

Lobbyists for Citizens

June 14, 2023

Police Chief Ken Gunsch
Mentor Police Department
8500 Civic Center Blvd.
Mentor, OH 44060

Re: Complaint against the Mentor School District

Dear Chief Gunsch:

We would like to file a complaint against the Mentor School District for a violation of the Ohio Revised Code Section 2907.321 "Pandering Obscenity Involving a Minor or Impaired Person.

Our action is based on the following instructions given to us by Mr. Joseph P. Szeman, Director of Law for the City of Mentor, in his letter to Lobbyists for Citizens dated May 16, 2023. (Copy attached)

"In the event persons with personal knowledge are aware of any violation(s) of the criminal code within the City of Mentor, I urge those persons to timely report them to the Mentor Police Department so that proper investigative actions may occur when warranted."

Lobbyists for Citizens attended the Mentor School Board meeting on June 13, 2023, and heard complaints from numerous citizens about the fact that the pornographic book "The Bluest Eye" by Toni Morrison is available to children in the school district. In our opinion, this is a violation of the Ohio Revised Code section 2907.321.

To wit,

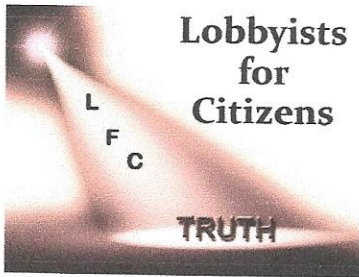
(A) No person, with knowledge of the character of the material or performance involved, shall do any of the following:

- (1) Create, reproduce, or publish any obscene material that has a minor or impaired person as one of its participants or portrayed observers;
- (2) Promote or advertise for sale or dissemination; sell, deliver, disseminate, display, exhibit, present, rent, or provide; or offer or agree to sell, deliver, disseminate, display, exhibit, present, rent, or provide, any obscene material that has a minor or impaired person as one of its participants or portrayed observers;

(5) Buy, procure, possess, or control any obscene material, that has a minor or impaired person as one of its participants;

ORC Section 2907.321 provides an exemption for a bona fide educational purpose.

(B)(1) This section does not apply to any material or performance that is sold, disseminated, displayed, possessed, controlled, brought or caused to be brought into this state, or presented for a bona fide medical, scientific, educational, religious, governmental, judicial, or other proper purpose, by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, member of the clergy, prosecutor, judge, or other person having a proper interest in the material or performance.



Lobbyists for Citizens

We have been informed that there have been approximately 60 prosecutions in this State under ORC 2907.321 that have reached the Appellate or Supreme Court level. NONE of them involves the exception for scientists, teachers, librarians etc. who are using material for "a proper purpose".

It is Lobbyists for Citizens' position that it is, in fact, illegal for a teacher, librarian, or school administrator to show to people, regardless of age, performing sexual acts on one another to students whether it is in the written word, illustration, photograph or video, even for "educational" purposes.

We believe that it is highly unlikely that any elected State judge or jury of State citizens will accept a defense claim that it is a "proper purpose" for a teacher, librarian, or school administrator to present descriptions or images of obscene conduct to MINORS.

We have an expectation that anyone in violation of a criminal law is not fit to serve in any capacity at a public school and we expect the school to work in conjunction with the Mentor Police Department and the Mentor Law Director to hold any such individual liable for their acts.

We have attached a sample of "The Bluest Eye" that a reasonable reader would consider pornographic. In addition, we have published videos of Mentor taxpayers expressing their deep-seated concerns about the appropriateness of this book in the Mentor School District. The videos can be found at <https://lobbyistsforcitizens.com/2023/06/14/filing-a-police-report-against-the-mentor-school-district-for-pornographic-books/>

As advocates for Lake County citizens, we respectfully request that as the Mentor Police Chief that you remind the school district of the consequences of violating the O.R.C. section 2907.321, and hold the Mentor School District accountable for any violation of O.R.C. 2907.321. This would include any pornographic books in the school library, or pornographic books brought into the classroom by any teacher or administrator as part of the teaching curriculum. In addition, we request that the Mentor School Board and Administration have a written policy that they will fully comply with the O.R.C. Section 2907.321, and have stated disciplinary action for any teacher, librarian, administrator, or school board member that violates the written policy by bringing pornographic books or material into the school and/or classroom for any reason other than to use as examples of violations of O.R.C. 2907.321.

Sincerely,

s/Brian Massie
Brian Massie
Executive Director
Lobbyists for Citizens
A registered 501 (c) (4) Non-Profit

Cc:

Lake County Commissioners – J. Hamercheck, J. Plecnik, R. Regovich
Mr. Charles Coulson - Lake County Prosecutor



City of Mentor

Council-manager
government since 1963

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Mentor, Ohio 44060-2499
440-255-1100
www.cityofmentor.com

May 16, 2023

Brian Massie
Lobbyists for Citizens
hal8196@gmail.com

Re: Letter dated 04.23.2023

Dear Mr. Massie:

I am the Mentor Law Director and am writing in regard to your letter of April 23 directed to Lisa Klammer. Please note that Ms. Klammer holds the position of Assistant Law Director to whom I have assigned prosecution duties. I wanted to respond directly as your letter requests that my office take certain action(s).

Investigations are commenced upon specific, articulated facts derived from reliable sources with personal knowledge of material facts. Your letter states that: "Lobbyists for Citizens has been made aware that the Mentor School District may have books containing pornographic materials available to children." (Emphasis added). No one with personal knowledge is identified, the basis for such knowledge is also not stated and, in fact, use of the word "may" indicates the absence of any personal knowledge of specific facts. The letter also includes various materials which are stated to be "...samples of books that a reasonable person would consider pornographic and have been discovered in Ohio schools." Again, nothing in the letter suggests these materials are or were present at any District facility.

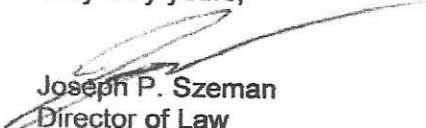
The final paragraph of the letter then requests my office "remind" the District regarding the need to comply with Ohio law as well as to institute related policies. The District is a political subdivision distinct from City of Mentor government. My office has no authority to provide it legal counsel and, in fact, it would be improper to do so. The District has available to it legal counsel from whom it may solicit whatever advice it may require.

In sum, there being presented no claim of any violation(s) of law and, with the request ultimately being to provide the District with what essentially would be improper legal advice, I am compelled to reject the request as legally improper.

In the event persons with personal knowledge are aware of any violation(s) of the criminal code within the City of Mentor, I urge those persons to timely report them to the Mentor Police Department so that proper investigative actions may occur when warranted.

Thank you.

Very truly yours,


Joseph P. Szeman
Director of Law

*the city of choice!*SM

Section 2907.321 | Pandering obscenity involving a minor or impaired person:

Ohio Revised Code / Title 29 Crimes-Procedure / Chapter 2907 Sex Offenses

Effective: March 22, 2019 Latest Legislation: Senate Bill 201 - 132nd General Assembly

(A) No person, with knowledge of the character of the material or performance involved, shall do any of the following:

(1) Create, reproduce, or publish any obscene material that has a minor or impaired person as one of its participants or portrayed observers;

(2) Promote or advertise for sale or dissemination; sell, deliver, disseminate, display, exhibit, present, rent, or provide; or offer or agree to sell, deliver, disseminate, display, exhibit, present, rent, or provide, any obscene material that has a minor or impaired person as one of its participants or portrayed observers;

(3) Create, direct, or produce an obscene performance that has a minor or impaired person as one of its participants;

(4) Advertise or promote for presentation, present, or participate in presenting an obscene performance that has a minor or impaired person as one of its participants;

(5) Buy, procure, possess, or control any obscene material, that has a minor or impaired person as one of its participants;

(6) Bring or cause to be brought into this state any obscene material that has a minor or impaired person as one of its participants or portrayed observers.

(B)(1) This section does not apply to any material or performance that is sold, disseminated, displayed, possessed, controlled, brought or caused to be brought into this state, or presented for a bona fide medical, scientific, educational, religious, governmental, judicial,

or other proper purpose, by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, member of the clergy, prosecutor, judge, or other person having a proper interest in the material or performance.

(2) Mistake of age is not a defense to a charge under this section.

(3) In a prosecution under this section, the trier of fact may infer that a person in the material or performance involved is a minor or impaired person if the material or performance, through its title, text, visual representation, or otherwise, represents or depicts the person as a minor or impaired person.

(C) Whoever violates this section is guilty of pandering obscenity involving a minor or impaired person. If the offense involves a minor, a violation of division (A)(1), (2), (3), (4), or (6) of this section is a felony of the second degree. If the offense involves an impaired person, a violation of division (A)(1), (2), (3), (4), or (6) of this section is a felony of the third degree. A violation of division (A)(5) of this section is a felony of the fourth degree. If the offender previously has been convicted of or pleaded guilty to a violation of this section or section 2907.322 or 2907.323 of the Revised Code, pandering obscenity involving a minor or impaired person in violation of division (A)(5) of this section is a felony of the third degree.

(D) As used in this section and sections 2907.322 and 2907.323 of the Revised Code, "impaired person" means a person whose ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age, and the offender knows or has reasonable cause to believe that the other person's ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age.

Available Versions of this Section

March 17, 1989 – House Bill 51 - 117th General Assembly

March 22, 2019 – Amended by Senate Bill 201 - 132nd General Assembly

"What Is Pandering Obscenity Of A Minor In Ohio?"

"In Ohio, the pandering obscenity of a minor law states that you are guilty of pandering obscenity of a minor when you generate, market for sale, distribute, obtain, or hold obscene material involving a minor. Ohio law defines obscene material as depicting sexual content with no purpose other than sexual interest. To be convicted, the prosecution must prove involvement at some level from the development of the content to holding it beyond a reasonable doubt. Depending on your relationship and involvement with the material, you may be subject to varying degrees of penalties as stated by Ohio law."

The following book can be found in the Mentor School District library:

The Bluest Eyes...a novel by Toni Morrison

These are excerpts from "The Bluest Eye" by Toni Morrison which will be formally challenged at the board meeting Tuesday.

The tenderness welled up in him, and he sank to his knees, his eyes on the foot of his daughter. Crawling on all fours toward her, he raised his hand and caught the foot in an upward stroke. Pecola lost her balance and was about to careen to the floor. Cholly raised his other hand to her hips to save her from falling. He put his head down and nibbled at the back of her leg. His mouth trembled at the firm sweetness of the flesh. He closed his eyes, letting his fingers dig into her waist. The rigidness of her shocked body, the silence of her stunned throat, was better than Pauline's easy laughter had been. The confused mixture of his memories of Pauline and the doing of a wild and forbidden thing excited him, and a bolt of desire ran down his genitals, giving it length, and softening the lips of his anus. Surrounding all of this lust was a border of politeness. He wanted to fuck her – tenderly. But the tenderness would not hold. The tightness of her vagina was more than he could bear. His soul seemed to slip down to his guts and fly out into her, and the gigantic thrust he made into her then provoked the only sound she made – a hollow suck of air in the back of her throat. Like the rapid loss of air from a circus balloon. Following the disintegration – the falling away – of sexual desire, he was conscious of her wet, soapy hands on his wrists, the fingers clenching, but whether her grip was from a hopeless but stubborn struggle to be free, or from some other emotion, he could not tell. Removing himself from her was so painful to him he cut it short and snatched his genitals out of the dry harbor of her vagina. She appeared to have fainted. Cholly stood up and could see only her grayish panties, so sad and limp around her ankles. Again the hatred mixed with tenderness. The hatred would not let him pick her up, the tenderness forced him to cover her. So when the child regained consciousness, she was lying on the kitchen floor under a heavy quilt, trying to connect the pain between her legs with the face of her mother looming over her. (162-163)