Chairs Message

By John Alan Byrd, Chair, LGBTQ+ Rights Committee

Welcome to the Summer 2022 Open Court! I hope this letter finds you on a beach somewhere with your toes in the sand. Thanks for bringing Open Court as your beach read! I always find writing a column daunting, and I never know what to write about. Unfortunately, there have been too many changes as of late to ignore.

Recently, I have been reminded of Pastor Martin Niemoller’s confessional from 1946 Germany. His poetic prose is as follows:

First they came for the socialists, and I did not speak out –
Because I was not a socialist.
Then they came for the trade unionists, and I did not speak out –
Because I was not a trade unionist.
Then they came for the Jews, and I did not speak out –
Because I was not a Jew.
Then they came for me – and there was no one left to speak for me.

Continued on page 2

Pennsylvania’s SB1278


Section 1404-C, “Government endorsement prohibited and speech protected,” states that “school personnel must remain neutral and use existing, familiar and well-defined constitutional framework applicable to religious beliefs in public schools for matters related to sexual orientation and gender identity to prevent government endorsement of beliefs about sexual orientation and gender identity in public schools.”

In addressing age-appropriateness, the bill specifically prohibits any instruction regarding sexual orientation and gender identity for pre-kindergarten through fifth grade, and requires instruction in sixth through 12th grade to be “in a manner appropriate in accordance with State standards.”

Section 1404-C(c) states that school personnel may only communicate to a student regarding sexual orientation or gender identity if that student initiates the conversation and the school personnel received

Continued on page 2
Chair’s Message
Continued from page 1

Dobbs v. Jackson Women’s Health Organization takes away a fundamental right for uterus owners to make decisions about their own bodies. Pennsylvania Senate Bill 1278, which passed the Senate on June 29, brings “Don’t Say Gay” legislation right to our back door. There is a pending bill attempting to amend the Pennsylvania Constitution to ensure that no right to abortion is protected. Not to mention monkeypox, which is inordinately affecting gay and bisexual men, similar to HIV/AIDS in the 1980s.

Wow, that’s a lot going on right now. But there are also a lot of great things happening in our community, many spearheaded by the PBA. On Oct. 27, 2022, the PBA is hosting the Civil Rights Symposium. Sharon R. López and Louise Finnstrom are working on a white paper regarding equal protection for transgender athletes. Act 73 of 2022 was signed into law and removes “homosexuality” from the Crimes Code.

Open Court is always looking for authors, or contributors of topics, for articles, “articlettes,” Hear Ye! Hear Ye!, Rainbeaux Arts and News Notes; please contact co-editors AJ Vogt and Mária Zulick Nucci. We are also always looking for ideas for committee projects; please contact vice-chair John Schaffranek or me. Remember, this is your newsletter and your committee!

Pennsylvania’s SB1278
Continued from page 1

permission from the student’s parent or legal guardian, thereby effectively requiring any minor LGBTQ+ student to out themselves to their family in order to have a conversation about their gender identity or sexual orientation in school, unless, per Section 1403-C(b), a reasonably prudent person would believe that parental notification would result in abuse or abandonment of the child. (Query how these sections would apply to a non-LGBTQ+ student who wants to discuss the issue as a desire to learn about his or her LGBTQ+ peers or the community in general.)

Section 1407-C authorizes a private cause of action for a student, through their parent, to file a lawsuit for injunctive relief for a violation of the above-mentioned provisions; damages and attorney’s fees may be awarded.

As of this writing, SB1278 passed the Senate and is before the House Education Committee.
Parental rights encompass a wide swath of educational, medical and religious interests. In *Troxel v. Granville*, 530 U.S. 57 (2000), Justice Sandra Day O’Connor, announcing the judgment of the Supreme Court in a case with six opinions, including three dissents, stated, “The liberty interest ... of parents in the care, custody, and control of their children—is perhaps the oldest of the fundamental liberty interests recognized by this Court.” Id. at 65. Justice O’Connor reviewed several of the court’s decisions on parental rights, dating to *Meyer v. Nebraska*, 262 U.S. 390 (1923). The court’s parental rights cases have involved education, child labor, paternity tests, termination of parental rights and grandparents’ visitation rights, the issue in *Troxel*.


Pennsylvania has no such law, but there have been recent attempts to pass one. This article will review several recent issues of parental rights relating to LGBTQ+ concerns.

**Education**

The earlier cases of *Meyer v. Nebraska*, 262 U.S. 390 (1923), and *Pierce v. Society of Sisters*, 268 U.S. 510 (1925), which Justice O’Connor discussed in *Troxel*, addressed parental rights in education, respectively, striking state laws forbidding the teaching of languages other than English and requiring almost all children to attend public schools. Parental rights were set forth again in the perhaps better-known case of *Wisconsin v. Yoder*, 406 U.S. 205 (1972). There, the court made a detailed review of the religious and cultural history of the Old Order Amish community and concluded that, based on the facts of that case, parents’ free exercise rights outweighed the state’s interest in the child’s education, so that the Amish parents could withdraw children from compulsory education after eighth grade.

*Continued on page 4*
Today, the parental rights conflict has escalated and expanded. On one side are the rights of parents of LGBTQ+ children to their children’s safety and self-determination and parents who want their children’s education to include learning that people can differ yet have equal civil and other legal rights and equal dignity. On the other are the rights of parents who want to limit classroom discussion of identity regarding LGBTQ+ parents, children and people in general. School districts across the country are navigating this increasingly volatile terrain.

Several parents in the Mount Lebanon School District in Pennsylvania sued the district to bar discussion of sexual and gender identity and transgender topics in Jefferson Elementary School. The suit named the district, the superintendent, the school board and an individual teacher. The parents claim that they have a constitutional right to control their children’s education. They seek to prevent the teaching of gender dysphoria and transgender transitioning or to allow parents to opt out of these lessons for their children. The suit is pending, but the issue has been raised at almost every school board meeting since it was filed in June 2022. The district characterized the suit as “based upon partial truths” and that allegations were “mischaracterized for sensational effect.” It referred the media, which is following the case, to the district’s Equity Statement, which recites that the district is “committed to providing a safe, inclusive and welcoming school environment that recognizes and celebrates the diverse identities of all members of our school community, including students their families, faculty and staff.” Complaint: Complaint – #1 in TATEL v. MT. LEBANON SCHOOL DISTRICT (W.D. Pa., 2:22-cv-00837) – CourtListener.com; https://www.wtae.com/amp/article/parents-file-federal-lawsuit-on-discussion-of-transgender-topics-in-mount-lebanon-school-district/40242266. See Moms for Liberty agenda full of lies, harming my transgender child (tallahassee.com), regarding parental opponents to LGBTQ+ discussion in school as presenting risks to transgender children in particular. By contrast, the Central Bucks and Pennridge districts adopted policies against addressing gender identity and sexual orientation in elementary schools. See Central Bucks School District faces LGBTQ complaints, addresses teacher suspension and bullying (buckscountycouriertimes.com); Pennridge considers policies on student, staff speech, library books (buckscountycouriertimes.com); Pennridge school board could limit student expression, employee ‘advocacy,’ books (yahoo.com).

School districts must grapple with parents citing their rights to limit education regarding transgender persons versus the rights of LGBTQ+ students and their parents seeking a safe educational experience with free-flowing information. LGBTQ+ protections are variously codified on national, state and often local levels, as indicated by the Mount Lebanon School District’s Equity Statement. Ensuring a full education includes exposing children to many concepts. Narrating that education through the lens of tolerance and understanding empowers students to think for themselves and build critical thinking skills and independent thought. Banning such discussion leaves the child’s education to questionably reliable information from the internet or their peers. Studies show that LGBTQ+ children, particularly transgender ones, who can express their identity in a safe environment, grow up to be confident and adjusted adults. Very few transgender youth grow to regret any transition or reverse a decision made in younger years. See Emily Bazelon, “The Battle Over Gender
Parent-Teacher Nights Go Rights
Continued from page 4


Schools’ grappling now includes parents’ bills of rights. FutureEd identified 84 bills, in 26 states, that have been pre-filed or introduced this year alone. So far, six bills have been enacted: two each in Florida and Arizona, and one each in Georgia and Louisiana. Kansas has a bill that has cleared the legislature and awaits the governor’s signature.

Many of these bills arose in reaction to teaching of critical race theory but have expanded in scope. More often, the newer bills include language prohibiting, controlling or limiting education around gender identity and transgender transitioning. They focus on enhancing parental control of their children's education, increasing communication about curriculum or controlling school board meetings. Bella DiMarco, “Legislative Tracker: Parent-Rights Bills in the States,” FutureEd, June 6, 2022, Legislative Tracker: Parent-Rights Bills in the States - FutureEd (future-ed.org); https://parentalrights.org/states-old/pa/.

Pennsylvania does not have a parental bill of rights, but efforts are underway. HB 508 was introduced by Rep. James Cox and 16 others in 2019. Gubernatorial candidate and Senator Doug Mastriano introduced SB 996 on Jan. 6, 2022, seeking to establish parental rights in Pennsylvania and “strengthen the right of parents to direct the education, upbringing and care of their children”; as of this writing, it is in the State Government Committee. Bill Text: PA SB996 | 2021-2022 | Regular Session | Introduced | LegiScan.

Until recently, parents of LGBTQ+ students sought and were afforded accommodations for their children, particularly transgender children, that could clearly be deemed consistent with parents’ rights. Among other protections, some schools honor a student’s preferred pronouns and permit the child to use the bathroom that matches the child’s identity; the Fairfax County Public Schools, Virginia, allowed students to change their names and pronouns on school documents without parental consent. https://www.msn.com/en-us/news/us/fairfax-county-public-schools-says-parent-consent-not-needed-for-gender-change-on-school-forms.

The backlash has been widespread. The bathroom battles have taken place across the country, most notably in North Carolina, but also in Florida, and most recently in Idaho. See Sammi Edge, “You just want to feel safe”: Transgender youth fights for bathroom access in Jerome, ‘You just want to feel safe’: Transgender youth fights for bathroom access in Jerome - East Idaho News. Arguments that allowing transgender students to use the bathrooms (and locker rooms) that match their identities somehow threatens the student population is belied by statistics showing that, unfortunately, transgender students are almost always the victims, not the perpetrators, of violence.

Pronouns have also sparked heated debate. A Wisconsin school district has banned both the display of a rainbow flag as “political” as well as the recognition or use of preferred pronouns. It is hard to understand how the First Amendment rights of the child seeking the use of their preferred pronoun are not protected, in addition to parents’ rights as to how their child is addressed, as part of a healthy school experience – and healthy, happy childhood. Kalyn Womack, “Wisconsin School District Bars Employees from Pride Flags and Preferred Pronouns,”(msn.com).

More important than pronouns, regarding identity, parents’ and their children’s rights are also infringed upon when the child desires a name change. Regrettably, some courts deny name change petitions even when the parents state their own desire for the change, for their child’s benefit. See Continued on page 6
Parent-Teacher Nights Go Rights
Continued from page 5


School Libraries

The tension between schools and parents has played out in other ways. The book ban has reigned, both in the LGBTQ+ arena and across a wider spectrum. Book burning has taken place since the beginning of time, from burning books and burying scholars during China’s Qin dynasty (213-210 BCE), to Nazis burning “un-German” books.

Recently, school districts have banned books as diverse as Toni Morrison’s *The Bluest Eye* in Tennessee and math books in Florida. Parents might wish to control what their children read, as a matter of what the parents regard as age-appropriate or for other reasons. Public school restrictions, however, could infringe upon students’ First Amendment rights, and the separate rights of their parents relating to their education. In Pennsylvania, the Central Bucks and Pennridge school districts have also been challenged for their library policies. Columns Criticize Central Bucks’ LGBT Policies, Proposed Library Rules (msn.com); Pennridge School District removes LGBTQ books from libraries - WHYY.

Some parents fear that children will become gay or transgender because they read about gay or transgender people. However, studies have confirmed that exposure does not increase the number of children who identify as LGBTQ+. Parental rights to access information and make books and other sources of information available to their children far outweigh the fear that is gripping libraries and schools across the country. School libraries have thus also become miniature battlegrounds, with some persons vigorously promoting book bans, even by calling law enforcement, Local Karen Calls Police After Finding Queer Graphic, Novel in School Library (msn.com), and risking their own family relationships, Texas mom’s campaign to ban library books divided her family (usatoday.com). On the positive side, there is opposition to bans: Mom gets applause after ripping book-banning parents apart in school board meeting speech (msn.com).

Sports

Another area where anti-LGBTQ+ parents have garnered political support is athletics. Many bills banning transgender athletes are couched as “fairness,” “specific designation” or eligibility requirements. See Legislation Affecting LGBTQ Rights Across the Country | American Civil Liberties Union (aclu.org). In Pennsylvania, Gov. Wolf vetoed HB 972, introduced by State Representative Barbara Gleim (R-Cumberland County), titled “Protect Women’s Sports Act,” which would have banned transgender girls and women from sports in grade school through college. PA HB972 | 2021-2022 | Regular Session | LegiScan.

Medical treatment

Lastly, parental rights are being threatened in the most sensitive area, medical care. Numerous states ban gender-affirming medical treatment; 19 others introduced similar legislation this year. These bans infringe on the patient’s right to privacy, gender identity and sexual identity, and parents’ rights regarding their children’s medical care.

Teams of caregivers, physicians and especially parents are involved in the decision-making process when a youth seeks gender-affirming treatment. Over the past decade, care for youth seeking gender-affirming care, and transgender youth, has greatly shifted. There is support in the medical profession for providing such care and opposition to legislation

Continued on page 7
banning, even criminalizing, it. Psychiatry.org - Frontline Physicians Oppose Legislation That Interferes in or Criminalizes Patient Care; March 26, 2021: State Advocacy Update | American Medical Association (ama-assn.org); American Academy of Pediatrics Speaks Out Against Bills Harming Transgender Youth (aap.org). What are the parents’ rights during this process? Treating physicians would say that the parents are integral. It is especially important and helpful if the parents are supportive and encourage the patient to explore for themselves their own identity without condemnation from parents, legislators or anyone else. Studies show that rate of regret is low.

In Pennsylvania, 35 P.S. §10101 provides: “Any minor who is 18 years of age or older, or has graduated from high school, or has married, or has been pregnant, may give effective consent to medical, dental and health services for himself or herself, and the consent of no other person shall be necessary.” Section 10101 - Individual consent, 35 Pa. Stat. § 10101 | Casetext Search + Citator. That may complicate the parents’ role in gender-affirming treatment from a purely legal perspective but should not remove them from the process.

The Other Parents

“Parents’ rights” are typically framed as the rights of, and propounded by, conservative and/or “Christian” interests. But parents’ rights also apply to those who support LGBTQ+ youth, whether their own children or not. For example, parents in Hempfield Township, Lancaster County, rallied in support of transgender students, opposing a school policy banning their participation on teams with which they identify. Hempfield School District prohibits transgender athletes from playing sports based on gender identity | PhillyVoice; Rally supporting trans students held at Hempfield School District (wgal.com). See generally Julie Kliegman, “Understanding the Different Rules and Policies for Transgender Athletes,” Understanding the Different Rules and Policies for Transgender Athletes | Sports Illustrated. Parents in Missouri objected to statements by Rockwood school board member Jessica Laurent Clark mocking children with disabilities and LGBTQ+ children, particularly transgender students; Clark was removed from committee assignments, subject to final vote. One mother shared that she and her high school “transgender kiddo” are unfortunately used to such comments. Parents furious over hateful comments by Rockwood School Board member (msn.com); Rockwood School District acts following board member’s ‘harmful’ statements | Education | stltoday.com.

Conclusion

Parents’ rights in the especially sensitive — and especially publicized — areas of LGBTQ+, in education, school sports and other areas, will continue to conflict, as parents can be on either side of an issue. Legislators will continue to be influenced by lobbying and publicity from both sides, and courts will continue to address disputes. They must keep in mind, however, that “parents’ rights” apply to pro-LGBTQ+ parents as well, regardless of the family’s status as LGBTQ+ itself or not. Advocates for the community must thus continue their vigilance, with respect for differing, even opposing, positions, focusing on the legal bases for their clients’ rights.

Lois M. Vitti, the owner of Vitti Law Group Inc., has over 25 years of experience handling matters arising out of real estate, probate, estate, family, bankruptcy and commercial matters at all stages of litigation, as well as mediation, conciliation, trials and appeals. She is passionate about helping clients through difficult circumstances and advises individuals and corporations in dispute resolution and asset protection. Trained as a mediator and collaborative attorney, Vitti often speaks at conferences, universities and seminars. She volunteers and serves on numerous committees, organizations, community groups and boards of directors. Vitti practices in New York, New Jersey and Pennsylvania.
Getting to Know One of Our Members: Amy J. Coco

Just for the record, what is your full name?

Amy Joann Coco.

Tell us about your background, education and employment as an attorney.

I was a journalism major at Indiana University (Bloomington) and loved my communications law class. I decided in my junior year that I might want to go to law school. After graduation, I took a job as a paralegal at a small firm that provided legal benefits to a local union, which means the work was primarily family law, criminal law, bankruptcy and estate matters. I decided I still wanted to go to law school but would do anything except family law. I attended Pitt Law and took and loved all my tax and other code classes. I didn’t take Evidence, figuring I would learn it for the bar. When I was in my third year, one of the partners at the firm I had worked at said her husband was forming a litigation firm and they could use my help. The second-to-last thing I wanted to do was litigation, but I agreed to do it for a year or two. That was 1994, and I’m still at the successor to that firm. I was fortunate that I was able to learn litigation and focus my practice on representing lawyers, law students, judges and other legal professionals in litigation, disciplinary work and ethics consultation.

Where do you live and work? What are your thoughts about it?

I live in the Pittsburgh suburbs and work in downtown Pittsburgh. Post-Covid (and after my cancer diagnosis in August 2020), my work is hybrid remote and in-person. I love the flexibility and the reduced commute time.

Why did you join the committee? Does it dovetail with other professional or volunteer activities or ventures?

I am current chair of the DEI Team so have worked with the committee members in my participation on the DEI Team. As the Woman at Large Governor, this year’s PBA president asked me to be the board liaison to the committee, so I joined up. It definitely dovetails with my commitment to diversity in the profession. While I have had a more general understanding of the legal, professional and personal challenges LGBTQ+ lawyers and their advocates face, I desire to have a deeper understanding and to be a better ally.

Could you give an example?

I have worked for many years toward the adoption of 8.4(g) in the Rules of Professional Conduct on a professional level. I believe strongly that this rule is needed because, as a self-regulating profession, we should not tolerate harassment or discrimination in our careers, and I hope to gain a deeper understanding of the harassment and discrimination faced by LGBTQ+ lawyers and clients so that I can continue to advocate for them and appropriately advise lawyers accused of it should the rule go into effect.

On a lighter note, what is your favorite vacation spot?

The beach. Any beach.

Do you have a favorite book? Why is it your favorite?

I have a mound of favorite books; there is no way I could possibly pick one. My favorite genre is historical fiction, things like “Loving Frank,” “Devil in the White City,” “Last Days of Night,” “The Kitchen House”…(See?) My favorite recently read book is Amor Towles’ “The Lincoln Highway.” I loved the characters – all were flawed but endearing. It’s set over 10 days, and I couldn’t put it down wanting to find out how their journeys resolved.

Do you have a favorite TV show? Why is it your favorite?

Currently my favorite I could watch again and again is “The West Wing.” The two I’m watching now are “Only Murders in the Building” and “Ted Lasso.”

Continued on page 9
Getting to Know Amy J. Coco

Continued from page 8

Do you have a favorite movie? Why is it your favorite?
I wish I could say something that sounded more educated, but it would have to be a tie—“Ferris Bueller’s Day Off” and “Elf.” Or, “Toy Story.” Or, any of the Harry Potter movies (though I like the books better). They are favorites because they make me laugh.

Do you have a favorite musical artist, group or genre?
Jackson Browne.

Do you have any pets?
Two Maine Coon kittens, Luna and Cleo.

What’s one thing we did not know about you (until now)?
I learned to knit on Zoom during Covid.

Fahrenheit LGBTQ+

By Mária Zulick Nucci

“Do you ever read any of the books you burn?”
He laughed. “That’s against the law!”

“Oh. Of course.”

“It’s fine work. Monday burn Millay, Wednesday Whitman, Friday Faulkner, burn ‘em to ashes, then burn the ashes. That’s our official slogan.”

He wanted above all, like the old joke, to shove a marshmallow on a stick in the furnace, while the flapping pigeon-winged books died on the porch and lawn of the house. While the books went up in sparkling whirls and blew away on a wind turned dark with burning.

— Fahrenheit 451 (Ray Bradbury, 1953)

Ray Bradbury’s classic has lost no meaning nor resonance, as issues of book banning, even burning, continue. In her article, “Parent-Teacher Nights Go Rights,” Lois Vitti reviews bans and efforts to ban certain books in school libraries, many with LGBTQ+ content, and opposition, including by parents, to those bans and efforts. Book-banning, often of LGBTQ+ books, is also an issue in non-school libraries. This article will review some of these incidents that are occurring nationwide, with comment on the legal, policy and societal issues involved and notes of good news coming out of them.

For public school libraries, 2022 is the 40th anniversary of Board of Education, Island Trees Union Free School District No. 25 v. Pico, 457 U.S. 853, 102 S.Ct. 2799 (1982), BOARD OF EDUCATION v. PICO | FindLaw. There, a school district created a Book Review Committee, comprised of parents and school staff, to review books based on criteria of books’ “educational suitability,” “good taste,” “relevance,” and “appro-

Continued on page 10
priateness to age and grade level.” 457 U.S. at 857. The board did not agree with all of the committee’s recommendations, and banned several titles. Steven Pico, a high school student, and other students brought an action under 42 U.S.C. §1983 for declaratory and injunctive relief, citing the First Amendment. The U.S. District Court for the Eastern District of New York granted summary judgment to the defendants; the U.S. Court of Appeals for the Second Circuit reversed, and the U.S. Supreme Court affirmed that reversal, in a plurality opinion and a decision comprising seven opinions, including four dissents.

The kernel of Pico is that the school officials’ motive was key: if it was narrowly partisan or political, or reflected a particular animus, the decision was improper. If, however, it was because of a genuine finding that a book was pervasively vulgar or lacked educational suitability, it was valid. 457 U.S. at 871. Significantly, the opinion of the court made clear that the same rights and standards apply to all positions: “If a Democratic school board, motivated by party affiliation, ordered the removal of all books written by or in favor of Republicans, few would doubt that the order violated the constitutional rights of the students denied access to those books.” Id. at 870-71. See also He took his school to the Supreme Court in the 1980s for pulling ‘objectionable’ books. Here’s his message to young people - CNN (interview with Steven Pico on the 40th anniversary).

The American Library Association tracks book bans, and its recent list shows the trend against books with LGBTQ+ content. Top 10 Most Challenged Books Lists | Advocacy, Legislation & Issues (ala.org). This is a trend continued from recent years, where, in an ironic take on best-seller lists, such books led the best-banned lists. 8 of 10 Banned Library Books LGBTQ Themed | by James Finn | James Finn - The Blog | Medium. Book banning, even burning, is increasing, and not only with respect to public school libraries. Book Banning Is Increasing Across the United States, a Book Burning in Tennessee | Observer. In Tennessee, Greg Locke, a conservative pastor, organized a burning including the young-adult Harry Potter and Twilight series, as promoting witchcraft. Tennessee Book Burning Targets Titles Including Harry Potter, Twilight (cbr.com). The debate continues into community libraries, including concerns of violence.

In 2017, the Boundary County Library District, in Idaho, was voted the best small library in America. Boundary County Library District Named the Best in the U.S. – Idaho Commission for Libraries. It has now faced protestors, bearing arms and Bible tracts, demanding the ban of 400+ books, many, if not most, with gender or sexual topics – and none of which the library carries nor requested. The protestors largely belong or are connected to The American Redoubt, a conservative Christian group in several Western states. They have gone to the homes of library personnel; the library’s insurance was cancelled due to risk concerns; and board meetings have been moved to a larger building – next to the sheriff’s office. However, there are self-described quiet counter-protestors, both liberal and conservative, Democrat and Republican, who staged a “read-in” to support the library and freedom to choose reading material. They explained that, despite political differences, they are “neighbors” and support the right to read. Armed Idaho locals show up to library board meetings to push ban of over 400 books | Watch (msn.com); Conservatives join liberals in ‘quiet and polite’ Idaho protest to protect their library from book-banners (msn.com).

In August in Michigan, 60% of voters in conservative Jamestown Township voted down a property tax millage renewal to support the Patmos Library; the campaign against the millage cited risks to children from LGBTQ+ books, of “sexual exploitation” and “sinful desires,” with library opponents stating that it is not a political but a Biblical issue. Two days after the vote, Jamestown resident Jesse Dillman set up an online fundraiser for the library, seeking to raise $245,000, one year’s operating expenses. Within a week, $99,000 had been raised. The library announced that it will seek another millage. Thousands raised in online fundraiser after Michigan library is defunded over LGBTQ+ books (msn.com).

And, there is other good news. In Washoe County, in northern Nevada, the public library system is “stocking up” on “controversial” books. Debi Stears, resources librarian, announced, “Our favorite materials are things that others may find offensive.” Parent Amanda McDaniel supports the library, noting that she watches what her 5-year-old daughter, Fahrenheit LGBTQ+ Continued from page 10

Continued on page 11
Rowan, reads but believes that that is her right and duty, not the government’s. Controversial books not banned; instead Washoe County libraries stock up | KRNV (mynews4.com).

It must be remembered, as the Supreme Court noted in Pico, that protection of books applies to all, with proper considerations borrowed from the concept of “reasonable time, place and manner” restrictions and, for youth, proper consideration of age-appropriateness and parental involvement, where there are calls to ban books from “both sides of aisle.” The Adventures of Huckleberry Finn has repeatedly been challenged by liberal interests for its racial content and is again being at Exeter University, although Mark Twain was an abolitionist and the novel has been praised for its anti-slavery position, particularly Huck’s decision to help Jim, his traveling companion on the raft down the Mississippi, to escape slavery: Huck understands that, in the dominant culture, what he is doing is a sin, as a form of theft or stealing, and that he will therefore go to hell, but nonetheless decides, “All right, then, I’ll go to hell.” Huckleberry Finn given trigger warning by university over ‘problematic’ content (msn.com); “All right, then, I’ll go to hell” (rachelheldevans.com). (Perhaps Twain foresaw the controversy over his novel, hence wrote, “If man could be crossed with a cat, it would improve man, but it would deteriorate the cat.”)

Book bans and efforts, although generally associated with conservative interests, are not confined to them, albeit with the left side usually concerned with racial depictions, not only Huckleberry Finn but, in California, Harper Lee’s To Kill a Mockingbird. Banning books is a nasty habit, whether it comes from the right or left (opinion) - CNN; When It Comes to Banning Books, Both Right and Left Are Guilty | Opinion (newsweek.com); The left’s turn against freedom: Curb speech, ban books, make an ‘enemies list’ | The Hill; Guess Which American Classic Liberals Want Banned | The Daily Wire. Their concerns have also included challenging even a book’s publication because of allegations regarding the author’s private life, see, e.g., The Woody Allen book ‘Apropos of Nothing’ has the right to be published — and to not be read (nbcnews.com), perhaps as a corollary to “cancel culture.”

Book bans and burns, and efforts to ban, from fear of what reading a certain book will supposedly cause, might remind classic comedy fans of The Three Stooges’ World War II satire, You Nazty Spy. Moe, as Moe Hailstone, dictator of Moronica, confronts Curly (who is apparently spoofing Hermann Göring) reading a book: “What do you mean by reading a book? Suppose you learn something? Loyal Moronicans shouldn’t read!”

Gretchen Corsillo, a career librarian who has worked in libraries since her teens, recently published an excellent, detailed article in Salon, detailing the financial and personal stress that public libraries and librarians have long experienced, starting with limited financial resources and budget cuts, now increased by the current disputes, including personal attacks, on library staff because of what is on the shelves. She herself was called a “groomer,” one who befriends a child for molestation, for supporting Pride Month. Nonetheless, Corsillo quotes President Franklin Delano Roosevelt, who said, “I have an unshaken conviction that democracy can never be undermined if we maintain our library resources and a national intelligence capable of utilizing them.” She concludes, “It’s time to stand up for our librarians and their institutions before it’s too late.” When they came for the librarians: My profession is under attack — what happens now?: https://www.npr.org/2022/05/11/1096623939/accusations-grooming-political-attack-homophobic-origins.

Conclusion. Clearly there is increasing need to protect libraries, and presumably, potentially, bookstores, from bans and protests from both political, ideological or cultural sides, particularly from the most serious threats of burnings and harm to persons. The stories above show that books and libraries have their defenders in the face of these risks. There should be no marshmallow roasts, but standing up for libraries and librarians to protect our “national intelligence” as housed in our libraries.

Read a book. From a library. You might learn something. Mária Zulick Nucci is co-editor of Open Court. Her bio is on page 13.
Hear Ye! Hear Ye!

This feature provides up-to-date, brief bulletins addressing LGBTQ+ issues that might be relevant to readers’ lives or practices. Contributions from committee members and allies are welcome. Send the editors an item or an alert to the item.


- The Transportation Security Agency now permits applicants for TSA PreCheck to self-attest their gender; applicants may select “another gender” instead of just “male” or “female.” The TSA specifically made reference to support for transgender, nonbinary and gender-nonconforming travelers when announcing and implementing this change. TSA implements additional gender marker option for TSA PreCheck® enrollments | Transportation Security Administration; https://www.travelandleisure.com/travel-news/tsa-adds-another-gender-option-precheck-application.

- Several state governors are beginning to veto bills banning transgender girls and women from girls’ and women’s sports. Indiana Governor Eric Holcomb, a Republican, stated that his state’s bill fell short of providing a consistent statewide policy for “fairness in K-12 sports.” Specifically, the law would prohibit K-12 transgender girls from participating in a sport or on a team designated for women or girls. While the Indiana House and Senate can override the veto, Gov. Holcomb noted that the Indiana High School Athleti Association has a transgender policy for students who seek to play sports that match their gender identity. https://www.theguardian.com/us-news/2022/mar/22/indiana-governor-vetoes-transgender-girls-sports-bill?CMP=Share_AndroidApp_Other.

- U.S. District Judge David Nye, of the District of Idaho, issued a preliminary injunction against the University of Idaho’s no-contact orders against three Christian law students who are members of the school’s Christian Legal Society chapter and expressed their views against same-sex marriage at an LGBTQ+ event and a meeting about ABA accreditation. The orders forbade the students from further contact with Jane Doe, a law student who questioned their views. Judge Nye noted that because the university issued the orders “with almost no due process,” they were based on the content of the students’ speech, “showed hostility to religious people and beliefs” and were therefore not neutral. Memorandum Decision and Order: https://storage.courtlistener.com/recap/gov. Continued on page 13
District Judge Charles Atchley Jr., of the Eastern District of Tennessee, blocked the Biden Administration’s LGBTQ+ protections at work and schools. Two directives, which apply to educational institutions which receive federal funding and to most employers, would have extended protections for transgender people to use work and school facilities and join sports teams that correspond to their gender identity. Judge Atchley wrote that the directive “directly interferes with and threatens Plaintiff States’ ability to continue enforcing their state laws.” 20 states brought the action. State of Tennessee v. United States Department of Education, Memorandum and Order: TennesseeOrderOpinionPI.pdf (windows.net); https://www.washingtonpost.com/politics/2022/07/17/biden-transgender-lgbtq-schools-work/.

Northwest Public Schools, Grand Island, Nebraska, closed Northwest High School’s 54-year-old, award-winning student newspaper, the Viking Saga, after the June issue was dedicated to LGBTQ+ issues, including an article, “Pride and Prejudice: LGBTQIA+,” and an editorial against Florida’s “Don’t Say Gay” law. The constitutional issues have been noted; to date is appears there is no litigation, but a request for an apology, reinstating the paper, and developing a policy on publications and LGTBQ+ students. Nebraska school officials shut down student newspaper after LGBTQ+ issue | Nebraska | The Guardian; A U.S. student newspaper put out an LGBT issue. Then the school shut it down | CBC Radio.

A 5-year-old student was allegedly removed from her kindergarten class at Bible Baptist Academy, DeQuincy, Louisiana, because her parents are a same-sex couple. School officials informed her parents that their relationship did not follow the Academy’s teachings, and they had to find a new school for their daughter, their niece whom they adopted after her father died in September 2020. After news of the incident broke, the school issued a statement supporting its decision, noting that it was “committed to instructing and living in accordance with the teachings of scripture.” https://www.msn.com/en-us/news/us/louisiana-child-kicked-out-of-class-because-parents-are-same-sex-couple.

O Taste and See Delight bakery, in Effort, Monroe County, refused to make a cake for a same-sex couple’s wedding after contracting to do so. One month before the wedding, the owner rescinded the contract, basing her action on her religious beliefs and refunding the couple’s payment. Desirie White and Jess Dowd, of New York, thus only had a month to find someone to make their cake. White posted about the situation on Face-
book, stating that she and Dowd wanted to support Taste and See as a minority-owned business, and noting her vegan dietary needs – and her own faith. Luckily, vegan baker Rebecca Riley, owner of Peace, Love, Cupcakes, Syracuse, New York, saw her post and made the couple a vegan lemon cake for free. Riley posted that she was “furious” with Taste and See’s action and responded to online criticism of the issue as “liberal agendas.”


**News Notes**  
*Continued from page 13*

LGBTQ+ Rights Committee

The LGBTQ+ Rights Committee shall study matters pertaining to the recognition and protection of the legal rights of the gay, lesbian, bisexual and transgender (LGBTQ+) community. The committee will monitor and make recommendations on issues and developments in the law impacting LGBTQ+ people in the public and the legal profession.

The committee is open to LGBTQ+ lawyers and allies. The committee welcomes all members who are interested in promoting equal rights for the LGBTQ+ lawyers and the LGBTQ+ community at large.

**Chair:**  
John Alan Byrd  
North Penn Legal Services  
Pittston, PA  
570-320-8723  
jbyrd@northpennlegal.org

**Vice Chair:**  
John M. Schaffranek  
Law Office of John M. Schaffranek  
Wexford, PA  
412-643-3848  
John@JMSLaw

Mária Zulick Nucci is a contract attorney with Allerton Bell in Douglassville, working on business, property, estate and family law matters, experienced in appellate practice and a proud Temple Owl. She developed interest in free exercise when she was assigned to the defense in the Altoona-Johnstown Diocese pedophilia cases, when she was with Meyer, Darragh, Buckler, Bebenek & Eck in Pittsburgh.

Mária Zulick Nucci is a contract attorney with Allerton Bell in Douglassville, working on business, property, estate and family law matters, experienced in appellate practice and a proud Temple Owl. She developed interest in free exercise when she was assigned to the defense in the Altoona-Johnstown Diocese pedophilia cases, when she was with Meyer, Darragh, Buckler, Bebenek & Eck in Pittsburgh.

**Open Court Co-editors**

Mária Zulick Nucci  
MJNucci58@gmail.com

Alfred Jonathon (AJ) Vogt  
aj.vogt10@gmail.com

**PBA Staff Liaison:** Ursula Marks  
ursula.marks@pabar.org

**PBA Newsletter Liaison:** Diane Banks  
diane.banks@pabar.org