

TO: ALA Council

DATE: June 3, 2022

RE: (select one)

- ACTION REQUESTED
- INFORMATION
- REPORT

ACTION REQUESTED/INFORMATION/REPORT: (add below)

Report: Freedom to Read Foundation

Action requested from Councilors is to cast their vote to: (if applicable)

None.

ACTION REQUESTED BY: (add committee name)

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BACKGROUND: (add information)

Freedom to Read Foundation

REPORT TO COUNCIL

2022 ANNUAL CONFERENCE

As President of the Freedom to Read Foundation, it is my privilege to report on the Foundation's activities since the 2022 January Meeting at LibLearnX:

NEW LITIGATION

Throughout the fall of 2021 and the winter of 2022, FTRF monitored the unprecedented rise in book bans and challenges in schools and public libraries in the United States. We noted with alarm the report issued by ALA's Office for Intellectual Freedom (OIF) during National Library Week stating that it received an unprecedented 729 reports from library workers and educators documenting demands by individuals, parents, and advocacy groups for the removal of 1,597 individual book titles from library shelves.

In response, FTRF staff and legal counsel offered guidance to library workers, students, and parents addressing book censorship in their communities, and sought out opportunities to support legal actions aimed at preserving students' and library users' right to read, including opportunities to file an *amicus curiae* brief when appropriate.

I am pleased to report that FTRF is providing strategic litigation support in two cases challenging the removal of books from school libraries and a public library. The first, C.K.-W. et al. v. Wentzville R-IV School District, is a lawsuit filed by two students of the Wentzville R-IV School District, the Missouri National Association for the Advancement Of Colored People (NAACP) and the NAACP's St. Charles County, MO unit. The American Civil Liberties Union (ACLU) of Missouri filed an action against the school district on behalf of these plaintiffs, challenging the Wentzville school board's decision to remove eight books from the schools' libraries, including such titles as Toni Morrison's *The Bluest Eye*, Alison Bechdel's *Fun Home: A Family Tragicomic*; and George M. Johnson's *All Boys Aren't Blue*. The ACLU has filed a motion for preliminary injunction, asking the court to issue an order to the school district requiring the return of the books to the school library shelves while the case proceeds.

The second case, Leila Green Little, et al. v. Llano County, has been filed by residents of Llano County, Texas. They filed their lawsuit after the Llano County public library board removed a large number of books from public library shelves, including Isabel Wilkerson's *Caste: The Origins of Our Discontent*, Maurice Sendak's *In the Night Kitchen*; Robie Harris' *It's Perfectly Normal*; and *Being Jazz: My Life as a (Transgender) Teen* by Jazz Jennings. The board also directed that patron access to the library's e-

book platform be discontinued in its entirety when they learned that Jonathan Evison’s *Lawn Boy* and Maia Kobabe’s *Gender Queer* were part of the digital collection and could not be removed from the catalog. The plaintiffs have also filed a motion for a preliminary injunction.

FTRF is also providing support to legal counsel representing authors and publishers addressing paired legal actions in the state of Virginia. *In Re: Gender Queer* and *In Re: A Court of Mist and Fury* were filed simultaneously by a Virginia political candidate under a Virginia statute that permits any person to file a civil action to have a judge declare an expressive work obscene. The candidate’s two petitions ask the court to declare Maia Kobabe’s *Gender Queer* and Sarah Maas’ *A Court of Mist and Fury* obscene for display to minors.

Based upon limited evidence consisting of short excerpts of each work, the judge has found that there is “probable cause” to hold a hearing under the statute. The candidate has since filed a motion for a temporary restraining order barring the Virginia Beach school board and Barnes and Noble Booksellers from allowing minors access to the two books without parental permission while the matter is pending before the court. The Virginia statute provides the authors and publishers of a challenged book to participate the hearing to determine whether the books are obscene. Other parties and *amici*, such as FTRF, may also participate in the hearing. The judge has set a status hearing for mid-July.

FTRF is prepared to participate as *amicus curiae* in each of these cases should circumstances permit participation.

CURRENT LITIGATION

In 2020, a jury found Oberlin College and its Dean of Students guilty of defamation for allowing distribution of a flyer and the posting of a student senate resolution that claimed that a local bakery acted in a racist manner following a confrontation between an employee of the bakery and three African American Oberlin College students. The jury reached its verdict after the trial court instructed the jury that it could find the defendants liable on the basis of mere negligence, rather than requiring a finding of actual malice. Consequently, the jury awarded the bakery \$44 million dollars in compensatory and punitive damages, an amount reduced to \$31 million dollars under an Ohio statute that limits punitive damages.

In 2020, FTRF signed on to an *amicus* brief filed with the Ohio Supreme Court supporting the defendants’ argument that Ohio legal precedents require a finding of actual malice for defamation liability for a redistributor, and that the trial judge erred when he instructed the jury on the negligence standard. The case is important for libraries and any other entity that redistributes others’ speech, since a legal standard for defamation that only requires a showing of negligence, rather than actual malice, places libraries and library workers at legal risk since they cannot examine all the books and materials acquired for loan to library users to ascertain if the material is defamatory.

Unfortunately, the Ohio Court of Appeals has upheld the judgment against Oberlin College. The Court held that the Dean and other college staff members took actions to directly publish or assist in publishing the flyer and that evidence could support a conclusion that Oberlin provided its student

senate with outward assistance that facilitated the initial publication of the resolution. Oberlin College has now appealed the matter to the Ohio Supreme Court.

FREE EXPRESSION AND CIVIL LIBERTIES ADVOCACY

The Freedom to Read Foundation regularly advocates on behalf of fundamental rights and civil liberties through statements and correspondence directed to legislatures, organizations, government bodies, and the public. Recent advocacy efforts include:

- Joining a [statement](#) signed by the Virginia Library Association, the Virginia Association of School Librarians, and fifteen other organizations representing library workers, authors, publishers, booksellers, and civil liberties organizations that condemns a Virginia political candidate’s attempt to declare the books *Gender Queer* and *A Court of Mist and Fire* obscene for display to minors.
- The Freedom to Read Foundation also signed on to a letter authored by the Illinois Library Association opposing Illinois House Bill 3254, titled “Diversity in Literature.” The legislation would require school boards to reject books that contain derogatory or racist language, which would effectively ban such works from Illinois schools.
- Joining with the National Coalition Against Censorship and other civil liberties and civil society organizations to sign a letter protesting the firing of Toby Price, an assistant principal at Gary Road Elementary School in Hinds County, Mississippi. Mr. Price was terminated because he read the book, *I Need A New Butt*, to students at the school. The letter asks the school board to rescind its termination of Mr. Price and reaffirm its commitment to students’ freedom of inquiry and intellectual growth.
- FTRF also signed on to a letter written by the Center for Democracy and Technology that opposed passage of the EARN IT Act, which, if adopted, would repeal online digital platforms’ Section 230 liability shield for any state laws prohibiting the presentation of child sexual abuse materials if the platforms do not impair their encryption protocols. The requirement that platforms cripple their encryption protocols would erode the privacy and security of all messages and transactions transmitted via the platforms.

The Freedom to Read Foundation has also become a national partner with the American Library Association in ALA’s non-partisan, grassroots advocacy campaign, [Unite Against Book Bans](#), an initiative that encourages and equips readers everywhere to stand together in the fight against censorship. We are joined by 32 other national partners, including members of the National Associations of Librarians of Color, the American Federation of Teachers, the American Booksellers for Free Expression, the Authors’ Guild, the National Book Foundation, the National Coalition Against Censorship, and several publishers, including Penguin Random House, Simon and Schuster, Sourcebooks, and Macmillan. It is the goal of the initiative to expand the reach of FTRF and other

national organizations in the fight against censorship and amplify the voices of individuals opposed to book bans.

There is an [action toolkit](#) that provides resources and information for campaign supporters that helps them share the campaign with their social networks, communicate with their legislators, school officials and library boards, and create petitions opposing book censorship. We encourage you and all persons who defend and support the freedom to read to join the campaign and to urge their friends, neighbors, and colleagues to also sign up to support the fight against book bans.

INTELLECTUAL FREEDOM AND SOCIAL JUSTICE

The Freedom to Read Foundation is proud to be the sponsor and host of [Where Intellectual Freedom and Social Justice Meet: A Call to Action](#), to be held on July 12 and 13, 2022. The symposium will take place from 12:00 Noon to 4:00 PM Eastern / 11:00 AM-3:00 PM Central on both days.

The symposium will focus on exploring the core values of Intellectual Freedom and Social Justice and how to find the balance between them, with keynote speakers and panelists addressing essential topics such as intellectual freedom and community values, alternatives to neutrality, library policy and practice, and challenges facing the library community. On the second day panelists will draw on their knowledge and experience to offer strategies for community change, building consensus, developing strong policies, and building coalitions and engaging in effective public outreach. Participants will have opportunities to ask questions of the panelists and engage in both small-group and large-group discussions to plan specific strategies to shift narratives and communicate the ways in which social justice and intellectual freedom support one another.

There will also be a special volume of the *Journal of Intellectual Freedom & Privacy*, titled *Social Justice and Intellectual Freedom: Working within a Divided Nation*. This issue will collect papers addressing the intersection of intellectual freedom and social justice, the challenges arising from their interaction, and ways that library workers can forge a deeper understanding of how these important core values support and enhance one another. The [call for papers](#) is now open and provides deadlines for submitting papers and commentary.

I strongly encourage you to join us for this important conversation. Online registration is open for the symposium [via this link](#). Those interested in attending can also inquire about registration by sending an email to ftrf@ala.org.

I want to thank Sophia Sotilleo, who has so ably led the special task force that has organized the symposium and the special issue of the *Journal of Intellectual Freedom and Privacy*. I also want to thank Cindy Hohl, chair of FTRF's Intellectual Freedom and Equity, Diversity, and Inclusion Committee, for their contributions to the symposium and the ongoing work of the Foundation.

DEVELOPING ISSUES

At each meeting of the FTRF Board of Trustees, members of the Developing Issues Committee choose topics of current and developing interest to inform members of the Board about potential future challenges and legal issues. The Developing Issues Committee has prepared reports on the following topics that will be discussed at the Annual Meeting of the FTRF Board of Trustees:

- Challenges and removals of controversial books
- Ongoing attempts to file criminal charges and complaints against librarians, staff, and trustees
- Surveillance software and student privacy
- Students' and faculty concerns about freedom of speech on college campuses
- Use of geofencing to surveil individuals
- Repeal of New York Civil Rights Law §50-a, which was one of the strictest laws shielding public officers from scrutiny by prohibiting the release of disciplinary records, performance reviews, and investigations regarding misconduct.

THE JUDITH F. KRUG MEMORIAL FUND

Established by the family, friends, and colleagues of Judith F. Krug, the Judith F. Krug Memorial Fund supports projects and programs that carry on Judith's mission to educate both librarians and the public about the First Amendment and the importance of defending and advocating for the right to read and speak freely.

Krug Fund Banned Books Week Grants

The Judith F. Krug Fund provides grants to schools and libraries across the country to support their local Banned Books Week celebrations that raise awareness of intellectual freedom and censorship issues during Banned Books Week. In 2021, the Krug Fund awarded grants to the following institutions: Acadia Parish Library, Crowley, Louisiana; Highland County District Library, Hillsboro, Ohio; New Madrid County Library, Portageville, Missouri; Patchogue-Medford Library, Patchogue, New York; and West Lake Middle School and Northglenn Middle School, Broomfield, Colorado.

This year, in the wake of 2021's organized campaigns to ban books, 42 applicants have asked the Krug Fund for support for their Banned Books Week observances. Members of the Judith F. Krug Memorial Fund Banned Books Week Committee will meet and announce this year's grant recipients at FTRF's annual meeting on June 23, 2022. Your financial support for the Krug Fund will enable us to provide grants to as many of the applicants as possible; please visit www.ftrf.org/?Krug_BBW to learn more about the Krug Fund's support for local Banned Book Week activities.

LIS and Professional Education

The Krug Fund's successful partnership with the University of Illinois' iSchool and the San Jose State University School of Information assures that dedicated graduate coursework addressing the practice of intellectual freedom in libraries remains available to those preparing for careers in information science and librarianship. Foundational classes are taught by Professor Emily Knox of the University of Illinois and Professor Beth Wrenn-Estes of San Jose State University. The Freedom to Read Foundation is grateful to the University of Illinois and San Jose State University for partnering with the Freedom to Read Foundation. We also thank FTRF program director Joyce McIntosh for her dedicated support for the course instructors and the students enrolled in these classes.

This spring, the Krug Fund awarded two half scholarships to students enrolled in Beth Wrenn Estes's *Intellectual Freedom and Young Adults* course presented by San Jose State University. The scholarship recipients were Meaghan Rondeau, a student at the University of Alberta in Edmonton, Alberta, Canada and Melissa Brinn, a student at Rutgers University.

2022 ROLL OF HONOR AWARD RECIPIENT ELDON RAY JAMES

I am pleased to announce that the 2022 FTRF Roll of Honor Award recipient is Eldon Ray James, a retired information scientist and researcher who is a past member of the FTRF Board of Trustees and remains an active volunteer with FTRF.

FTRF is pleased to honor Ray's many years of service on behalf of the Intellectual Freedom Round Table and the Freedom to Read Foundation. Elected a trustee of the foundation, Ray stepped down after one term because he believed that the Foundation needed the input of librarians and intellectual freedom advocates who represented traditionally marginalized communities.

Remarkably, Ray's career as an information professional and his service in support of libraries and library users' right to read had its roots in Ray's time as an incarcerated person in a minimum security Federal correctional camp when he was a young man. During his time in the camp, he realized, during a college course offered to the incarcerated persons in the camp, the importance of education and the right to read, and determined that he would become a librarian. Ray persevered in pursuit of his goal and was able to complete his bachelor's degree in English and begin coursework at the University of Texas' School of Information Science, where he was mentored by Lorie Roy, past President of the American Library Association. Roy introduced Ray to members of the Association of Specialized Government and Cooperative Library Agencies' forum for Library Services to the Incarcerated and Detained, and he immediately volunteered to chair the forum, beginning his years of service within ALA.

Ray was instrumental in the revision and update of ALA's "Prisoners Right to Read" statement, which was adopted by the ALA Council as ALA policy, launching his work advocating for the intellectual freedom rights of persons involved in the justice system and those incarcerated behind prison walls.

“Intellectual freedom is the absolute right to read, write, and think, unrestricted by government at any level,” said James. “An individual has the right to follow their own course through life without interference from institutions of government.

“I recognized early on that I could not go back behind bars, but I can help improve conditions for access to information to those who are behind bars,” said James.

Ray continues his advocacy on behalf of incarcerated persons’ intellectual freedom as the United States’ representative to the International Federation of Library Associations (IFLA) Task Force that is working to establish international standards for prison libraries. We thank Ray for his service as a trustee and an active volunteer for FTRF, ALA, and other library organizations, and celebrate his work to uphold and protect incarcerated persons’ intellectual freedom and right to read, which has helped people in correctional facilities gain access to the books and information they need.

The FTRF Roll of Honor was established in 1987 to recognize and honor individuals who have contributed substantially to the foundation through adherence to its principles and/or substantial monetary support. For more information about the Roll of Honor and other FTRF grants, awards, and scholarships, visit ftrf.org.

GORDON A. CONABLE CONFERENCE SCHOLARSHIPS

The Conable Conference Scholarship honors the memory of Gordon Conable, a past president of the Freedom to Read Foundation, an ALA Councilor, and a tireless champion of intellectual freedom. The Conable Scholarship provides financial assistance to a new librarian or library student who shows a particular interest in intellectual freedom and wishes to attend the ALA Annual Conference.

This year we are pleased to sponsor two scholarship recipients’ attendance at ALA’s Annual Conference in Washington, D.C. Due to the pandemic, neither the 2020 Conable Conference Scholarship recipient nor the 2021 Conable Conference Scholarship recipient were able to attend a full, in-person conference, as intended by the founders of the scholarship fund. However, this year, both Marisol Moreno Ortiz, the 2021 Conable Scholarship recipient, and Lorena Lopez Rivera, the 2020 Conable Scholarship winner, will attend the ALA Annual Conference.

Marisol Moreno Ortiz is an early career librarian, privacy advocate, and person that loves information. She believes that one never stops learning to better support others in their effort to protect their privacy and intellectual freedom. She looks forward to being a strong advocate and protector of intellectual freedom.

Lorena Lopez Rivera is a bilingual librarian with the Santa Cruz Public Libraries (SCPL) in Santa Cruz, CA. She received her MLIS from San José State University and her B.A. in History from the University of California, Santa Cruz. One of her primary interests in intellectual freedom is centered around censorship and access to information for both incarcerated adults and youth. Her experiences in SCPL’s

County Corrections Facilities outreach team, which makes library visits to adult and youth corrections facilities in Santa Cruz County, has broadened her understanding and brought her face-to-face with freedom to read issues and has made her want to become a stronger advocate for the intellectual freedom of the youth in her community and incarcerated youth in particular.

Mentoring was an important undertaking for Gordon, and the FTRF Board of Trustees is pleased to be able to honor his memory through this significant work. If you would like to donate to the Conable Scholarship, please visit the FTRF website at www.ftrf.org.

FTRF BOARD OF TRUSTEES ELECTION

Each year the Freedom to Read Foundation members participate in an election to select new members of the FTRF Board of Trustees. This year's election concluded on May 1, 2022. FTRF members elected four new members to its Board of Trustees and re-elected one incumbent board member for a two-year term.

New trustees include Jarrett Dapier, a Chicago area librarian and children's author who has long advocated on behalf of the First Amendment and the freedom to read; Jennifer Griswold, director of the Pflugerville Public Library in Pflugerville, Texas; Pat Scales, a retired middle and high school librarian who is a staunch free speech advocate and a returning FTRF trustee; and Sophia Sotilleo, an Associate Professor and the Interim Library Director at Lincoln University's Langston Hughes Memorial Library in Pennsylvania. Loida Garcia-Febo, past President of the American Library Association and an officer of the International Federation of Library Associations and Institutions Advisory Committee on Freedom of Access to Information and Freedom of Expression, won a second term as an FTRF trustee. We congratulate the new trustees on their election.

The FTRF Board of Trustees extends its thanks and deep appreciation to the trustees whose terms of service are concluding on June 23, 2022. The trustees recognize and celebrate the devoted service of Barbara Stripling, James Neal, Wanda Huffaker, Karen Downing, ALA President Patty Wong and ALA's Intellectual Freedom chair Martin Garnar, whose work with FTRF's trustees, staff, and members has advanced the foundation's mission to protect our First Amendment rights through education, litigation, and advocacy.

FTRF MEMBERSHIP

The freedom to read is under attack. The ongoing campaign by partisan advocacy groups to censor diverse books available in schools and libraries has resulted in the censorship of hundreds of books, silencing the voices of LGBTQIA+ persons, Black and Indigenous persons, and persons of color. Your support is vital if FTRF is to continue its work on behalf of the freedom to read and to advocate for our civil liberties and our right of free expression.

Students from Granbury ISD in Granbury, Texas have stepped forward to support the Freedom to Read Foundation following a decision by the Granbury ISD school board to remove 130 titles from school

library shelves for review. They are selling anti-censorship t-shirts and are donating proceeds to the Freedom to Read Foundation as a means of pushing back against the board's attacks on diverse books and the attacks directed towards the students, faculty members, and parents who are defending the right to read.

You can become an ally of the students of Granbury ISD by becoming a member of the Freedom to Read Foundation. Your membership will help to build our organizational capacity so that FTRF can protect and defend the Granbury students' First Amendment freedom to read. Without your support, we are unable to mount the litigation and advocacy initiatives that will preserve our freedom to read, advance racial and social justice, and raise up the voices of all those who have been silenced and marginalized throughout our history.

I encourage all ALA Councilors and all ALA members to join me in becoming a personal member of the Freedom to Read Foundation. I also ask that you invite your institution, organization, or state chapter to join FTRF as an organizational member. You are invited to include a donation in addition to your membership dues. Please send a check (\$50+ for personal members, \$100+ for organizations, \$35+ for new professionals, \$10+ for students, \$0 for furloughed/unemployed, and \$0 for retirees) to:

Freedom to Read Foundation
225 N. Michigan Ave., Suite 1300
Chicago, Illinois 60601

Alternatively, you can join or renew your membership by calling (800) 545-2433, ext. 4226, or online at www.ftrf.org.

I hope you will strengthen the voice and impact of the Freedom to Read Foundation by becoming a member and becoming an active advocate for the freedom to read.

Respectfully submitted,
Barbara Stripling, President
The Freedom to Read Foundation