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IN THE CIRCUIT COURT FOR HARFORD COUNTY

HARFORD COUNTY BOARD OF EDUCATION ***Petitioner*,** **v.** **TOGETHER WE WILL, *et al*.** **NEIL THOMPSON, *et al*.** **HARFORD COUNTY EDUCATION ASSOCIATION, *et al*.** ***Respondents*.**	)	**Cases No. C-12-CV-25-001061**

RESPONDENT LESLIE THOMPSON'S MEMORANDUM IN SUPPORT OF MARYLAND STATE BOARD OF EDUCATION OPINION NO. 25-45

Respondent, Leslie Thompson, by and through her attorneys, hereby submits this memorandum in support of upholding the Maryland State Board of Education's decision to retain *Flamer* in Harford County Public School secondary school libraries, in alignment with the Maryland Freedom to Read Act and relevant First Amendment law.

> *"This crucial and timely legislation will safeguard our libraries from becoming the next frontier of censorship, protecting literature and the freedom for readers to choose for themselves. The Freedom to Read Act…will prevent intolerance and hate from taking root in our institutions and in our schools."*
>
> ~ Bill sponsor Delegate Dana Jones introducing the Maryland Freedom to Read Act.[1]

[1] *See* William J. Ford, "House panel reviews Freedom to Read Act in dramatic hearing", Maryland Matters, Feb. 22, 2024, available at: https://marylandmatters.org/2024/02/22/house-panel-reviews-freedom-to-read-act/.

I. INTRODUCTION

At its heart, this case is about the freedom to read in Maryland public school libraries. It is about whether and how a single parent's objection to a school library book's content – a book that she is free to designate as one her own child is not allowed to read, for any reason or no reason at all – becomes a lawful basis to censor it for *every* other student and family in a local school system.

When Maryland's legislature passed the Freedom to Read Act following an alarming proliferation of book bans, it established crucial statutory and procedural safeguards for school systems making these determinations. Md. Code, Educ. § 4-142 ("FRA"). In response, Harford County Public Schools ("HCPS") adopted a transparent and detailed process establishing a Reconsideration Committee to determine how such removal requests would be evaluated pursuant to the Freedom to Read Act, in light of the law's safeguards. Upon receiving such a request in relation to *Flamer*, an acclaimed book by Mike Curato addressing a gay Filipino-American boy's struggle to reconcile his different identities and sense of belonging, the HCPS Reconsideration Committee and Superintendent engaged in a thorough, multi-level review conducted pursuant to HCPS policy and the FRA. The review included reading the entire book and assessing its handling of sensitive content in the context of its overall literary value, using methods and rubrics established by policy, including a specific review of whether the book was "pervasively vulgar" in light of community standards. Based on this comprehensive study and analysis, the Reconsideration Committee and Superintendent determined that *Flamer* should remain available in HCPS secondary school libraries.

Petitioner Harford County Board of Education ("Petitioner" or "Local Board"), in contrast, disregarded the very procedures and statutory safeguards Maryland law, the First Amendment, and the school system's own rules require for challenges to library material. In so doing, Petitioner

arbitrarily, unreasonably, and unlawfully reversed the carefully reviewed decision to retain *Flamer,* and ordered the book to be removed from every Harford County public school library. Petitioner, which by its own description was operating in a quasi-judicial function rather than its regulatory function in reviewing the Superintendent's adoption of the Committee's findings, failed to identify any procedural defect, evidentiary basis, or valid legal justification sufficient to support removal. (R. 000007-10, Local Board Decision). Instead, Petitioner substituted unsupported and biased conclusions for the reasoned and objective analysis required by both HCPS procedures and Maryland law, claiming the award-winning book was "pervasively vulgar" *without even reading it*. (R. 000009; *see also* 0001186-95, State Board Decision). Indeed, neither Petitioner nor the parent who sought *Flamer*'*s* removal identified a single fact to support the contention that *Flamer* is "pervasively vulgar." (R. 000007-10). Now, in an effort to justify its arbitrary, unreasonable, and illegal decision to remove *Flamer*, Petitioner's counsel pluck selected passages *out of context* that involve profanity, references to sexual situations, and derogatory language, ignoring the book's overall affirming message. Petitioner cannot retroactively justify its conclusory and biased decision to supplant the Reconsideration Committee's well-reasoned recommendation adopted by the Superintendent.

On appeal, the Maryland State Board of Education ("State Board") engaged in a detailed review of the record and correctly determined that the Local Board's action was arbitrary and unreasonable based primarily on its lack of any supporting evidence, and properly reinstated the Superintendent's decision. (R. 001186-95).

Now, as Petitioner in this appeal, the Local Board asks this Court to reverse the State Board decision, but fails to acknowledge, let alone satisfy, the heavy burden required to do so. Maryland law affords substantial deference to decisions of the State Board, recognizing the State Board's

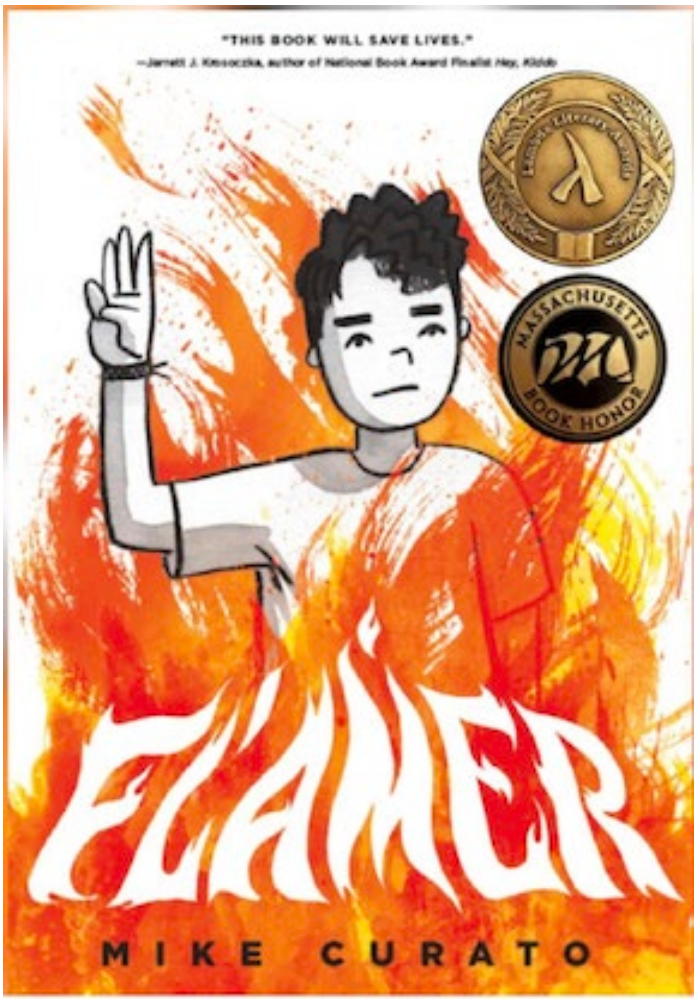
broad statutory authority to resolve disputes involving administration of the State's public education system under Md. Code, Educ. § 2-205. *Donlon v. Montgomery Co. Pub. Schs.*, 460 Md. 62 (2018). Thus, to prevail, Petitioner must demonstrate that, based on the record below, the State Board's decision was arbitrary, unreasonable, or illegal. *Board of Educ. of Howard County v. McCrumb*, 52 Md. App. 507 (1982). It cannot.

Here, the State Board acted well within its authority and – unlike the Local Board – engaged in the careful, fact-intensive analysis required by law. The State Board thoroughly reviewed the HCPS reconsideration process, the evidentiary record, and Petitioner's stated rationale for overturning the Superintendent's ruling before concluding that the removal decision lacked factual support and departed from HCPS's own established procedures. (R. 001186-95). Because the State Board's decision reflects a reasoned application of Maryland law and the Freedom to Read Act, and was by no assessment arbitrary, capricious, or illegal, this Court must defer to and affirm the Board's determination.[2]

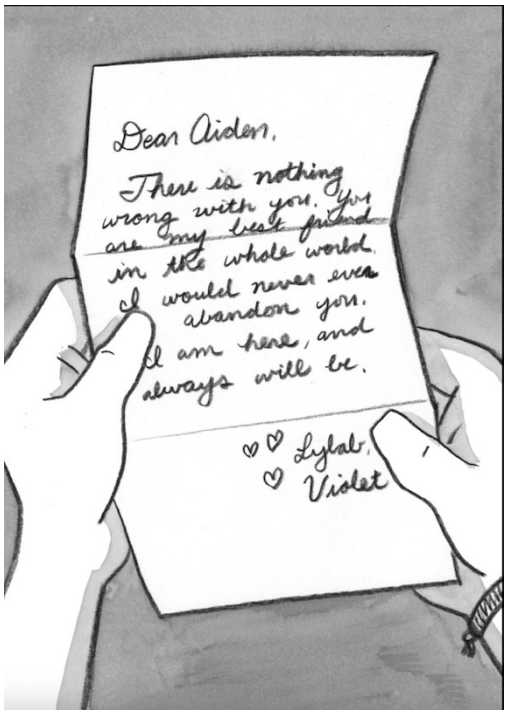
[2] Petitioner also raises arguments regarding the standing of certain parties (other than Respondent Leslie Thompson) to the dispute, as well as the timeliness of the Harford County Education Association's appeal of Petitioner's decision. *See* Petition at pp 6-7. Respondent does not address those arguments here, as they are not relevant to her Response, and she takes no position on those arguments by Petitioner.

II. STATEMENT OF THE CASE AND RELEVANT FACTS

A. Brief Summary of *Flamer*.



Flamer is a semi-autobiographical graphic novel by Mike Curato, set at a summer Boy Scout camp with a Filipino-American protagonist, Aiden, who is a closeted gay teenage boy struggling with bullying, misogyny, and bigoted behavior of his peers, fear of rejection by his family and friends, and his religion's demonization of homosexuality in light of his close relationship with God. In the award-winning novel, Aiden grapples with feelings of rejection from family and friends, low self-esteem, fear of how to square his feelings regarding his own sexuality with his religion's rejection of the same, and suicidal ideation. He witnesses the persecution of a camp counselor who was a mentor, when that counselor is fired from his position at the camp for being gay.



Ultimately, however, Aiden finds redemption in himself, in his relationship with God, and acceptance from his best friends – a teenage boy at the camp, and a teenage girl from home who writes in a letter, "There is nothing wrong with you. You are my best friend in the whole world. I would never ever abandon you. I am here and always will be." *Flamer* at p. 346.

As recognized by the Reconsideration Committee, *Flamer* won enormous accolades for its empathetic storytelling and graphics, and for serving as a lifeline for young people grappling with how to navigate their multi-faceted identities:

> From *Hornbook*: 'Grown-up LGBTs will know exactly what Aiden is going through, but this book speaks so well to those kids currently undergoing the ordeal … I wish I had had this book fifty years ago.'
>
> From *Kirkus*: 'But the true story of this book is the writing, which describes a boy who could live in any decade on his journey to self-discovery. This is a story that will be read and reread, and for some, it will be the defining book of their adolescence…'
>
> From *School Library Journal*, 'Curato has created a beautiful story of a teen who must decide if he will force himself into the mold of what he thinks a "normal" boy is, or if he can allow himself to live life on his own terms. An essential book that shows readers that they are never alone i[n] their struggles.'

(R. 000090-91). *Flamer* is, at its core, a book about acceptance, tolerance, and the rejection of misogyny, hate, and bigotry.

B. The Maryland Freedom to Read Act and HCPS Policies Implementing It.

The Maryland Freedom to Read Act ("FRA") was enacted by the Maryland General Assembly in 2024 to combat a wave of book banning at schools in Maryland and nationwide. At

the time of the law's passage, book challenges in Maryland had surged more than 130 percent since 2019, driven by ideological and partisan pressures.[3] In Carroll County, for example, sustained pressure from the local Moms for Liberty group, a partisan political organization, resulted in removal of more than 50 books from school library shelves.[4] The General Assembly responded to this onslaught of censorship with the Freedom to Read Act. The law passed both legislative chambers by overwhelming majorities and was signed into law by Governor Wes Moore.

The statute limits the grounds on which material may be removed from schools, stating in relevant part:

> (a) It is the policy of the State that each local school system operates its school library media program consistent with the following standards:
>
> **(1)** The materials, services, and resources provided in a school library media program are provided for the interest, information, and instructional support of students and school personnel of the schools the program serves;
>
> **(2) Materials may not be excluded from a school library media program solely because of the origin, background, or views of the individual who created the material; and**
>
> **(3) Materials may not be excluded or removed from the catalogue of a school library media program because of partisan, ideological, or religious disapproval.**

Md. Code, Educ. § 4-142(a) (emphasis added). The FRA further specifies how local school systems must implement its provisions:

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[3] *See* Maryland Freedom to Read Act, Md. Library Association, https://www.mdlib.org/support-maryland-libraries/marylands-freedom-to-read-act/

[4] *See* Kristen Griffith, "It just got tougher to ban books in Maryland school libraries," Baltimore Banner, June 25, 2024, available at: https://www.thebanner.com/education/k-12-schools/maryland-school-library-books-EAY76LAN6FDNHADSMAOWUJZNHY/

(b)(1) Each local school system shall develop and implement a policy and procedures to review objections to materials in the school library media program.

(2) The policy and procedures developed under paragraph (1) of this subsection shall:

(i) Establish a uniform process to submit an objection to materials in a school library media program by a student, parent or guardian of a student enrolled in a school in the local school system, or school personnel;

(ii) Require materials under review due to an objection to remain available for use by students and school personnel until the review process has concluded; and

(iii) Establish a reasonable timeline to conduct and conclude the review process in a timely manner.

Id.

Pursuant to the FRA and its accompanying regulatory framework in COMAR 13A.05.04.01, *et seq.*, in May 2024, HCPS adopted a procedure for the Evaluation and Selection of Library Materials ("Evaluation Procedure"), which both provides detailed criteria for the selection of school library materials and requires objections to library media materials to undergo a structured review by a Reconsideration Committee when library media materials are challenged. (R. 000021-000029, Evaluation and Selection of Library Materials Procedure).

The Evaluation Procedure expressly provides that "[i]f an item in the school's library collection raises concerns," a parent may contact the school librarian "to have an open dialogue to address and resolve concerns." (R. 000026). If that does not resolve the matter, the parent may initiate a formal review process through the Reconsideration Committee. *Id*. After review, the Reconsideration Committee then issues a recommendation based on a majority vote to retain, relocate, or remove the material, subject to review by the Superintendent, who then renders a decision. (R. 000027-28). That decision is appealable to the Local Board. (R. 000028).

C. The Request to Ban *Flamer* and Subsequent Procedural History.

On March 24, 2025, an HCPS parent, Amy Streett, invoked Harford's FRA process by submitting a request seeking removal of *Flamer* from HCPS libraries after seeing a Fox News report mentioning the book. (R. 000018-20). She had not read the book herself, but objected that the book "plants seeds in the heads of children … that are trying to find themselves." (R. 000020).

Consistent with the FRA's requirements and HCPS policy implementing the law, the Reconsideration Committee convened a diverse Sub-committee comprised of two parents, one community member, one teacher, one administrator, one librarian, two 8th-12th grade students, and one curriculum supervisor or specialist.[5] (R. 000053-54). Before convening, "the committee members underwent a training by HCPS legal counsel, which provided an informational legal briefing on review criteria and constitutional principles pertaining to the school library book review, including caselaw on 'pervasively vulgar' materials." (R. 0001193-94; *see also* R,000479-97).

As explained by the State Board, HCPS's Evaluation Procedure provides specific and extensive substantive guidance to evaluators:

> In addition to detailing the Reconsideration Sub-committee process to review requests from the school community, the Evaluation Procedure includes extensive criteria for reviews of school library media, including: two favorable reviews recommending the materials for the age of students/patrons; an evaluation of the total worth of a book, its themes, conclusions and meaning for students; and a review of age appropriateness, profanity, non-sexual nudity, historical context of violence, humor deriving from bodily functions, humor at the expense of authority and/or religion, and discrimination. The Evaluation Procedure also includes a table that distinguishes "age appropriate" versus "not appropriate" content by grade level bands. (R1. 17-18).

[5]The full Reconsideration Committee is made up of 27 members divided into 3 subcommittees, who are selected by a committee appointed by HCPS's Executive Director of Curriculum, instruction and Assessment following a public application process for one-year appointments. (R. 000026, Evaluation and Section of School Library Procedure III(D)(1)).

(R. 0001193-94).

The Reconsideration Committee then conducted a comprehensive review of the book, including its literary recognition, artistic merit, age appropriateness, and consistency with HCPS curriculum, policies and Maryland law. The March 24, 2025 *Reconsideration Committee Report* (R. 000079-81) summarizing the Committee's work demonstrates how the Committee considered and assessed: (1) the book's content, particularly sensitive or potentially offensive material; (2) its literary and artistic merit, such as the types of themes addressed and artistic appeal; (3) whether the book aligned with HCPS community standards, such as statements of policy; and (4) the book's age appropriateness for high-schoolers and middle-schoolers, based on its content:

> **"Committee Discussion Summary**
>
> The reconsideration committee conducted a thorough review of the book, focusing on its literary merit, age appropriateness, and alignment with criteria found in the Evaluation and Selection of School Library Materials Procedure. Key points from the discussion included:
>
> **1. Content Assessment:** The committee discussed the book's content, including:
> - No explicit nudity, though there are scenes with partial nudity in a camp shower setting
> - Repetitive profanity throughout the text, which was determined to be contextually appropriate
> - Exploration of sexual identity and homosexuality
> - Instances of bullying
> - Suicidal ideation (the character does not follow through)
> - Masturbation referenced (specifically one scene involving a bottle)
>
> **2. Literary and Artistic Merit:** Committee members noted the book's significant artistic value:
> - Effective use of color and black/white imagery to portray mood
> - Graphic novel format appeals to a wide range of readers
> - Semi-autobiographical nature lends authenticity to the narrative
> - Exploration of themes including friendship, community involvement, racial identity, and positive body image
> - Well-developed portrayal of male friendship
> - Historical context provided for the treatment of LGBTQ+ individuals

3. Community Standards: The committee discussed how the book aligns with HCPS community standards:

- Supports HCPS's commitment to providing safe and caring environments
- Aligns with district policies on equal protection and prohibiting discrimination
- Reflects the presence of GSA (Gay-Straight Alliance) clubs in district schools
- Portrays faith and religious organizations respectfully
- Presents positive conflict resolution and friendship repair

4. Age Appropriateness: Significant discussion centered on appropriate grade levels:

- All members agreed the book was appropriate for high school
- Discussion about middle school appropriateness, particularly for 6th grade, with an emphasis on profanity found throughout the book
- Observation that the protagonist is a middle school student transitioning to high school
- Themes align with current health curriculum in middle school
- Acknowledgment that four middle schools have Gay-Straight Alliance chapters"

(R. 000080-81). As part of this process, all Committee participants read the full book and took detailed notes that reflect their express consideration of the parent's concerns, the book's challenged qualities and how they reached their conclusions. (R. 000087-97). They discussed the book among themselves before voting on how to proceed. (R. 000014-17, Library Reconsideration Meeting Comments, Mar. 24, 2025). The record of the Committee's discussions further reflects their direct consideration of the parent's concerns and objections, age-appropriateness, and whether and how the challenged content was excessive, gratuitous or put in context. (R. 000014-17). Overall, the record shows that individually and collectively, Committee members explicitly considered whether *Flamer* was educationally suitable, including whether it was "pervasively vulgar" or otherwise inconsistent with HCPS community standards.

The Committee voted unanimously to retain *Flamer* in high school libraries, and voted 8-1 "after extensive discussion" to retain the book for grades 6-8, "noting that…[t]he book would remain in high school libraries and combined MS/HS libraries" and **"[t]he committee emphasized**

that parents/guardians retain the ability to ask that specific books are not made available to their own student." (R. 000081).

On May 15, 2025, the Superintendent adopted the recommendation, and advised on the right to appeal. (R. 000056-57). On May 21, 2025, Ms. Streett appealed to the Local Board, emphasizing her disagreement with the Board's conclusions about the appropriateness of "specific, explicit content" in the book. (R. 000011-13, Streett Appeal to Local Board; R. 000020, Streett Original Request for Reconsideration). Despite admitting that she did not read the book, Ms. Streett sought to supplant her own view of the material for the review of the Reconsideration Committee because she felt that the book included "depictions of sexual thoughts, suicidal ideation, and coarse language that many parents—including myself—find unsuitable for middle and high school students." (R. 000011). Ms. Streett also demonstrated a lack of understanding of the process itself, claiming that the decision was made by "individuals with no vested interest in the children currently attending Harford county Public Schools - over a parent who does..." (R. 000012), despite the fact that the Reconsideration Committee that reviewed the work had two parents on it, as well as students and school personnel (R. 000079). Ms. Streett nevertheless asserted that there was not "adequate notice or a content rating system," which "undermines the role of parents as the primary educators in matters of morality and personal development." (R. 000011). Finally, Ms. Streett contended that "recognition from professional organizations [and] accolades" had "outweigh[ed] community standards…[and] parental concerns." (R. 000012).

On appeal, the Local Board requested documentation from both parties. (R. 000058). As the appellant, Ms. Streett bore the initial burden to establish by a preponderance of the evidence that the Superintendent's decision was arbitrary, unreasonable, or illegal. *Hurl v. Board of Education of Howard County,* 107 Md. App. 286, 306 (1995). She declined to supplement her

letter, thus providing no further explanation, evidence or legal authority for how the decision was arbitrary, unreasonable or illegal. The Superintendent submitted a memorandum and accompanying exhibits supporting his decision. (R. 000058-85). The memorandum addressed each of Ms. Streett's contentions in turn and explained why her personal disagreement was insufficient to overcome the considered work of the Reconsideration Committee. *Id*. It also reiterated precisely how Ms. Streett, and any other parent, could elect to preclude her child from obtaining the book. *Id*.

On June 26, 2025, following a closed-door "hearing" that lacked public notice, the Local Board voted 5-3, with one abstention, to overturn the School Superintendent's decision and to remove every copy of *Flamer* from all HCPS libraries. (R. 000007-10). The Local Board held no public Board meeting following the hearing to announce the decision. (R. 000821). The only evidence of Petitioner's deliberation process was what appeared in the decision itself, drafted by Petitioner's attorney, Greg Souza. (R. 000007-10). When asked for records related to the Local Board meeting where deliberations took place, Petitioner, through Mr. Souza, claimed such information was "attorney-client privileged." (R. R. 000348-49).

Significantly, the State Board was able to find no evidence that Local Board members even read the book "beyond some choice passages which were not identified." *Id.*

The Local Board's decision stated:

> "The Board Panel, by a vote of 5-3, with one abstention, voted to reverse the Superintendent's decision that the novel was suitable for either middle school or high school libraries. In particular, the Board Panel found that HCPS failed to critically evaluate the book on its age appropriateness, its extensive profanity, sexual situations and demeaning observations of females.
>
> The HCPS Policy addresses the age-appropriateness of sexual activity or extreme descriptions of sexual activity or extreme descriptions of sexual aggression and disrespectful portrayals of female characters as sexual objects. These are 'legitimate pedagogical concerns of educational suitability.' … The factors were considered

> within the context of the Constitution, Federal and State Law. The Board Panel, in rendering its decision, was cognizant of the First Amendment rights of its students. The decision in this appeal was predicated on the pervasive vulgarity and the novels' absence of suitability."

(R. 000008-09).

The decision did not elaborate on how Board members reached these conclusions, nor was there any record of who decided which passages Board members would review, or even which passages were reviewed.

Several Local Board members made public comments, however, that reflect bias. For example, **HCPS Board Member Diane Alvarez explicitly stated that her rationale for voting to remove *Flamer* was "because of the demeaning reflection on the Church, which was unnecessary and fails the criterion of respect and dignity to religious organizations."** (R. 000981-82). Ms. Alvarez had expressed similar bias in an earlier exchange with a different parent regarding draft HCPS Reconsideration Procedures in January 2025. (R. 000973-80). In response to the parent, Ms. Alvarez made comments suggesting she would support requests to restrict books for religious and ideological reasons, noting that, "Our schools allow evil in because they foolishly claim they do not believe in its existence." (R. 000973-80). In other words, Ms. Alvarez wanted *Flamer* removed "solely because of the origin, background, or views of" the author and/or because it was not in alignment with her own "partisan, ideological, or religious" view, in contravention of the Freedom to Read Act.

Similarly, then-board member Terri Kocher's opined – *before* the Reconsideration Committee even finished its report -- that she would reevaluate the entire procedure and policy if the Reconsideration Committee decided to retain *Flamer* because "parents do not want their kids exposed to these books." (R. 000789). These comments also evidence a "partisan ideological, or religious" basis for removing the book. Md. Code, Educ. § 4-142(a)(3).

Following the Local Board's decision, Respondent Leslie Thompson, an HCPS parent with two students enrolled in HCPS, and several others,[6] filed appeals with the State Board. (R. 000561-658, Thompson Appeal to State Board (Jul. 23, 2025); R. 000782-1010 Thompson Reply in Appeal to State Board (Sept. 14, 2025)). On November 4, 2025, after conducting a "fact-intensive analysis of the record[,]" the State Board issued its ruling, reversing the Petitioner's decision as arbitrary and capricious, and reinstating the Superintendent's decision to retain *Flamer* in HCPS secondary libraries. (R. 001185-95).

First, the State Board concluded that the HCPS Evaluation and Selection of School Library Materials Procedure's ("Evaluation Procedure") – used by the Reconsideration Committee and Superintendent – was consistent with Maryland's Freedom to Read Act. (R. 001193 (citing Md. Code, Educ. § 4-142)). Emphasizing the Evaluation Procedure's extensive review criteria and procedures for challenged library materials, the State Board further concluded that the Local Board "failed to provide any evidence" that the Reconsideration Committee or the Superintendent did not "conduct a thorough review of *Flamer* consistent with its own policies." (R. 1194). Specifically, the State Board highlighted that committee members were specifically trained on the legal and HCPS policy parameters of their assessments, read the entire book, and adhered to the policy's review criteria as evidenced by their notes demonstrating their reasoning. The State Board contrasted this with the Local Board's selective review of unidentified passages. Ultimately, the State Board found that the opaque and unsupported review underlying the Local Board's reversal

[6] Leslie Thompson filed her initial appeal to the State Board with co-Appellants, Neil Thompson and Tarsilla Thompson. The State Board concluded that Leslie Thompson had standing, but Neil Thompson and Tarsilla Thompson did not. (R. 001191). Neil Thompson and Tarsilla Thompson initially filed a Cross-Petition for Review of the State Board's decision, however they voluntarily dismissed their Cross-Petition. Ms. Thompson takes no position on the State Board's decision on these grounds. The Harford County Education Association ("HCEA") and Together We Will also filed appeals below.

was arbitrary and unreasonable. (Record 1193-1194). Petitioner then sought judicial review in this Court.

III. QUESTION PRESENTED

Whether the Local Board has demonstrated the State Board's decision was arbitrary, capricious, or illegal?

IV. STANDARD OF REVIEW

Maryland Education Code § 2-205 establishes the State Board's broad authority to, among other things, "[d]etermine the elementary and secondary educational policies of the State." Md. Code, Educ. § 2-205(a). In order to do so, the State Board is mandated to "adopt bylaws rules, and regulations for the administration of the public schools," which "have the force of law when adopted and published[,]" and "apply to each county." Md. Code, Educ. § 2-205(c).

While county boards of education are tasked with managing certain education matters at the local level, their authority is expressly subordinate to that of the State Board. Md. Code, Educ. § 4-108 ("Each Local Board shall…To the best of its ability carry out the applicable provisions of this article and the bylaws, rules, regulations, and policies of the State Board"). The State Board of Education retains broad supervisory power under Maryland law to review, correct, nullify, and set aside local board actions that are inconsistent with public general law, State Board bylaws, or otherwise constitute an abuse or irregular exercise of authority. *See* Md. Code, Educ. § 2-205(e); §4-205(c); *see also See Bd. of Educ. for Dorchester Cnty.* v. *Hubbard,* 305 Md. 774, 789 (1986); *Bd of Educ. of Garrett County* v. *Lendo,* 295 Md. 55*,* 65-66 (1982).

As explained by the Supreme Court of Maryland:

> [T]he authority of the county school boards is always subject to statutes enacted by the General Assembly and to the supervening authority of the State Board of Education. A Local Board cannot adopt and enforce a policy affecting the operation of the public schools or the rights, privileges, or obligations of public school students that is inconsistent with public general law or with by-laws of the State Board of Education, which have the force of law.

Patrick Y., 358 Md. 50, 66 (2000); *see also Wilson v. Board of Education of Montgomery County*, 234 Md. 561, 565, 200 A.2d 67, 69 (1964), (explaining that "the totality of these provisions, quite plainly we think, invests the State Board with the last word on any matter concerning educational policy or the administration of the system of public education. This has been described as 'a visitatorial power of the most comprehensive character.'"). Maryland law expressly vests county superintendents, not local county boards, with the authority to "explain the true intent and meaning of…school law; and…the applicable bylaws of the State Board." Md. Code, Educ. § 4-205(c)(1).

Critically, the Education Article provides that the State Board "shall decide all controversies and disputes" within its jurisdiction, and "the decision of the Board is final." Md. Code, Educ. § 2-205(e)(2),(e)(3). As such, State Board decisions are afforded great deference." *Donlon v. Montgomery Co. Pub. Schs.*, 460 Md. 62 (2018). Thus, reversal is warranted only if Petitioner establishes that the State Board's decision was illegal, arbitrary, or capricious. *Frederick Classical Charter Sch., Inc. v. Frederick Co. Bd. of Educ.*, 454 Md. 330 (2017); *Bd. of Educ. of Howard Co. v. McCrumb,* 52 Md. App 507 (1982). This is a high bar.

V. ARGUMENT

Petitioner's sole basis for seeking this Court's intervention is its reiteration of "pedagogical authority" allowing it to remove books that are "pervasively vulgar or profane." Petition at p. 9. However, Petitioner's conclusory argument, unsupported by any evidence in the record, utterly fails to meet its hefty burden to demonstrate that the State Board's decision was in any way

arbitrary, capricious, or illegal. Rather, the State Board's decision was compelled by the record of *Petitioner*'s actions. First, Petitioner's decision to ban *Flamer* violated the Freedom to Read Act and the school system's own policies implementing the Act. Second, Petitioner further violated other Maryland law and HCPS policies in its handling of the appeal. Third, Petitioner's attempt to cast *Flamer* as "pervasively vulgar" notwithstanding the Reconsideration Committee's careful application of relevant law does not survive First Amendment scrutiny and cannot be upheld on those grounds. Thus, the State Board's well-reasoned decision must be affirmed.

A. Petitioner's Decision to Ban *Flamer* Violates the Freedom to Read Act and its Own Policies Implementing the Act.

Upon receiving a request to remove a book from all its libraries, HCPS did exactly what it was supposed to do pursuant to the Freedom to Read Act: it adopted and followed a procedure for evaluating school library materials based on the FRA standards protecting against unlawful censorship. In arbitrarily, unreasonably, and illegally reversing the Superintendent's decision, it was Petitioner, not the Superintendent, that violated the FRA. Taken together, Petitioner's failure to follow its own procedures, and the openly stated bias of at least some Local Board members, further evidence that the Local Board's decision violated the FRA. The State Board correctly concluded that in light of this evidence, the Local Board acted arbitrarily and unreasonably. (R. 001185-95).

As discussed *supra*, the HCPS Reconsideration Committee engaged in a rigorous review of *Flamer* in accordance with HCPS policies implementing the FRA that resulted in a recommendation to retain the book in HCPS school libraries. (R. 000079-85). In accord with HCPS's FRA policies, the Superintendent reviewed and adopted the recommendations of the Committee, and notified Ms. Streett of the decision, its reasoning, and her right to appeal.

Nonetheless, in a closed door quasi-judicial hearing reviewing the Superintendent's decision, ***Petitioner* violated the FRA *and* its own policies**. Petitioner supplanted its own biases for the reasoned judgment of the Committee and the Superintendent, rather than addressing any evidence or legal authority or even explaining *how* the Superintendent's decision was arbitrary, unreasonable, and/or illegal. Like the parent who challenged *Flamer*, the Local Board placed no evidence in the record "that indicate[d] the local board members even read the book beyond some choice passages, which were not identified." (R. 001194).

Conversely, in reversing the Local Board's decision, the State Board laid out detailed factual findings, highlighting the comprehensive process the properly-convened Reconsideration Committee followed under the FRA, and emphasizing that committee members were specifically trained on the legal parameters of their assessments. *Id*. (Before convening, "the committee members underwent a training by HCPS legal counsel, which provided an informational legal briefing on review criteria and constitutional principles pertaining to the school library book review, including caselaw on 'pervasively vulgar' materials."). The State Board similarly referenced the notes kept by Reconsideration Committee participants that demonstrated their analyses and how they reached their decisions. *Id*. Ultimately, the State Board correctly concluded that the record was replete with evidence that the Reconsideration Committee made a thoughtful, objective, and well-informed recommendation that was adopted by the Superintendent in accordance with their FRA obligations. *Id.* The State Board correctly reasoned that the Local Board failed to grapple with any of this in reaching its conclusory assertion that *Flamer* was pervasively vulgar and lacking educational suitability. At its core, the decision authored by the Local Board's attorney "provide[d] no specifics on *how* the Reconsideration Sub-committee's

review was flawed or how the Superintendent's decision was arbitrary, unreasonable, or illegal." (R. 1194 (emphasis added)).

Further, the Local Board asserted these unsupported conclusions despite broad district-wide consequences, and also made misleading public statements about existing library access practices and parental opt-out rights. Most troubling, the record includes evidence that at least some Board members approached *Flamer* with preconceived views and ideological or religious objections, which the Freedom to Read Act expressly forbids as a basis for removal. Md. Code, Educ. § 4-142(a)(2)-(3) (forbidding removal "because of the origin, background, or views of the individual who created the material" or based on "partisan, ideological, or religious disapproval.")

Additionally, although not articulated as a basis for its decision below, and without citing any evidence other than an outcome with which it disagrees, Petitioner suggests that the Reconsideration Committee "may well lack diversity of opinions on books to be placed on library shelves." *See* Petition at 8. This passing speculation is baseless and provides no justification whatsoever to contend that the State Board's decision was arbitrary, unreasonable or illegal. Indeed, Petitioner's commentary on its view of the "diversity of opinions" of the Reconsideration reveals the biased and discriminatory views infecting its own decision, and the pretextual nature of its argument for exclusion. In reality, the Record reflects that the Reconsideration Committee and its subcommittees are convened in strict compliance with the detailed requirements of the FRA and HCPS's own policy. Unlike the Local Board members, participants in the Committee review received and adhered to training on the relevant caselaw, HCPS's evaluation criteria that include a rubric specifically addressing age-appropriateness by grade-level, read the full book, and took detailed notes that reflect their express consideration of the book's challenged qualities and how they reached their conclusions. Petitioner advanced no evidence, because it cannot, that any

member of the Reconsideration Committee was biased, nor that they violated the standards of the FRA.

Equally importantly, however, "diversity of opinion" is *exactly* what the FRA is designed to protect. Petitioner incorrectly attempts to flip the FRA on its head. Here, the FRA worked the way it was supposed to. A parent with a particular ideological view disagreed with the material, and the Reconsideration Committee took her concerns seriously, reviewed the matter thoroughly, and concluded that an individual parent's view did not warrant the removal of *Flamer* wholesale from libraries. In so doing, the Reconsideration Committee prevented a book from being excluded from all HCPS libraries solely because of "partisan, ideological, or religious disapproval" of a single parent. Md. Code, Educ. § 4-142(a)(3).

Ultimately, the Local Board's lack of transparency, failure to identify deficiencies in the reconsideration process, and reliance on subjective objections rather than objective standards all support the State Board's conclusion that Petitioner's removal decision was arbitrary, unreasonable, and contrary to Maryland law. Because the State Board's decision reflects a reasoned application of the FRA, HCPS procedures, and longstanding constitutional principles governing access to library materials, this Court should defer to and affirm the State Board's decision in full.

B. The State Board's Decision Should Also Be Upheld Because Petitioner Arbitrarily and Unreasonably Failed to Follow Its Own Procedures When It Considered the Appeal of the Superintendent's Decision, Rendering It Unlawful.

Further, the Local Board's reversal of the Superintendent's decision was arbitrary, unreasonable, and illegal because Petitioner violated its own procedures with respect to nearly every key material aspect of the initial appeal. *See* Harford County Public Schools, Rules of Procedure in Appeals and Hearings ("HCPS R. Proc. Appeals"). (Record 000332-47).

First, Ms. Streett's appeal consisted largely of personal objections and did not satisfy the Board's stated requirements for factual support. (*See* R. 000334-35, HCPS R. Proc. Appeals § 3(c); R. 000352-64.).

Second, evidence in the Record indicates that the Local Board failed to give proper notice of the hearing in accordance with HCPS R. Proc. Appeals § 5(c), which requires 20 days' written notice of the specific date, time, and place of the hearing. (R. 000341). On June 23, 2025, the Harford County Education Association emailed the Board requesting public notice prior to the hearing. (R. 000360). However, then-president of the Local Board, Dr. Aaron Poynton, responded stating that the meeting information "does not exist," that the meeting "was moved due to IT issues." (R. 000359-61). In fact, "on June 26, 2025 the only thing the Board had scheduled was the 'Appeal hearing with Greg Szoka' there was never an 'Open/closed' session on June 26th. The case discussed at that hearing was the HCPS Library Reconsideration Committee's decision regarding the book *Flamer*." (R. 000359). As explained by the State Board in its decision, "The record is not clear on how the HCPS community was informed of the local board's decision. (R. 001188). The Thompson Appellants state they found out about the decision through "word-of-mouth" and after a Maryland Public Information Act ("MPIA") request was fulfilled…The HCEA Appellants allege it only became aware of the local board's decision on or around July 20, 2025, after learning of the July 17, 2025 MPIA response." *Id.*

These omissions, and the shroud of secrecy cloaking the Local Board's review of the Superintendent's decision, are especially significant because HCPS's own Rules of Procedure require final action to be taken publicly following a hearing. HCPS R. Proc. Appeals § 5(o).

Moreover, Petitioner refused to disclose any of the records from the closed-door meeting where the decision to ban *Flamer* was made. (R. 000348). Indeed, Petitioner's attorney, Greg

Szoka, claimed attorney-client privilege in response to an MPIA request for the records. *Id*. This is especially troubling given that HCPS R. Proc. Appeals § 5(f) requires "an accurate record of all hearings, disputes or controversies," and that "a stenographic record of the part of the proceedings that involves the presentation of evidence" is required unless "waived by all of the parties."

For all of these reasons, the State Board's decision reversing the Local Board's unlawful ruling banning *Flamer* should be upheld on this basis as well.

C. Petitioner Cannot Establish that *Flamer* is Pervasively Vulgar or Profane, and Its Removal from HCPS Libraries Thus Violates the First Amendment.

Finally, to the extent that Petitioner relies on First Amendment caselaw to contend that the State Board's decision was arbitrary, unreasonable or illegal, its contentions are unsupported or simply wrong.

1. The Reconsideration Committee's Rigorous, Structured Analysis Properly Evaluated *Flamer* for Pervasive Vulgarity in Light of Community Standards, the First Amendment and Art. 40 of the Maryland Declaration of Rights.[7]

In its brief, Petitioner compiles passages of *Flamer* it now claims are offensive or vulgar and uses this compilation of selected excerpts to assert, without context or analysis of any kind, that *Flamer* is "pervasively vulgar," claiming that Petitioner's decision was not one of illegal censorship but rather an appropriate exercise of its "pedagogical authority." *See generally* Petition at p. 7-12. [8]

But, as cogently explained by Together We Will in its appeal to the State Board of Education:

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[7] The State analogue to the First Amendment, Article 40 of the Maryland Declaration of Rights states in relevant part, that "every citizen of the State out to be allowed to speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that privilege." It is generally interpreted *in pari materia* with the First Amendment.

[8] Petitioner's choice profanity-laden excerpts are plainly misrepresentative and misleading, as "Flamer contains 56 total swear words over 368 pages." (R. 000788).

> When seen in context, the "profanity, sexual situations and demeaning observations of females" that the HCPS Board stated were primary reasons to ban the book (Exhibit 10) are clearly used with literary purpose, and the characters using this language are cast in a negative light. The protagonist and role model characters explain how their language and behavior are inappropriate. … The adults in the novel often redirect and correct inappropriate words and actions. The vulgarity is not glorified and is presented as mean and wrong. In reviewing Flamer, it is important to understand the distinction between a sexist or racist book, and a book that thoughtfully addresses the issues of sexism and racism. These are important topics, and it is appropriate for school libraries to contain materials that explore them.

(R. 000787-88).

Petitioner concedes that *Island Trees Free Sch. Dist. No. 26 v. Pico*, 457 U.S. 853 (1982) ("*Pico*"), and its progeny generally govern school censorship and provide the broad framework for assessing how the First Amendment constrains when and how schools may regular content. Petition at 9. However, Petitioner's attempt to characterize *Flamer* as "pervasively vulgar or profane" in contravention of the detailed review of the Reconsideration Committee and Superintendent, so that it may ban the book from HCPS without running afoul of the First Amendment, Maryland Art. 40, or the Freedom to Read Act does not pass muster. Put simply, Petitioner cannot meet its burden to show that the Superintendent acted arbitrarily, unreasonably, or illegally in concluding, after careful analysis, that *Flamer* was *not* pervasively vulgar or otherwise unsuitable in deciding to retain the book. As a result, Petitioner's decision violated the First Amendment.

In *Pico*, the U.S. Supreme Court plurality ruled that "local school boards may not remove books from school library shelves simply because they dislike the ideas contained in those books and seek by their removal to 'prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion.'" *Id. at* 872 (quoting *West Virginia Board of Education v. Barnette*, 3 19 U.S. 624, at 642 (1982) (plurality)). In contrast, removing a book that is actually "pervasively vulgar" would not run afoul of the First Amendment. *Id*. at 871.

Although the *Pico* court did not directly address what constitutes "pervasive vulgarity," courts and school systems developing First Amendment policies often look to the well-established obscenity test enunciated in *Miller v. California,* 413 U.S. 15, 93 S.Ct. 2607 (1973) for guidance. The *Miller* test requires the following considerations:

> "1. Whether the average person, applying contemporary community standards would find the work, *taken as a whole*, appeals to the prurient interest;
>
> 2. Whether the work depicts in a patently offensive way, sexual conduct as specifically defined by state law; and
>
> 3. Whether the work *taken as a whole* lacks serious literary, artistic, political or scientific value."

Miller v. California, 413 U.S. at 25 (emphasis added). "That the *Miller* test is binding on Maryland courts is beyond serious question." *5297 Pulaski Highway, Inc. v. Perryville*, 69 Md. App. 590, 603 (1987) (*Pulaski Highway*", (citing *B & A Co. v. State,* 24 Md. App. 367, 330 A.2d 701 (1975)). Indeed, the standards developed in HCPS policies and Petitioner's references to "community standards" plainly draw from this line of cases. Crucially, these standards emphasize the work "taken as a whole" and works lacking serious artistic value. Otherwise, *any* book addressing sensitive or potentially offensive life experiences could be deemed "pervasively vulgar" simply by aggregating passages taken out of context.

Here, the required First Amendment analysis was built into the policies, criteria and application of the Freedom to Read Act as carried out by the Reconsideration Committee in its evaluation of *Flamer*. Other than registering its disagreement with the outcome of the analysis, Petitioner failed to identify any aspect of the record that *could* suggest that the Reconsideration Committee failed to critically evaluate the purported "vulgarity" of the book. To the contrary. The record is replete with evidence that a detailed analysis of *Flamer* was conducted by a trained committee comprised of school community members to evaluate whether or not the work, taken

as a whole, was pervasively vulgar or obscene based on community standards, taking into account age appropriateness, profanity, non-sexual nudity, historical context of violence, and discrimination. (R. 000014-17; 000079-81). The March 24, 2025 *Reconsideration Committee Report* very directly engaged with the profanity, degree of nudity or sexual content, and serious themes, as did the comments and individual notes of participants. *See, e.g.*, (R. 000015 ("Profanity – as being raised conservative, I am not comfortable with [it] but it does add value to the story, the Scouts using the words and them asking them not to.")); (R. 000093 ("Book has references to sexual acts and some sexual language (e.g. "Cock," "balls")[, which are] NOT pervasively vulgar or obscene for amount of profanity[,] positive, life-affirming story.")); (R. 000081 ("No explicit nudity, though there are scenes with partial nudity in a camp shower setting.")).

There is simply no evidence in the record that could lead to the conclusion that the Reconsideration Committee or the Superintendent failed to evaluate *Flamer* for pervasive vulgarity in light of community standards. By contrast, the Local Board, in a decision authored by its lawyer, simply supplanted its view of *Flamer* – or select excerpts thereof – in contravention of its own policies. (R. 000007-10). The Local Board's decision referenced no evidence in the record, nor even any evidence of its own deliberation process, simply declaring its own contrary conclusion without explanation. This, in combination with Petitioner's failure to follow its own policies, and the biased statements of Local Board members involved in the decision—including an explicit statement that the book should be removed for "disrespecting religion," strongly undermine Petitioner's claim that it was not improperly censoring content. Petitioner cannot arbitrarily supplant its uninformed view for the Superintendent's and claim to act consistently with the First Amendment.

2. Petitioner's Citation to a Grab-Bag of Distinguishable Authorities Cannot Offset its Own First Amendment Violation in Removing *Flamer*.

Petitioner's selective citation to non-controlling authorities from plainly distinguishable contexts is unavailing. Further, many of the cases cited by Petitioner actually support Respondent's position and make clear that Petitioner's own conduct was itself a violation of the First Amendment.

For example, Petitioner cites to *Hazelwood School District v. Kuhlmier*, 484 U.S. 260 (1988) ("*Hazelwood*") to support its argument that "public schools have the discretion to regulate school-sponsored speech which are defined as 'expressive activities' that may be perceived to bear the endorsement of the school." Petition at 7. Respondent agrees that *Hazelwood* stands for the proposition that schools may regulate *school-sponsored speech*—in that case, in the context of a school newspaper created in the course of a "regular classroom activity." Whatever limits apply there, this case is about how Petitioner is constrained when it seeks to remove books from school *libraries* – a far cry from the kind of expressive activity in *Hazelwood*.[9] Indeed, the federal court in *E.K. and S.K. v. DOD Educ. Activity, et. al.,* 807 F. Supp. 3d 517 (E.D.V.A. 2025), a case also cited by Petitioner, squarely confronted and rejected a nearly identical argument. There, the question presented was whether the Department of Defense Education Activity's removal of certain books from its school libraries was a form of government speech consistent with the First Amendment, and the court found that it was not:

> "Despite Defendants' arguments to the contrary, DoDEA school libraries lack the quintessential elements of government speech. **Public school libraries have historically been loci of intellectual freedom, where students are "free to inquire, to study and to evaluate, to gain new maturity and understanding."'** *Pico*, 457 U.S. at 868 (plurality opinion) (quoting *Keyishian v.*

[9] *Hazlewood* dealt with three student journalists who contended that the Principal violated their First Amendment rights by deleting certain pages of articles from a school newspaper that dealt with a pregnant teen at the school and the impact of divorce on a particular student. *Hazelwood,* 484 U.S. at 263. The distinguishing feature of the Court's ruling was that, as a school-sponsored publication in combination with other existing policies, the publications "might reasonably perceive to bear the imprimatur of the school," rather than those of students. *Id*. at 271.

> *Bd. of Regents*, 385 U.S. 589, 603, 87 S. Ct. 675, 17 L. Ed. 2d 629 (1967)); *see also PEN Am. Ctr., Inc.*, 711 F. Supp. 3d at 1331 ("[T]he traditional purpose of a library is to provide information on a broad range of subjects and viewpoints."). **Viewing public school libraries as places of academic freedom and intellectual pursuit conflicts with the United States' notion that school libraries represent government speech."**

Id. at 537 (emphasis added). Thus, even in the context of the United States military, where enormous control is exercised by government authorities, the *E.K.* court was "unpersuaded" by defendant's argument that DoDEA's library curation was exempt from the First Amendment as a form of government speech, and found the removals unconstitutional.

Petitioner's reliance on *Jessica B. v Carroll Cty. Bd. of Educ.*, MSBE, Order No. IR 24-13 (2024)[10] fares no better. In that case the State Board reviewed a decision by the Carroll County Board of Education interpreting a policy that limited "sexually explicit" content from instructional materials, which it defined as "unambiguously describing, depicting, showing, or writing about sex or sex acts in a detailed or graphic manner." *Id*. at 1. In that case, which did not deal with the *application* of the policy, but only review of the policy itself, the local board argued that the policy at issue survived First Amendment scrutiny because it only restricted "vulgar and lewd" content. *Id*. at 2-3. On appeal, the State Board explained that the local board's "pedagogical authority to determine which materials will be made available in their schools[,]" is constrained by the First Amendment, but concluded that the specific policy at issue in that case was not unconstitutional *on its face*. *Id*. 3. However, the State Board expressed concerns about whether the policy "as applied" could survive a First Amendment challenge:

> We have concerns about how the policy will be applied in the future because it gives the Superintendent unfettered discretion to select and remove library books and curriculum material. This broad authority could "prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion" in a manner that could violate the CCPS students' First Amendment rights under the

[10] Available at https://marylandpublicschools.org/stateboard/Documents/orders/2024Board/07/JessicaB-OR24-13-A.pdf (last accessed May 26, 2026).

> Constitution based upon Supreme Court precedent. *See Pico*, 457 U.S. at 872 (citing *West Virginia Bd. of Educ. v. Barnette*, 319 U.S. 624. 642 (1943)). Unfettered application of the policy could interfere with the local board's obligations to implement a curriculum that meets State standards.

Id.

Petitioner's mistaken citations to other noncontrolling and inapposite cases from far-flung jurisdictions to distract from the controlling law in Maryland should likewise be rejected. *See, e.g,* Petition at 8, citing generally *GLBT Youth in Iowa School Task Force et. al., v. Kimberly Reynolds*, 114 F4th. 660 (8th Cir. 2024) (Eighth Circuit decision reversing a district court for applying the wrong legal standard evaluating a facial challenge to a new state law); Petition at 11, citing to *Counts v. Cedarville School Dist.,* 295 F. Supp. 2d 996 (W.D. Ark. 2004) (Court concluded student's First Amendment rights were violated by removal of book about book removal); Petition at 12, citing *Bicknell v. Vergennes Union High School Bd. Of Directors*, 475 F. Supp. 615, 620 (D. Vt. 1979), *aff'd*, 638 F.2d 438 (2d Cir. 1980) (Vermont District Court decision predating *Pico* and expressly citing pre-*Pico* authorities)[11]; Petition at 12 citing *ACLU v. Miami-Dade County Sch. Bd.,* 557 F.3d (11th Cir. 2009) (Eleventh Circuit decision involving book removed based on its factual inaccuracy).

Here, the decision to ban *Flamer* was not based on any evidence at all. Rather, the record demonstrates that at least some Local Board members had motives that expressly implicated their desire "to prescribe what shall be orthodox in politics…or other matters of opinion." *Pico*, 457 U.S. at 872. Ultimately, Petitioner failed to establish that that the Reconsideration Committee or Superintendent failed to evaluate *Flamer* for pervasive vulgarity in light of community standards,

[11] Specifically, Petitioner references an embedded quotation from *President's Council Dist. 25 v. Community School Bd. No. 25*, 457 F.2d 289 (2d Cir.), *cert. denied*, 409 U.S. 998, (1972), for the premise that "shelving or un-shelving of books" does not present a Constitutional issue. Petition at 12. However, that case was decided before both *Hazelwood* and *Pico,* which Petitioner acknowledges establish the relevant standards for the evaluation of the First Amendment constraints to the removal of school library material. Petition at pp. 7-9.

thus the court must uphold the State Board's decision, as Petitioner seeks to ban *Flamer* in violation of the First Amendment, rendering the Local Board's actions arbitrary, unreasonable, and illegal. *Id.*

VI. CONCLUSION

The Maryland State Board of Education acted consistently with Maryland law and well within its statutory authority when it reversed the Harford County Board of Education's decision to illegally remove *Flamer* from HCPS libraries. The administrative record demonstrates that the HCPS Reconsideration Committee and Superintendent conducted the thorough, objective, and policy-driven review required by both HCPS procedures and the Maryland Freedom to Read Act, while the Local Board disregarded that process and ordered removal of the book without any factual findings, evidentiary support, or legal justification. Moreover, the Local Board's failure to articulate a legitimate basis for rejecting the recommendations of the bodies charged with reviewing the book supports the conclusion that the decision was motivated by the type of subjective, ideological disapproval prohibited by the FRA and by the First Amendment. Petitioner cannot establish that the State Board's action in reversing the ban on *Flamer* was arbitrary, unreasonable, or contrary to Maryland law, thus, this Court should defer to the State Board, and affirm its decision.

Respectfully submitted,

/s/ Erika Jacobsen White

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CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of June, 2026, a copy of the foregoing was served via this Court's MDEC system upon all counsel of record.

/s/ Erika Jacobsen White
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