

Polk County Library Request for Reconsideration of Materials

If you wish to request reconsideration of library materials or resources, please complete and return this form to the Library Director, Polk County Library, 1690 W Broadway, Bolivar, MO 65613. A staff member will contact you.

Confirm: are you a resident of Polk County, Missouri? ____ yes ____ no

Name_____

Address_____

Phone_____

Email_____

Is this request made on behalf of:

Yourself?_____

An Organization?_____ Name of Organization_____

1. Resource on which you are commenting:

TITLE:_____

AUTHOR/PRODUCER:_____

Book_____ Video_____ Magazine_____ Library Program_____

Newspaper_____ Display_____ Other_____

2. What brought this resource to your attention?

3. Have you read, listened to, viewed, or examined the whole resource?

4. What concerns you about the resource? Please be specific, including page numbers.

5. What is valuable or meaningful in the work?

6. Are you aware of reviews of the work by critics?

7. What do you believe is the purpose or theme of this work?
8. What do you feel might be the result of reading, listening to, or viewing this work?
9. Are there other resources you could suggest that might provide additional information and/or other viewpoints on this topic?

Signature_____ Date_____

PCL POLICY:

Request for Reconsideration of Library Materials

A person residing in the library's legal service area who has concerns about Library material, displays, programs or other resources has the right to file a **request for reconsideration** form.

After receiving a Request for Reconsideration Form, the Library Director or designee will respond to the request in writing within 10 business days regarding the disposition of the request.

If the matter is not resolved to the person's satisfaction, the person has a right to appeal this decision to the Library Board of Trustees for final determination.

We also have a collection development policy about how we select and remove books. You may read it our full policies online at <http://www.polkcolibrary.org/about-us/library-cards/>

Regarding children's access to materials, the library respects the right of parents and caregivers to determine what is or is not appropriate for their own child. Parents and caregivers are therefore responsible for monitoring card use and applying any restrictions they deem appropriate on their own child's access to library materials.

Constitutional principles libraries work under regarding banning books, etc.:

- 1) Children also have 1st Amendment rights: *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503 (1969)
- 2) 1st Amendment rights include access to information: *Board of Education v. Pico*, 457 U.S. 853 (1982)
- 3) Suitability for minors must be judged according to appropriateness for the oldest minors (17 year olds) not younger ages: *American Booksellers Assn. v. Virginia*, 882 F.2d 125, 127 (4th Cir. 1989), cert. denied, 494 U.S. 1056 (1990) and *American Booksellers v. Webb*, 919 F.2d 1493, 1504-05 (11th Cir.), cert. denied, 494 U.S. 1056 (1990).
- 4) The value of the work must be considered as a whole, not just focus on the most worrying parts: *Miller v. California*, 413 U.S. 15 (1973)
- 5) Courts have laid out standards for censoring in any public forum, including a public library ("a limited or designated public forum"). See, e.g. *Sund v. City of Wichita Falls, Tex.*, 121 F. Supp. 2d 530, 547 (N.D. Tex. 2000).
 - a. Removal based on viewpoint is strictly prohibited.
 - b. If removal is based on content, governmental entity must establish that the removal of material meets strict scrutiny.
 - i. Strict scrutiny test: (1) compelling interest; (2) narrowly tailored to achieve compelling interest; and (3) no less restrictive alternative.

Board of Education v. Pico, 457 U.S. 853 (1982): "[i]f petitioners intended by their removal decision to deny respondents access to ideas with which petitioners disagreed, and if this intent was the decisive factor in petitioner's decision, then petitioners have exercised their discretion in violation of the Constitution." *Id.* At 871

Obscenity is defined in the "Miller test": *Miller v. California*, 413 U.S. 15 (1973)

Test: (1) that the average person, applying "contemporary community standards" would find the work, as a whole, appeals to the "prurient interest," (2) that the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law, and (3) that the work, taken as a whole, lacks serious literary, artistic, political or scientific value. *Miller v. California*, 413 U.S. 15 (1973)(emphasis added).

Harmful to Minors is defined: *Ginsberg v. New York*, 390 U.S. 629 (1968), and also see citations in point 3) above.

The test parallels the Miller test, but the considerations are in the context of offensiveness and serious value for minors. *Ginsberg v. New York*, 390 U.S. 629 (1968). Determination must be made in the context of whether the material would be harmful to the oldest of minors. Material cannot be deemed harmful to minors if it would be constitutionally protected for a seventeen-year-old even if one might conclude that it was "harmful" for a five-year old.