
Schifanelli Law, LLP
P.O. Box 1023
Stevensville, Maryland 21666
240-882-2402/2019
www.marcschifanelli.com

Marc D. Schifanelli, Esq.
Founding Partner
Member of the Maryland State and
Federal Bar Associations
240-882-2402
marc@schiflaw.com

Gordana Schifanelli, Esq.
Member of the Maryland State and
Federal Bar Associations; New Jersey
Bar Association
240-882-2019
gordana@schiflaw.com

August 11, 2026

MSEA
Attn: Kristy Anderson
100 Main St.
Annapolis, Maryland 21401

RE: Counsel Response to MSEA Correspondence of 8/6/2026

Dear Kristy:

I am in receipt of your 8/6/2026 correspondence to the elected members of the Somerset County Board of Education outlining MSEA's position on prospective policy 500-19 concerning media center books and materials. The Board of Education welcomes viewpoint diversity from all Somerset County public schools system stakeholders, including from the MSEA. As counsel to the Somerset County Public Schools, I also welcome sound legal analysis pertaining to future acts/votes of the Board of Education.

However, the threats you make on behalf of MSEA to obfuscate and obstruct by all available means the Board's pending decision on proposed SCBOE Policy 500-19 if the elected County members do not vote in accordance with MSEA's viewpoint, as well as the threat that MSEA will force SCPS to spend taxpayer dollars if MSEA does not get its way, is troublesome. Upon investigation, this threat of litigation appears to stem from your legal analysis of prospective policy 500-19's provisions, and seeming reliance on media hype and *appeals to emotion*-based SEA social media posts (e.g., that the Board is about to "ban Anne Frank" and others.

This is nothing new to Somerset County BOE. Recall your own union member, County media specialist and president of the Somerset Educator's Association, Phaedra Spencer. Last year she filed a formal grievance along with several other SCPS media specialists demanding to have their employment reinstated. This caused much media attention and controversy and, as you prophesize now, SCPS was forced to spend taxpayer funds in addressing that grievance for nearly two months until MSEA realized that none of the specialists' employment had actually been terminated.

Presently, the SEA is posting on its social media account that the Board members are planning to "ban" Harry Potter, Anne Frank, and Harper Lee. This post appeared just weeks after SEA president, Phaedra Spencer, herself asked the SCPS Board to approve the purchase of some 500 books that she personally recommended for SCPS media centers. After reviewing the recommendations – which is not only the Board's purview but its obligation – the elected members voted to approve every single book title, including Harry Potter, Anne Frank, and Harper Lee. Spencer's blatant misinformation on SEA social media has recently been included in a federal lawsuit now pending against the Board and each one of its current members in their individual capacity.

So, as counsel for SCPS, I will presently address each of your legal arguments and concerns about prospective policy 500-19 in the hope that you will counsel MSEA to not rush out to sue SCPS without legal foundation; but I also recommend that in the future you probe the sources of your information a little better.

1. The proposed policy will not "be used to remove young adult books *en masse*" and without "the required reconsideration process."

As a preliminary matter, your letter did prompt me to consider recommending to my client that the prospective policy include a definition of "adult material" and "child pornography" to further clarify the type of sexually explicit material that will be separated out within the media centers and, if not vetted and removed pursuant to federal law (e.g., *Pico*) and required review processes, will otherwise be available to young adults (those student 18 – 21) and older adults of the schools' staff who wish to view such materials. The definitions include depictions - including drawings - or descriptions of children engaging in sexual acts, including oral sex and anal sex, as well as adult sexually-oriented nudity.

Those types of books depicting minors and/or adults in sex acts – unless removed entirely and pursuant to state and federal laws – will be separated from the main collection and posted (I would expect) with a sign clearly designating the content as "adult material" or "sexually explicit" material. This ensures a high degree of transparency for the public, the students, teachers, and parents. Any young adults or adult staff members, however, will be able to readily identify and easily access these materials. MSEA's interests in retaining this type of adult materials in student media centers should be satisfied with this separation.

2. The proposed policy is not “illegally viewpoint-based on [its] face.”

Section 4-142(a) of the Maryland Education Article states in relevant part that,

“(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.” (emphasis added).

As was demonstrated in June of this year by Phaedra Spencer, the SCBOE approves the use of textbooks and other materials recommended to it for purchase by its ELA director, media specialists, curriculum director, etc. Proposed policy 500-19 confirms the provisions of Section 4-142(a)(2) and the Freedom to Read Act. It does not call for removal of books because of the author’s “origin, background, or views.” There is no directive within Policy 500-19, for example, that declares the Board will not approve or will remove books and materials from media centers based the creator’s ethnicity, his or her sex or their gender, their criminal background or military service, or because they declare to hold a particular political view on any given matter.

Proposed policy 500-19 also does not call for disapproval of, or removal of, books or materials based on “partisan, ideological, or religious” reasons.

To the contrary, the Somerset County Board of Education is a non-partisan entity. Its policy does not promote one religion at the expense of another; one political party or ideology over another. There is no provision in the proposed policy that promotes the Green party over the Republican party over the Democrat Party or even the Communist party. Karl Marx’s “Das Kapital” – if its even in the media centers – should and will remain since it is of classical literary and historical literary value in its promotion of a political-ethical vision for mankind.

Instead, proposed policy 500-19 is in strict keeping with the Freedom to Read Act by including materials that are for the “interest, information, and (particularly) the instruction support of the students and staff.” However – not unlike the State’s mandate in Section 7-105(a) of the Education Article that requires every local board to “instill in the hearts and minds of the youth” in its charge “that love of freedom and democracy, shown in the devotion of all true Americans to their flag and country,” the Board seeks to promote recommendations and inclusion of books and materials which are,

“free of bias, which enlighten, inspire, encourage, motivate, instill hope and foster good decision-making...” in the youth in its care.

The proposed policy employs contrast by referencing books and material in general terms that,

“discourage, convey a sense of futility, affirm or promote negative or destructive character traits such as victimhood, rebellion, lawlessness, anarchy, obscenity, profanity, vulgarity, violence, vandalism, bullying, gang activity, drugs, alcohol, smoking, sexuality, anti-religion, theft, lying, and cheating.” (emphasis added)

While MSEA may want school children to read books that discourage them in life, instill them with a sense of futility, promote the listed destructive character traits, or are sexually explicit with drawings of children engaging in oral sex, etc., the Board – as well the majority of enlightened citizens of the United States – finds that vulgarity, lawlessness, profanity, and the rest are not the best traits to promote in school children when preparing them for success in life. MSEA’s stated concern that the Board’s denial of books that promote “victimhood” in children is equally disturbing. Although not listed as a disorder in the DSM-5, “victimhood” (or “victim mentality”) is recognized as a pattern of thinking and behavior in which a person perceives themselves as a victim in many situations where the objective evidence suggests otherwise. How MSEA has come to the conclusion that instilling victimhood in children by requiring them to read materials that promote victim mentality is an enigma. I would note that victim mentality is not restricted to humans in one or the other economic class, of one racial makeup, or one sex, but is quite non-partisan and equitable in its choice of hosts.

The Board’s statement that “[t]hese materials should also support the mission, vision, educational philosophy, beliefs and values endorsed by the Somerset County Board of Education” emphasizes the Board’s statutory obligations as education officials elected by the Somerset County community. The Board deliberates on all of these issues and it is likely that individual members take some or all of these enumerated factors into consideration for each and every of their votes. Next year, the Board will likely have some new members, and whatever their beliefs and values may be, they will likely conduct some introspection in advance of a vote on any matter.

Your categorizing as “illegal” the Board’s desire to emphasize “[c]lassical literature with well-known authors should be the priority when selecting books and media materials because it provides topics and books with timeless topics and universal values known to mankind” is simply unsound. The more than two-thousand-year human tradition in world literature, in law and jurisprudence, in philosophy and, since the 1920’s, psychology, of seeking out universal human values is what makes books and materials in any of those categories, and many more, interesting and valuable learning tools for students of all ages. The Board is in no way suggesting that “modern literature” or less profound writing has no place in the school system, and prospective policy 500-19 does not suggest or require their exclusion or removal.

3. The proposed policy does not “illegally narrow[] the purpose of a school library.”

Your analysis that the proposed definition of “educationally suitable” will require – or might result in – the removal of “a novel, comic book, memoir, poetry collection, newspaper, or work of general nonfiction...” Again, this is unfounded. Each of these that you list are simply broad genres that may not only promote in children an interest in reading, but may have education value as well and serve “the interest, information, and instructional support of students and school personnel” (including their vocabulary and English proficiency) as required by the Freedom to Read Act. Policy 500-19 does not suggest that any of these categories be removed.

4. The discipline provision is not “unlawful” and does not “place[] employees in the untenable position of choosing between complying with Board policy and fulfilling their legal and professional responsibilities.”

You misapply Section 4-142(c) of the Education Article in your conclusion that the Board is not authorized to impose discipline on school library personnel for failure to comply with prospective policy 500-19. MSEA’s assertion that “a board of education may not ‘discipline, reassign, transfer, or otherwise retaliate against’ library personnel for performing their duties *consistently with the State’s school-library standards*” (emphasis added) misquotes the law. That section actually states:

“A county board may not dismiss, demote, suspend, discipline, reassign, transfer, or otherwise retaliate against a librarian, a certified library media specialist, or school library media program support staff for performing their job duties consistent with the standards described under subsection (a) of this section.” (emphasis added)

And subsection (a) makes it perfectly clear that school *librarians* may not exclude materials because of the creator’s “origin, background, or views” or exclude or remove materials because of “partisan, ideological, or religious disapproval.” As noted above, policy 500-19 does not call for removal or exclusion based on any of those categories, but rather on adult content or other reasons which a local board is authorized to do under *Pico* and other Supreme Court rulings. If a librarian removes a book from the library without Board approval and based on, e.g., the color of the author’s skin or religion, then the librarian should answer to the superintendent and/or Board for that. If, however, a librarian is required by Board vote to remove or properly categorize a book that is, e.g., sexually explicit and with no educational value and not based on political partisanship, religious disapproval, or other protected ground, and refuses, then that librarian should also answer to the superintendent and/or the Board and he or she is not protected by Section 4-142(c).

I think MSEA should keep in mind that Maryland law charges local board's of education with deciding the curriculum and all learning materials that enter into their school systems, including whether to accept the recommendations of the superintendent and specialists in that regards, and Supreme Court precedence affirms that this includes all materials intended for media centers.

I hope that this helps you in your organization's mission to promote the welfare of its union members and teachers, and I hope that MSEA will consider carefully before following through with its threat to run up Somerset County taxpayer expenses should MSEA not get its way.

Sincerely,

Marc D Schifanelli
Marc D. Schifanelli, Esq.

cc: Somerset County Board of Education