

IOWA STATE DEPARTMENT  
OF PUBLIC INSTRUCTION

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In re Ben See :

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Ben See : DECISION  
Appellant :

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Grinnell-Newburg Community School District : [Admin. Doc. 350]  
Appellee :

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The above entitled matter came for hearing on August 21, 1975, at 9:00 a.m. The matter was heard before a hearing panel consisting of Dr. Robert Benton, state superintendent and presiding officer, Dr. Richard Smith, deputy state superintendent, and David Bechtel, administrative assistant. The Hearing was held pursuant to Chapter 290, The Code 1975, and Departmental Rules Chapter 670--51, on file with the Secretary of State. The Grinnell-Newburg Community School District was represented by F. W. Tomasek. Ben See was present and addressed the Hearing Panel. Mr. See was also represented by Howard S. Life.

I.  
FINDINGS OF FACT

The Hearing Panel finds that it and the State Board of Public Instruction had jurisdiction over the parties and subject matter involved in the Hearing. In November, 1974, Ben See presented a petition to the Grinnell-Newburg Community School District Board of Directors to have three books removed from the high school library. The books named in the petition were, The Godfather, The Summer of '42, and The Exorcist. Following established policy and procedure, the challenged books were reviewed by a committee (Reconsideration Committee) appointed to review the books and recommend appropriate action to the Board. The Reconsideration Committee was comprised of two librarians, two high school students, two ministers, two high school teachers, a college professor and a hospital administrator. After carefully reviewing the books in question, the Reconsideration Committee voted to recommend the retention of all three books in the high school library. Seven members of the Committee favored retention of The Godfather, one favored removal and two favored structured use of the book. Nine members of the Committee favored retention of The Summer of '42 and one favored removal. Six members favored retention of The Exorcist, two favored removal and two favored structured use of the book. A report and recommendation was made to the Board of Directors, and at its February 12, 1975 meeting, the Board voted four to one to adopt the majority report and recommendation of the Reconsideration Committee and retain the three books in the high school library for student circulation.

It is interesting to note that several Federal Courts have ruled on questions of challenges to decisions of local boards of directors involving instructional materials. A leading case is President's Council, District 25 v. Community School Board, 457 F2d 289 (2nd Cir. 1972). It involved a challenge to a school board's decision to structure the use of a book placed in the school's library so that only parents could borrow the book. The challenge was brought by persons desiring unrestricted use of the book by students. The state involved had statutes which gave the local boards of education the authority and responsibility for the general governance of the district's affairs and determination of matters dealing with the selection of learning materials. The Court held that there was not a sufficient constitutional question raised and the ultimate responsibility for the selection of materials in public school libraries was vested in the school board. A similar result was found in Minarcini v. Strongville City School District, 384 F.Supp. 698 (N.D. Ohio, 1974), where students brought suit to force a school district to adopt learning materials recommended by a faculty textbook selection committee, but rejected by the board, and in Williams v. Board of Education of the County of Kanawha, 388 F.Supp. 93 (S.D. W.V., 1975), where the challenge was to learning materials already adopted by the board.

While these cases are not binding precedent in the state of Iowa, the Hearing Panel agrees with their result. In matters of challenge to learning materials, whether they are attempts to remove, to force adoption or to grant unrestricted access, the primary responsibility rests with the local board of directors.

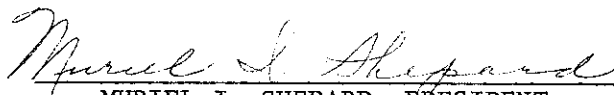
The Hearing Panel would like to make special note of the wise and prudent steps taken by the various boards of directors of the Grinnell-Newburg School District in establishing and maintaining a written policy which allows concerned district residents, such as Mr. See, to request reconsideration of learning materials which have been selected and are available for use by the district's students. The use of a broad-based committee made up of persons from the community appears to be an excellent method of aiding a board of directors in determining the appropriateness of learning materials.

### III. DECISION

The decision of the Marshall-Poweshiek Joint County Superintendent to affirm the decision of the Grinnell-Newburg Community School District Board of Directors in this matter is hereby affirmed.

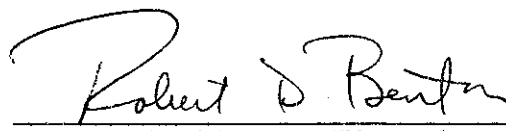
October 30, 1975

DATE

  
MURIEL I. SHEPARD, PRESIDENT  
STATE BOARD OF PUBLIC INSTRUCTION

October 7, 1975

DATE

  
ROBERT D. BENTON, Ed.D.  
STATE SUPERINTENDENT AND  
PRESIDING OFFICER