Reconsideration Committee. The decision of the Board shall be final. The Board will be informed annually, at a public meeting, of any materials that were challenged and/or removed by the Reconsideration Committee.

The School District shall not discriminate in the selection and evaluation of instructional and library materials on the basis of sex, race, religion, color, national origin, ancestry, immigration status, creed, pregnancy, marital or parental status, physical, mental, emotional or learning disability, sexual orientation, gender identity or gender expression. Discrimination complaints shall be processed in accordance with established procedures.

Cross Reference: 361-Rule, Guidelines for Selection of Educational Materials; 361-Exhibit (2), Citizen's Request for Reconsideration of Instructional Materials; 411-Rule, Student Discrimination Complaint Procedures

Adopted:

Revised: April 2021

EAU CLAIRE AREA SCHOOL DISTRICT BOARD POLICY

Legal	118.03
	118.13
	120.10(15)
	120.12(1)
	120.44
	121.02(1)(h)
	PI 9, WI Admin Code



361-Exhibit

Citizen's Request for Reconsideration of Instructional Materials

To prevent misunderstanding of your complaint, please fill in the following information.

Request initiated by:

NAME _____

ADDRESS _____

PHONE NUMBER _____

Representing:

STUDENT'S NAME _____

SCHOOL NAME _____

OTHER _____

Type of Instructional or Library Media Material: _____

Title: _____

Author/Publisher/Producer: _____

Library Media Center _____ Class Name _____ Other _____

What action would you like to see taken:

- Send back to originating department/school for re-evaluation
- Substitute alternate material or media
- Deny the use of the material or media by my child
- Deny use of the material or media by all students
- Limit to use at specific level-elementary, middle, or high school.
- Other _____

Due to limited space, please feel free to extend comments on the reverse side of this form.

1. Have you either read, heard or seen the material or media in its entirety? If not, what part did you see, read or hear? _____

2. To what in the instructional or library material or media do you object? (Please be specific. For example, cite page or section) _____

3. What do you feel may result from the use of this material or media? _____

4. What do you believe is the theme of this material or media? _____

5. For what age group would you recommend this material or media? _____
6. What do you find good about this material or media? _____

7. Are you aware of the judgments of this work by literary or other critics? _____

8. In view of the action you would like taken, do you have any suggestions about material or media that could be substituted that would convey as valuable a picture and perspective of the subject treated and would meet the educational needs of your child and/or other students?

Signed _____ Date _____

Thank you for your time and concern. Please return this completed form to the building principal or to the Media Services Department at the Eau Claire Are School District Administration building who will review its contents and will notify you of the next step in the complaint process.

