



NYCLU

NEW YORK CIVIL LIBERTIES UNION

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March 12, 2007

Bob Lichtenfeld, Superintendent
Katonah-Lewisboro School District
PO Box 387
Katonah, NY 10536

Dear Superintendent Lichtenfeld:

We write on behalf of the New York Civil Liberties Union ("NYCLU") to express our concern and strong objection to the actions of your school principal, Richard Leprine, in suspending three students at John Jay High School, Elan Stahl, Hannah Levinson, and Megan Reback, for saying the word "vagina" during their performance of a passage from Eve Ensler's *The Vagina Monologues*.

As an organization dedicated to protecting the principles embodied in the Bill of Rights and the Constitutions of the United States and the State of New York, the NYCLU has a particular interest in students' right to free speech. The NYCLU also has a longstanding commitment to promoting the sexual health and empowerment of teens in New York State, and to achieving full equality for women. We were therefore shocked to learn of the threatened suspensions. As we understand the situation, school administrators gave the students the "choice" whether to perform the monologue without saying the word "vagina," or to not perform it at all. Instead, they chose to perform the monologue as written, and are now being threatened with one-day suspensions as a result. The suspensions have been put on hold pending reconsideration of the matter, in light of the controversy that has erupted.

A decision to sustain the threatened suspensions would raise serious First Amendment concerns. We recognize that the Supreme Court has held in *Bethel School District v. Fraser* that school officials maintain the authority to insist upon civility of discourse at a high school assembly and in the classroom, and that "vulgar and lewd" speech can "undermine [a] school's basic educational mission."¹ But the speech undertaken by students, in this case, does not approach the pervasive vulgarity of the sort at issue in the *Bethel* case.

It is simply unacceptable that school administrators would object to the public performance of a renowned literary work simply because it contained the word "vagina."

¹ 478 U.S. 675, 685 (1986).

The word is an anatomical term that is in no way lewd, obscene, or inappropriate merely because it denotes a sex organ. Nor was the term lewd, obscene or in appropriate in the context in which it was used, as the passage in question was clearly meant to promote women's empowerment. If the passage as a whole, but omitting the word "vagina," was deemed appropriate for an audience including children, there is no legitimate reason that inclusion of the term should make it *in*appropriate. Censorship of this term was therefore not reasonably related to any legitimate pedagogical concern.

Moreover, there is no evidence that the performance caused disruption among those in attendance. Because the reading took place at an "open mic," those attending the event presumably expected that the high school students themselves, not school administrators or personnel, would be selecting the material to be performed, and therefore could only assume that the material would be at a level of maturity appropriate to high school students.

The defense raised by school officials—that the students had agreed not to say "vagina" but then broke their word, and that the threatened suspension is thus justified due to their "insubordination—is untenable. The school administrators' threats in advance of the performance that the students must censor the material they planned to read in order to have the privilege of performing at all amounted to an unreasonable and unlawful prior restraint on speech. The charge of "insubordination" for disobeying the school's unlawful edict is therefore not a legitimate basis for disciplinary action.

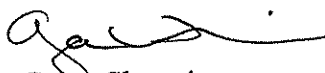
Indeed, the obvious irony of this situation is that Ensler's work explicitly seeks to counter the fear, self-loathing, and shame that many girls and women feel about their bodies, and to expose the damaging effects that the commodification and sexualization of women has on our self-esteem. Mr. Leprine's response to the young women's performance embodies the very problems that the play aims to expose and disarm.

These young women should be applauded for their courage and self-possession, not disciplined for insubordination. We understand from news reports that the three suspensions are currently being reconsidered pending a public meeting, to be held on Tuesday, March 13. In light of the strong legal and policy concerns outlined above, we urge you to do the right thing and reject Mr. Leprine's ill-considered disciplinary action by overturning the students' suspensions.

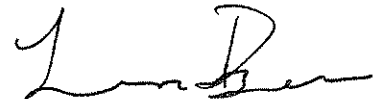


Donna Lieberman
Executive Director,
NYCLU

Sincerely,



Galen Sherwin
Acting Director,
Reproductive Rights Project



Linda Berns
Director
Westchester Chapter

CC: Eve Ensler

Peter Breslin
School Board President
Lewisboro School Board

Richard Leprine
Principal, John Jay Katonah-
High School