

**From:** Brian Calcote <[REDACTED]>  
**Sent:** 1/25/2022 7:26:33 PM  
**To:** Jason Golden <[REDACTED]>  
**Cc:** Jay Galbreath <[REDACTED]>; Kimmie <[REDACTED]>  
**Subject:** Re: Library Books are Not Covered as Instructional Materials Per TN State Code

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**WARNING: EXTERNAL EMAIL - THIS EMAIL DID NOT ORIGINATE FROM WCS**

Mr. Golden,

Thank you for the reply. To your points:

WCS policy 4.402 notes that "selection of materials may involve many people including library personnel...", clearly referring to "instructional materials" as that is the subject of the policy, but it doesn't explicitly define "instructional materials" nor does it clearly state that library books are in fact instructional materials. I don't even find it to be implicit in the policy, and I have a lot of experience working with interpretation of contract/legal terms.

WCS 4.403 only contains "library" in the context that "Instructional materials of sound factual authority shall not be proscribed or removed from library shelves or classrooms...", which clearly applies only to instructional materials, which is not defined. Again, WCS policy does not define instructional materials in any clear way to include library books. Nor does the state.

The Pico case cited in 4.403 does indeed relate directly to library books. If you concede (I'm not assuming that you will, just stating a hypothetical) that the policies are not explicit and look straight to the Pico ruling as case law to follow, it gives a much clearer direction than the 4.403 process. From a summary of the ruling (<https://www.britannica.com/topic/Board-of-Education-Island-Trees-Union-Free-School-District-No-26-v-Pico>):

If the purpose is purely to eliminate a diversity of ideas for nationalistic, political, or religious reasons, then the action is a violation of the First Amendment. However, if board officials can point to a nondiscriminatory reason for removing books, such as vulgarity or educational unsuitability, then they are granted wide discretion in removing public-school library books.

At the last board meeting, the librarian reps certainly pushed hard against removing any book that isn't 100% vulgarities, but from the administration's perspective I hope that you will consider parents' and the board's opinions on the materials that were deemed too vulgar to read on the November board meeting broadcast. The librarians and principals could remove texts at any time, and I think they should consider some of those texts for removal rather than ignoring the issue while trying to force it through a policy that does not explicitly apply - this will only drag this out longer than anyone wants to deal with it, based on the length of time we have seen from the last 4.403 review.

If the materials are kept in place, I think it would be fairly easy to create a process to separate materials deemed "potentially vulgar" or to have "mature content", and require a robust/documented parental approval for a student to check

out the book. The kids have to get parental permission to see an R rated movie, the same reasonable requirement should apply at school. The librarian reps mentioned ad hoc approaches that align to this idea (such as asking a child to put a book back if they happen to know the book and think it might be an issue with the parent), but I think a standard approach would be more effective.

I think it would benefit the board and the administration to work on tightening section 4.4 to better define instructional materials. If I were amending the policies, I would separate direct curriculum materials and library books within each of the 4.4 policies for clarity, since they are procured and used quite differently.

Thanks,  
J. Brian Calcote

[Redacted]

On Tue, Jan 25, 2022 at 6:27 PM Jason Golden <[Redacted]> wrote:

Mr. Calcote,

Thanks for your email. In the context of the relevant WCS policies, library books are within their scope. In our Board Policies' context, 4.402, Selection of Instructional Materials, has a section within it for libraries and media centers. Next, 4.403, Reconsideration of Instructional Materials, includes a reference to removal of a book from a library shelf and mentions our obligation to refer someone asking for a change to a teacher, Principal or librarian. Finally, the case citation at the end of that policy, Board of Education, Island Trees Union Free School District No. 26 v. Pico, is based on reconsideration of library books. If there is a book that you want removed from a library shelf at this time, the policy does set out that process.

Often, laws start with a definitions section because those definitions may be appropriate to those laws' contexts but not to some other context. Given what you wrote about the State's approach to textbooks, that appears to be the case here. For us, within the context of these policies, as they are written right now, library books are covered by the reconsideration policy even though the State may be using the phrase "instructional materials" differently in the context you mention below. As the Board considers changes to policies, we'll consider what you have shared.

Jason Golden  
Superintendent  
Williamson County Schools

[Redacted]

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**From:** Brian Calcote <[Redacted]>

**Sent:** Tuesday, January 25, 2022 5:17 PM

**To:** Jason Golden <[REDACTED]>; Jay Galbreath <[REDACTED]>

**Cc:** Kimmie <[REDACTED]>

**Subject:** Library Books are Not Covered as Instructional Materials Per TN State Code

**WARNING: EXTERNAL EMAIL - THIS EMAIL DID NOT ORIGINATE FROM WCS**

Mr Golden,

It was clear in the last working session and school board meeting that you and Mrs. Ausbrooks insist that library books are covered by the 4.403 policy as instructional materials. Many parents and several of your school board members have questioned this, and I have not heard any legal basis for this conclusion from you or Mrs. Ausbrooks. I have looked, and I cannot find anything that does not conclude to the contrary, that library books are not "instructional materials".

Here are some TN state codes that support my conclusion:

-In general, when you search "library" in TN code 49-6, you will not find it occurs in the context of instructional materials.

-Tenn. Code Ann. § 49-6-2201 establishes the state commission on textbooks and instructional materials - it does not say anything about library books being covered by the commission. [https://advance.lexis.com/documentpage/?pdmfid=1000516&crd=1c253155-472c-4807-a111-07f108606300&config=025054JABLOTJjNmIyNi0wYjI0LTRjZGZtYWE5ZC0zNGFhOWNhMjF1NDgKAFBvZENhdGFsb2cDF014bX2GfyBTaI9WcPX5&pdDocFullpath=/shared/document/statutes-legislation/urn:contentItem:5CGS-6WJ0-R03K-404G-00008-00&pdContentComponentid=234179&pdTeaserkey=sr0&pdTab=allpods&comp=ss\\_kkk&earg=sr0&prid=bc0e8317-18af-4047-92fd-ed3786b07d21](https://advance.lexis.com/documentpage/?pdmfid=1000516&crd=1c253155-472c-4807-a111-07f108606300&config=025054JABLOTJjNmIyNi0wYjI0LTRjZGZtYWE5ZC0zNGFhOWNhMjF1NDgKAFBvZENhdGFsb2cDF014bX2GfyBTaI9WcPX5&pdDocFullpath=/shared/document/statutes-legislation/urn:contentItem:5CGS-6WJ0-R03K-404G-00008-00&pdContentComponentid=234179&pdTeaserkey=sr0&pdTab=allpods&comp=ss_kkk&earg=sr0&prid=bc0e8317-18af-4047-92fd-ed3786b07d21)

-Tenn. Code Ann. § 49-6-2202 establishes that there is a "list of approved textbooks and instructional materials". As it is written it is quite clear that it is for just those used in the classroom and is not intended to cover library books, otherwise that list would include all library books in schools across the state. The word "library" does not even appear in the text. [https://advance.lexis.com/documentpage/?pdmfid=1000516&crd=79fee401-2030-4fb3-b0af-066fe1f8aca2&nodeid=ABXAAGAAWAAC&nodepath=%2FROOT%2FABX%2FABXAAG%2FABXAAGAAW%2FABXAAGAAWAAC&level=4&haschildren=&populated=false&title=49-6-2202.+List+of+approved+textbooks+and+instructional+materials.&config=025054JABLOTJjNmIyNi0wYjI0LTRjZGZtYWE5ZC0zNGFhOWNhMjF1NDgKAFBvZENhdGFsb2cDF014bX2GfyBTaI9WcPX5&pdDocFullpath=%2Fshared%2Fdocument%2Fstatutes-legislation%2Furn%3AcontentItem%3A5CGS-6WJ0-R03M-604J-00008-00&comp=g1\\_kkk&prid=8c788d0b-db0a-4f2a-9121-54a99c816274](https://advance.lexis.com/documentpage/?pdmfid=1000516&crd=79fee401-2030-4fb3-b0af-066fe1f8aca2&nodeid=ABXAAGAAWAAC&nodepath=%2FROOT%2FABX%2FABXAAG%2FABXAAGAAW%2FABXAAGAAWAAC&level=4&haschildren=&populated=false&title=49-6-2202.+List+of+approved+textbooks+and+instructional+materials.&config=025054JABLOTJjNmIyNi0wYjI0LTRjZGZtYWE5ZC0zNGFhOWNhMjF1NDgKAFBvZENhdGFsb2cDF014bX2GfyBTaI9WcPX5&pdDocFullpath=%2Fshared%2Fdocument%2Fstatutes-legislation%2Furn%3AcontentItem%3A5CGS-6WJ0-R03M-604J-00008-00&comp=g1_kkk&prid=8c788d0b-db0a-4f2a-9121-54a99c816274)

-WCS policies do not clarify the status of library books as instructional materials in any way. Therefore, the declaration that they are subject to policy 4.403 appears to be legally unfounded. This opens up each school to manage their own library content, led by the librarians and potentially directed by the principals as the executive leader for each school.

To that end, it should be made clear through school leadership that removal of a book from a single facility does not constitute censorship or a violation of 1st amendment rights - any published work is readily available from public libraries or bookstores if any parent or student wants to track down a particular book and read it, and the school system is not telling students what they can and can't read. The schools have no obligation to provide every book ever published through onsite libraries.

Please note that I am not pushing for removal of any particular text, I seek only to clarify policy and process and to prevent administrators from hiding behind improper interpretations of these. If you or Mrs. Ausbrooks have a legal basis to claim that 4.403 should be applied to library books, the public deserves to see it. The arguments made at recent meetings did not establish any basis, only stated opinions that I believe are refuted in the TN codes above.

Regards,

J. Brian Calcote

[REDACTED]

[REDACTED]