

newsletter
on
intellectual
freedom



IFC ALA

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U.S. allegedly listened in on calls of Americans abroad

The chair of the Senate intelligence committee is looking into allegations that a U.S. spy agency improperly eavesdropped on the phone calls of hundreds of Americans overseas, including aid workers and U.S. military personnel talking to their spouses at home.

The allegations, by two former military intercept officers assigned to the National Security Agency, include claims that U.S. spies routinely listened in on intimate conversations and sometimes shared the recordings with each other. At least some of the snooping was done under relaxed eavesdropping rules approved by the Bush administration to facilitate spying on terrorists.

The chair of the Senate intelligence committee, Sen. John D. Rockefeller IV (D-WV), termed the accusations “extremely disturbing” and said his staff had begun gathering information and may consider holding hearings. “Any time there is an allegation regarding abuse of the privacy and civil liberties of Americans, it is a very serious matter,” he said.

The alleged intercepts were described by two linguists who said they witnessed the activity while assigned to the NSA’s giant eavesdropping station known as Back Hall at Fort Gordon, Georgia. Adrienne Kinne, 31, a former Army reservist, was an intercept operator at the site from 2001 to 2003, while Navy linguist David Murphee Faulk, 39, held a similar position from 2003 to 2007. Both provided accounts to investigative journalist James Bamford for his book *The Shadow Factory* and also in interviews with ABC News.

Both said the NSA’s intercept program was intended to pick up intelligence about terrorists and their plans—which sometimes happened. But the operators also would frequently tap into phone calls by Americans living abroad—usually satellite phone calls made from the Middle East, or routine calls made by U.S. military personnel from phones in Baghdad’s Green Zone, they said.

Faulk said some of his fellow operators, after stumbling upon a titillating conversation, couldn’t wait to let their friends in on it. “There’s good phone sex or there’s some pillow talk—pull it up, it’s really funny,” Faulk told ABC, recalling conversations between operators.

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Wasilla library rejects donated titles

The Wasilla Public Library was back in the news again after a local paper, the *Mat-Su Valley Frontiersman*, reported that the library had decided not to shelve two children's books dealing with homosexuality donated by a gay activist in California. The two books were *Heather Has Two Mommies* and *Daddy's Roommate*, both of which are controversial titles whose presence in libraries and schools is regularly challenged.

The library had already been the subject of much media scrutiny after questions were raised about conversations on censorship that Alaska Governor and Republican Vice-Presidential candidate Sarah Palin had with the town's librarian during her tenure as mayor.

Fittingly, the books were donated to the Wasilla library during Banned Books Week, the American Library Association's celebration of the freedom to read. The donor was Michael Petrelis, a San Francisco man who has a popular blog on gay and lesbian issues. "I'm going to send copies of both books just to make sure they're on the shelves," Petrelis was reported to have said in an interview.

But the books are not on the shelves of the Wasilla library. The town's library director, K. J. Martin-Albright, said they failed an approval process, not because of their content, but rather, according to the *Frontiersman*, because they are "poorly constructed, lacked engaging illustrations and seemed to lack the ability to engage young readers."

"Anything in the library has to earn its real estate," said Martin-Albright.

The two books will be sold at a book sale to raise money for the library. Reported in: *Christian Science Monitor*, October 20. □

"bong hits 4 Jesus" case finally settled

In a free speech case that reached the nation's highest court, the Juneau-Douglas (Alaska) School District and former student Joseph Frederick have reached a settlement. Frederick was suspended during a 2002 Olympic torch relay for holding up a banner that read "Bong Hits 4 Jesus" while standing across from the high school. Last year, the U.S. Supreme Court ruled in favor of the school's position that Frederick celebrated the illegal use of drugs. The district will pay Frederick \$45,000. In exchange, Frederick will drop remaining claims not heard by the U.S. Supreme Court.

The settlement also calls for the district to spend as much as \$5,000 to hire a neutral constitutional law expert

to chair a forum on student speech at JDHS. This is to be done before this school year ends next spring. Reported in: Associated Press, November 6. □

professors found to keep political views quiet, but students detect them

Politics in the classroom is a huge problem for American higher education. But it's not that there is too much of it. Actually, there is too little.

That's the conclusion of a new book that takes on the long-running allegation by conservative critics that higher education is full of liberal professors who try to indoctrinate students. The majority of professors surveyed for the book say they keep their own politics out of the classroom. But an article about a survey of students—also just released—argues that undergraduates figure out professorial politics anyway, though such politics have a very limited influence.

The book, *Closed Minds? Politics and Ideology in American Universities* (Brookings Institution Press, September), was written by three faculty members at George Mason University. It is based in part on a study they did in 2007 of 1,270 professors at 169 research universities.

The overwhelming majority of professors do call themselves liberal, the authors say, but that doesn't mean their classrooms are dominated by their political views. The survey found that 95 percent of professors believe they are "honest brokers" among competing views. Sixty-one percent said politics seldom comes up in their classrooms, and only 28 percent said they let students know how they feel about political issues in general.

"To our surprise, we found that, far from being saturated in politics, the universities generally have all but ignored what used to be called civics and civic education," the authors write.

But the article about students says professors are not as successful at hiding their political beliefs as they might think. The study, by April Kelly-Woessner and Matthew Woessner, is called "I Think My Professor Is a Democrat: Considering Whether Students Recognize and React to Faculty Politics," and will be published in a forthcoming issue of *P.S.: Political Science and Politics*.

The article does not necessarily contradict the findings of *Closed Minds*. It did find that students agree that most professors do not specifically state what political party they belong to. But three-quarters of the 1,603 students whom the Woessners studied in political-science courses in the fall of 2006 and the spring of 2007 were able to correctly identify their professors' political leanings anyway.

Ms. Woessner is an associate professor of political science at Elizabethtown College, and Mr. Woessner is an associate professor of public policy at Pennsylvania State University at Harrisburg. They are known for being among the first to take a scientific look at the politics of the professoriate, exploring such hot-button issues as why so few conservatives join the ranks.

To test the contention that liberal professors try to indoctrinate students, the Woessners also tried to determine whether students' own political views changed over the course of a semester in a political science course. While they found a very slight shift toward the Democratic side, they say the movement could not be attributed to the politics of the professors—the shift happened not only among students whose professors were Democrats but also among those whose professors were Republicans.

“Given that political-science professors appear to exert no real influence on students' party loyalties,” the Woessners conclude, “it is unclear whether efforts to diversify the field by hiring more Republican professors would actually reduce the ‘liberalizing’ effects of higher education.”

Closed Minds was written by A. Lee Fritschler, director of executive education at George Mason's School of Public Policy; Jeremy D. Mayer, an associate professor at the school; and Bruce L.R. Smith, a visiting professor at the school. In their introduction, the authors say one of them considers himself a Republican, another a moderate Democrat, and the third a more-liberal Democrat—although they do not say who is who.

The authors lament what they see as a generations-long shift away from political debate on college campuses, which they contend is crucial to students' education. “Universities should be the home of lively and civilized political debate, and all too often, for a host of reasons, professors ignore political debate,” they write.

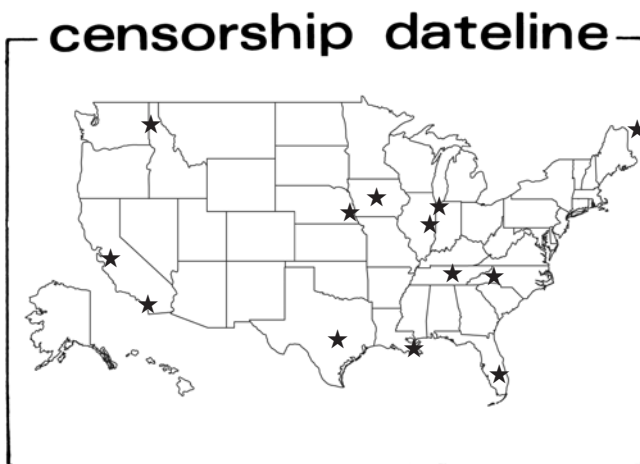
Pre-Civil War colleges, by contrast, “felt a responsibility for the moral and political education of their students,” the book says. But faculty members today are increasingly caught up in their specialized research interests or more concerned with scrutinizing texts by “gender, race, and sexual orientation themes,” the book says.

The “post-September 11 environment” has also made professors more reluctant to speak out on sensitive topics, the book concludes. “Serious scholars have fled from what to them seems pointless and unproductive confrontation.”

The book devotes a section to David Horowitz, a conservative critic who has helped lead the charge against what he calls liberal bias in the classroom. In an interview, Horowitz said he agreed there is not enough “political discourse” on campuses. But he said that is because people, including students, are intimidated by leftist faculty members.

“People are afraid of being called names by the left, like homophobe, racist, and Islamophobe,” he said. Students, he said, fear a backlash if they disagree with their professors on sensitive issues. “The prudent way to behave,” he said, “is just don't raise the issue.” Reported in: *Chronicle of Higher Education* online, October 17. □

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libraries

San Juan Capistrano, California

There's nothing like a good vampire novel to draw concern—and Stephenie Meyer's best-selling *Twilight* series is no exception. After noticing the large number of students requesting the books from the middle school library, Julia Gerfin, Capistrano Unified School District's coordinator of literacy programs, reviewed the four-book *Twilight* series and determined in September that they were too mature for middle school students.

The district's twelve middle school librarians were asked to send all of Meyer's books to the district office, where they were to be redistributed to the district's high school libraries. The decision, however, was temporarily reversed four days later, pending a more thorough review of the books and their content, according to district spokeswoman Julie Hatchel.

The *Twilight* series tells the story of a romance between a vampire and a 17-year-old girl, attracting readers far older—and younger—than the young adults audience that Meyer, a Mormon soccer mom, had envisioned when she wrote the book.

"Her fans are very enthusiastic," agrees Elizabeth Eulberg, Meyer's publicist, who notes that the book is aimed at readers 12 and older. That's Hatchel's point—that the books aren't suited for sixth and seventh graders, although she's quick to add that no one in the district is interested in banning the books.

"We had some concern that we might be pushing this too quickly and held off on a decision until we have more time to determine the proper placement," she says. "I think of it as a realignment."

Hatchel remembered another realignment during her career as a principal, when an atlas, featuring what she described as images of Greek and Roman statues, was removed from elementary schools and put in the district's middle schools, where they determined it would have a better academic fit. "It was inappropriate for kindergartners through fifth graders," she said.

The district is in the process of determining where the *Twilight* series fits best as well. But, for now, the series temporarily rests in the middle schools. Reported in: *School Library Journal*, October 9.

New Brunswick, Canada

Alex Sanchez, an openly gay author whose book, *Rainbow Boys*, was included on the American Library Association's list of Best Books for Young Adults in 2002, was refused the opportunity to speak to high school students in Charlotte County, New Brunswick, after school principals began receiving complaints from parents about the proposed author appearance.

Keith Pierce, District 10 superintendent, said he changed his mind about allowing the author to speak in area schools after meeting with school principals. "A few of them were getting pressure from a few parents, and they just weren't comfortable going in that direction," Pierce said. Some principals felt their schools were just "not ready" for the kind of presentation that Sanchez will give, he said. Reported in: *Quill and Quire*, October 14.

Tavares, Florida

A book in a middle school library already has upset one parent. David Myers, of Tavares, brought the book *Me, Penelope* to school board members November 10 and read a sexually explicit passage involving a 16-year-old girl. Myers' 12-year-old daughter, a student at Tavares Middle School, checked the book out after getting permission from the librarian, he said.

"I'm to the point right now where I'm about ready to pull my daughter out and start signing the check to private school," Myers said. "But 95 percent of the parents of the kids that go to these schools can't do that."

Myers questioned how the book could have been approved by the district. He said the book was part of a collection students have to ask permission from the school librarian to check out.

Board members were stunned by the revelation. "I'm appalled that this book could be on some kind of approved booklist for a 12-year-old," said board member Jimmy Conner. "I don't ever remember in 12 years hearing a complaint

where a book is that graphic. No wonder our kids our so messed up. Look at the garbage we put in front of them," he added.

Conner suggested removing the book immediately from the library shelves.

Me, Penelope was written by Lisa Jahn-Clough and published by Houghton Mifflin/Walter Lorraine Books. It is classified as young adult literature. The book is a coming-of-age story that follows a 16-year-old high school student who is struggling with the death of her brother and striving to achieve independence. There are references in the book regarding experimentation with sex with a childhood friend.

"I don't think there would be any community support for keeping a book like this on our shelf," said Barrow. "That was beyond R-rated."

Barrow said the new superintendent would have to review the book and other material in the collection to determine if they were suitable for school-age children. "How did that slip by," Barrow said. "I don't understand."

Chairman Larry Metz said he's sent e-mails to the district administration to look into the matter. Metz said the school board would conduct a review of the district's policy regarding book approvals and take the necessary steps to remove any sexually explicit books.

"I think it indicates a need for a systemic review, said Metz. "This type of book doesn't belong in our library." Reported in: *The Daily Commercial*, November 12.

Ankeny, Iowa

The sexual orientation of some penguins is pitting parents against their children's school. The controversy is gripping the town of Ankeny, located near Des Moines. The children's book, *And Tango Makes Three*, is the number one most challenged book of last year, according to the American Library Association. What makes a tale about tango the penguin so torrid? The Iowa parents believe it promotes homosexuality.

It tells the story of penguin parents in the Central Park Zoo in New York City, who are both male penguins. It's a book mom Margaux Towne-Colley reads to her son, "The most fantastic thing about this book, it's a 2 dad family and it's true." Margaux's son is a boy who has two moms. "He used these words, 'It makes me proud to know there's a penguin family like us.'"

But the parents in Ankeny don't want their son to read the book. They want the book banned or restricted in the school library. They wrote a letter to the local paper, *Ankeny Press Citizen* alerting other parents to the book. Part of the letter says, "I am disgusted the authors think elementary-age children are ready for such a mature subject. . . . This book pushes the debate of a diverse, destructive and risky lifestyle, trying to pass it off as warm, fuzzy and normal through cute little penguins."

Margaux says, "It shows people are frightened of homosexuality and their own reasons why it's wrong, it's against nature. Well with this book they might just be proven wrong. That's a scary slippery slope of banning a book."

However, the Ankeny couple now belongs to a growing number of families in at least four other states who don't want to hear the story of the same-sex penguin parents. Reported in: action3news.com, November 17.

Round Rock, Texas

A teen novel that stirred controversy when the parent of a Round Rock student complained that it is obscene was removed from the district's middle school libraries November 18. The novel entitled *TTYL*, by Lauren Myracle, is a narrative in the format of instant messages exchanged among a group of teenage girls. *TTYL* is shorthand for "talk to you later."

Round Rock Superintendent Jesus Chavez sent a letter to Wes and Sherry Jennings saying he had determined that "while the book may be appropriate for some students, it is not appropriate for all of our students in the middle school and should not be made generally available in a middle school library open to all middle school students."

"If parents wish their individual students to have access to the book, there are ample alternatives for the book to be made available to students at parent discretion," the superintendent said in his letter.

Sherry Jennings, mother of a Ridgeview Middle School student, filed a complaint at the beginning of the school year after her daughter checked the novel out of the Ridgeview library.

Jennings said, "We are extremely pleased that the superintendent is interested in quality education for our children and that he realizes that maturity-wise they are not ready for these types of books." Jennings said she objected not only to vulgar language in the book "but also to the sexual content of the entire book."

Jennings said she and her husband were satisfied with Chavez's response and plan no further action. She added that she appreciated the help of parents and others who supported her complaint about *TTYL*.

"We had 1,600 people sign a petition backing us, and about 10 people were very helpful in supporting us through this situation," Jennings said. Jennings was scheduled to appear before the school board to argue her complaint after previous meetings with school officials proved unsatisfactory to her. Chavez said in the letter to her and her husband that since the book has been removed, the hearing before school trustees will be cancelled.

In late October, a nine-member committee appointed by Chavez decided by a 5-to-4 vote to keep the book on school library shelves. The committee included central administration officials, parents, teachers, and a high school student council member.

On October 9, a six-member Ridgeview panel concluded the book should remain in the Ridgeview library despite the complaint. Reported in: *Austin Statesman*, November 18.

schools

Newman, California

A book that some call profane and anti-Catholic is causing a stir at Orestimba High School. Teachers argue the work, *Bless Me, Ultima*, is a powerful story that connects with teenagers. Newman-Crows Landing Unified School District Superintendent Rick Fauss decided the book is not suitable for teenagers and banned it for the rest of the school year.

English teachers accuse Fauss of circumventing the district's policies on book challenges and ignoring the findings of a committee of teachers and a committee of administrators from the Stanislaus County Office of Education and Modesto City Schools. Both groups recommended keeping the book, with limitations such as not allowing it as a summer reading book or sending warnings home to parents.

Fauss's actions set up a "scary" precedent, teachers say. "It's a long, steep, slippery slope. It makes eliminating literature that people object to a lot easier," said Andre Powell, an Orestimba High School English teacher. In the past, if parents did not want their child reading a book, teachers substituted another book with the same theme, teachers said.

Banning *Bless Me, Ultima* takes away a dynamic book from hundreds of students because of the complaint of one student's parent, teachers added. Fauss said the book was not appropriate for any teenager.

"I think there's room for exposing students to other experiences, but do we have to sacrifice the values of our families and our community to do that?" asked Fauss, a former high school English teacher. He hasn't read the entire book but said he's "read enough."

Despite widespread community knowledge of his decision, Fauss said he hasn't received any complaints except from four teachers. Fauss said that proves he made the right decision, one that "reflects the values of the community."

About 200 students were scheduled to read the book this year. Most classes had studied it by the time Fauss's ruling came down in mid-October, said Catherine Quittmeyer, chairman of Orestimba's English department.

Written by Rudolfo Anaya, *Bless Me, Ultima* is about a boy maturing, asking questions concerning evil, justice and the nature of God, and trying to reconcile Native American religion with traditional Roman Catholicism. *Bless Me, Ultima* is this year's novel for the U.S. Academic Decathlon competition, one of several selections for the National Endowment for the Arts' "The Big Read," a national book club, and on first lady Laura Bush's "top 10" reading list for all ages.

Administrators and teachers aren't sure when or if the book was approved by trustees, but it has been adopted by the California Department of Education.

Bless Me, Ultima is an especially important book to teach for the district's Latino students, Quittmeyer said. "This is Hispanic literature. Sixty-five percent of our enrollment consists of the Hispanic population. They can identify with this book culturally," Quittmeyer said. "The book talks about things these kids are growing up hearing. And for the non-Hispanic kids, this is something different."

Bless Me, Ultima is one of the most challenged books in the country, according to the American Library Association. Complaints include profane language, depictions of sexuality and pagan content. Students and parents in other cities, including Norwood, Colorado, and Fayetteville, Arkansas, have protested the book.

Even though *Bless Me, Ultima* can't be used in classes the rest of the year, it's available in Orestimba's library, Fauss said.

Orestimba High enrolls about 750 students from Newman and Crows Landing. Some students said they related to the book, regardless of ethnicity, and disagreed with the ban.

"You have to read it in context," said Brittney Clark, an Orestimba senior who read the book two years ago. "(The main character), he's trying to find his place in his family, who he'll be, what he'll do the rest of his life, independent of his parents."

Even students who read it because it's required for school said the novel is offensive only if excerpts are taken out of context. "I didn't see anything bad about the book," said Ashley Dove, an Orestimba sophomore who read the book in class this year. "It was boring to me, but I didn't see anything wrong with it."

Teachers are planning a response to Fauss's decision. Fauss hopes to have all supplementary books approved by trustees, a common practice in school districts, within the next five years. Reported in: *Modesto Bee*, November 23.

Coeur D'Alene, Idaho

A northern Idaho school board has balked at allowing Aldous Huxley's *Brave New World* to be read by students because of the way the book deals with sex. At a Coeur d'Alene School District board meeting November 3, members split 2-2 on whether to allow teachers to use the book in class.

"I find, from my own level, it is extremely repetitious and it drives in the sexuality issues and other civilization's issues to almost ad nauseam and I find its balance is extremely lacking," said board member Vern Newby.

Published in 1932, *Brave New World* portrays a future society designed to eliminate human discomfort, and where humans themselves are engineered to fill jobs in different levels of society.

Board member Edie Brooks voted in favor of putting the book on the list of approved reading materials. She said she hadn't read the book, but had talked to students who had read it and told her it was thought-provoking and contained themes that remain relevant.

A 25-member book review committee made up mainly of community members recommended the board approve the book. Rosie Astorquia, the district's director of secondary education, presented a review of the committee's recommendation to the board. "We had quite a bit of discussion on both sides of whether this was an appropriate book or not," Astorquia said.

Some comments from committee members, she said, included that "sexual drug-related references were non-explicit but showed what life might be like if the world were full of casual sex and drug satisfaction with no relationship or love."

Mackenzie Sheldon and Jamie Yurick, both freshmen at Lake City High School, said they didn't think books should be restricted from use in the classroom. But they also noted that certain language being read aloud made them uncomfortable. Reported in: Associated Press, November 6.

Champaign, Illinois

The Champaign school board reversed a committee recommendation October 27 and ruled that the novel *The Kite Runner*, by Khaled Hosseini, will no longer be used for a sophomore honors English class. Several board members said they agreed with a parent who objected to use of the book on the grounds that it was not appropriate for 14- or 15-year-olds.

The vote was 5–2, with board members Sue Grey, Nathaniel Banks, Kristine Chalifoux, Scott McAdam and Dave Tomlinson voting not to use the book, and Greg Novak and Arlene Blank voting for it.

Cindy Harmon, a parent with three children at Centennial High School, objected to the use of the book. Her daughter was assigned the book for summer reading.

The book—a novel about two boyhood friends coming of age in Afghanistan—contains a scene in which one of the boys is raped by bullies. Harmon objected to the scene, and to repeated flashbacks to the rape throughout the book by one of the characters. Harmon said she didn't object to using the book for older students or having the book in the school's library for students who wanted to read it. "It is a wonderful book in its totality," she said.

She also said she wasn't unhappy with her children's teachers, whom she said are "great." "I just think (assigning the book) was a poor decision," Harmon said.

Several school board members voting against using the book for sophomores agreed the book was a high-quality novel. They voted against its use because of age-appropriateness. "I wouldn't want my daughter to read this book," Grey said. "It's not appropriate for my daughter at 14."

Chalifoux agreed, saying books can have a tremendous impact and let readers experience things they haven't experienced in their real lives. "I don't want my children to experience rape, and that book does a wonderful, graphic job of experiencing rape," Chalifoux said.

Central English teacher Diane Salfelder said she doesn't discuss the rape itself, but rather the inability of one character to deal with it. Her students also discuss the social backgrounds of the characters and the history of the country. She noted high school students study world literature as sophomores.

"I have found my students able to deal with it very maturely," Salfelder said. "It's a wonderful, contemporary book. It does open up a new world to them about another country that's very important to their lives right now."

Among the standards in choosing reading assignments for the district are that students read a wide range of literature to build up an understanding of themselves and cultures of the United States and the world, and an understanding of the many dimensions of the human experience.

Judy Wiegand, the district's director of secondary curriculum, said the committee reviewing the complaint—comprising teachers, parents, students, librarians and administrators—recommended continued use of the novel because the rape scene, while disturbing, is central to the story, is not portrayed in a gratuitous manner and is not inappropriate for sophomore honors students.

Novak said the book might not be appropriate for every sophomore, but more is expected of students who are preparing to enter Advanced Placement English as seniors. He also said he voted for keeping the book as a sophomore assignment because he trusted the judgment of the English teachers.

If an individual student objects to an assigned book, teachers can provide an alternative reading assignment. However, Harmon said a student should not have to opt out, be singled out and miss class while others are discussing the book.

Grey said students should have multiple books to choose from. "We say students should read a wide range of literature, yet we give them one choice for summer reading," she said.

Harmon also objected to the fact that there were no written guidelines for choosing summer reading assignments. The committee that reviewed the complaint and the book recommended that the district put formal, written procedures in place. Harmon also said the process to hear the complaint and get a decision was far too long. She first raised her objection in early June. Reported in: *Champaign News-Gazette*, October 28.

Portage, Indiana

The removal of a controversial book from Portage High School classrooms sparked debate November 24 between

students who want the coming-of-age story to remain part of the curriculum and parents who'd rather discuss those topics on their own.

Parents, students and teachers filled the Portage Township Schools board meeting room as members heard a variety of opinions on Stephen Chbosky's *The Perks of Being a Wallflower*. The novel, published in 1999, chronicles a young man's freshman year in high school, and his struggles with the awkwardness of growing up and the changing social world around him. The debate did not prompt the board to change its mind about banning the book's use in classrooms.

Junior Emily Carpenter said the book doesn't contain material students don't see or hear every day. She said reading it as a group helped her overcome some of her own struggles. "It gave me a place where I could express my opinions and not be judged, because the person in the book was going through the same things," Carpenter said.

Jack Collier, also a junior, said while the book discusses topics such as homosexuality, illegal substance use and sexual behavior, removing the book from classroom discussion amounts to suppressing students' thoughts. "We stand here to support the education of every student in the Portage Township Schools," Collier said.

Junior Christina Kladis said the book's removal was unfair, and all that separates it from the works of Mark Twain, Harper Lee and other highly regarded authors taught in classrooms, is time. "Before all of these were deemed as classic, they were quite controversial," Kladis said. "Contemporary literature teaches a modern viewpoint."

But, that's a viewpoint Tony Yingst and other parents would rather discuss with their children on their own. Yingst, who has a daughter in the eighth grade, said less than halfway through the book he already has read three explicit accounts that would be in violation of the student handbook. "I believe the community has the right to challenge our students to a higher standard," Yingst said.

Superintendent Mike Berta said the book still will be available in the school's library for students to check out. He said the decision to remove the book from classroom use came down to a matter of community standards.

"Nobody questions the right of people to learn," he said. "But we certainly have the responsibility to all of the parents and all of the students and there are certainly some materials, in my opinion, that need to be discussed between parents and their children."

Board President Terry Hufford said there is an appeals process students can initiate. Still, School Board members would have the final say about whether the book should be used in classrooms.

The Pow Wow, Portage High School's student newspaper, published a story highlighting the removal of *The Perks of Being a Wallflower* in its November 21 issue. Jordan Steiger, the paper's editor, said that due to administrative concerns over content, the junior was informed that all

future stories must be approved by an administrator prior to publication for the foreseeable future, ending a longstanding practice against prior review. Steiger said she doesn't feel the decision was fair.

"We do not feel they have presented us with reason to do it," Steiger said. Reported in: *Northwest Indiana Times*, November 25.

Raceland, Louisiana

The principal of Central Lafourche High School banned a teacher's assigned book about a failed U.S. Special Forces mission after a parent complained about the author's use of curse words, officials said. Jared Foreman, the 10th-grade teacher who assigned the book, called it censorship. Education officials said it falls into line with a policy on cursing.

The book, the nonfiction *Black Hawk Down*, by Mark Bowden, was pulled from the classroom October 3. The day was the 15th anniversary of the book's events and the end of the 27th observance of Banned Books Week.

Foreman, 29, said he assigned the book to spur student interest in reading. "I thought it would not bother people considering the language on television and in music and movies that has become acceptable," said Foreman, adding the profanity is used sparsely and is not easily found in the text.

The book details the events of October 3, 1993, in Mogadishu, Somalia, when U.S. Special Forces attempted to apprehend two high-ranking guerrilla warriors in a marketplace bustling with rebels and residents. The failed mission left 18 American soldiers dead and dozens more wounded. More than 500 Somali residents also were killed and about 1,000 more wounded.

"There is so much more to *Black Hawk Down* than the words they used," said Foreman, who serves as pastor at Memorial United Methodist Church. It's about "miscommunication and misunderstanding plans and that is exactly what education is supposed to eliminate."

Foreman said the students were a little shocked when the principal asked that they return their copies to the school library. He said students were halfway through the book and many had told him it "was really getting good."

Blaine Degruise, secondary school-instruction supervisor, said he agrees with the ban because the school code of conduct prohibits students from using profanity. To read a book with such language is contradictory. "This is just blatant profanity, and it does not have a place," Degruise said. He said students could continue reading the book in their free time if they so choose.

Floyd Benoit, communications specialist for the School Board, said a written policy is in place for the parent who feels a book is inappropriate and a teacher who feels differently. That procedure starts with the principal, who has the first say on the matter. If a principal disagrees with the

complaint, the parent can appeal through the School Board's chain of command.

However, if the principal agrees with the parent, the material deemed unsuitable is removed. The teacher has the right to appeal with the principal and go up the chain of command if necessary. Foreman said he was unaware of that recourse, adding he understands the parent's stance and is not upset with his principal.

A committee picked the book from the textbook supplier Prentice Hall Literature. The committee was allowed to select a free supplement from a list that was not approved by the state Education Board, which does not review supplemental material.

Foreman said he sent a disclaimer to parents via a letter and posted a warning on a parent-information website.

Just before the students returned the books, Foreman said his class marched to the school's flagpole and sang "The Star Spangled Banner" as a group. "I wanted them to remember they had to return a book due to censorship," he said. Reported in: *Lafourche Parish Daily Comet*, October 15.

Morganton, North Carolina

Concerned parents took turns at the microphone October 20 during the Burke County Board of Education meeting to blast school officials for allowing certain books with mature content and profane language to be assigned reading.

Elaine Harmon said she moved to Burke County from New York to find moral comfort deep within the Southern Bible Belt. Harmon said it appalled her to find books with a variety of questionable themes including homosexuality, rape and incest are required reading for some students. Harmon singled out *The Color Purple*, a Pulitzer Prize-winning novel by Alice Walker. She said the main father figure in the book takes indecent liberties with his 11-year-old daughter.

"Why are such books being given to children?" Harmon asked the school board. "Such literature will warp the morals of our children."

Carol Snow said, "My 15-year-old daughter came to me on the evening of January 28 to discuss the rape scene in *The Kite Runner*. I had a tough time discussing what rectal bleeding is with her; she wanted to know what that meant. Why wasn't I notified regarding the nature of this reading?"

Snow said excerpts from books such as *Beloved* and *The Kite Runner* couldn't be read aloud in the boardroom. "What does it tell us all here tonight, when excerpts from these books can't even be read aloud in this public forum?" Snow asked.

This was not the first time *The Kite Runner* created controversy. In February, Vicki Dobson challenged the school board regarding the use of author Khaled Hosseini's book in high school classrooms. School board Vice Chair Tracy

Norman said vulgar language and graphic descriptions of a sodomy rape made the book inappropriate for a tenth-grade honors English class at Freedom High School. The school district's Media and Technology Committee eventually voted not to ban use of *The Kite Runner*. Dobson dropped her challenge.

Mark Gordon said it upset him when his third-grade son asked about several curse words he had been exposed to in reading class. Dewayne Riddle said, "We don't ask any of our young people to go to war under the age of 18 or allow them to drink alcohol under the age of 21. So why are we subjecting our children to this kind of material without parental oversight? At least give parents the rights to oversee what their children are reading."

Following the parents' comments, school board Chairman Tim Buff said there is no policy in place regarding usage of written works in the classroom or requiring that parents be notified about reading lists. He said there are legal issues involving what can and can't be done.

"We have been working with administration and our legal counsel to address this issue," Buff said. "We are working on a new policy and procedure and hopefully we will have something for review before next semester."

Superintendent David Burleson said school officials are seeking ways to properly notify parents about assigned reading, especially works that contain what could be considered offensive or sensitive material. "I have instructed our English department teachers, even though there is no formal policy on the books at this time, to utilize all efforts moving forward to notify parents," Burleson said.

Board member David Barnard said, "I am against banning books. If we start with books, where will it end?" But he assured the parents, "Bear with us a little longer and we will have a policy put in place."

Other books the parents challenged included *The Bluest Eye* by Toni Morrison and *The Catcher in the Rye* by J. D. Salinger. Reported in: *Morganton News-Herald*, October 22.

colleges and universities

Lincoln, Nebraska

The University of Nebraska-Lincoln on October 17 rescinded its speaking invitation for 1960s radical-turned-educator William Ayers. University officials cited "safety reasons" for canceling Ayers' November 15 appearance. Spokeswoman Kelly Bartling declined to elaborate on what safety concerns would keep Ayers from addressing a College of Education and Human Sciences event.

Earlier that day, Gov. Dave Heineman strongly condemned the invitation and called on the NU Board of Regents and President J. B. Milliken to block it. An Omaha charitable foundation announced it was pulling all of its contributions to the university. Several other donors also

have indicated to university fundraisers that there could be a financial cost if Ayers speaks.

And Nebraskans by the hundreds continued to register their opposition with university administrators and others, lighting up phone lines and filling e-mail boxes. Heineman said Ayers' invitation was "an embarrassment" to the state and that it goes beyond the bounds of the university's mission.

"Our citizens are clearly outraged and want action," Heineman said in an interview. "This is their university. This isn't even a close call. The university should immediately rescind the invitation."

Dean Marjorie Kostelnik said she spoke with UNL Chancellor Harvey Perlman about "the climate around this issue." She said she also has spoken with representatives of Milliken's office. Other public officials weighed in about Ayers a day after the UNL speech was announced. Both Sen. Ben Nelson, a Democrat, and Rep. Lee Terry, a Republican, called for cancellation of the speech.

"The invitation made to William Ayers to speak at my alma mater in the midst of a heated national election when he is such a highly controversial figure is an outrage," Terry said. Nelson said the visit would not promote the unity now needed in the nation.

Said Attorney General Jon Bruning: "Academic freedom doesn't require us to lose our good judgment and common sense." State Auditor Mike Foley sent the university a long request for information on Ayers' trip, its planning and how it is being funded. UNL officials have said Ayers' appearance would be privately funded.

Ayers was a member of the Weather Underground, a radical group that staged domestic bombings to protest the Vietnam War. Ayers was charged with conspiracy to incite riots, but the charges were dropped because of misconduct by prosecutors. Ayers went on to gain respect in the education field and become a scholar known for his ideas on school reform. At UNL, the plan was for him to limit his speech to graduate education students to that topic.

The invitation to Ayers was extended in February, long before he became a household name in this year's presidential election because of his alleged ties to candidate Sen. Barack Obama through their shared work a few years ago with a school reform effort.

The Gilbert M. and Martha H. Hitchcock Foundation in Omaha told the university that it would halt all contributions to the university unless the UNL education faculty rescinded Ayers' invitation. The foundation has given millions to the university in the past.

While other donors haven't been as explicit, Clarence Castner, who leads the University of Nebraska Foundation, said it became clear that other contributions were "in jeopardy."

Scholars said a decision to pull an invitation to Ayers could be seen by educators nationally as a school-sponsored curb on academic freedom. It would make UNL a less

attractive school to the faculty members it seeks to recruit, said David Moshman, a UNL education professor writing a book on academic freedom.

Heineman said that "there is no way" the university should lose contributions over Ayers. There are plenty of other respected educators the university could invite to speak, he said.

David Moshman, a professor of educational psychology at the university, called the cancellation of the lecture "a very serious infringement on academic freedom." Moshman said it was not credible to view the issue as a security threat, since the decision was made amid a huge controversy—and a month away from the scheduled talk, meaning that the university would have had plenty of time to set up adequate security. He also noted that it was seriously detrimental to the faculty to have the regents' board chair and much of the political leadership of the state saying who could and could not be invited to campus.

"This was clearly political," said Moshman, who is on the board of the Academic Freedom Coalition of Nebraska, "and that's not the way it's supposed to be."

Given that "there are people at the University of Nebraska with a deep knowledge of academic freedom and an equally deep commitment to it," it is "particularly painful to see this institution intimidated by politicians and donors into canceling Professor Bill Ayers's invited presentation," said Cary Nelson, national president of the American Association of University Professors. "Genuine threats to campus security are rare. More common are occasions when "security" is a code word for political or financial pressure. Academic freedom cannot survive unless we stand up to bullies with power or money." Reported in: *North Platte Telegraph*, October 18; insidehighered.com, October 20.

Nashville, Tennessee

A popular, controversial website has been banned from Tennessee State University servers in Nashville, making it the first state-funded university to impose a ban on the website. The decision was made to ban JuicyCampus.com from the university's servers after an upset student's parent complained to Michael Freeman, vice president for student affairs, about an anonymous comment posted about her child. Freeman would not comment on the specifics of the anonymous comment except to say he felt there was a safety concern.

JuicyCampus is a website targeted towards college students who are encouraged to post anonymous comments with the latest gossip from their campuses. There is no registration process and anyone can post an anonymous comment.

Tennessee State University's ban became public after Matt Ivester, CEO and president of JuicyCampus, sent an open letter to media outlets decrying the decision by

Freeman. In the letter, Ivester derided Freeman's decision as "Orwellian" and "joining the ranks of the Chinese government in Internet censorship."

Freeman disagreed, saying the site is still accessible to students using third-party companies such as a Blackberry or an iPhone. "The Chinese government blocking a site means no one can get to that site," Freeman said. "Tennessee State University on a private network, blocking a site, where folks still have access to it, is a bit of a difference in blocking, don't you think?"

Freeman said he made the decision on November 12—the same day the mother made the complaint. He said he did not consult legal professionals to determine if banning the site would impose First Amendment violations. "Well, I had my own sense that it would not," Freeman said. "Having been in higher ed for a while, I've dealt with a number of different issues over the years."

Freeman backed up his decision by providing a written legal opinion from the school's Office of Chief of Staff and University Counsel stating that the university's servers were not public forums. The opinion also stated the ban did not violate the First Amendment for two reasons. The first reason explained was that students have newer ways of accessing the Internet using their cell phones and through other wireless network providers.

"They don't need our network," the written opinion stated. "There may have been a time when students did not have access to the Internet outside of computers, but those days are long gone."

The second reason was that the university is funded through state appropriated funds and student enrollment fees set out in the school's policies. "The University can limit the use for which this resource is provided because, legally, our computer network is not a public forum as, according to the U.S. Supreme Court, a public entity's provision of internet access does not create a public forum," TSU's legal opinion stated.

The school's legal department went on to say that a 2003 United States Supreme Court decision, *United States v. American Library Association*, protected the school from any First Amendment liability. Adam Goldstein, legal advocate for the Student Press Law Center, disagreed, saying the case referenced was a federal funding-related lawsuit that would not apply to colleges.

"Even if the network isn't a forum, they still can't censor the site," Goldstein said. "You don't get to censor anything you feel like because you don't like the speaker."

But TSU's legal opinion stated that the use of Internet filtering software to block certain websites would not violate anyone's First Amendment rights, according to that same lawsuit.

Goldstein explained that *U.S. v. American Library Association* did discuss the use of Internet filtering software as a way to prevent minors from accessing pictures that were pornographic or deemed harmful. But, under

that same lawsuit adults at libraries would still be able to request the filter be taken off for things minors were not able to access.

"The ALA case states nothing more than that the federal government can require attempts to block pornography on computers accessible to minors as a condition of getting federal funding," Goldstein said. "It doesn't say that a college can filter anything it wants anytime someone complains."

Freeman also backed his decision by saying there was a Tennessee Board of Regents policy that directed the school's network be set up solely for educational and research purposes. He said he looked at the site and determined the site did not apply to the policy.

Ivester said students at TSU should be upset about the ban. "They should be absolutely outraged," he said. "I think it's just completely incompatible with the ideals of higher education. Limiting information online is not something a school with a true academic mission would do."

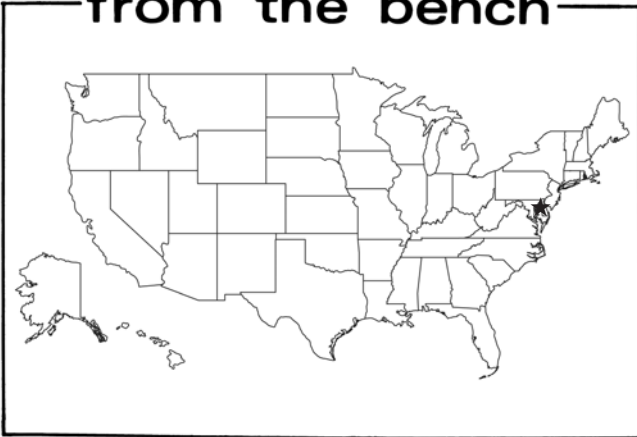
Freeman said what he did not like most about JuicyCampus was that the site was made up completely of anonymous comments. Ivester disputed that by saying the Supreme Court holds anonymous speech constitutionally protected.

"His (Freeman's) inability to quell the concerns of an angry parent and explain the free speech implications is really not an excuse," Ivester said. "What he should have said is 'if you have a problem with the site, take it up with the site. (Tennessee State University) doesn't have anything to do with that.'"

Ivester also said he would support a lawsuit opposing the censorship any student at Tennessee State University would want to bring against the school. "And to the extent that students are looking for help with that, they should contact us at cs@juicycampus.com," he said. "And, we'll try to connect them with the right resources, whether it's lawyers or free speech advocacy groups or whoever will be able to point them in the right direction."

JuicyCampus currently gets about 150,000 visits a day and about one million unique visitors a month, according to Ivester. Reported in: Student Press Law Center, November 21. □

from the bench



U.S. Supreme Court

Calling a lower court's decision flawed, the Federal Communications Commission (FCC) has asked the Supreme Court to overturn the Janet Jackson Super Bowl halftime show decision.

The U.S. Court of Appeals for the Third Circuit in July threw out the FCC's \$550,000 fine against CBS stations for the broadcast as arbitrary and capricious. Apparently buoyed by the oral arguments in the Fox profanity appeal in the High Court earlier this month, the FCC, backed by the Department of Justice, filed a petition for a writ of certiorari November 20, according to Andrew Schwartzman, president of Media Access Project, who received a copy of the petition. But they also asked the court to hold the petition in abeyance until after it decides the Fox case.

The FCC and Justice argue that the lower court did not give due deference to the FCC's "legitimate and rational basis for what it was doing and the court was improperly intruding into the FCC's turf," said Schwartzman. "The court of appeals erred in overturning the Commission's determination that CBS's broadcast of the 2004 Super Bowl halftime show violated federal indecency prohibitions."

In response to the filing, CBS stated, "We hope the Supreme Court will recognize there are rare instances, particularly during live programming, when it may not be possible to block unfortunate fleeting material, despite

best efforts. Doing so would help to restore the policy of restrained indecency enforcement the FCC followed for decades."

With the caveat that nobody ever retired from betting which way the court will vote, Schwartzman, whose Media Access Project represents TV and film producers opposed to the indecency crackdown, and John Crigler, a First Amendment attorney whose clients have included Pacifica (which owns the radio station that originally ran George Carlin's infamous "seven dirty words"), both said following the oral arguments in the Fox case, that they thought the case would be decided narrowly, but the FCC had a good chance of winning.

In both the Fox and Jackson cases, federal appeals courts (the Second Circuit in the Fox case, the Third in Jackson) found for broadcasters, saying the FCC had been arbitrary and capricious in its application of indecency rules,

In throwing out the \$550,000 fine against CBS stations for their airing of the Janet Jackson Super Bowl reveal, the incident that prompted the FCC crackdown on broadcast content (under pressure from Congress), the court concluded that the FCC was arbitrary and capricious in changing a decades-old policy of not holding fleeting nudity indecent.

It also concluded that the commission could not hold broadcasters to strict liability, which means that they could not be held "vicariously liable" for actions they did not take on their own. That means that stations could not be liable for an action they could not foresee.

"It's hardly unexpected but it's still disappointing that the government continues to pursue issues like this," said Schwartzman. As to why it appealed, Schwartzman said that the FCC obviously feels its chances have improved in light of the oral argument in Fox.

"We are delighted to learn that the FCC and the Justice Department will seek Supreme Court review of the infamous Janet Jackson breast flash during the 2004 Super Bowl halftime show," said Tim Winter, president of the Parents Television Council (PTC). "The magnitude of that CBS sucker-punch is evidenced by the fact that the incident was the number one news story for months during a time when the nation was at war." PTC complaints helped spur the FCC to crack down on fleeting profanities and nudity. Reported in: *Broadcasting and Cable*, November 21.

On October 6, the Supreme Court rejected the appeal filed by two sets of parents who objected when their children's schools provided their children with books offering positive portrayals of same-sex marriage and families headed by same-sex parents. The parents claimed the schools' actions violated their First Amendment "free exercise" rights and the right to direct their children's education and religious upbringing.

The Supreme Court's action left intact the U.S. Court of Appeals for the First Circuit's decision upholding the schools' right to adopt a curriculum supporting diversity

and to provide positive materials concerning same-sex marriage as part of that curriculum.

“There is no free exercise right to be free from any reference in public elementary schools to the existence of families in which the parents are of different gender com-

binations . . . public schools are not obliged to shield individual students from ideas which potentially are religiously offensive, particularly when the school imposes no requirement that the student agree with or affirm those ideas,” the court said. Reported in: OIF Blog, October 7. □

**SUPPORT
THE FREEDOM
TO READ**

is it legal?



library

Waterbury, Connecticut

After receiving a complaint that a patron of the Silas Bronson Library had used a computer there to view child pornography November 17, Library Director Emmett McSweeney would have happily turned the computer over to police for a forensic search. Instead, he asked police to get a warrant.

McSweeney said he felt obliged to deny the investigating officer's request for the computer. Connecticut law is very clear that library patrons should expect their privacy will be protected, he said. "If they have that piece of paper, I'll drive it over myself," McSweeney said.

It's not clear that any laws were broken or that child pornography was indeed viewed. No one on the library staff saw any pornography, and it will take police several days to comb through the computer. The investigation was prompted by a single complaint.

After consulting with the city's attorney, McSweeney did hand over the computer, with a promise from officers that the material inside would not be accessed until a warrant is issued.

Police spokesman Lt. Christopher Corbett said police expect to obtain a warrant. Police also plan to review surveillance tapes, he said.

The right of privacy library patrons enjoy is clearly spelled out in state laws throughout the continental United States, said Deborah Caldwell-Stone, deputy director of the American Library Association's Office for Intellectual Freedom. That is not to say that library records are inviolate. They can be accessed with a court order, she said. The point is to have a judge balance the right of individual privacy against the public good, Caldwell-Stone said.

In recent years, the question of library privacy has taken on greater prominence as government agencies have sought to search records for hints of terrorists, Caldwell-Stone said. Still, the concern did not arise with the birth of the Internet, she said.

Apart from privacy concerns, there was another good reason for following the letter of state law, McSweeney said. "If this guy's guilty, I would hate it if he got off because we didn't follow the proper procedure." Reported in: *Waterbury Republican-American*, November 20.

colleges and universities

Ithaca, New York

On October 24, students in the Cornell University Coalition for Life found themselves confronted by a staff member who questioned whether they had the right to show a series of posters on the university's Engineering Quad illustrating the symbolic prenatal life cycle of "Elena" from conception onwards. According to the group, one poster had the proper authorizations taped on the back, and the staff member mentioned specific problems with the content of the posters—not a criterion for obtaining approval in the first place.

The dispute lasted 90 minutes, during which the students had to take down their posters and resorted to calling the campus police to return them. Both the administration and the group wasted little time in circulating responses to the incident.

"We are aware that some have attempted to cast this incident in the context of the stifling of freedom of speech," said Tommy Bruce, Cornell's vice president for university relations, in a statement. "Nothing could be further from the truth. This university has and will continue to respect and uphold the free-speech rights of all members of the Cornell community. And we continue to adhere to the principle that, in President David Skorton's words, 'all perspectives and their proponents are welcome on our great university's campuses.'"

Following a long history of allegations, mainly from conservative groups, that Cornell has stood by while students have threatened to stifle free expression on campus, Skorton has made an effort to publicly affirm the university's support of students' rights.

"I hope you will join me in resisting attempts to limit campus discussion, even when we abhor the message being

delivered, and in promoting civil and rational debate as an opportunity to learn together and develop a more nuanced understanding of the issues and the perspectives of those who bring them forth,” he wrote in a September op-ed responding to a controversy over articles in the orientation issue of the campus conservative newspaper, *The Cornell Review*, which was co-founded by Ann Coulter in 1984.

(The paper, which has periodically come under fire for publishing articles that some consider inflammatory, ran a satirical piece about Muslims and a column about “bitter minorities” in that issue, provoking the Student Assembly to condemn the publication and consider passing a rule that would bar it from using the name “Cornell” in its title.)

The dean of the College of Engineering, W. Kent Fuchs, followed up with an e-mail to students the same day: “A news release is now circulating that suggests the removal of the signs was the result of a disagreement with the sign content and was an effort to stifle freedom of speech. The release also implies that we withheld permission to repost the signs. These implications are not true. While we are very sorry that the student group was inconvenienced while we checked on approvals, the question was entirely one of permissions and approvals. Permission to repost was granted within minutes of confirming that the students had received approval to post the signs.”

That didn’t placate the Coalition for Life, which responded with another release. “We are surprised and disappointed to see that the administration has decided to issue a statement denying that the staff members acted improperly instead of simply apologizing and admitting that the Elena Campaign should not have been removed in the first place,” said Tristen Cramer, a senior and the group’s former president, in the statement.

The group stopped short of accusing the administration of politically motivated bias, as others have done in the past, but it did allege censorship on the parts of the staffers involved and criticized the administrative assistant’s apparent implication that the college had an “unwritten policy” against displays on the quad.

“No no, there’s no political agenda,” said Fuchs. “It was a mistake on behalf of an administrative assistant who did not know that the posters had approval for placement on the engineering quad, and once it was determined by her and the associate dean of the college that approval had been given, the posters went up.” That statement went beyond Fuchs’ previous e-mail, which didn’t explicitly acknowledge a mistake.

“My feeling is probably that the higher up you go, [the response is] less political and [more] kind of protecting one’s own,” said Adam Kissel, director of the Individual Rights Defense Program at the Foundation for Individual Rights in Education, which supports free expression on college campuses and has publicized the Cornell case. “A case like this is embarrassing, and that’s the real issue when you get to higher levels of the administration.”

“I’m partly reassured because in the statements that Cornell released, they were emphatic that free speech is obviously welcome on campus, there’s no such policy on the Engineering Quad, and so forth,” said Cramer in a follow-up interview. However, she continued, “It’s discouraging to us as a club that they have denied essentially our account of the event. They have not really admitted that the situation wasn’t properly handled In our opinion the administrative assistant should never have felt comfortable with removing our signs.” Reported in: insidehighered.com, October 27.

Williamsport, Pennsylvania

Shippensburg University and a religious student group have settled a lawsuit over alleged violations of free speech rights. The Christian Fellowship of Shippensburg University asserted in a federal lawsuit filed in May that it had been threatened with being shut down because it requires members to be Christians and its president to be a man. The group said the state-owned university violated a 2004 settlement of a separate lawsuit over the school’s student code of conduct.

In the 2004 case, a civil liberties group sued the university over a student code barring “acts of intolerance” including racist, sexist and homophobic speech. University officials said they would revise the code after a federal judge granted a preliminary injunction barring the enforcement of that provision.

The Washington-based Alliance Defense Fund Center for Academic Freedom said the latest lawsuit stemmed from Christian Fellowship’s expulsion from campus by the student senate in February in a dispute over its membership and leadership requirements. The group, which has been recognized by the university since the early 1970s, was later told it could resume operations but said it feared the possibility of further sanctions.

The Alliance Defense Fund said the university “has agreed to correct the policies and respect the constitutional rights of its students.” Shippensburg confirmed that the suit had been settled and said in a statement that it had not disciplined students for violating rules about speech, “nor has the university taken action against a student organization based on its membership criteria.” Reported in: *Associated Press*, October 25.

Temple, Texas

“God is dead.” That phrase, from Friedrich Nietzsche’s *The Gay Science*, is among the philosopher’s most well known—and most hotly debated. At Temple College, a community college in Texas, the words in the original German—“Gott ist tot”—have been barred from a professor’s office door. While the college says that to leave the phrase up would offend others and constitute an endorse-

ment of the phrase, the professor and others see a double standard in place, and a violation of academic freedom.

Kerry Laird, a literature and composition professor who does not have tenure, is in his first year at Temple. He said that, as a student and instructor, he always enjoyed the way professors use their office doors to reveal bits of their personality and to challenge students with cartoons, artwork, and various phrases. So when he started at Temple, he put a cartoon up showing Smokey the Bear, a girl scout and a boy scout and the tag line: “Kids—don’t fuck with God or bears will eat you.” He received a complaint and decided that he understood why the college “might not want the f-word” in the hallway, and so he decided to put up something else.

This time he turned to Nietzsche and, striving to challenge while being more subtle, he only used the German version of the quote, not the English translation. “I didn’t want to be too blunt,” he said.

But he was quickly told that Mark A. Smith, interim vice president of educational services, had ordered the saying removed. And Laird said he had no choice in the matter. Smith outlined his views in an e-mail message he sent to a student who complained about the quote’s removal. “Temple College as a public institution cannot be represented as showing preference toward any religious philosophy/perspective or toward the opposite, being atheism. The same practice goes for politics. The decision to have the quote removed was that the quote can be considered very controversial and offensive to others. In fact, other people have already expressed that the wording is offensive!” he wrote. In a classroom setting, a professor would have the right to discuss such a quote, Smith said.

That argument doesn’t fly with Misti Kennai, an agnostic student who wrote Smith to say she was “inundated daily with biblical quotes” in offices around the college. “Why is it that when a quote that contradicts the beliefs of the administration of Temple College is posted, it is forcibly removed? Are the Christians on campus that insecure in their religious beliefs? Although the majority of people on campus are Christian, it is not the only religion present on this campus. If this quote is removed by this administration, then I propose all quotes promoting Christianity on campus also be forcibly removed. I do not personally believe that ‘with God all things are possible.’ On the contrary, I believe God is indeed dead, or she may have never existed at all.”

Smith, the interim vice president who made the decision, said that pro-Christian statements would be treated the same way as the Nietzsche quote. But he clarified that this means if someone complains about a specific quote—as someone did about the Nietzsche quote—the person would be asked to remove it.

Generally, public colleges and universities get in trouble when they try to censor professors’ doors or office displays. The Foundation for Individual Rights in Education has taken up the case of a professor at Lake Superior State University who was threatened with a reprimand over

various right-leaning images on his door. The University of Minnesota at Duluth spent much of the 1990s defending itself with limited success against suits by two historians who said their rights were violated when photos of one in a coonskin cap and the other in ancient Roman attire—both holding period weapons—were removed from a departmental display case. The university eventually agreed to pay the professors to settle their suits.

Laird, the Nietzsche fan at Temple College, said he believes religious professors and non-religious professors should have equal rights to display images that reflect their views, regardless of whether someone is offended. “To me, this is a blatant disregard of freedom of speech and freedom of religion.”

Cary Nelson, national president of the American Association of University Professors, agreed. “There is simply no justification for ordering the removal of a Nietzsche quote from a faculty member’s door,” he said. “The quote constitutes an intellectual challenge. That’s why colleges and universities exist. This is a clear violation of academic freedom.”

Laird and others have said it is particularly troubling that a college administrator cited as reason to order the quote’s removal that some found it “offensive.” If quotes that some find offensive can’t be displayed, how many philosophers would be safe to quote on a door at Temple?

William O. Stephens, a philosopher at Creighton University and chair of the American Philosophical Association Committee for the Defense of the Professional Rights of Philosophers, said that from ancient times on, great philosophers have caused offense. “That’s why they put Socrates to death,” he said. “He expressed non-traditional views.”

Added Stephens: “Fortunately philosophers aren’t being executed in the United States for articulating non-traditional views on religion, but this should still be embarrassing to that college. You should be able to express your academic and intellectual views without reprisal.” Reported in: insidehighered.com, November 4.

broadcasting

Washington, D.C.

On December 2, President Bush signed the Child Safe Viewing Act, requiring the Federal Communications Commission to explore the market for technologies that allow parents to censor the programming their children watch.

The new law requires the FCC to issue a notice of inquiry to examine what advanced content-blocking technologies are available for various communication devices and platforms. It also calls for the FCC to consider how to encourage the development and use of such technologies without affecting content providers’ pricing or packaging.

The term “advanced blocking technologies” is defined in the law as technology that enables parents to protect their children from “any indecent or objectionable video or audio programming, as determined by such parent, that is transmitted through the use of wire, wireless, or radio communication.”

The FCC will have to report its findings to Congress within 270 days.

The bill was introduced last year by Sen. Mark Pryor (D-AR). It passed unanimously in the Senate and passed without objection in the House in October. Reported in: Cnet News, December 2.

privacy

Washington, D.C.

The Electronic Frontier Foundation has filed a constitutional challenge of a law that gave legal immunity to telecommunications companies that cooperated with the Bush administration’s domestic wiretapping program.

The complaint, filed October 16 in U.S. District Court in San Francisco, argues that the FISA Amendments Act denies telecom customers their rights without due process of law, since they’re subjected to warrantless surveillance. To get approval for the wiretapping, the government only needs to certify to the court in private that the surveillance is legal or authorized by the president, the EFF said. U.S. Attorney General Michael Mukasey filed that classified certification with the court in September.

In addition, the fact that only the president has to approve the wiretapping violates the Constitution’s separation of powers, since such approval is usually left up to the courts, the EFF argues.

“The immunity law puts the fox in charge of the henhouse, letting the attorney general decide whether or not telecoms like AT&T can be sued for participating in the government’s illegal warrantless surveillance,” EFF senior staff attorney Kevin Bankston said in a statement.

While the Bush administration has argued that the surveillance was selective, the EFF claims to have provided the court with a summary of thousands of pages of documents demonstrating that the government has infiltrated the communications of millions of innocent Americans. “We have overwhelming record evidence that the domestic spying program is operating far outside the bounds of the law,” EFF senior staff attorney Kurt Opsahl said.

The EFF and the American Civil Liberties Union have been appointed co-coordinating counsels in a class-action lawsuit brought on behalf of millions of AT&T customers whose private domestic communications and communication records were handed over to the National Security Agency. The EFF’s constitutional challenge was scheduled to be heard by the court December 2. The EFF has posted its brief online, along with a summary of its evidence.

The 2008 Amendments Act of the Foreign Intelligence Surveillance Act provides retroactive immunity to telecom companies that assisted the NSA in warrantless wiretapping, which was revealed publicly in late 2005 by *The New York Times*. The Bush administration has defended its actions as necessary for fighting terrorism. The disclosure, however, resulted in 47 lawsuits against telecom companies. Those suits are being coordinated by the EFF and the ACLU in the class-action case. Reported in: *Information Week*, October 17.

Washington, D.C.

Information stored on remote computers should be given the same legal protections as data stored on a user’s desktop PC, according to a report produced by more than 20 activist and human rights groups.

A coalition of influential organizations is recommending to the next President’s administration that an 18-year-old privacy law needs overhauling in order to deal fairly with “cloud computing” technologies, as well as with cell phone location data.

Part of a much broader package of proposals for legal and policy change, the suggestions on electric privacy included in the coalition’s report focus on the Electronic Communications Privacy Act (ECPA) of 1986. The more than twenty contributors to the report, entitled “Liberty and Security: Recommendations for the Next Administration,” include the Electronic Frontier Foundation, the Center for Democracy and Technology; Common Cause; and the American Library Association.

Specifically, the report calls for a tightening and clarification of Fourth Amendment standards around issues such as law enforcement access to e-mail accounts, social networks, and “user-generated content,” in addition to cell phone location information.

“For example, cell phone service providers now routinely store information about the location of their customers while their cell phones are turned on, but ECPA does not specify a standard for law enforcement access to location information,” according to the report.

“Moreover, the emergence of ‘cloud computing,’ which enables storage on remote computers of business records and information such as personal calendars, photos, and address books, raises new privacy issues that require clear standards for custodians of this information who receive government requests for access to it.”

The coalition’s electronic privacy recommendations are included in a section of the document called “Secrecy, Surveillance, and Privacy.” Other areas of change proposed by the report include Separation of Powers; Immigration and National Security; Charities and Foundations; and Detection, Interrogation and Trials. Reported in BetaNews, November 21.

copyright

New York, New York

After two years of negotiations, a settlement has been reached in lawsuits between Google and author and publisher groups over the search-engine company's scanning of copyrighted books. Under the settlement, announced October 28 and subject to approval by a New York federal court, Google would pay \$125 million to resolve a class-action lawsuit brought in 2005 by book authors and the Authors Guild, as well as a separate suit filed by five publishers representing the membership of the Association of American Publishers. The payment would go toward creation of a Book Rights Registry where authors and publishers can register works and receive compensation from institutional subscriptions and book sales.

In return, Google will now show up to 20 percent of a book's text to users at no charge, rather than just snippets; the entire book will be available online for a fee. Libraries, universities, and other institutions will be offered subscriptions for online access to large collections of those books. Google's Library Project will continue to scan in-print books from publishers not among the 20,000 members of its Partner Program; they will be searchable, but none of the text will be available. Public and academic libraries in the United States will be offered free, full-text access to Google's digitized collection at a single designated computer.

Google will keep 37 percent of revenue from online book sales and advertisements that run next to previews of book pages; the remainder, minus an administrative fee, will go to copyright holders through the Book Rights Registry.

Google partners Stanford University, the University of California, and University of Michigan announced their support for the settlement agreement in a joint news release. "It will now be possible, even easy, for anyone to access these great collections from anywhere in the United States," said Michigan University Librarian Paul N. Courant. He added that the ability to search and preview millions of books online "is a service that libraries, because of copyright restrictions, could not offer on their own and goes well beyond what would have been possible, even if Google had prevailed in defending the lawsuits."

The schools' statement cited such benefits to higher education as a first-ever database of both in-copyright and public domain works on which scholars can conduct advanced research; working copies of partner libraries' contributed works for searching and Web services complementary to Google's; accommodated services for persons with print disabilities; and digital copies of works digitized by Google provided to the partner libraries for long-term preservation purposes.

Some doubts were heard among the widespread praise for the agreement. "On the one hand, one admires all of Google's inventions," Rick Prelinger, board president of the Internet

Archive, a nonprofit organization that cofounded in 2005 the Online Content Alliance, an online digital library of one million public domain books, said in the October 29 *New York Times*. "But when you start to see a single point of access developing for world culture, by default, it is disturbing."

"I will tell you, frankly, that I kind of wish this case had gone to litigation. I think Google had a great fair use defense," agreed Corynne McSherry, staff attorney for the Electronic Frontier Foundation, which advocates internet free-speech rights. "A ruling from the court would have been good for everyone. It potentially could have fostered other offerings, based on that legal certainty" that would have stemmed from a Google win.

Voicing its dissatisfaction with the terms of the settlement, Harvard University Library said it will not take part in the program's scanning of copyright-protected works.

One of the original library partners in the project, Harvard plans to continue its policy of only allowing Google to scan books whose copyrights have expired.

In a letter released to library staff, Director Robert C. Darnton cited uncertainties in the settlement that prevented Harvard's participation. "As we understand it, the settlement contains too many potential limitations on access to and use of the books by members of the higher education community and by patrons of public libraries," Darnton wrote, adding, "The settlement provides no assurance that the prices charged for access will be reasonable, especially since the subscription services will have no real competitors [and] the scope of access to the digitized books is in various ways both limited and uncertain."

Despite the university's decision to not scan copyrighted materials, Harvard officials have declared their belief in the project's legality. "We have said that we believe that Google's treatment of in-copyright works is consistent with copyright law," stated university spokesman John D. Longbrake in 2005 after the lawsuits were filed. Reported in: *American Libraries* Online, October 31.

obscenity

Washington, D.C.

A long-standing court test using community standards to determine whether adult content is criminally obscene has been a potential problem area for the U.S. pornography industry. But a debate that's been largely abstract for years has recently changed as the U.S. Department of Justice successfully prosecuted two website operators for obscenity.

On October 3, Paul F. Little—also known as Max Hardcore—was sentenced to 46 months in prison, as well as a \$7,500 fine for distributing adult videos online and through the mail. The Florida judge also fined Little's company, MaxWorld Entertainment, \$75,000 and shut down his website.

And in August, Karen Fletcher, a 56-year-old

Pennsylvania woman, was sentenced to five years of probation, including six months of home detention, and forfeiture of her computer after pleading guilty to six counts of using an interactive computer service to distribute obscene materials. Fletcher owned and operated the Web site, Red Rose Stories, which featured stories, but no pictures, describing sexual molestation and violence against children.

Those cases and other charges filed in recent years have raised questions among First Amendment lawyers and civil liberties advocates, in part because one major test for determining obscenity relies on local community standards for pornography on the Internet. The DOJ established an Obscenity Prosecution Task Force in 2005, but critics have said the agency should redirect those resources toward violent crime or terrorism investigations.

The recent convictions highlight the problems with relying on community standards for Web content, Jonathan Turley, a law professor at George Washington University, wrote on his blog. The DOJ “could have chosen any state in the Union, but engineered an indictment in Tampa—an open case of forum shopping for the most conservative jury pool that it could find,” wrote Turley, who also has defended several high-profile clients. “The [U.S. Supreme] Court refused to create a bright-line of the right of consenting adults to have such material so long as it does not involve abuse of individuals. Instead, it went through a ludicrous period of actually watching porn and following the most fluid and biased rules.”

The Supreme Court avoided spelling out what is obscene in a landmark case, *Miller v. California*, decided in 1973. The court laid out a three-part test for determining whether material was obscene, with the first part of the test asking whether “the average person, applying contemporary community standards” would find that the work appeals to the prurient interest.

A second test in the Miller decision relies on state standards, asking whether the material in question “depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law.”

The DOJ defended the multiple obscenity charges brought across the country since 2003. “We prosecute cases based on the U.S. Supreme Court’s definition of obscenity,” said Laura Sweeney, a DOJ spokeswoman. Sweeney noted that local juries have the final decision in obscenity cases. “We bring the cases where the evidence suggests there is obscenity, and we bring it to a jury,” she said.

Sweeney said she wasn’t comfortable discussing the potential issues with using community standards to determine whether Internet materials are obscene. The DOJ still has cases pending, she said.

The community standards issue has caused some “big headaches” for websites, said Michael Songer, a partner in the Crowell & Moring law firm in Washington, D.C. “Generally, the courts have held that the ‘old’ rules apply in

that you can be liable for any community along the ‘chain’ of your pornography,” he said. “So, if I’m in Utah and look at the porn site, my community is Utah, even though their view of obscenity might be different than California.”

In 1996, a California couple operating an online bulletin board was found guilty in Tennessee of obscenity charges. But since then, obscenity charges against Web site operators and porn distributors have been infrequent until the recent efforts of the DOJ, said Jeffrey Douglas, a California lawyer who served on Little’s defense team.

Little’s conviction appears to be the first time a well-known commercial pornography maker has been successfully prosecuted for obscenity, said Douglas, who specializes in defending the adult industry and has served on the boards of directors for the Free Speech Coalition and the American Civil Liberties Union Foundation of Southern California.

The community standard causes problems, even without the added issues with online distribution because it’s difficult to define who makes up the community, Douglas said. “The community could be anything—from a township to a city to a county to statewide,” he said.

And it’s nearly impossible to determine what the community standard is until it’s tested in court, Douglas said. “No one in the universe talks to friends, never mind complete strangers about what they fantasize about,” he said.

Then there’s the additional problems with Internet distribution. There’s no practical way of walling off a website based on customers’ locations, Douglas said. With mail order distribution, an adult business could choose not to ship products to locations that may be unfriendly to pornography, he said. “It’s difficult, it’s impractical, but at least it’s not impossible,” he said. “With a website, you can’t block traffic from another location.”

Several bloggers and free speech lawyers have questioned Little’s conviction, but it’s not easy to find defenders of his style of pornography. Little’s videos depict hardcore and rough sex, often with actresses dressed to look like juveniles.

Douglas acknowledges that a handful of recent obscenity indictments filed by the DOJ seem to target vendors of extreme types of pornography. In addition to the Little conviction, the DOJ in mid-2007 brought charges against the operators of the business Movies by Mail, which distributed films by Little, and against Ira Isaacs, distributor of several kinds of hardcore pornography. In June, a trial in the Isaacs case ended in mistrial because a website maintained by the judge displayed sexually explicit material. The charges against Isaacs have not been dismissed, however.

In 2003, the DOJ brought obscenity charges against the owners of pornography filmmaker Extreme Associates, which makes similar films. In 2005, a U.S. district court judge threw out the ten-count indictment against Extreme

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success stories



libraries

Chico, California

Despite a push to have it banned from Chico Unified School District, a book some parents found offensive will remain on library shelves among picture books and easy-to-read children's literature. Three parents challenged *And Tango Makes Three*, by Justin Richardson and Peter Parnell, on grounds that it was not appropriate for its targeted 3- to 8-year-old audience.

But a committee formed to review the book denied the challenge, said Carolyn Adkisson, director of elementary education.

The book, with child-friendly illustrations by Henry Cole, tells the story of a pair of male penguins in New York's Central Park Zoo who hatch an egg and raise a chick together. The authors related events that actually happened when a zookeeper noticed the couple building a nest together and sitting on an egg-shaped rock. He replaced the rock with an egg from a female who laid two, and the males hatched Tango.

The book topped the American Library Association's list of most challenged books for 2006 and 2007, with both school districts and public libraries urged either to remove it entirely or move it out of children's sections.

When the district received the challenges—two from parents at Emma Wilson School and one from a Shasta School parent, a committee was formed, including parents, teachers, librarians and administrators. The committee

decided, unanimously, to keep the books where they are, said Adkisson, in what's known as the "everybody section" in elementary school libraries.

"It was felt by the group that parents are to be the ones who decide what their children are allowed to read," she explained, adding that the committee felt very strongly on that point. One group of parents cannot decide what all students have access to, but should continue to monitor what their own children check out.

Adkisson said she mailed letters to the parents who complained and would be meeting with them individually to discuss the decision. They have the right to appeal and have the board of trustees decide the issue.

The committee determined the book supports library selection standards and board policy, which states in multiple places that school materials should reflect the diversity of the student and community populations, Adkisson said.

Richardson, a professor of psychiatry at Cornell and Columbia universities, described how he came to write the book after he published *Everything You Never Wanted Your Kids to Know About Sex (But Were Afraid They'd Ask)* in 2004.

He began being asked to speak to parent groups about how to talk to children about sensitive matters, he said, and he realized that having a book to read out loud would ease some parents' embarrassment with subjects that made them uncomfortable. Unfortunately, most books about sex were too detailed or too clinical for young children, he said.

"I had it filed away that there was a need," Richardson stated.

Then he read a feature article in the *New York Times* about two male penguins hatching an egg together and he called Parnell with the story idea. Reported in: *Chico Enterprise-Record*, November 13.

Prince Frederick, Maryland

The Calvert County Board of Library Trustees voted unanimously October 21 to keep a controversial book about two male penguins where it is shelved: in the children's section of county libraries, along with other picture books.

The 2005 book, *And Tango Makes Three*, tells the true story of the penguins Roy and Silo, who formed a strong partnership while living at the Central Park Zoo in New York. When zookeepers noticed the two were taking turns sitting on an egg-shaped rock, they gave the couple a real egg and allowed them to hatch it, producing a baby girl penguin named Tango.

The book has won numerous awards and created controversy across the country because it involves same-sex parents.

In December, Beth Bubser of Dunkirk filed a complaint about *And Tango Makes Three* to the county library staff, saying there was no warning on the book that it is about same-sex parents. Bubser's 7-year-old daughter chose the

book from a library. Bubser said she did not realize the book was about same-sex parents until they had read well into it.

Bubser said the book should be removed from the children's section and shelved in a location labeled alternative or non-traditional family.

In January, a library panel reviewed the complaint and the book. Library Director Patricia Hofmann decided the book should remain in the children's section. Several months later, Bubser appealed the decision to the library trustees. She also protested Hofmann's decision during a Calvert County Board of Commissioners meeting.

"It is a great book for a certain family, but not for my family and a lot of families I know," Bubser said at the meeting. "I believe in everyone's rights. I believe in freedom of speech, but this is not right for my family." Three other mothers joined Bubser at the meeting and expressed concerns about their young children being exposed to information contrary to their values, such as homosexuality.

Since then, Hofmann said, she has received nine letters or e-mails complaining about the book and even more "extremely positive" letters supporting her decision to keep the book in the children's section. "Some of these are just wonderful to read," she said of letters that discussed the role of libraries in the community, providing a diversity of books and preparing children for the real world.

Library trustees voted unanimously to back Hofmann's decision. Trustee Nicholas Garrett said he reviewed Supreme Court rulings and public information laws on the topic. He concluded that it is the job of a library to disseminate information, not to "take the role of a parent" and determine who can access what information.

Trustee Laura Holbrook asked whether books about same-sex parents were labeled as such and how would those about single, foster, mixed-race, young or old parents be tagged. Segregating books about such families would require "passing value judgments on such families" and would censor what readers could easily find in the library.

"This is a public library," Holbrook said. "We are here to be welcoming of all families of all kinds."

Board President M. Kiplinger Hine, Jr., said it was a positive experience for the library staff, trustees and the public to learn about the book and discuss the role of libraries. "Our duty is to defend a public library for what it's supposed to be," he said. "And I think we did that today." Reported in: *Washington Post*, October 23.

Galway, New York

After a patron's complaint led to a review, the director of the Galway Public Library decided that a sex and dating guide for young teenage girls will remain on the shelves.

Hang-Ups, Hook-Ups, and Holding Out: Stuff You Need to Know about Your Body, Sex, and Dating was removed after the library board's August 6 meeting, at which patron

Patricia Venditti raised questions about the book's "factual errors, philosophy, and perceived bias." *Hang-Ups, Hook-Ups, and Holding Out* is part of the Girlology series for young adults written by gynecologist Melisa Holmes and pediatrician Trish Hutchison.

Library Director Ashley Poulin checked the book out to read it and then asked Anneke Pribis, a physician at the Galway Family Health clinic, to review it. "The book has gotten excellent reviews, and Dr. Pribis said she found no factual errors," Poulin said. She added that, although some trustees reported that people questioned them about why the book was being reconsidered, "I haven't heard any complaints at all."

"It was not out of circulation, it was being reviewed and was still part of the collection," said board of trustees President Joanna Lasher. "Our policies state that if a patron is unhappy with some material at the library, they can approach the board. The director makes the decision, according to our collections policy." Reported in: *American Libraries Online*, October 24.

Halsey, Oregon

An Oregon woman who refused to return *The Book of Bunny Suicides* has changed her mind. Taffey Anderson said she will make the book available for the Central Linn School District's review committee to screen. The Halsey woman recently said she would burn the book rather than take a chance on it returning to a shelf at the Central Linn High School library.

Anderson said the comment about burning the book was made in anger, and she regrets making it.

The 2003 book of cartoons by British humorist Andy Riley depicts rabbits killing themselves in bizarre ways. Anderson saw nothing funny when she perused the copy her son checked out. Reported in: *Seattle Times*, October 23.

schools

Manchester, Connecticut

Instead of dropping *The Adventures of Huckleberry Finn* from its reading list, the Manchester school system has decided to hold seminars for teachers on how to deal with issues of race before bringing the book back to classrooms. The goal of the seminars is to put the book into perspective and create a dialogue on race, white privilege, satire and stereotyping, which were also issues when Mark Twain published it in 1885.

"It does provide a very good platform to talk about racial issues and to actually without me going into detail as to where Twain was in Chapter 4 or Chapter 12," said Assistant Superintendent Anne Richardson. "It really provides a good opportunity to have a conversation about race."

The book returned to classes in October after teachers

completed a series of seminars, which put the novel into the context of the time in which it was written.

“With the training we’re doing with our staff, the commitment of our staff to be involved in the process, I think it’s a real opportunity to provide our students with a new opportunity to have those courageous conversations about race and all of the elements that surround race, as difficult as they might be,” said Manchester High School Principal Kevin O’Donnell.

The Rev. John Selders, of the Amistad United Church of Christ, is one of the people working with teachers to prepare them to handle class discussions around the book.

“Are teachers ready?” he asked. “I think some are. I think some may need to do some more work, but that’s the job of a teacher, to continue to do the continuing education work, to be ready to handle what students need, because at the end of the day, in an educational environment, it’s about the students.” Reported in: *wsfb.com*, September 24.

Ontario County, New York

The book’s 409 pages were meant to be a spin-off of the children’s book, *The Wizard of Oz*, only this time, for older readers. *Wicked: The Life and Times of the Wicked Witch of the West*, by Gregory Maguire, tells the story of Elphaba, misunderstood and victimized because of her green skin and unusually sharp teeth. The book raised the eyebrows of a Canandaigua Academy parent this past summer. Not for its difficulty, but for sexual content on a few pages that the parent felt would not be appropriate for a teen reader.

The Canandaigua school board voted to keep the novel in the 10th-grade English honors program, but the district will offer other reading options for anyone who objects to the book. Reported in: *Rochester Messenger-Post*, November 18.

Sherwood, Oregon

An Oregon school board has decided to keep the novel *Grendel* on its high school sophomore honors English reading list, ruling against some parents. The novel by John Gardner, published in 1971, is a retelling of the Anglo-Saxon epic “Beowulf” from the point of view of Grendel the monster. The book includes some scenes describing torture and mutilation.

About 100 people attended a meeting of the Sherwood School Board November 12, the third the board held to discuss the book. District officials said only four students in a class of 74 took the option of reading another book.

Parents were split on the book. Some suggested moving *Grendel* to senior English. “I can’t believe it is such a fight for parents to keep this filth away from our children,” one said.

Before *Grendel* was added to the list five years ago, students read *Frankenstein*, now offered as an alternative. Reported in: *upi.com*, November 13.

colleges and universities

Urbana-Champaign, Illinois

It’s safe for University of Illinois professors to sport campaign buttons and attend political rallies on campus. The president of the university system, B. Joseph White, on October 6 sent an e-mail to all employees affirming those rights and attempting to quell a debate prompted by an earlier e-mail, from the university’s ethics office, that suggested that such activities were barred.

On the same day, the university’s flagship campus, at Urbana-Champaign, announced it was calling off negotiations to create a research and education center that many professors feared would amount to a program with a single point of view and without regular academic oversight.

The controversy over political expression on campus stunned professors. Many colleges, especially public institutions, distribute reminders in election years about permitted and barred political activity. These policies typically bar the use of college funds for campaign activities and may direct employees to be sure that their public statements about candidates do not imply an endorsement by the institution.

At Illinois, however, a memo went out to employees at all three campuses barring employees from wearing political buttons on campus, having bumper stickers on cars parked on campus, or attending political rallies on campus. Because many professors do wear buttons and attend rallies, the policy infuriated faculty members. The American Association of University Professors condemned the limits for “their chilling effect on speech, their interference with the educational process, and their implicit castigation of normal practice during political campaigns.” The rules were not enforced, but the university also declared them to be policy.

In a statement, President White said the earlier information from the ethics office was not in fact policy. He said it was unclear whether some of the activities barred in the earlier communication were in fact banned by state law. He said university policy would not bar attending partisan rallies on campus, wearing political buttons, or having political bumper stickers on cars. (For the rallies and buttons, he qualified the statement by saying that these activities should not take place while employees are on duty.)

White also strongly endorsed the principles of academic freedom. “We, the leadership of the University of Illinois, will preserve, protect and defend the constitutionally guaranteed rights of every member of our University community, including, of course, freedom of speech and assembly,” he said. “We will also preserve, protect and defend academic freedom, which is a core value of every great academic institution.”

The other controversy at Illinois that was resolved October 6 involved the Academy on Capitalism and Limited Government, which was set up with funds from alumni with the goal of promoting the study of free markets and

principles of Western civilization—and which will now operate but not as part of the university.

In recent years, alumni of a number of colleges and universities have donated funds to colleges to endow programs to promote the study of American institutions or capitalism or other parts of society that the alumni feel deserve more attention on campus. At institutions such as Princeton University, such programs have won support both within and outside the academy, but in other cases, disputes have broken out over whether these centers were seeking more autonomy than is appropriate. And that was the case at Illinois.

Faculty members stressed that they objected not to the academic subjects for study, or to the possibility that such subjects might attract conservative scholars, but to the way the program was being set up. The alumni who set up the fund were fairly explicit in saying that they planned to have a formal role in which professors received support from the fund and the views those people should have. They also described a goal of creating a new Hoover Institution in Urbana-Champaign—not reassuring to professors aware of the longstanding tensions over that center at Stanford University. Many faculty members also said that the university was too quick to accept the funds—without working out the sort of traditional academic oversight required of other new programs.

In November, a faculty panel found that the original agreement with the donors included provisions that were “fundamentally inconsistent” with university values, and in essence would have restricted some topics for support to those with certain points of view. At that point, university officials said that they would try to renegotiate the terms of the center—and those negotiations were the talks that have now been called off.

A statement issued by the university said that it and the academy “have mutually agreed, in principle, to discontinue the agreement reached a year ago that would provide funding for teaching and research focusing on the relationship of capitalism and government. Rather than partnering with the university, the fund will become a nonprofit foundation, providing grants.”

Richard Herman, chancellor of the university, said that “despite the good intentions of the donors and the university, there were structural incompatibilities between the fund’s operational mode and that of the university.” As an independent fund, both university and academy officials said, the academy will be able to support many of the same kinds of programs—but without raising the issues associated with being part of the university.

James E. Vermette, one of the alumni donors and a board member for the academy, stressing that he was speaking only for himself, said he was “extremely enthused” about the possibilities for the academy operating by itself. “This

gives us much more freedom to operate,” he said. At the same time, he criticized the faculty committee that had found problems with the original agreement. “I was stunned by it,” he said, adding that backers of the academy never wanted to see programs that would “teach only one side of an issue.” He said that was “a terrible charge” that professors should not have made.

Faculty leaders said the outcome—the center free to support the university but not part of the university—was exactly what needed to happen. Nicholas C. Burbules, chair of the Senate at Urbana-Champaign and professor of educational policy studies, said that “without pointing the finger of blame in any direction, it’s clear that there wasn’t an underlying meeting of the minds about what the agreement entailed” when university administrators first signed off on the plan.

Burbules stressed the faculty opposition was not based on the conservative politics of the donors or possible grant recipients, but on “funding and governance issues.” While donors have an important role to play, he said, they can’t take over academic responsibilities. “Donors can’t create a self-funded entity not subject to traditional review,” he said.

Cary Nelson, an Urbana-Champaign professor who is national president of the AAUP, said it was “regrettable that the donors could not understand that faculty control of the grants process, the course design, and the selection of new faculty would have guaranteed the academy’s credibility, improved its outcomes, and assured its objectivity. They prefer instead to have political partisans control their operations.” Reported in: insidehighered.com, October 7.

Austin, Texas

Following protests that the university was trampling upon students’ First Amendment rights, the University of Texas at Austin suspended a policy October 9 prohibiting the placement of signs in residence hall windows—including campaign signs.

“We’re very excited,” said Ryan Ellis, a junior at Texas and president of the College Republicans. “We’re going to get those McCain-Palin signs out there. I’m sure our law-abiding group members out there will be happy to know that their free speech is protected here on campus once again.”

Ellis objected to the rule even though the case that attracted attention to it involved an Obama supporter.

The suspension of the policy—as well as “any sanctions related to its enforcement”—came one day after two roommates (and cousins) who refused to take down Obama signs, Blake and Connor Kincaid, were restricted from registering for spring classes. Jeffery L. Graves, the university’s associate vice president for legal affairs, declined to comment on any individual disciplinary cases. But he

said of placing signs in dorm windows, "It is now allowed behavior. Therefore, we're certainly not going to discipline anybody based on the old rule, what is as of now [Thursday afternoon] the old rule."

The "old rule," included in the residence hall handbook under the heading "windows and screens," stipulates that, "Windows and screens may not be used to display advertisements, posters, flags, clothing or any externally visible display." Students complained that the policy hadn't been consistently enforced up until this election season (when it does seem to have been enforced consistently across party lines), although Graves said before violations typically involved students placing Longhorn flags and such in their windows. When told to remove them, they did so without major complaints.

"It was never an issue. Only because this is a hot political season, did it get pushed back on. And as I say, once that became apparent to the university administration and particularly to our president, he said, 'We need to look at this again,'" Graves said.

In a university-wide e-mail sent at 1:31 p.m. Thursday, Texas' president, William Powers, Jr., said he would immediately suspend the prohibition on signs in dorm room windows, replacing it "with an interim regulation that expressly allows the display of signs and posters in students' residence hall room windows." He added that the university will convene a committee to recommend any permanent policy changes. "The interim rule allowing signage in individual students' residence hall room windows will remain in place until the committee issues its report and I act upon their recommendations," the e-mail said.

"We are grateful they listened to us and took this under advisement, but we are a little skeptical about the word 'temporary,'" said Andy Jones, a junior and public relations director for Texas' University Democrats. Still, he said, "Ultimately what matters to us is we're expressing our freedom of speech. And, on a more personal note, I'd like to know that Connor and Blake can go to class next semester."

Of the policy the roommates were punished under, Jones said, "This is an egregious infringement of their First Amendment rights, in all of our opinions."

Graves cited the two primary reasons behind the former sign ban, including aesthetics—"we just don't want people to have stuff plastered everywhere"—and, politically speaking, concerns about "the appearance of endorsement" on the university's part. "We're a state agency. We're prohibited by law from taking a political position."

"I believe that our rules are constitutional. The rule was not changed because we don't believe it was constitutional," he continued.

Norb Dunkel, president of the Association of College and University Housing Officers—International, said policies

prohibiting the placement of items in a dormitory window are extremely common across the United States for fire safety reasons. "Generally it's been a fire marshal-imposed policy that residence halls should not have windows with things in them that can impede access or egress," said Dunkel, who's also assistant vice president and director of housing and residence education at the University of Florida.

Fire safety regulations vary from state to state, Dunkel said, adding that the committee to be convened at UT Austin to consider a long-term signage policy needs to research and consider that issue. He added that, as an alternative, some colleges, including Florida, have moved to installing temporary kiosks outside residence halls during election seasons, so students can post signs in the communal front yard, so to speak.

And for students really wanting to make a statement in their window dressings, "there's always a way," he said. "We do see students who have taken signs and moved them three feet back from the window and put a light in front of them—so you can still see them from the outside." Reported in: *insidehighered.com*, October 10. □

(U.S. listened . . . from page 1)

While declining to give specifics, an NSA spokesman said some of the allegations were currently under investigation, while others had been "found to be unsubstantiated."

"We operate in strict accordance with U.S. laws and regulations and with the highest standards of integrity and lawful action," said chief spokesman Patrick Bumgardner. He added that any evidence of misconduct would bring a "swift and certain" response.

A U.S. intelligence official familiar with the reports noted that two internal investigations, by the inspectors general of the NSA and the Army, were unable to substantiate the allegations by Kinne. The official spoke on the condition that he not be identified, citing the secret nature of the intercept program.

The official noted that the NSA is legally allowed to monitor communications of government employees in war zones, and he acknowledged that agency spies assigned to intercept foreign communication will sometimes "encounter information to, from or about" U.S. citizens. But the agency's policies bar it from retaining or sharing any intercepted conversations between Americans that do "not constitute foreign intelligence," he said. Reported in: *Washington Post*, October 10. □

(is it legal? . . . from page 20)

Associates, but the DOJ has appealed that decision.

But Douglas and other defenders of Little say his videos portrayed consensual sex between adults. Douglas is planning an appeal of Little's conviction. "This appeal will be of central importance to every adult website in the world," Douglas said.

If the women in Little's videos were mistreated, as has been alleged, he should be charged with assault or rape, said Ann Bartow, operator of the Feminist Law Professors blog and a law professor at the University of South Carolina. "Obscenity as a concept is very abstract," Bartow said. "If the production of porn causes harm, the harm should be addressed directly. If the consumption of porn causes harm,

those harms should be addressed directly. Obscenity is all about the reaction of the hypothetical offended viewer. It doesn't address or redress real harms or injury."

Some legal scholars expressed less sympathy for Little, however. Some types of pornography have long been viewed as obscene, and Little's films sound like they come "pretty close to the line," said Eric Goldman, director of the High Tech Law Institute at the Santa Clara University School of Law.

The more troubling charges were against Fletcher, the Pennsylvania woman who operated the Red Rose Stories website, Goldman said. "I've always told my students that it's almost impossible for something that is text to be judged obscene," he said. The six-month home detention and other penalties in her plea deal are "still a heavy penalty for thinking out loud." Reported in: *PCWorld*, October 10. □

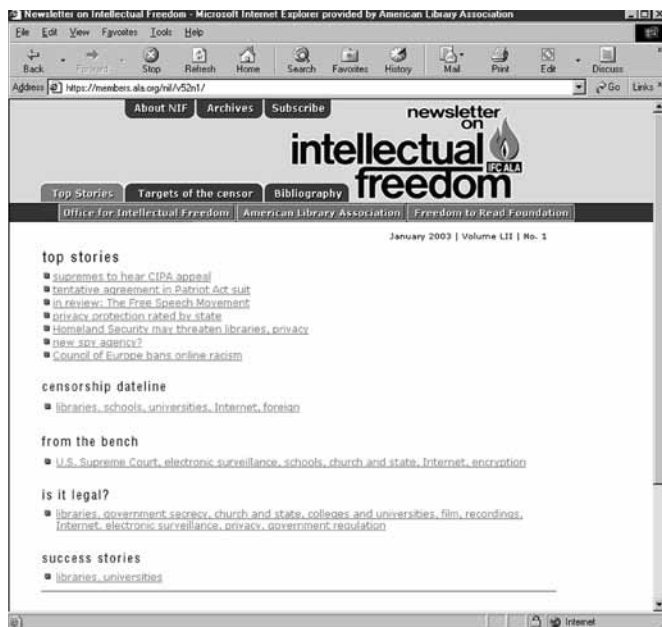
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