

Salisbury Dulany Memorial Library  
Request for Reconsideration of Materials

If you wish to request reconsideration of library materials or resources, please complete and return this form to the Library Director, Dulany Memorial Library, 501 S. Broadway, Salisbury MO, 65281. A staff member will contact you.

**Confirm: Are you a resident of Salisbury, Missouri?** \_\_\_ Yes \_\_\_ No

**Confirm: Do you have a library card in good standing?** \_\_\_ Yes \_\_\_ No

Name \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_

Email \_\_\_\_\_

Is this request made on behalf of:

Yourself? \_\_\_\_\_

An Organization? \_\_\_\_\_ Name of Organization \_\_\_\_\_

1. Resource on which you are commenting:

TITLE: \_\_\_\_\_

AUTHOR/PRODUCER: \_\_\_\_\_

Book \_\_\_\_\_ Video \_\_\_\_\_ Magazine \_\_\_\_\_ Library Program \_\_\_\_\_

Newspaper \_\_\_\_\_ Display \_\_\_\_\_ Other \_\_\_\_\_

2. What brought this resource to your attention?

3. Have you read, listened to, viewed, or examined the whole resource? Why or why not?

4. What concerns you about the resource? Please be specific, including page numbers, if applicable.

5. What is valuable or meaningful in the work?
6. Are you aware of reviews of the work by critics?
7. What do you believe is the purpose or theme of this work?
8. What do you feel might be the result of reading, listening to, or viewing this work?
9. Are there other resources you could suggest that might provide additional information and/or other viewpoints on this topic?

Signature \_\_\_\_\_ Date \_\_\_\_\_

**Dulany Memorial Library Policy:**

*Request for Reconsideration of Library Materials:* The Library selects and acquires a wide variety of materials and programming for access by library patrons. The Library seeks to provide information on all sides of every issue, including controversial issues, and they value the opinions of patrons. If a patron objects, the patron may complete the Request for Reconsideration of Library Materials form, outlining concerns as concisely as possible. The Director will respond to the inquiry. If a patron is unsatisfied with the Director's response, the patron may appeal in writing to the Library Board.

Regarding children's access to materials, the library respects the right of parents and caregivers to determine what is or is not appropriate for their own child. Parents and caregivers are therefore responsible for monitoring card use and applying any restrictions they deem appropriate on their own child's access to library materials.

### **Constitutional principles libraries work under regarding banning books, etc.:**

1. Children also have 1<sup>st</sup> Amendment rights: *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503 (1969)
2. 1<sup>st</sup> Amendment rights include access to information: *Board of Education v. Pico*, 457 U.S. 853 (1982)
3. Suitability for minors must be judged according to appropriateness for the oldest minors (17 year olds) not younger ages: *American Booksellers Assn. v. Virginia*, 882 F.2d 125, 127 (4th Cir. 1989), cert. denied, 494 U.S. 1056 (1990) and *American Booksellers v. Webb*, 919 F.2d 1493, 1504-05 (11th Cir.), cert. denied, 494 U.S. 1056 (1990).
4. The value of the work must be considered as a whole, not just focus on the most worrying parts: *Miller v. California*, 413 U.S. 15 (1973)
5. Courts have laid out standards for censoring in any public forum, including a public library (“a limited or designated public forum”). See, e.g. *Sund v. City of Wichita Falls, Tex.*, 121 F. Supp. 2d 530, 547 (N.D. Tex. 2000).
  - a. Removal based on viewpoint is strictly prohibited.
  - b. If removal is based on content, governmental entity must establish that the removal of material meets strict scrutiny.
- i. Strict scrutiny test: (1) compelling interest; (2) narrowly tailored to achieve compelling interest; and (3) no less restrictive alternative.

*Board of Education v. Pico*, 457 U.S. 853 (1982): “[i]f petitioners intended by their removal decision to deny respondents access to ideas with which petitioners disagreed, and if this intent was the decisive factor in petitioner’s decision, then petitioners have exercised their discretion in violation of the Constitution.” *Id.* At 871

Obscenity is defined in the “Miller test”: *Miller v. California*, 413 U.S. 15 (1973)

Test: (1) that the average person, applying “contemporary community standards” would find the work, as a whole, appeals to the “prurient interest,” (2) that the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law, and (3) that the work, taken as a whole, lacks serious literary, artistic, political or scientific value. *Miller v. California*, 413 U.S. 15 (1973)(emphasis added).

Harmful to Minors is defined: *Ginsberg v. New York*, 390 U.S. 629 (1968), and also see citations in point 3) above.

The test parallels the Miller test, but the considerations are in the context of offensiveness and serious value for minors. *Ginsberg v. New York*, 390 U.S. 629 (1968). Determination must be made in the context of whether the material would be harmful to the oldest of minors. Material cannot be deemed harmful to minors if it would be constitutionally protected for a seventeen-year-old even if one might conclude that it was “harmful” for a five-year old.