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RE: Heitman's 03 October 2024 Request for Reconsideration of *Gender Queer: A Memoir*, By Maria Kobabe

On the 03 October 2024, a Boise resident and Library card holder by the name of K. Heitman (hereinafter: The Requestor) pursuant to Idaho Code 18-1715B(7) *Children's School and Library Protection Act* and Boise Public Library Policy 5.02 requested that a book be reconsidered against:

Title:	Gender Queer: A memoir
Written by:	Maia Kobabe
ISBN:	978-1-5493-0751-5
Local Barcode:	31 1150 01840 6385
UPC Barcode:	9 781549 304002

Pursuant to Boise Public Library Policy 5.02(c)(vi) a Reconsideration of Material shall contain if available "any public comments received on the submission within sixty (60) days of receipt of the submission". This letter is to be considered a public comment to the aforementioned request.

Background of Gender Queer: A memoir

Published in 2019 *Gender Queer: A memoir* (hereinafter: *Gender Queer*) is an autobiography of the author's life, focused on their teens and early 20s. The author has written about their experiences growing up with regard to sexuality and gender-identity, and is intended to be a helpful guide to those potentially

facing the same internal conflicts and turmoil which the author them-self has faced.

This book is intended for a audience of 16 years and older, and has been ranked by the American Library Association as the most challenged book in 2021, 2022, and 2023.

Background of the requester and the request

The Requestor has indicated that they are **NOT** a minor, **NOR** representing a minor. In addition, the requester has indicated that they have **NOT** read, **NOT** checked out, **NOT** requested, **NOR** used for any other reason the book in question.

The Requestor's application for Gender Queer to be reconsidered has been done with **MINIMAL** effort and **WITHOUT** earnest. Their lack of sincere concern is characterized by the Requestor's answers, which are entirely **ONE SENTENCE IN LENGTH**, despite being given the opportunity to use additional sheets of paper; not answering every question asked; and admitting that they **HAVE NOT READ** Gender Queer.

In Section 1, Part c, Question VI of the application, it is asked "What do you believe to be the theme of this Material to be?" The Requestor answered this interrogative by writing the minimal-effort and unhelpful answer of "Graphic memoir". A better answer could have been "The experiences and realizations of a young person, and newly minted adult as they navigate their thoughts, feelings, and expectations of society while finding their true self."

Legal Burden

The legal burden one must reach in-order for a book to be classified as harmful to minors is the Miller Test as determined by the U.S. Supreme Court in Miller v. California (1973). The Miller Test is a three (3) part test requiring martial to pass all parts in order to be considered as obscene or harmful to minors, they are:

1. When the average person when applying contemporary community standards would find the work, when taken as a whole, appeals to the prurient interest,
2. If the work depicts or describes, in a patently offensive way, sexual conduct as defined by applicable state law, and
3. If the work, taken as a whole, lacks serious literary, artistic, political, or scientific value

The U.S. Supreme Court defined material appealing to prurient interest as "material having a tendency to excite lustful thoughts." As well as defining a prurient interest as "a shameful or morbid interest in nudity, sex, or excretion."

The State of Idaho defines homosexuality as "sexual conduct" while the State likewise does not define heterosexuality. The 14th Amendment of the U.S. Constitution guarantees equal protection to all persons under the law. U.S. Courts have long held that this protection from discrimination includes discrimination based upon sex. U.S. Courts have held that discrimination based upon sexual orientation and gender identity is included in discrimination based upon sex, therefore, the board should not entertain any depiction of homosexual content differently from their heterosexual counterparts.

Content

Pursuant to the Requestor's sole objection being incumbent upon the imagery depicted on pages 61, 124, 135, and 167, I shall there begin.

Page 61: A depiction of two **MALE** characters laying on-top of one another while kissing in an unclothed state, simultaneously showing about 5mm (0.2") of the divide of the buttocks. Placed into context, Page 61 depicts the Protagonist fantasizing of them-self within the aforementioned predicament. This supposition is supported by a depiction of the Protagonist wishing they had male genitalia upon the previous page, and the following quotation on pages 65 and 66:

"My deepest emotional relationships have always been with women. Did that mean I was a lesbian? But my sexual fantasies involved two male partners.

Was I a gay boy trapped in a girl's body? The knowledge of a third option slept like a seed under the soil. This seed put out many leaves. But I didn't have the language to identify the plant. I wish I had a gender neutral name. I feel like something is wrong with me. **I wish I was a boy.** I hate my breasts. ... I wish I had short hair."

Page 124: A standard depiction of an unclothed female body, similar in nature to what one would find in the materials of a sexual health class; intended to depict the expected changes during puberty of the female anatomy. When put into context this scene depicts the protagonist changing from street clothing into a medical gown in preparation for a Pap-Smear Exam,

Page 135: A depiction Plato's "Symposium", which itself is an ancient Greek literary work, dated sometime between 385 and 370 B.C. This work of Greek Philosophy serves as a foundation for Western Thought; its author is known for his dialog on religion, science, human nature, love, and sexuality,

Page 167: A two panel depiction of the Protagonist receiving simulated oral sex from another character. Within the first panel is an illustration of what the protagonist had been imagining prior. In the second panel is depiction of what actually occurred in reality. When put into context, this portrays the protagonist in their first romantic relationship, which would be classified as **homosexual**. After acquiring a strap-on harness and artificial phallic to simulate having male genitalia. The protagonist subsequently realizes they do not enjoy sexual activity.

Applying the Miller Test

1. Does *Gender Queer*, when applying contemporary community standards and when taken as a whole, appeal to the prurient interest?

A core component of appealing to the prurient interest is appealing to "shameful or morbid interest". *Gender Queer* is a 239 page graphic (as in illustrated) memoir with each page containing, on average, an estimated 4 panels of scenery. This furnishes an estimated total of 956 panels within the entire book. The Requestor's identified challenges to 1 panel on page 61, 2 panels on page 124, 1 panel on page 135, and 2 panels on page 167 account for an estimated 0.6% of

Gender Queer. Given *Gender Queer* contains less than 1% visual content which is sexual in nature, it is implausible to qualify as appealing to prurient interest and even absurd to say that such a small percentage of anything would be "shameful or morbid."

2. Does *Gender Queer*, in a patently offensive way, depict sexual conduct?

Idaho defines "Sexual conduct" as

"any act of masturbation, homosexuality, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if such person be a female, the breast."

Page 61 depicts sexual conduct between two characters who are kissing. Kissing is not considered sexual conduct in Idaho. However, the small amount buttocks shown and the implied physical genital contact could be considered sexual conduct. In defense of this depiction, incidental contact would not be included by the plain-text of this definition, lest any person hugging a woman be engaged in sexual contact with her breasts.

With the assumption Page 61 does contain sexual conduct, is the conduct patently offensive? The depiction presents the two characters generally from the waist up, and with a modest view of the exposed buttocks. The artistry itself also is presented in a way which lacks fine details of the genitals, which is uncharacteristic of material generally considered sexually offensive.

Page 124 contains no contact with any part of the body, and merely depicts a person changing their attire. Seeing as the Protagonist is portrayed in a medical setting it is unlikely be considered sexually offensive; merely a depiction of one of the realities of everyday life.

Page 135 does depict sexual conduct in the form of contact with unclothed genitalia. The sexual conduct depicted is a stylized and matter-of-fact rendition of the works of ancient Greek philosopher Plato. It is unlikely that an understated artistic interpretation of a work of significant historical value would be considered sexually offensive. In the context of the memoir, it is

presented in a matter-of-fact and subdued manner, with little fine detail upon the genitalia and sexual action of the participants.

Does page 167 contain sexual conduct? The sexual conduct is done using an artificial look alike of male genitalia, this does seem to meet the definition of sexual conduct.

Is the sexual conduct on page 167 patently offensive? Seeing as the illustrator did not provide much, if any, detail beyond coarse outlines, the two panels of conduct is limited. In neither panel are bodily fluids present, nor did the illustrator depict any overt pleasure on the part of either character. The Protagonist does show signs of duress either, and the sequence subsequently represents what should happen in a healthy sexual encounter. These attributes give the sequence instructive and academic merit. "Patently" has been defined as "clearly; without doubt". To the question as to whether this sequence is "Patently offensive", I would argue that in the most favorable interpretation to the Requester, it is not clearly and without doubt offensive.

3. Does Gender Queer, when taken as a whole, lack serious literary, artistic, political, or scientific value

This straight-forward question was asked of the Requester on Section 1, Part C, Question VII where the Requester answered with the lackluster answer of "yes of the pornographic nature/cartoons". *Good Reads* has rated *Gender Queer* at 4.27/5 stars, *School Library Journal* is quoted as saying in part "A book to be savored rather than devoured". *The Washington Post* gave a positive opinion, and *The Los Angeles Times* is quoted with "I read 'Gender Queer,' the most banned book in America, and so should you". In addition *Gender Queer* is the recipient of a Stonewall Book Award.

Given that *Gender Queer* has been the most challenged book for 3 years running since 2021, has hundreds of articles from both large and local news reporting agencies and independent journalists, the focus of many school and library board meetings (such as this one), and been commonly referred to as "The Most Banned

Book in America" it would be a grand misrepresentation to declare *Gender Queer* has not created dialog and political discourse, and thus political value.

For the reasons stated above *Gender Queer* fails to meet the Miller Test.

Decisions by Other Boards

The following library and school board entities have refused efforts to ban or restrict *Gender Queer* from youth and have retained *Gender Queer*:

Liberty Lake Municipal Library (WA)

Shawnee Heights Unified School District 450 (KS)

North Hunterdon-Voorhees Regional High School District (NJ)

McLean County Unit School District No. 5 (IL)

Harrisonburg City Public Schools (VA)

Richardson Independent School District (TX)

Sheboygan Falls Memorial Library (WI)

Billings Public Schools (MT)

Closing

Any reasonable person would conclude that any work which is itself the recipient of reviews in national newspapers and publications, and internationally recognized awards is of serious literary and artistic value. Additionally, the very nature of being a "banned book" gives the title political value. It itself is an object which manifests a political movement to which the Requester likely belongs.

Removing this title would thus remove from the public a valuable piece of literary, historical, emotional and political significance. Its absence would abrogate the rights of Idahoans to perform self investigation, and exercise their First Amendment Right to read whatever they please. It is the fundamental principle of right to a free press stated in the Constitution to protect the public from the tyranny of a vocal mob such as the Requester represents. What the

Requester is asking for is fundamentally unjust, it is immoral, and it is un-American.

In dignified respect,

Alyx Craghtten

Sent by mail and electronically to Boise public library and Kristen Heitman.

Replies accepted electronically to

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or by mail to

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