

January 26, 2007

President Ed Barney and Members
Federal Way School Board
31405 - 18th Avenue S.
Federal Way, WA 98003

Re: School Board Removal of Curricular Materials

Dear School Board President Barney and Board Members:

I am writing to follow up on recent communications between our staff attorney, Aaron Caplan, and school district officials about the Board's action restricting an instructional tool, the film An Inconvenient Truth. We fear that the decision was based on politics rather than on sound educational practices.

Our understanding of the facts in Federal Way are as follows: Three teachers at different schools had shown portions of the Gore movie, two science and one debate. In all classes, the teachers followed the film with a discussion about the contested issues of global warming. The teachers presented the scientific consensus that global warming was occurring, and that it was hastened by human activity. There are areas of continuing scientific and policy debate about how much the human factor affects the total problem, and what steps should be taken in response to the warming. Thus, it appears that the teachers had properly identified areas of legitimate controversy and fairly presented relevant material on different aspects of issue.

When a challenge is raised against duly adopted curricular materials, a school board must follow the established mechanisms for reconsideration of instruction materials. It should not precipitously remove material from the classroom without careful consideration and without consultation with teachers. The Federal Way School District Board's hasty response to some e-mail complaints from parents to restrict a film about global warming did not follow the District's own procedures. (Policy 2311 and Procedure 2311P).

The United States Supreme Court has held that,

“school officials may not remove books for the purpose of restricting access to the political ideas or social perspectives discussed in them, when that action is motivated simply by the officials’ disapproval of the ideas involved.” Bd. Of Edu. V. Pico, 457 U.S. 853, 879-80 (1982)

AMERICAN CIVIL
LIBERTIES UNION
OF WASHINGTON
FOUNDATION
705 2ND AVENUE, 3RD FL.
SEATTLE, WA 98104
T/206.624.2184
F/206.624.2190
WWW.ACLU-WA.ORG
TIMOTHY KAUFMAN-OSBORN
BOARD PRESIDENT
KATHLEEN TAYLOR
EXECUTIVE DIRECTOR

In order to assure that curriculum decisions are made solely based on educational value, school districts, including Federal Way, have written procedures for considering objections to instructional materials. Those procedures must be followed. Under Procedure 2311P, the principal must hold a meeting at the building level with the persons complaining and other relevant staff. If the complainants are not satisfied with the result, they may ask the Superintendent to convene a review committee that must include school principals, librarians, teachers from at least two schools, and at least two patrons. If the complainants are not satisfied with the committee's decision, they may then appeal to the Board.

Significantly, Procedure 2311P states: "The instructional material(s) may not be removed from use during this process." This is an important safeguard to ensure that educational decisions are not made in haste or as the result of fleeting political pressures. If the materials review process can be circumvented when the political pressure is sufficiently intense, the District has no review procedure at all.

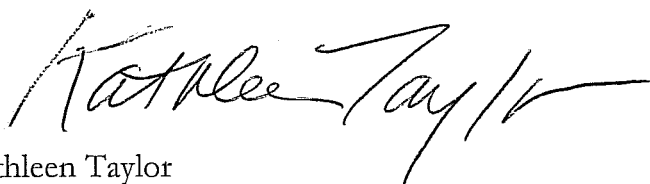
It is important to remember that the District also has a policy for audio-visual materials which allows parents to prevent their children from seeing films they find objectionable. Those parents, however, do not have the right to impose their views on the rest of the class.

Federal Way's written procedures establish a wise method for dealing with such complaints. It protects the academic freedom of the District's educators, assures a high-quality curriculum for students, respects the interests of families that wish not to use certain materials, and insulates educational decisions from political or religious pressures. It can be used both for district-adopted materials and supplemental materials.

The ACLU urges the School Board to channel complaints concerning educational materials through established channels that are most likely to result in a carefully-considered educational decisions.

I appreciate your service to your community as school board members. It is an important, weighty, and complicated job. Feel free to contact us with any questions or comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathleen Taylor". The signature is fluid and cursive, with a long horizontal stroke at the end.

Kathleen Taylor
Executive Director