

Request for Reconsideration

When any patron objects to the presence or absence of any Library materials, presentation, event, or display, they are encouraged to discuss their concerns with Library staff. All complaints to staff members will be referred to the director who will discuss the matter with the patron.

If the patron wishes, they will be supplied with the Request For Reconsideration form, appended hereto. Once an official Request for Reconsideration is received, the Director, along with the necessary Library staff, will examine or review the material, presentation, event, or display in question and determine whether it conforms to the standards of Library policy.

For materials reconsideration, the Director will check reviews and present them along with the completed form (all questions must be answered) and any other recommendation or information to the Library Board members or an appointed committee from the Board. A written statement will be issued from the Board to the complainant. Decisions on reconsidered materials will stand for two years before new requests for reconsideration of those items will be entertained.

Any materials, presentations, events, or displays subject to a complaint shall not be removed pending final action.

Requests for Reconsideration forms will not be accepted unless they are filled out in their entirety.

Requests for Reconsideration are considered to be "library records" such that certain disclosure is prohibited by RSMO 182.817. All Requests for Reconsideration forms and any action taken by Library Staff will be shared with the Festus Public Library Board of Trustees. However, only the names or titles of challenged materials, presentations, events, or displays, and the results of the review will be recorded in official Library Board minutes.

Festus Public Library Request for Reconsideration of Materials

If you wish to request reconsideration of library materials or resources, please complete and return this form to the Library Director, Festus Public Library, 400 W. Main St, Festus MO, 63028. A staff member will contact you.

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

Confirm: do you have a library card in good standing? ____ yes ____ no

Name _____

Address _____

Phone _____

Email _____

Is this request made on behalf of:

Yourself? _____

An Organization? _____ Name of
Organization _____

1. Resource on which you are commenting:

TITLE: _____

AUTHOR/PRODUCER: _____

Book _____ Video _____ Magazine _____ Library
Program _____

Newspaper _____ Display _____ Other _____

2. What brought this resource to your attention?
3. Have you read, listened to, viewed, or examined the whole resource?
4. What concerns you about the resource? Please be specific, including page numbers.
5. What is valuable or meaningful in the work?
6. Are you aware of reviews of the work by critics?
7. What do you believe is the purpose or theme of this work?
8. What do you feel might be the result of reading, listening to, or viewing this work?
9. Are there other resources you could suggest that might provide additional information and/or other viewpoints on this topic?

Signature _____

Date _____

FPL Policy:

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

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

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

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

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

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

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

Approved by the Festus Public Library Board of Trustees 6/22/2023