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HOUSE OF REPRESENTATIVES
153rd GENERAL ASSEMBLY

HOUSE BILL NO. 119
AS AMENDED BY
HOUSE AMENDMENT NO. 1
AND
HOUSE AMENDMENT NO. 7
AND
HOUSE AMENDMENT NO. 8

AN ACT TO AMEND TITLES 9, 14, AND 29 OF THE DELAWARE CODE RELATING TO LIBRARIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 8731, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 8731. Division of Libraries.

(a) In addition to any other power granted or duties imposed under this title, the Division of Libraries shall exercise general direction and control over the furnishing of library services within this State. The Director of the Division shall be the State Librarian, who shall be a graduate of a school accredited by the American Library Association. The Division of Libraries shall have the following functions and duties:

(18) To create a State model public library collection development policy, in cooperation with the Library Consortium, as required by § 8731A of this title.

(19) To create a State model school library collection development policy, in cooperation with the Library Consortium, as required by § 7201 of Title 14.

Section 2. Amend Chapter 87, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8731A. Public library collection development policy.

(a) For purposes of this section:

(1) "Public library" means any library in the State which is open to the public and receives funding from the State or from a county or municipality of the State. "Public library" includes privately incorporated public libraries and

HD : LTK : DS : 3491530003
DLS : HVW : CBM : 5081530083
Released: 06/30/2025 11:12 PM

county libraries. "Public library" does not include public school libraries, libraries within institutions of higher education, or Department of Correction libraries.

(2) "Library materials" or "material" includes books, periodicals and serials, audio materials, audiovisual materials, instructional materials, maps, databases, government documents, records, photographs, and other similar materials, whether in tangible or electronic form.

(b) The State establishes the following public library collection development principles:

(1) Library materials, services, and resources exist and should be provided for the interest, information, and enlightenment of all persons the public library serves.

(2) A public library may not exclude or remove material from its catalog because of the origin, background, or views of a person who created the material.

(3) A public library may not exclude or remove material from its catalog because of partisan, ideological, or religious disapproval.

(4) Nothing in this section is intended to override or negate any provision of state law relating to material that is in violation of Title 11, Chapter 5, Subchapter 7, Subpart C.

(c) A public library must adopt and follow a written collection development policy for the operation of a library that is consistent with the public library collection development principles established under subsection (b) of this section. The collection development policy must include a procedure for requesting the removal of library material within a public library. In addition, the collection development policy must include the following provisions:

(1) Library materials under review due to an objection must remain available for use by public library patrons until the review process is concluded.

(2) Only a resident, business owner, property owner of the area the public library serves, or a taxpayer of a library district financing a library, may submit an objection to material in that library.

(3) An individual may only submit 1 objection to library material at a time. An individual may submit a second objection to library material after the previous objection has completed the review process, including any appeals.

(d) The governing board or body of a public library may not dismiss, suspend, discipline, demote, reassign, transfer, or otherwise retaliate against an employee or contractor for acting in a manner consistent with the State public library collection development principles under subsection (b) of this section or the collection development policy under subsection (c) of this section.

(e) The Division of Libraries, in cooperation with the Library Consortium, shall develop model policies and procedures that public libraries may use to ensure compliance with this section.

(f) The Division of Libraries may make rules and regulations governing an appeal from a final decision made by a public library regarding a request for removal of library material. The appeals process may include a review by the Delaware Library Consortium Public Libraries Policy Steering Committee or the Council on Libraries. The State Librarian must make the final decision regarding a request for removal of library material from a public library.

(g) Notwithstanding any provision of § 10002 of this title to the contrary, all records relating to material objections, removals, the review process, appeals, and appeal decisions, including the reasons for material removal, if applicable, are considered public records under Chapter 100 of this title.

Section 3. Amend § 6604, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 6604. Requirements for contracting with Division.

(a) Public libraries or public library systems contracting with the Division must meet, or provide evidence of attempting to meet, minimum standards of operations as established by the Division and approved by the Council. The Division shall publish guidelines for the disposition of library materials purchased with state funds.

(b) A public library or public library system contracting with the Division must adopt and comply with a public library collection development policy as required by § 8731A of this title.

Section 4. Amend Subchapter 1, Chapter 8, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 803. Public library collection development policy.

(a) For purposes of this section, “library” includes all libraries established, administered, or controlled by a county library agency under § 801 of this title.

(b) All libraries must adopt and follow a written collection development policy as required by § 8731A of Title 29.

(c) The governing body of a library may not dismiss, suspend, discipline, demote, reassign, transfer, or otherwise retaliate against an employee or contractor for acting in a manner consistent with the State public library collection development principles under § 8731A of Title 29 or the written collection development policy required by § 8731A of Title 29.

Section 5. Amend Part IV, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 72. SCHOOL LIBRARY COLLECTION DEVELOPMENT POLICY

§ 7201. Library collection development policy for school libraries.

(a) For purposes of this section:

(1) "Classroom library" means materials donated to, purchased by, or acquired by an individual teacher, which are made available in the teacher's classroom to students assigned to the teacher's class.

(2) "Library" means all school libraries established, administered, or under the control of a local education agency. A "library" does not include classroom libraries.

(3) "Library materials" or "material" includes books, periodicals and serials, audio materials, audiovisual materials, instructional materials, maps, databases, government documents, records, photographs, and other similar materials, whether in tangible or electronic form.

(4) "Local education agency" means any public authority legally constituted by the State as an administrative agency to provide control of and direction for kindergarten through 12th grade public educational institutions. Local education agencies include reorganized school districts, juvenile correctional facilities, vocational-technical school districts, and charter schools.

(b) The State establishes the following school library collection development principles:

(1) The library materials, services, and resources provided in a school library are provided for the interest, information, and instructional support of students and school personnel of the schools the program serves.

(2) Library material may not be excluded, removed, or prohibited from a school library solely because of the origin, background, or views of the person who created the material.

(3) Library material may not be excluded, removed, or prohibited from the catalog of a school library because of partisan, ideological, or religious disapproval.

(4) Nothing in this section is intended to override or negate any provision of state law relating to material that is in violation of Title 11, Chapter 5, Subchapter 7, Subpart C.

(c) Each local education agency shall develop and implement policies and procedures to review objections to library material in a school library. The policies and procedures must align with the school library collection development principles established under subsection (b) of this section. The policies and procedures developed under this subsection must do the following:

(1) Establish a uniform process to submit an objection to library material in a school library by a student, parent or guardian of a student enrolled in a public school, or school personnel.

(2) Require that library material under review due to an objection remain available for use by students and school personnel until the review process is concluded.

(3) Establish a reasonable timeline to conduct and conclude the review process.

(d) Only the following individuals may make objections to library material in a school library under subsection (c) of this section:

(1) A student enrolled in a school that carries the objectionable material in the school's library.

(2) A parent or guardian of a student in a school that carries the objectionable material in the school's library.

(3) School personnel in a school that carries the objectionable material in the school's library.

(e) A local education agency may not dismiss, demote, suspend, discipline, reassign, transfer, or otherwise retaliate against a librarian, a certified library media specialist, or employee of a local education agency for performing their job duties consistent with the principles established under subsection (b) of this section or policies developed under subsection (c) of this section.

(f) The Division of Libraries, in cooperation with the Library Consortium, shall develop model policies and procedures that libraries may use to ensure compliance with this section.

(g) At the conclusion of a review process established under subsection (c) of this subsection, an appeal may be made to the board of the local education agency. The board of the local education agency must issue a decision confirming or reversing a decision by a local education agency within 30 days.

(h) After a decision is made in an appeal under subsection (g) of this section, an appeal may be made to the School Library Review Committee, established under § 7201 of this title. A decision of the School Library Review Committee shall be a final decision. The Committee's decision must only apply to the school library that received the initial complaint that is subject to appeal.

(i) An individual who is not a party to the original complaint, objection, or underlying appeal, may appeal a decision made by a school, a local education agency, or the board of a local education agency under this section, so long as the individual making the appeal is a student, parent or guardian of a student, or school personnel in the school where the complaint, objection, or underlying appeal initiated.

(j) Notwithstanding any provision of § 10002 to the contrary, all records relating to material objections, removals, the review process, appeals, and appeal decisions, including the reasons for material removal, if applicable, are public records under Chapter 100 of Title 29.

§ 7201. School Library Review Committee; procedures.

(a) There is established a School Library Review Committee. Membership is composed as follows:

(1) The President of the School Chiefs' Association, or the President's designee.

(2) The State Librarian, or the State Librarian's designee.

(3) The Secretary of the Department of Education, or the Secretary's designee.

(4) The President of the Delaware State Education Association, or the President's designee.

(5) The President of the Delaware Association of School Administrators, or the President's designee.

(6) The President of the Delaware Association of School Librarians, or the President's designee.

(7) The President of the Delaware Library Association, or the President's designee.

(b) The Committee may adopt procedural rules to carry out its functions under this chapter.

(c) A majority of the committee members must be present at a committee meeting in order to have a quorum and conduct official business. A majority of the members present is sufficient to approve an action of the Committee.

(d) The State Librarian, or the librarian's designee, shall be the chair of the committee.

(e) The Department of Education shall provide reasonable staff support to assist the Committee in performing its duties under this title.

Section 6. This Act is known as the Freedom to Read Act.