

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No.: 1:24-cv-03512

C.C., a minor, by and through her parent and next friend  
KRISTEN CROOKSHANKS,

E.S., a minor, by and through his parent and next  
friend MINDY SMITH,

NAACP – COLORADO – MONTANA –  
WYOMING STATE AREA CONFERENCE (“NAACP”),

THE AUTHORS GUILD,

Plaintiffs,

v.

ELIZABETH SCHOOL DISTRICT,

Defendant.

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**COMPLAINT**

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Elizabeth High School student C.C., by and through her parent KRISTEN CROOKSHANKS, E.S., a minor student by and through her parent MINDY SMITH, The National Association for the Advancement of Colored People - Colorado – Montana – Wyoming State Conference (“NAACP”) on behalf of its members, and The Authors Guild on behalf of its members, allege as follows:

## INTRODUCTION

1. In Summer of 2024, the Elizabeth School District (“ESD” or the “District”), by and through its Board of Education (“the Board”), began a quest to limit students’ access to any books that contravene the Board members’ partisan, political values.

2. The Board appointed a committee to review all of the books in ESD libraries and create a list of books containing “sensitive topics,” such as “racism/discrimination,” “religious viewpoints,” “sexual content,” “profanity/obscenity,” “graphic violence,” and “ideations of self-harm or mental illness.” Per Board policy, a book’s inclusion on this “Sensitive List” means that, any time a student checks it out, their parents receive an email that their child checked out the book. Parents can also choose to prohibit their children from checking out all books on the Sensitive List.

3. Of the dozens of books on the Sensitive List, the committee identified 19<sup>1</sup> books that they believed were more sensitive than the rest. These books were primarily by or about people of color and/or LGBTQ+ people. They include *The Hate U Give* by Angie Thomas; *Beloved* by Toni Morrison; *The Bluest Eye* by Toni Morrison; *The Kite Runner* by Khaled Hosseini; *You Should See Me in a Crown* by Leah Johnson; *#Pride: Championing LGBTQ Rights* by Rebecca Felix; *Melissa/George* by Alex Gino;<sup>2</sup> *It’s Your World—If You Don’t Like It, Change It* by Mikki Halpin; *The Perks of Being a Wallflower* by Stephen Chbosky; *Thirteen*

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<sup>1</sup> According to the Board, one of the books, *Speak* by Laurie Anderson, had been checked out but never returned to the Elizabeth High School library.

<sup>2</sup> Alex Gino’s book was initially published as *George* but is now published as *Melissa*. References to *Melissa/George* in this Complaint should be construed as references to any copy of the book—whether published as *George* or *Melissa*.

*Reasons Why* by Jay Asher; *Looking for Alaska* by John Green, *Nineteen Minutes* by Jodi Picoult; and *Crank*, *Glass*, *Fallout*, *Identical*, *Burned*, and *Smoke*, all by Ellen Hopkins.

4. Defendant District, through its Board, decided that all of those books should be “temporarily suspended” from ESD libraries and put on display at the Board’s office so that parents could review passages in the books flagged as objectionable and weigh in on whether the books should be returned to ESD libraries.

5. On September 9, 2024, the Board announced its decision to permanently banish all “temporarily suspended” books from ESD libraries instead of returning them.

6. The Board decided not to return the books to ESD libraries because the books contained same-sex relationships, included LGBTQ+ characters, discussed racism, involved police violence, or otherwise struck Board members as “disgusting.”

7. The Board has also quietly removed at least one other book from ESD libraries in response to a parent’s complaint. The Board removed K.A. Holt’s *Redwood and Ponytail* from Running Creek Elementary’s library because it is about two girls who develop feelings for each other.

8. The Board’s removal of these books from ESD libraries is only one component of its broader effort to prescribe its own political orthodoxy in ESD schools. But it is an effort that runs afoul of the federal and state constitutions. It denies students access to books in their school libraries because of the ideas contained in those books and denies authors the right to share their books with ESD students free from viewpoint-based censorship.

9. While the District has discretion over certain curricular matters, the District cannot block students’ access to information in their school libraries based on the Board’s

political preferences, nor can it remove authors' books from school libraries because of viewpoints the authors express.

### **JURISDICTION AND VENUE**

10. This Court has jurisdiction over Plaintiffs' federal claims pursuant to 28 U.S.C. §§ 1331 and 1343, because they arise under the First Amendment to the United States Constitution and 42 U.S.C. § 1983. This Court has supplemental jurisdiction over Plaintiff's pendent claims under the Colorado Constitution pursuant to 28 U.S.C. § 1367.

11. This Court has jurisdiction to grant declaratory relief under 28 U.S.C. § 2201, 28 U.S.C. § 2202, and C.R.S. § 13-51-101.

12. Venue is proper under 28 U.S.C. § 1391(b). All of the events alleged herein occurred within the District of Colorado, and all of the parties reside or conduct business within the District of Colorado.

### **PARTIES**

13. Plaintiff C.C. is a junior at Elizabeth High School. She is an avid reader and enjoys learning about different perspectives by reading books by diverse authors about diverse characters.

14. Plaintiff C.C.'s mother wants her daughter to have access to a diverse array of books in the school library so that C.C. can learn about a diverse array of topics and viewpoints.

15. Plaintiff E.C. is in preschool at Running Creek Elementary in the Elizabeth School District. He will continue his education at Running Creek Elementary through fifth grade and then attend Elizabeth Middle School and then Elizabeth High School. E.C. uses the school library and will continue to use it as he gets older.

16. Plaintiff E.C.’s mother wants her son to have access to a diverse array of reading materials so that they grow up to understand the value in many different ideas and viewpoints.

17. Plaintiff National Association for the Advancement of Colored People – Colorado – Montana – Wyoming State Conference (“NAACP”) seeks to ensure the political, educational, social, and economic equality of rights of all persons and to eliminate race-based discrimination. NAACP seeks to protect students’ right to access inclusive storytelling and viewpoints so that they can develop a deeper understanding of the inequities that exist in society and be exposed to marginalized voices. The interests NAACP seeks to protect through this lawsuit are germane to its purpose.

18. The majority of NAACP’s members identify as Black or African American, but NAACP also has members of other races. NAACP has members of all different gender identities and sexualities, including LGBTQ+ people.

19. Members of the NAACP include students who attend ESD schools who would have standing to sue in their own right and parents of those students.

20. Members of the NAACP also include students who were attending ESD schools, but who left ESD schools in whole or in part because of the Board’s restrictions on students’ access to books. For example:

- a. Member 1 has a Black fifth grader who was enrolled in Running Creek Elementary until November 8. The fifth grader is an avid reader who enjoys exploring different perspectives and cultures through books. As one of very few Black students in her class, it is important to her that she and her peers have access to stories by Black authors about Black characters.

- b. Member 2 has a biracial preschooler who was enrolled in Running Creek Elementary until the end of August 2024. Member 2 pulled the preschooler out of ESD schools because she did not want her child to be subject to the Board’s partisan whims. She wants her child to have access to a wide variety of books, and she does not want her child to think there is anything wrong with reading about LGBTQ+ people or people of color.

21. Neither the claims asserted nor the relief requested require the participation of individual NAACP members in this lawsuit, because individual proof is not required to demonstrate that the District violated—and continues to violate—the constitutional rights of NAACP members, or to obtain the requested relief.

22. Plaintiff The Authors Guild (the “Guild”) is a national nonprofit association of more than 14,000 professional, published writers of all genres. The Guild works to promote the rights and professional interests of its member authors. Many Guild members earn their livelihoods through their writing. Their ability to write on topics of their choosing and to explore viewpoints that some readers may disagree with is vital to their ability to make a living in their chosen profession. Members of the Guild who would have standing to sue in their own right include:

- a. Angie Thomas. Angie Thomas is a Black American author who wrote *The Hate U Give*, which the District removed from Elizabeth High School and Elizabeth Middle School. *The Hate U Give* was the number one *New York Times* bestseller the week it was released in 2017. Ms. Thomas is also the author of another young adult novel, *On the Come Up*.

- b. Alex Gino. Alex Gino is the author of several books that foster understanding and acceptance of LGBTQ+ identities especially for young readers. They are the author of *Melissa/George*, which the District removed from Running Creek Elementary. They have won several awards for their work, including the American Library Association's Stonewall Book Award for exceptional LGBTQIAP+ children's literature and a Lambda Literary Award.
  - c. John Green. John Green has authored seven *New York Times* bestsellers, including *Looking for Alaska*, which the District removed from Elizabeth High School. Mr. Green's other novels include *The Fault in Our Stars*; *An Abundance of Katherines*; *Paper Towns*; *Will Grayson, Will Grayson*; *Turtles All the Way Down*; and *The Anthropocene Reviewed*.
  - d. Jodi Picoult. Jodi Picoult has written 28 novels, including *Nineteen Minutes*, which the District removed from Elizabeth High School. Ms. Picoult's other novels include *My Sister's Keeper*, *The Pact*, *Plain Truth*, and *The Storyteller*. Her novels have been translated into 34 languages in 35 countries.
  - e. Ellen Hopkins. Ellen Hopkins has written several *New York Times* bestselling novels. The District removed six books that she authored from ESD libraries: *Crank*, *Glass*, *Fallout*, *Identical*, *Burned*, and *Smoke*.
23. The Guild seeks by this suit to protect its members' right to share their books and viewpoints without undue government censorship, and to promote the circulation of its members' books. Protecting these interests is germane to the Guild's purpose.

24. Neither the claims asserted nor the relief requested require the participation of individual Guild members in this lawsuit, because individual proof is not required to demonstrate that the Board violated—and continues to violate—the constitutional rights of Guild members or to obtain the requested relief.

25. Defendant Elizabeth School District is responsible for public education in Elizabeth.

### **FACTUAL BACKGROUND**

26. Elizabeth is a small but growing town in Elbert County, Colorado, located to the east of Colorado Springs. The majority of Elbert County’s residents are politically conservative.

27. Elizabeth School District serves roughly 2,600 students and is governed by a five-member Board of Education (“the Board”). Board members include President Rhonda Olsen, Vice President Heather Booth, Secretary Mary Powell, Treasurer Mike Calahan, and Assistant Secretary/Treasurer Jonathan Waller.

28. Elizabeth School District contains two elementary/preschools, Running Creek Elementary and Singing Hills Elementary, both of which serve students in preschool through fifth grade. The District contains one middle school, Elizabeth Middle School, which serves students in grades six through eight. The District contains one high school, Elizabeth High School, which serves students in grades nine through twelve. The District contains one charter school, Legacy Academy, which serves students in kindergarten through eighth grade. The Board recently approved another charter school.



**Politicization of Elizabeth School District’s Board of Education**

29. Until the 2021 Board election, the Board’s meetings were relatively calm and cordial. But the dynamics changed when two new Board members—Heather Booth and Rhonda Olsen—were elected on a mission to keep politically liberal ideologies out of Elizabeth schools. Tensions mounted over the next two years.

30. Board meetings became increasingly contentious as baseless accusations about the teaching of “Critical Race Theory” and “LGBTQ agendas” in Elizabeth schools were bandied about.

31. “Critical Race Theory” or “CRT” is a body of scholarship most commonly used in law schools and graduate schools that involves: (1) the pursuit of understanding how racial subordination originated and has been maintained in the United States, especially in relation to the legal system; and (2) a desire to change the legal system so that it no longer supports racial subordination. It is seldom taught in elementary or secondary education, and was not taught in Elizabeth schools.

32. “LGBTQ+” refers to Lesbian, Gay, Bi, Transgender, or Queer or Questioning people or community.

33. At a February 13, 2023 Board Meeting, the principal of Elizabeth High School implored Board members Booth and Olsen to “stop chasing ghosts,” because false claims about “CRT” and “LGBTQ agendas” were hampering the school’s work. The principal pled for help from the Board instead of “political grandstanding.” President Olsen responded by saying that her concerns have not been about what’s actually going on in schools, but on “keeping what is on the outside out of our schools.”

34. In March of 2023, more than half of the Board resigned, citing other Board members’ personal agendas and disregard for Board policy and ethics. The only two members who remained on the Board were Ms. Booth and Ms. Olsen.

35. Mary Powell was appointed to the Board to ensure there was a quorum to conduct district business. She was then elected, along with Mike Calahan and Jonathan Waller, to join the Board. Ms. Olsen was also reelected in the 2023 election, and Ms. Booth remained on the Board.

36. In campaigning for the 2023 school board election, candidates Olsen, Powell, Calahan, and Waller made their political agenda clear. They pitched themselves as “conservatives for Elizabeth School Board.”



*[Description: Campaign sign listing Mike Calahan, Rhonda Olsen, Mary Powell, and Jonathan Waller with the caption “conservatives for Elizabeth School Board”]*

**The Board Aims to Impose a Partisan, Political Orthodoxy in ESD Schools**

37. Board members have been open about their commitment to their political values—which they describe as conservative—and expressed pride in the purportedly conservative stands they have taken as Board members.

38. Board Members were very vocal about “getting a superintendent and legal representation with conservative values.” They succeeded with Attorney Brad Miller and Superintendent Dan Snowberger.

39. Superintendent Snowberger recognizes that Elizabeth is “a very conservative community” and believes the “board’s charge is to respond to the community that elected them and holds them accountable.”

40. The Board has directed Superintendent Snowberger not to talk about keeping politics out of schools, because, as Vice President Booth put it, “conservative values are exactly what we are and plan to continue to bring into the district.” President Olsen added that it would be “confusing” to say the Board aims to keep politics out of schools given the Board’s prior communications and decisions.

41. In Spring of 2024, the Board changed book fair providers. While the Board had historically relied on Scholastic, they put out a Request for Proposal to find a book fair partner that would ensure book fairs were devoid of any controversial materials that were contrary to the values of Elizabeth families. The Board ultimately switched from Scholastic to SkyTree Books, which promised a book fair without any LGBTQ+ content, Critical Race Theory, foul language, explicit content, and dark magic.

42. The Board seeks to impose a political orthodoxy in ESD schools and ensure that content—including reading material—that is available to children in Elizabeth schools aligns with Board members’ personal political preferences, which they describe as conservative.

43. The Board seeks to prohibit students from accessing information—including reading material—that contravenes its Board members’ partisan, political values in Elizabeth schools.

44. The Board has sought to limit ESD students’ exposure to LGBTQ+ identities and same-sex relationships.

45. Absent action from this Court, the Board will continue to restrict and remove access to information about LGBTQ+ identities and same-sex relationships in Elizabeth schools.

46. The Board has sought to limit ESD students’ exposure to viewpoints on race and racism that contradict Board members’ own views on the topic.

47. Absent action from this Court, the Board will continue to restrict and remove access to information about race and racism in Elizabeth schools.

48. Those who disagree with the Board’s partisan, political agenda or question the Board’s actions have been subject to public humiliation and retaliation. For example, parents who have submitted public records requests to the District or sued the District have been accused by the Board of “bullying” or “stealing from” the District and wasting the District’s time and resources. Board members sometimes call such parents out by name at public meetings or in communications with other parents.

49. Many parents who have children in ESD schools are afraid to publicly express views that do not align with the Board’s, because they fear being publicly shamed by Board

members, being accused of bullying or harassing the District, or exposing their children to retaliation.

50. Superintendent Snowberger has confirmed that parents who are perceived as attacking the Board are shut down because it is exhausting to deal with them.

### **Implementation of Sensitivity Protocol**

51. In 2024, the Board was determined to cleanse ESD of books that contravene its partisan, political values.

52. The Board directed a committee of parents, teachers, administrators, and community members (the “Board Curriculum Review Committee” or “BCRC”) to create a list of books containing “sensitive” topics in ESD libraries.

53. “Sensitive” topics, according to the Board and the BCRC, include “racism/discrimination,” “drug or excessive alcohol use,” “religious viewpoints,” “ideations of self-harm or mental illness,” “profanity/obscenity,” “graphic violence,” and “sexual content.”

54. To identify “sensitive” books, the BCRC began by looking at online lists of books that had been banned or challenged elsewhere. The BCRC then looked to see if those banned or challenged books were in ESD libraries.

55. In determining whether to add a book to ESD’s Sensitive List, each member of the BCRC had a different level of discernment. Books deemed “sensitive” by one member may not have been deemed “sensitive” by another member.

56. Those reviewing the books often did not read the entire book, but instead read short segments that Internet sources had labeled controversial. Books were often added to the

Sensitive List solely because a member of the BCRC took issue with an isolated passage in the book.

57. Parents can prohibit their children from checking out any books on the Sensitive List by notifying the District. Even if a parent allows their child to check out books on the Sensitive List, however, they will still receive a notification any time their child does so. The notification tells the parent which “sensitive” book their child checked out.

58. There is no way for a parent to opt out of receiving notifications about their children checking out sensitive books. Some parents feel burdened by these types of notifications, as they indicate that the Board believes parents should restrict their children’s access to those books.

59. Many parents have noticed that the books on the Sensitive List disproportionately target authors and characters of color and/or LGBTQ+ authors and characters. They do not want to receive notifications about their children checking out these books because it indicates that there is something wrong or questionable about those books.

60. Many parents would prefer not to receive an email simply because Board members believe the book their child picked is “sensitive.”

61. Some of the books on the Sensitive List—for example, books about the Holocaust—have been used by Elizabeth teachers as part of their courses.

62. The Board has the final say as to which books are on the Sensitive List.

63. Books have been added to and taken off of the Sensitive List based on the whims of Board members. For example, *Anne Frank: Diary of a Young Girl, 1984*, and *Brave New World* were all initially on the Sensitive List. But the Board decided to take those books off the

Sensitive List because they are “classics.” Additionally, a picture book series about a Siamese cat who thinks he is a chihuahua, *Skippyjon Jones*, was initially included on the Sensitive List, but it was removed after Elizabeth’s Chief Academic Officer told Secretary Powell that the series is one of her grandchildren’s favorites, and Secretary Powell said at a Board meeting that it’s a “very cute little story and there’s nothing wrong with that.”

64. Books that remain on the Sensitive List include *The Color Purple*, *I Know Why the Caged Bird Sings*, *To Kill a Mockingbird*, *Kaffir Boy*, *Muslim Festivals Throughout the Year*, *Catcher in the Rye*, *Slaughterhouse Five*, *The Hunger Games*, *Gay Power! The Stonewall Riots and the Gay Rights Movement 1969*, *Beyond Magenta – Transgender Teens Speak Out*, *Being Transgender in America*, and *Growing up LGBTQ*. Dozens of other books remain on the Sensitive List.

65. Superintendent Snowberger clarified in an August 19 email that books on the Sensitive List “could also be removed based on further discussion between members of the community and the Board of Education.”

#### **Initial Removal of Books from Library**

66. While most “sensitive” books were added to the Sensitive List but left in ESD libraries, there were some books that some reviewers believed were *too* sensitive or controversial to be kept in ESD libraries at all. The Board decided to remove these books from ESD libraries while they determined what to do about them.

67. On July 25, the Board Clerk informed the Elizabeth High School librarian that she had removed 14 books from the Elizabeth High School Library for further review. By August 9, three books had also been removed from the Elizabeth Middle School library, and one book was

removed from the Running Creek Elementary library. In total, eighteen books (the “Removed Books”) were taken out of ESD libraries.

68. The Removed Books were not taken out of ESD libraries because they contain factual inaccuracies or are pervasively vulgar. They were taken out of ESD libraries because Board members sought to prescribe a partisan, political orthodoxy in ESD and disagreed with the ideas in the Removed Books.

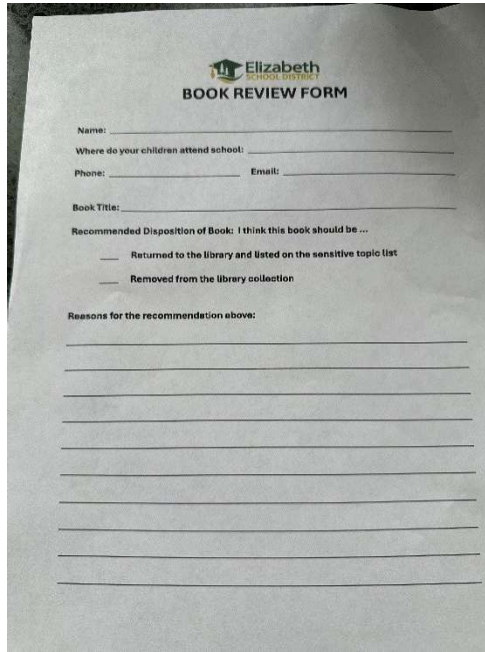
69. The Board announced that the Removed Books would be “temporarily suspended” from ESD libraries and displayed in the Board’s office for public review. Isolated passages were marked in many of the Removed Books so that parents could quickly turn to the parts of the books that the Board members found offensive. Based on the community’s feedback on the Removed Books, the Board would decide the “final disposition” of the Removed Books.

70. Board members did not read each book in full before deciding to remove them from ESD libraries.

71. The Board announced that, based on public feedback, the eighteen Removed Books would either be returned to the libraries and added to the Sensitive List, or they would be kept out of the ESD’s collections altogether.

72. For roughly 25 days, parents could review the books and fill out the form below indicating whether each book should be permanently kept out of ESD libraries, or returned to the library but included in the Sensitive List—meaning parents would automatically be notified if their child checked the book out. The form provided no option for returning the books to the library and allowing children to check them out without automatic parental notifications.





[Description: Book Review Form allowing parents to indicate that a book should be “Returned to the library and listed on the sensitive topic list” or “Removed from the library collection”]

73. Some parents who opposed the Board’s decision to remove books from ESD libraries wrote in a third option on the form: return the books to the library without including them on the Sensitive List.

74. Student Plaintiffs were unable to check out any of the eighteen Removed Books from the school library while they were made available in the Board’s office.

75. The eighteen Removed Books were *The Hate U Give* by Angie Thomas; *Beloved* by Toni Morrison; *The Bluest Eye* by Toni Morrison; *The Kite Runner* by Khaled Hosseini; *You Should See Me in a Crown* by Leah Johnson; *#Pride: Championing LGBTQ Rights* by Rebecca Felix; *George/Melissa* by Alex Gino; *It’s Your World—If You Don’t Like It, Change It* by Mikki Halpin; *The Perks of Being a Wallflower* by Stephen Chbosky; *Thirteen Reasons Why* by Jay

Asher; *Looking for Alaska* by John Green; *Nineteen Minutes* by Jodi Picoult; and *Crank, Glass, Fallout, Identical, Burned*, and *Smoke*, all by Ellen Hopkins.

76. *Speak* by Laurie Anderson was initially on the list of books to be “temporarily suspended” from Elizabeth High School’s library, but the Board stated it had been checked out the previous school year and never returned. *Speak* is about a freshman in high school who calls the police because she is raped at an end-of-summer party. She is then ostracized by her peers who don’t know why she called 9-1-1. By the end of the novel, she finds her voice and becomes a hero. On information and belief, if *Speak* were returned, the Board would remove it.

77. Many of the Removed Books have been in school libraries in ESD—and across the country—for years. They are educationally valuable and nondisruptive.

78. Plaintiff C.C. intended to browse and/or check out *The Hate U Give*, *Beloved*, *The Bluest Eye*, *The Kite Runner*, *The Perks of Being a Wallflower*, *Thirteen Reasons Why*, *Looking for Alaska*, *Nineteen Minutes*, *Crank, Glass, Fallout, Identical, Burned*, and *Smoke* from the Elizabeth High School library. But she has not been able to access the books there since the District removed them.

79. Plaintiff NAACP has members in Elizabeth Middle School and Running Creek Elementary intended to be able to browse and/or check out *The Hate U Give*, *Thirteen Reasons Why*, *#Pride: Championing LGBTQ Rights*, *You Should See Me in a Crown*, *It’s Your World—If You Don’t Like It*, *Change It*, and *Melissa/George* in their school libraries but have not been able to access the books there since the District removed them.

80. Plaintiff NAACP has members who are parents of ESD students and intended for their children to be able to browse and/or check out *The Hate U Give*, *Thirteen Reasons Why*,

*#Pride: Championing LGBTQ Rights, You Should See Me in a Crown, It's Your World—If You Don't Like It, Change It, and Melissa/George* in their school libraries.

81. *The Hate U Give* by Guild member Angie Thomas is about a Black sixteen-year-old girl who lives in a poor neighborhood and attends a suburban prep school. She witnesses her best friend get shot by police and at first declines to speak publicly about it, but over the course of the novel, she decides to speak out and honor his memory. Before *The Hate U Give* was “temporarily suspended,” it was available for students to peruse or check out in the Elizabeth Middle School library and the Elizabeth High School library.

82. *The Hate U Give* expresses Angie Thomas’s views on racism, police misconduct, and the value of teenagers using their voices to advocate for people and causes they care about. Ms. Thomas intends to share those views with teenagers who might feel alone or hesitant to speak up about their values and experiences. When *The Hate U Give* is removed from school libraries, Angie Thomas is unable to reach her target audience—teenagers who may be processing trauma, confronting racism, or feeling split between two worlds.

83. Parents who filled out the Board’s forms about *The Hate U Give* disagreed as to whether it should be permanently banned or returned to ESD libraries. Multiple parents filled out forms advocating against returning *The Hate U Give* to ESD libraries because of “anti-police” viewpoints expressed in it. Parent forms indicated the book is “[b]iased towards police—name calling them Pigs,” contains “[h]ate for cops,” includes “police viewed in a bad light,” or “pushes the wrong and dangerous narrative of racist cops killing young Black men.” On the other hand, some parents believed the book should be returned to the library because “[w]hether we like it or not kids are going to be exposed to situations represented in this book.”

84. *Beloved* is a novel by Toni Morrison, a critically acclaimed Black American author. The story takes place after the Civil War and was inspired by the life of Margaret Garner, who escaped slavery in Kentucky and fled to Ohio in 1856. The novel won the Pulitzer Prize for Fiction in 1988. Before *Beloved* was “temporarily suspended,” it was available for students to peruse or check out in the Elizabeth High School library.

85. Parents who filled out the Board’s forms about *Beloved* disagreed as to whether it should be permanently banned or returned to ESD libraries. One form characterized the novel as “sexual deviancy porn” that should not be in ESD libraries. Another indicates that “Toni Morrison is an internationally acclaimed and beloved chronicler of African American history. Nasty things happened. Suppressing an idea does not get rid of it and people who want to explore this should be free to do so.”

86. *The Bluest Eye* is Toni Morrison’s first novel. *The Bluest Eye* is about Pecola Breedlove, a young Black girl who wishes she had lighter features—in particular, blue eyes. Many Advanced Placement courses across the country teach *The Bluest Eye*. Before *The Bluest Eye* was “temporarily suspended,” it was available for students to peruse or check out in the Elizabeth High School library.

87. Parents who filled out the Board’s forms about *The Bluest Eye* disagreed as to whether it should be permanently banned or returned to ESD libraries. While some Elizabeth parents advocated for the book to be banned from school libraries because of its discussion of incest, rape, and abuse, others believed the book should be returned to the library because it does not contain information they are concerned about their children accessing in an educational institution.

88. *The Kite Runner* by Khaled Hosseini is a historical fiction novel about friendship between a wealthy boy and his father's servant's son in Kabul. The main character flees from Afghanistan to the United States after the 1979 Soviet invasion, and later travels back to Afghanistan when it is under Taliban rule. *The Kite Runner* has been the #1 New York Times bestselling novel. The Princeton Review recommends *The Kite Runner* for students preparing for Advanced Placement exams. Khaled Hosseini himself receives mail from high school readers of the *Kite Runner* who say that the book has called them to "stand up to bullies," "defy intolerance," and "muster the courage to do the right and just thing, no matter how difficult." For many, *The Kite Runner* is "their first window into Afghan culture," and the book helps them "gain a more nuanced and compassionate perspective on the country and its people." Before *The Kite Runner* was "temporarily suspended," it was available for students to peruse or check out in the Elizabeth High School library.

89. Parents who filled out the Board's forms about *The Kite Runner* disagreed as to whether it should be permanently banned or returned to ESD libraries. One Elizabeth parent of a high school student wrote that she "do[es] not want [her] teens reading a book that criticizes Christianity," though it is unclear which part of *The Kite Runner* could plausibly be interpreted as a criticism of Christianity. Another form indicates that "violence + depravity of Islam is on display in this book. Even adults shouldn't read it." On the other hand, one ESD parent wrote that "*Kite Runner* changed my views. Reading that book made me a reader." Another wrote that topics like suicide and sexual assault "have merit in an educational institution because our children will be confronted with these topics – hopefully not due to personal experience, but through our shared human experience."

90. *You Should See Me in a Crown* by Leah Johnson is about a Black, queer teenager who runs for prom queen in order to get a college scholarship. She also develops feelings for another prom queen contender and learns that honesty is necessary to make a relationship work. Before *You Should See Me in a Crown* was “temporarily suspended,” it was available for students to peruse or check out in the Elizabeth Middle School library.

91. Parents who filled out the Board’s forms about *You Should See Me in a Crown* disagreed as to whether it should be permanently banned or returned to ESD libraries. While some in the community believed the book should be removed for its alleged “CRT undertones and homosexual storyline,” “queer factor,” or “same sex dating mentioned,” others advocated for it to be returned to the library, noting that Goodreads referred to it as “a self-love anthem for queer black girls everywhere.”

92. *#Pride: Championing LGBTQ Rights* by Rebecca Felix is a history of the Pride movement from the Stonewall riots to the modern LGBTQ rights movement. Before *#Pride: Championing LGBTQ Rights* was “temporarily suspended,” it was available for students to peruse or check out in the Elizabeth Middle School library.

93. Parents who filled out the Board’s forms about *#Pride: Championing LGBTQ Rights* disagreed as to whether it should be permanently banned or returned to ESD libraries. Some parents wrote on their forms that “LGBTQ themes do not belong in our public schools,” and the book should be removed “because of its support of the Pride movement and villainization of Christians on Pg 6.” Meanwhile, other parents believed the book could give LGBTQ+ kids “a way to realize they aren’t alone + its ok to ‘be different than the norm’ (straight or identifying as the gender you’re born with).”

94. *Melissa/George* by Guild member Alex Gino is about a fourth grader who most people think is a boy, but she knows she is a girl. The main character was given the name George at birth, but the character does not want to use that name for herself—she uses Melissa. In 2022, Alex Gino republished the book with the name *Melissa* and encouraged people to print out a new cover for copies of the books that were published as *George* or use sharpies to correct the name on the book itself. Board members have primarily referred to the book as *George*. The novel has won the Lambda Literary Award, the Stonewall Award, among others. Before the book was “temporarily suspended,” it was available for students to peruse or check out in the Running Creek Elementary library. *Melissa/George* was also previously available in the Singing Hills Elementary library, but it is no longer available there.

95. *Melissa/George* expresses Alex Gino’s viewpoint that LGBTQ+ people should be accepted and allowed to fully be themselves. The book also expresses the author’s viewpoints on courage, self-discovery, and friendship. *Melissa/George* is a vital resource for students who seek to better understand gender diversity, and transgender students who seek books with relatable characters. When *Melissa/George* is removed from school libraries, the author is unable to reach their target audience and those who need access to the book the most.

96. Parents who filled out the Board’s forms about *Melissa/George*, disagreed as to whether it should be permanently banned or returned to ESD libraries. One parent of a high school student wrote that the book should be removed because it “is evil trans ideology.” A couple with children at Running Creek Elementary wrote that “there are only TWO genders and they are not interchangeable.” They voted to remove the novel because the “subject matter” has “no place in school.” One Running Creek Elementary parent, however, wrote that LGBTQ+

topics do have merit in an educational setting because “these are important social issues my children will need to understand.”

97. *It’s Your World—If You Don’t Like It, Change It* by Mikki Halpin discusses how to act on a person’s beliefs and make a difference. Before *It’s Your World—If You Don’t Like It, Change It* was “temporarily suspended,” it was available for students to peruse or check out in the Elizabeth Middle School library.

98. Parents who filled out the Board’s forms about *It’s Your World—If You Don’t Like It, Change It* disagreed as to whether it should be permanently banned or returned to ESD libraries. One parent wrote that the book should be kept out of ESD libraries because it allegedly “supports abortion,” “talks heavily of sex education,” and “encourages the reader to oppose parental notification laws which is exactly what our ESD board is trying to put in place.” Others voted to remove the book because they believed that it is a “very biased, leftist book,” or is “overly political with an outright Marxist slant” and is “offensive morally to Christians, muslims and orthodox jews.” Meanwhile, one parent voted to return the book to the library because she saw no problem “with the topic of standing up for what you believe in + trying to change things.”

99. *The Perks of Being a Wallflower* is a semi-autobiographical young-adult novel by Stephen Chbosky about a freshman in high school. It addresses common teen struggles, such as drugs, sexuality, and mental illness, and chronicles the characters’ personal growth. The book has been on the *New York Times* Bestseller list, and it was adapted into a PG-13 film starring Emma Watson in 2012. Before *The Perks of Being a Wallflower* was “temporarily suspended,” it was available for students to peruse or check out in the Elizabeth High School library.



100. Parents who filled out the Board’s forms about *The Perks of Being a Wallflower* disagreed as to whether it should be permanently banned or returned to ESD libraries. Some Elizabeth parents objected to the book’s inclusion in the high school library, saying it contains abuse, drugs, abortion, and gay sexual relationships. Others asserted that the book contains no information of concern in the context of an educational institution, and, as with the rest of the Removed Books, that it “ha[s] meaningful messages to be considered beyond a few pages.”

101. *Thirteen Reasons Why* by Jay Asher follows a high school student, Clay Jensen, whose classmate, Hannah Baker, died by suicide. Throughout the novel, Clay learns more about Hannah and himself as he listens to tapes Hannah left explaining why she took her own life. At an August 26 Board meeting, President Olsen explained that the reason *Thirteen Reasons Why* was “temporarily suspended” is that “it’s putting ideas into kids’ heads.” Before *Thirteen Reasons Why* was “temporarily suspended,” it was available for students to peruse or check out in the Elizabeth Middle School library and the Elizabeth High School library.

102. Parents who filled out the Board’s forms about *Thirteen Reasons Why* disagreed as to whether it should be permanently banned or returned to ESD libraries. One high school parent wrote that *13 Reasons Why* is “just porn” that “[e]ven adults shouldn’t read.” He indicated that reading the book “would be soul murder to a child.” Another parent wrote that the book has “morally offensive content for most religious people.” Another wrote “Childhood is hard enough, shouldn’t give kids ideas surrounding suicide.” On the other hand, some parents wished to return it to the library because it “is a prime example of a book that could be a conversation starter + open lines of communication between parents + their children.”

103. *Looking for Alaska* is Guild member John Green’s first novel. It is a fictionalized account of the author’s time at boarding school. The book is about Miles Halter, a teenage boy who goes to boarding school in his junior year and whose first love dies. The book explores how Miles and his friends process their grief during high school. *Looking for Alaska* was awarded the American Library Association’s Michael L. Printz award and was the *Los Angeles Times* Book Prize finalist. It has also been selected for lists including NPR’s “Top Ten Best-Ever Teen Novels” and *TIME* magazine’s “100 Best Young Adult Novels of All Time.” Before *Looking for Alaska* was “temporarily suspended,” it was available for students to peruse or check out in the Elizabeth High School library.

104. *Looking for Alaska* expresses Mr. Green’s viewpoints on loss, grief, and intimacy. When *Looking for Alaska* is removed from school libraries, Mr. Green is unable to reach his target audience—adolescents who may be experiencing death and grief for the first time and need easy access to books like *Looking for Alaska* to help them process their feelings.

105. Parents who filled out the Board’s forms about *Looking for Alaska* disagreed as to whether it should be permanently banned or returned to ESD libraries. One parent of an elementary and high school student wrote that the book should be removed from school libraries because it is “Talking about school pranks gone wrong resulting in death” and discusses “teen drugs, alcohol, sex, etc.” Another form says “People (teens) in pain can read this story and find a place for themselves, because of the unhappy ending they will maybe find a way to reach out for help.”

106. *Nineteen Minutes* by Guild member Jodi Picoult was a 2007 bestseller about a school shooting. One of the characters is bullied with words like “homo” and “fag,” leading him

to question his sexual orientation. The author has heard from hundreds of teenagers who say *Nineteen Minutes* made them realize that not intervening to stop bullying can be as bad as bullying itself. She has even heard from teenagers who say that *Nineteen Minutes* is what motivated them to stay alive, because it made them realize they were not alone. Before *Nineteen Minutes* was “temporarily suspended,” it was available for students to peruse or check out in the Elizabeth High School library.

107. *Nineteen Minutes* reflects Jodi Picoult’s viewpoint on bullying, marginalization, and the drastic consequences of children feeling “othered” by their school community. Ms. Picoult writes in order to make young adults feel seen. School libraries are critical to her ability to share her work with the teenagers she writes for. When *Nineteen Minutes* is removed from school libraries, Ms. Picoult is unable to reach her target audience—teenagers whose friends or family may have lived through school shootings, and who can make their schools safer by standing up to bullies.

108. Parents who filled out the Board’s forms about *Nineteen Minutes* disagreed as to whether it should be permanently banned or returned to ESD libraries. One form on *Nineteen Minutes* indicates that “[e]very bad suggestion is in this book – LGBTQ, killing, bestiality, etc.” Other forms indicated no concern with students’ access to the book.

109. *Crank, Glass, Fallout, Identical, Burned, and Smoke* by Guild member Ellen Hopkins are young-adult novels written in verse. They address teenage struggles including the perils of addiction, sexual desires, and abuse and express the author’s viewpoints on these topics. Before these books were “temporarily suspended,” they were available for students to peruse or check out in the Elizabeth High School library.

110. When Ellen Hopkins' books are removed from school libraries, she is unable to reach her target audience—teenagers who are on the brink of making dangerous choices and need an easy-to-read cautionary tale.

111. Parents who filled out the Board's forms about Ellen Hopkins' books disagreed as to whether they should be permanently banned or returned to ESD libraries. One parent wrote Ellen Hopkins' books should be banned because "This author loves sex + drugs." Another wrote that "Ellen Hopkins is disgusting" and called her a pervert. But another parent wrote, referencing *Crank*, that "[b]ecause this book is written in free verse it is a great pick for reluctant readers," and the book can serve as a "cautionary tale." Ellen Hopkins herself continuously receives communications about how her books have helped teenagers navigate difficult situations and avoid going down dangerous paths.

112. Authors who are members of Plaintiff Guild fear that other districts will copy ESD and remove their books from their school library shelves because of their disagreement with the ideas they contain.

113. The Board has stigmatized each of the Removed Books, the ideas contained therein, and their authors.

114. Plaintiff E.S.'s parent does not want her son to be deprived of access to books just because the school board disagrees with the ideas in the books. By banning these books, the District is sending the message that it is not okay to learn about LGBTQ+ identities and same-sex relationships or race and racism. This creates an unwelcome and unsafe environment in Plaintiff E.S.'s school.

115. Some parents noticed that the list of Removed Books appears targeted at books involving LGBTQ+ and/or Black characters and authors. One form notes, “This book list . . . is not welcoming to anyone who is not white, straight and politically conservative.” Another notes that banning *You Should See Me in a Crown*, *It’s Your World—If You Don’t Like It, Change It*, *#Pride: Championing LGBTQ Rights*, Toni Morrison’s *Beloved* and *The Bluest Eye*, and *Melissa/George* “is a clear and transparent assertion that people of color, women and homosexuals are less welcome in our public school and this is unacceptable.” Many parents who reviewed the Removed Books recognized that it does a disservice to children to deny them access to books in the school library that could broaden their perspective and help them develop empathy.

116. When a parent criticized the Board for removing books from school libraries, Vice President Booth responded, “[a]s an elected official committed to conservative values for our children, I feel a strong obligation to honor the promises made during my campaign.” Other Board members have similarly expressed that the books must be removed from school libraries because they believe their constituents would not like the ideas in the books.

117. Indeed, many Elizabeth parents believe that removing books from school libraries is a good way to prevent perceived liberal ideology from seeping into Elizabeth schools. Some of these parents have spoken out at public meetings, saying that people are “criminals” for letting kids read certain books.

118. Many parents who opposed the Board’s removal of books from their children’s school libraries did not fill out forms for the Board because they believed the Board would

ignore any feedback with which they disagreed and/or feared retaliation for expressing disagreement with the Board's disdain for the Removed Books.

119. None of the removed books were required reading for any student in the District. Students and parents can opt out of reading any of the books available in ESD libraries.

### **Permanent Removal of Books from Library**

120. In deciding whether to permanently ban or return the Removed Books to ESD libraries, Board members considered community members' reaction to the Removed Books, as well as the books' inclusion of same-sex relationships, discussion of LGBTQ+ identities, attitudes towards racism, and views on issues like racism, police violence, and parents' rights.

121. Board members did not read each book in full before deciding whether or not to return it to ESD libraries.

122. Board members waffled on their decisions about whether some of the books should be returned to the libraries or kept out permanently. For example, Secretary Powell initially advocated to return *#Pride - Championing LGBTQ Rights* to the library "because this book is largely a history of LGBTQ, and doesn't totally try to indoctrinate." She explained to the other Board members that she "also thought it would be a good thing to show some openness to other viewpoints, as long as it isn't indoctrinating." But Vice President Booth responded that "LGBTQ is only regarding sexual preference which doesn't belong in any school," and "[o]ur constituents will not be happy about us returning any of these books." Secretary Powell was also convinced by President Olsen's point that the book has "gender identity ideology in [it], and do we really want that out there at all?" In order to banish discussion of LGBTQ+ identities from

Elizabeth school libraries, all Board members ultimately decided that *#Pride - Championing LGBTQ Rights* should be permanently removed from ESD libraries.

123. Secretary Powell also initially voted to return *You Should See Me in a Crown* to the library because, “while it has some racist overtones, they are just the main character handling them.” Powell stated that, while “halfway through you find out she is a lesbian[,] . . . there isn’t anything graphic other than discussing a kiss that I saw, and it is not the central theme of the book at all.” Board members Waller and Calahan initially agreed with Powell. But again, after Vice President Booth expressed her view that LGBTQ+ content should not be available to any student in school, all Board members decided that they should permanently remove *You Should See Me in a Crown* from ESD libraries.

124. Board members have also referred to multiple Removed Books as “disgusting.” President Olsen expressed that she “wouldn’t care” if reading *The Bluest Eye* made children better readers, because it was a disgusting book.

125. Secretary Powell stated that students “don’t need to see an ugly story just for the sake of being an ugly story.”

126. Ultimately, all Board members voted to permanently banish all Removed Books from ESD libraries because of the ideas they contain.

127. The Board announced its decision to permanently ban all Removed Books from ESD libraries at the September 9 Board meeting.

128. The Board’s decision to prohibit students from accessing any of the Removed Books in ESD libraries prevented Plaintiff C.C., E.S, and NAACP members’ children from

exploring and learning about topics and ideas that they otherwise would have—all because Board members disagree with those ideas.

129. The Board’s decision to prohibit students from accessing any of the Removed Books in ESD libraries prevented members of the Guild from sharing their viewpoints with ESD students because the Board disagreed with them.

130. Plaintiffs believe it is important to have books available in school libraries that reflect a diversity of views and experiences so that all students can find books in the library that they relate to, and they can learn about different perspectives.

131. The Board’s decision to prohibit students from accessing any of the Removed Books in ESD libraries created a stigma around each of the Removed Books and the ideas in them.

132. NAACP members’ children and C.C. know that if they discuss any of the Removed Books or the ideas in them, they will be perceived as amoral and as outsiders in Elizabeth.

133. The Board’s decision to prohibit students from accessing any of the Removed Books in ESD libraries signaled to C.C., E.S., and NAACP members’ children that certain identities—particularly LGBTQ+ identities and racial minorities—are not welcome in Elizabeth.

134. NAACP members’ children are harmed by the stigma that the Board has placed on books by Black authors about Black characters.

135. By removing two books by Toni Morrison—one of the most famous and celebrated Black authors—and other books centering Black perspectives and experiences from



the Elizabeth High School library, the Board indicated to Black students and other minority students that their own perspectives and experiences might be shameful or devalued.

136. Students, including children of NAACP members, who want to gain empathy and understanding of others' experiences and perspectives are harmed by the Board's removal of books from their school libraries, because they are limited to reading materials that promote the Board's preferred views.

137. Students, including children of NAACP members, who read as a means of understanding themselves and their identities, are harmed by the Board's removal of books from their school libraries, because they are inhibited from reading about experiences or identities that the Board deems objectionable.

138. As a sixteen-year-old girl navigating adolescence and preparing to leave Elizabeth for college, Plaintiff C.C. is harmed by the Board's enforcement of an orthodoxy that banishes books about LGBTQ+ history and identity.

139. Plaintiff C.C. participates in a school-sponsored book club that meets in the school library. When Plaintiff C.C. is waiting for the book club to start, she browses through the Elizabeth High School library collection. Plaintiff C.C.'s ability to discover different views and diverse authors while she is browsing is inhibited by the Board's removal of viewpoints and authors that they dislike.

140. Plaintiff C.C.'s mother wants C.C. to be able to read the Removed Books without incurring the stigma that the Board has placed on the books.

141. Plaintiff C.C.'s mother believes it is important for C.C. to be exposed to a wide variety of perspectives and viewpoints in her school library so that she will be prepared to participate in modern society.

142. Because of the Board's decisions, Plaintiff C.C.'s mother fears being publicly shamed or accused of bad parenting if she allows C.C. to read the Removed Books.

143. Plaintiff E.S. uses the Running Creek Elementary school library, and he will continue to use the Running Creek Elementary school library as he gets older.

144. It is important to E.S. and his family that the children have access to a diverse array of reading materials so that they grow up to understand the value in many different ideas and viewpoints. E.S.'s mother does not want E.S. to be deprived of access to books just because his school board—or other parents in our district—disagree with the ideas in those books.

145. E.S.'s mother does not want E.S. to be educated in an environment where LGBTQ+ people and people of color are stigmatized. She wants him to learn about all different identities, experiences, and lifestyles and to feel free to discuss differing viewpoints and explore challenging ideas.

146. Parent members of the NAACP want their children to be able to read the Removed Books without incurring the stigma that the Board has placed on the books.

147. Parent members of NAACP believe it is important for their children to be exposed to a wide variety of perspectives and viewpoints in their school libraries so that they will be prepared to participate in modern society.

148. Because of the Board’s decisions, parent members of the NAACP fear being publicly shamed or accused of bad parenting if they allow their children to read the Removed Books.

149. The Board’s process of reviewing and removing books is ongoing.

150. In addition to the removal of books as described above, on at least one occasion, the Board removed a library book upon receiving a parent complaint.

151. On September 5, 2024, President Olsen received an email complaining about a book from the library at Running Creek Elementary, *Redwood and Ponytail* by K.A. Holt. The email included the following excerpt from the inside cover: “K.A. Holt delivers an emotional wallop in this novel in verse about two girls discovering their feelings for each other... Sometimes you know who you’re meant to be *with* before you know who you’re meant to *be*.” The email also included the following excerpts from the end of the book:

Hours go by. We talk about moms, and Jill, and Levi.  
About plans and lack thereof and impulse control. We talk  
about holding hands and what that means and maybe it  
means nothing or maybe it means everything. We talk  
about that forbidden word, the tiny word, that fills both our  
heads, and how we’ll figure out our words one day all on  
our own. We need our own word, you know? A phrase just  
for us. Because you’re not my best friend, or my best girl,  
or my girlfriend, or my whole world, you’re something  
even bigger, Kate. Bigger than just one word.”

“She’s my winning point. She’s my summer day. She’s my  
sneaky wink. She’s my light. She’s my heart. She’s my  
Kate. I’m her Tam. Together we’re everything.”

"She’s my cheering crowd. She’s my laugh out loud. She’s  
my secret smile. She’s my light. She’s my heart. She’s my  
Tam. I’m her Kate. Together we’re everything.”

152. The email complaining about *Redwood and Ponytail* also included an excerpt from a review site, KirkusReviews.com:

Tam is a volleyball player sometimes mistaken for a boy. Kate is a popular cheerleader. When they notice each other at seventh grade registration, Tam sees a walking cliché with a perfect ponytail, while Kate sees a girl as “tall as a palm tree.” When they meet face to face, they strike an immediate rapport. Soon the two are having lunch together every day and linking pinkies in the halls. As they grow closer, each finds herself questioning who she thought she was. Tam doesn’t know how she fits into Kate’s seemingly perfect world. Kate, who has spent her life trying to live up to her shallow, perfectionist mother’s expectations, wants to go her own way, a process that includes deciding whether or not to admit her feelings for Tam. Tam and Kate share the first-person narration, which keenly conveys each girl’s joys and inner turmoil. The dual narratives play off of each other, sometimes in a call-and-response manner that clearly communicates the shyness, awkwardness, and confusion of first love. A trio of unseen watchers, identified as Alex, Alyx, and Alexx, collectively represent the observant school-hallway bystanders, providing commentary and speculation in the manner of a Greek chorus. Their verses can be read vertically or horizontally, resulting in multiple meanings. Characters are racially ambiguous. A glowing, heartfelt addition to the middle-grade LGBTQ genre. (Fiction. 8-14)

153. Less than an hour after receiving the email complaining about *Redwood and Ponytail*, President Olsen responded to the parent saying she would have the book removed.

154. The Board thereafter removed *Redwood and Ponytail* from the Running Creek Elementary library.

155. NAACP members’ children are harmed by the removal of *Redwood and Ponytail* from the Running Creek Elementary library, because they can no longer access the ideas explored in the book.

156. Parent members of the NAACP want their students to be able to access *Redwood and Ponytail* from their school library.

157. The Board has directed ESD librarians not to order any new books for school libraries.

158. The Board's decision to remove books from ESD libraries caused some Elizabeth families to send their kids to schools outside of ESD.

### **Restrictions on Classroom Libraries**

159. The Board's purge of books by and about people of color and LGBTQ+ people is not limited to school libraries.

160. On August 12, 2024, the Board voted to adopt Policy 9.9, which directs that "no classroom libraries of books are maintain[ed] within the Elizabeth School District."

161. Classroom libraries are collections of books in individual classrooms that students access during free time or designated reading times. For example, a student who finishes a test early is often allowed to choose a book from the classroom library to read while the other students finish their tests.

162. Most classroom libraries are created by teachers themselves. Many teachers spend their own money to buy books for their classrooms or get donations from other teachers.

163. The Directive to remove classroom libraries was intended to cover only books that are not used in classroom instruction.

164. Per the Board's direction to remove classroom libraries, some ESD teachers covered their classroom libraries with brown paper; others brought their classroom library books home.

165. Shortly after voting to ban classroom libraries, after much community criticism, the Board admitted their decision was made too quickly and paused the ban.

166. While the classroom library ban was paused, Superintendent Snowberger and the Board asked ESD staff for feedback on how to ensure classroom libraries did not contain “sensitive” books. After receiving staff feedback, Superintendent Snowberger chastised some staff members for providing “harsh feedback to the Board on their decision.” Some of the feedback resulted in disciplinary action.

167. On August 20, Superintendent Snowberger informed Elizabeth staff that they could open their classroom libraries back up while the Board deliberated on how to proceed. By that point, many teachers had already taken all of their books home in response to the ban.

168. On August 26, the Board determined that teachers should create inventories of all the books in their classroom libraries so that the BCRC could review them and the District could determine which ones were in keeping with the Board’s partisan, political preferences, and which one needed to be removed.

169. Superintendent Snowberger assured parents that classroom libraries would be purged of any books containing racism/discrimination, drug or alcohol use, graphic violence, sexual content, ideations of self harm, or religious content.”

170. In the process of reviewing their classroom libraries, teachers were expected to remove questionable books. Some teachers removed books out of fear or anticipation that the Board would direct their removal.

171. The Board also directed teachers not to purchase any more books for their classroom libraries.

172. Teachers' inventory lists were passed on to principals, who passed them on to the Board for review. The Board then directed principals to ensure that certain books were removed from classroom libraries.

173. The Board directed that several books be removed from classroom libraries. One Running Creek teacher was initially told he was required to remove *The Slave Dancer* by Paula Fox; *To Be a Slave* by Julius Lester; *The Cay* by Theodore Taylor; *The Giver* by Lois Lowry; and *Lawn Boy* by Gary Paulson from his classroom library.

174. *The Slave Dancer* by Paula Fox is about a teenager who is thrown aboard a slave ship and witnesses how enslaved people were being treated. Its removal is further evidence of the District's intent to restrict access to information and ideas with which it disagrees.

175. *To Be a Slave* by Julius Lester is a nonfiction children's book that includes personal accounts of former slaves. It has won several awards, including the John Newbery Medal and School Library Journal's Best Book of the Year. Its removal is further evidence of the District's intent to restrict access to information and ideas with which it disagrees.

176. *The Cay* by Theodore Taylor is about a young white boy, Phillip, and his new companion, Timothy, a Black man who rescues Phillip from the ocean. Phillip initially views Timothy as inferior, but over the course of the story, they develop a friendship. Its removal is further evidence of the District's intent to restrict access to information and ideas with which it disagrees.

177. *The Giver* by Lois Lowry is a young adult novel about an eleven-year-old boy who lives in a society where everyone is equal, but there is no individualism, emotion, or color. *The Giver* has won the Newbery Medal and the William Allen White Children's Book Award,

among several others. Its removal is further evidence of the District’s intent to restrict access to information and ideas with which it disagrees.

178. *Lawn Boy* by Gary Paulson is about a boy who mows lawns after his grandmother gives him a lawnmower for his birthday. It includes chapters like “The Growth of Capitalism,” “Dramatic Economic Expansion: Its Causes and Effects,” and “Conflict Resolution and Its Effects on Economic Policy.” It shares its name with *Lawn Boy* by Jonathan Evison, a different book that has been frequently challenged and banned across the country. The teacher was ultimately allowed to keep this book in his classroom library, but not the others.

179. The Running Creek teacher refused to remove any books from his classroom library, because he believed they were educationally valuable for his students. He was threatened with dismissal on insubordination grounds and quit his job because he was not willing to remove the books.

### **Ban on Sharing Books**

180. Policy 9.9, which the Board adopted on August 12, provides: “Books will not be shared between students.”

181. Current policy in the District dictates that students are not permitted to share books with each other.

182. Superintendent Snowberger informed parents that the ban on sharing books in the classroom was enacted “to respect parental rights in ensuring that they control what literature students have access to.”

183. NAACP members’ children commonly share books with other students. They recommend and provide books to other students as a way of expressing their interest in particular



books or topics. Students can then share the experience of reading the book and discussing it together.

184. NAACP members' children receive books from other students as a means of accessing information and ideas that their friends or classmates suggest to them.

185. Plaintiff C.C. commonly shares books with other students. As an avid reader, she has opinions on many different authors and stories, and she enjoys being able to discuss them with her classmates. Plaintiff C.C. learns more about her classmates and herself when they share books with each other and discuss what stood out to them, which parts they liked, etc.

186. As the Board makes fewer and fewer books available in school libraries, Plaintiff C.C. and NAACP members' children perceive a heightened need to share books with each other.

### **CAUSES OF ACTION**

#### **FIRST CLAIM FOR RELIEF**

#### **42 U.S.C. § 1983 – First Amendment**

#### **Right to Receive Information**

*Plaintiffs NAACP, C.C. by and through Kristen Crookshanks, and E.S. by and through Mindy Smith Against Defendant*

187. The allegations of the foregoing paragraphs are incorporated by reference as though fully set forth herein.

188. The First Amendment binds the State of Colorado pursuant to the incorporation doctrine of the Fourteenth Amendment. In all of the following paragraphs, references to the First Amendment include the First Amendment as applied to the states through the Fourteenth Amendment.

189. The First Amendment protects the right to access information and ideas. School boards are not permitted to remove books from school libraries in a narrowly partisan or political manner, or because of board members' disagreement with the ideas contained in the books.

190. The Elizabeth School District, acting through its Board, removed at least nineteen books from ESD libraries in a narrowly partisan or political manner because the Board disagrees with the ideas or views contained in those books.

191. The Board continues to determine whether additional books should be removed from ESD libraries in order to deny students access to ideas that Board members dislike.

192. The Board's decision to remove books from ESD libraries was—and continues to be—motivated by their desire to suppress ideas that were not in keeping with Defendant's political values and ideas, and to prescribe their partisan, political orthodoxy in Elizabeth schools.

193. The Board has no substantial or legitimate interest in banning the Removed Books from ESD libraries.

194. None of the Removed Books are obscene.

195. The Removed Books were not interfering with order and discipline in ESD schools.

196. The Removed Books contain educational value and are educationally suitable for students in ESD schools.

197. Defendants' removal of books from ESD libraries interferes with the ability of Plaintiffs C.C., E.S., and NAACP members' children's ability to learn about a diversity of information and viewpoints.

198. Plaintiffs are entitled to monetary, declaratory, and injunctive relief for the Board’s violation of their First Amendment rights.

**SECOND CLAIM FOR RELIEF**

**Colo. Const. Art. II, Section 10**

**Freedom of Speech**

*Plaintiffs NAACP, C.C. by and through Kristen Crookshanks, and E.S. by and through Mindy Smith Against Defendant*

199. The allegations of the foregoing paragraphs are incorporated by reference as though fully set forth here

200. The Free Speech Clause of the Colorado Constitution protects the right to access information and ideas.

201. The free speech rights protected by Colo. Const. Art. II, Section 10 are more expansive than those protected by the First Amendment to the United States Constitution.

202. By removing books from ESD libraries because of disagreement with the ideas contained in those books, the Board violated—and will continue to violate—the Colorado Constitution.

203. Plaintiffs are entitled to monetary, declaratory, and injunctive relief for the Board’s violation of their rights under Article II, section 10 of the Colorado Constitution.

**THIRD CLAIM FOR RELIEF**

**42 U.S.C. § 1983 – First Amendment**

**Freedom of Expression**

*Plaintiff Authors Guild Against Defendant*

204. The allegations of the foregoing paragraphs are incorporated by reference as though fully set forth herein.

205. The First Amendment protects authors’ ability to communicate their ideas to students without undue government interference.

206. The Board removed Guild members' books because of its distaste for the viewpoints and topics expressed therein.

207. The Board's removal of Guild members' books from ESD libraries violates the First Amendment because it interferes with members' ability to share their constitutionally protected books free from viewpoint-based discrimination.

**FOURTH CLAIM FOR RELIEF**  
**Colo. Const. Art. II, Section 10**  
**Freedom of Expression**  
*Plaintiff Authors Guild Against Defendant*

208. The allegations of the foregoing paragraphs are incorporated by reference as though fully set forth herein.

209. Article II, section 10 of the Colorado Constitution protects authors' ability to communicate their ideas to students without undue government interference.

210. The Board removed Guild members' books because of its distaste for the viewpoints and topics expressed therein.

211. The Board's removal of Guild members' books from ESD libraries violates Article II, section 10 because it interferes with members' ability to share their constitutionally protected books free from viewpoint-based discrimination.

**FIFTH CLAIM FOR RELIEF**  
**42 U.S.C. § 1983 – First Amendment**  
**Freedom Of Expression**  
*Plaintiffs NAACP, C.C. by and through Kristen Crookshanks, and E.S. by and through Mindy Smith Against Defendant*

212. The allegations of the foregoing paragraphs are incorporated by reference as though fully set forth herein.

213. Students have a First Amendment-protected interest in sharing books with each other.

214. Sharing books is a non-disruptive form of expression.

215. The Board has no interest that justifies a blanket prohibition on sharing books with each other in school.

**SIXTH CLAIM FOR RELIEF**  
**Colo. Const. Art. II, Section 10**  
**Freedom of Expression**

*Plaintiffs NAACP, C.C. by and through Kristen Crookshanks, and E.S. by and through Mindy Smith Against Defendant*

216. The allegations of the foregoing paragraphs are incorporated by reference as though fully set forth herein.

217. Article II, Section 10 of the Colorado Constitution protects students' interest in sharing books with each other.

218. Sharing books is a non-disruptive form of expression.

219. The Board has no interest that justifies a blanket prohibition on sharing books with each other in school.

**PRAYER FOR RELIEF**

**WHEREFORE**, in light of the foregoing facts, Plaintiffs respectfully request the following relief against Defendant:

- a. A preliminary and permanent injunction requiring the Board and its agents, attorneys, servants, employees, and other representatives in office to restore to ESD libraries *The Hate U Give* by Angie Thomas; *Beloved* by Toni Morrison; *The Bluest Eye* by Toni Morrison; *The Kite Runner* by Khaled Hosseini; *You Should See Me in a Crown* by Leah Johnson; *#Pride: Championing LGBTQ Rights* by Rebecca Felix; *Melissa/George* by Alex Gino; *It's Your World—If You Don't Like It, Change It* by Mikki Halpin; *The Perks of Being a Wallflower* by

Stephen Chbosky; *Thirteen Reasons Why* by Jay Asher; *Looking for Alaska* by John Green, *Nineteen Minutes* by Jodi Picoult; *Crank, Glass, Fallout, Identical, Burned*, and *Smoke*, by Ellen Hopkins; and *Redwood and Ponytail* by K.A. Holt;

- b. A preliminary and permanent injunction enjoining the Board and its agents, attorneys, servants, employees, and other representatives from removing books from ESD libraries because of the ideas contained in the books;
- c. A permanent injunction enjoining the Board and its agents, attorneys, servants, employees, and other representatives from preventing students from sharing books;
- d. A declaratory judgment that Defendant's removal of *The Hate U Give* by Angie Thomas; *Beloved* by Toni Morrison; *The Bluest Eye* by Toni Morrison; *The Kite Runner* by Khaled Hosseini; *You Should See Me in a Crown* by Leah Johnson; *#Pride: Championing LGBTQ Rights* by Rebecca Felix; *Melissa/George* by Alex Gino; *It's Your World—If You Don't Like It, Change It* by Mikki Halpin; *The Perks of Being a Wallflower* by Stephen Chbosky; *Thirteen Reasons Why* by Jay Asher; *Looking for Alaska* by John Green, *Nineteen Minutes* by Jodi Picoult; *Crank, Glass, Fallout, Identical, Burned*, and *Smoke*, by Ellen Hopkins; and *Redwood and Ponytail* by K.A. Holt from ESD libraries violated the First Amendment and Article II, section 10 of the Colorado Constitution;
- e. A declaratory judgment that the Board's prohibition on students sharing books with each other violates the First Amendment and Article II, section 10 of the Colorado Constitution;

- f. Reasonable attorney's fees and costs;
- g. Damages including but not limited to those for past and future pecuniary and non-pecuniary losses, pain, humiliation, fear, anxiety, loss of enjoyment of life, loss of liberty, privacy, and sense of security and individual dignity, and other non-pecuniary losses;
- h. Such further relief as justice requires.

**REQUEST FOR TRIAL BY JURY**

Plaintiffs demand a jury trial on all issues so triable.

Dated: December 19, 2024.

Respectfully submitted,

*s/ Thomas C. Dec*

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