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CITY OF HUNTINGTON BEACH,
HUNTINGTON BEACH CITY COUNCIL,
ASHLEY WYSOCKI

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

ALLIANZA TRANSLATINX; C.A. a minor by
and through his Guardian ad litem, E.S.; H.P., a
minor by and through her guardian ad litem
C.W.; and ERIN SPIVEY, as taxpayer,

Plaintiff,

vs.

CITY OF HUNTINGTON BEACH, a municipal
corporation; HUNTINGTON BEACH CITY
COUNCIL, as the governing body of the
Huntington Beach Public Library; ASHLEY
WYSOCKI, in her official capacity as the
Director of Community and Library Services for
Huntington Beach; and DOES 1-50, inclusive,

Respondents and Defendants.

Case No.: 30-2025-01462835-CU-WM-CJC
Judge Lindsey Martinez
Dept. C-24

**NOTICE OF DEMURRER AND
DEMURRER TO PLAINTIFF'S PETITION
FOR WRIT OF MANDATE AND
COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF BY DEFENDANTS
CITY OF HUNTINGTON BEACH, CITY
COUNCIL, AND WYSOCKI;
DECLARATION OF PEGGY Z. HUANG**

DATE: September 29, 2025
TIME: 1:30 p.m.
DEPT: C24

Reservation No.: 74557870

1 TO PLAINTIFF AND HIS ATTORNEY OF RECORD:

2 PLEASE TAKE NOTICE that at 1:30 p.m. on September 29, 2025, or as soon thereafter as
3 the mater may be heard in Department C24 of the above-entitled court, located at 700 Civic Center
4 Drive West, Santa Ana, California, Defendants CITY OF HUNTINGTON BEACH,
5 HUNTINGTON BEACH CITY COUNCIL, and ASHLEY WYSOCKI (collectively referred to as
6 the “City”) will demur to Plaintiffs ALLIANZA TRANSLATINX *et al.*’s Petition for Writ of
7 Mandate and Complaint for Declaratory and Injunctive Relief (hereinafter the “Petition”) on the
8 following grounds:

- 9 1. Plaintiffs failed to plead facts supporting a claim for declaratory relief under Code
10 of Civil Procedure section 1085;
- 11 2. Plaintiffs’ action is not ripe as there is no justiciable controversy under Civil Code
12 of Procedure section 1085, i.e., that,
 - 13 a. Plaintiffs fail to allege any harm or injury;
 - 14 b. The City has not appointed any member to the Advisory Board; and
 - 15 c. No “community standard has been adopted.
- 16 3. The City of Huntington Beach is a Charter City with the authority to govern
17 municipal affairs, including but not limited to libraries and services.

18 Defense counsel and Plaintiff’s counsel met and conferred by telephone on May 5, 2025,
19 pursuant to 430.41, subdivision (a) of the Code of Civil Procedure. The parties could not agree on
20 the declaratory relief cause of action; thereby necessitating this Motion.

21 This Demurrer is based upon this Notice of Demurrer, Memorandum of Points and
22 Authorities, the Declaration of Peggy Z. Huang, the attached exhibits, documents and other
23 evidence served and lodged herewith, complete files and records of this action, and any other
24 matters of which the Court may or is required to take judicial notice and upon such other and
25 further relief as may be presented on the hearing of this Motion.

26 ///

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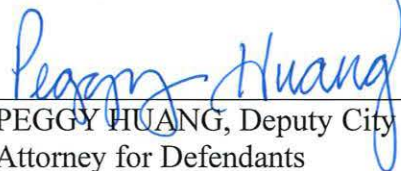
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DATED: May 7, 2025

MICHAEL J. VIGLIOTTA, City Attorney

By:



PEGGY HUANG, Deputy City Attorney
Attorney for Defendants
CITY OF HUNTINGTON BEACH
HUNTINGTON BEACH CITY COUNCIL
ASHLEY WYSOCKI

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Parental involvement in the development of their children is paramount to their future
4 success. Assisting children to be voracious readers is critical to the development of young minds
5 and their overall well-being and development. Libraries have an important role in the
6 development of children's minds. "Libraries and their governing bodies shall ensure that only
7 parents and guardians have the right and the responsibility to determine their children's—and only
8 their children's—access to library resources." (American Library Association ("ALA"), "Access
9 to Library Resources and Services for Minors: An Interpretation of the Library Bill of Rights.")

10 Consistent with the American Libraries Association's guiding principle that parents have
11 the right and responsibility to children's access to reading materials, the City adopted Resolution
12 and enacted an ordinance to ensure that parents have the right and responsibility to determine their
13 children's access to library resources. Contrary to Plaintiffs' assertions and innuendos, there are
14 no physical barriers to limit young patrons' access to all books and materials in the library.

15 Plaintiffs filed a Petition for Writ of Mandate and Complaint for Declaratory and
16 Injunctive Relief ("Petition") on March 7, 2025. Plaintiffs claim that the City's Ordinance No.
17 4318 unlawfully violate children's freedom to read and right to privacy. The petition is based on
18 conclusion and presumption—nothing founded on facts that would support a claim.

19 This Court should sustain the Demurrer to the Petition without leave to amend because
20 Plaintiffs' claims are not ripe for adjudication. As Plaintiffs have acknowledged, the City has not
21 implemented any of the Library measures. (Pet. at 21, ¶ 68.) Hence, Plaintiffs claims are based
22 on innuendos, assumptions, speculations and conclusion of law as alleged as facts which cannot
23 support any of the claims asserted in the Petition.

24 Additionally, Plaintiffs fail to allege facts supporting its claim that the California Freedom
25 to Read Act preempted the City's ordinance. The City is a Charter City with authority granted by
26 the State Constitution to govern municipal affairs, which includes the operation of a library. The
27 California Freedom to Read Act is a general law which does not address a matter of statewide
28 concern; therefore, it does not apply to charter cities. Further, the City's ordinance is consistent

1 with the United States Supreme Court’s holding in *Miller v. California* (1973) 413 U.S. 15 to
2 apply local “community standards” in reviewing materials of a sexual nature. (*Id.* at p. 19.)

3 For the reasons discussed herein, the Demurrer must be sustained and the Petition must be
4 dismissed without leave to amend.

5 **II. STATEMENT OF FACTS AND PROCEDURAL BACKGROUND**

6 **A. Background**

7 On October 17, 2023, the Huntington Beach City Council adopted Resolution No. 2023-
8 41, to establish a “Community Parent-Guardian Review Board for Procurement of Children’s
9 Library Materials” (hereinafter “the Board”). (Exhibit A.) On April 24, 2024, the Huntington
10 Beach City Council adopted Ordinance No. 4318, to codify Resolution No. 2023-41. Pursuant to
11 Ordinance No. 4318, each city council member appoints three members to the Board. (Exhibit B.)
12 Since the passage of the Ordinance, the City Council has not appointed any individuals to the
13 Board. There have been no meetings to determine the “community standards.”

14 **B. Library Layout**

15 The library is divided into two sections: a children’s section for children under the age of
16 13 and a general section (also known as “stacks”) for anyone over the age of 13. Children under
17 the age of 13 who wish to access the general section are required to be accompanied by their
18 parents.

19 **C. Types of Library Cards and Limitations**

20 The City offers four types of library cards:

- 21 1. For minors under the age of 13, a parent or guardian must be present with the child
22 when applying and signing for an Imagine or Minor’s Card;
- 23 2. For teens between the ages of 13 and 17, they may apply for a Teen card with a
24 valid school ID, driver’s license, or government-issued identification card. A
25 parent or guardian is not required to be present when applying and signing for a
26 card;
- 27 3. For teens between the ages of 13 and 17, a parent or guardian must be present with
28 the child when applying and signing for an Inspire Card.

(See https://huntingtonbeachca.gov/departments/library/my_account/library_card_membership.php;
Exhibit C.)

1 A patron's privileges are limited by the type of cards that they hold:

- 2 1. A patron holding a Minor's Card is limited to borrowing up to 35 items, including
3 up to 10 media items, and access to digital collections. A parent or guardian must
4 be present when accessing areas outside the Children's section.
- 5 2. A patron holding an Imagine card is limited to borrowing up to 35 items and has
6 access to the Library's computers. The patron does not have access to digital
7 collections and cannot borrow media items. A parent or guardian must be present
8 when accessing areas outside the Children's section.
- 9 3. A patron holding an Inspire Card may borrow up to 35 books and has access to
10 digital collections and Children's Library computers. The patron cannot borrow
11 media items. The patron has access to all public areas of the library without a
12 parent at age 13.
- 13 4. A patron holding a Teen Card may borrow up to five items, including media items,
14 and has access to the digital collection. The patron has access to all public areas of
15 the library without a parent at age 13.

16 (See https://huntingtonbeachca.gov/departments/library/my_account/loan_policies/index.php.)

17 **III. SUMMARY OF ARGUMENT**

18 **A. Legal Standard**

19 A party may demur to a Complaint pursuant to Code of Civil Procedure section 430.10 in
20 relevant part, on the following grounds:

21 "(a) The court has no jurisdiction of the subject of the cause of action alleged in the
22 pleading.

23 (b) The person who filed the pleading does not have the legal capacity to sue.

24 ...

25 (e) The pleading does not state facts sufficient to constitute a cause of action.

26 (f) The pleading is uncertain. As used in this subdivision, "uncertain" includes
27 ambiguous and unintelligible."

28 ...

A demurrer may be sustained as to an entire complaint or to any of the causes of action
therein. (Code Civ. Pro., § 430.50, subd. (a).) As to the issues presented by a complaint for

1 declaratory relief, a court may sustain a demurrer when the issues involve only questions of law
2 and do not require a factual determination. (*Helmer v. Miller* (1993) 19 Cal.4th 1565, 1569.)
3 Where no amendment will cure the defect, it is not an abuse of discretion to sustain the demurrer
4 without leave to amend. (*Schifando v. City of Los Angeles* (2003) 31 Cal.4th 1074, 1081.)

5 Defendants demur to Plaintiffs Petition and Complaint as discussed below.

6 **IV. THE PETITION CONTAINS INSUFFICIENT FACTS TO CONSTITUTE A**
7 **CAUSE OF ACTION**

8 Plaintiffs allege that the City’s Resolution No. 2023-41 and Ordinance No. 4318 (“Library
9 Measures”) violate a minor’s right to privacy by “condition[ing] a minor’s access to library
10 materials on making their library records available to their parent or guardian” (Pet. at 5, 31-33.),
11 violate the California Freedom to Read Act (Pet. at 27-29), the Library Measures are vague and
12 overbroad (Pet. at 29-31), and the City of Huntington Beach illegally expended public funds (Pet.
13 at 32-34). These are Plaintiffs’ opinions, speculation, and assumptions to draw a legal conclusion
14 and **zero facts**.

15 A complaint must allege facts and not contentions, deductions, opinions, speculations or
16 conclusions of law and this Demurrer must be sustained. (*Coshov v. City of Escondido* (2005)
17 132 Cal.App.4th 687, 702; *Daar v. Yellow Cab Company* (1967) 67 Cal. 2d 695, 713.) Plaintiffs
18 here cannot substitute facts with conjuncture, speculations, and opinions. As Plaintiffs
19 acknowledge, the City of Huntington Beach has not implemented the Library Measures. No
20 member of the public has been appointed to the Board and there has been zero public discussion
21 on “community standard.” Plaintiffs point to no facts to support a claim that any of the Library’s
22 policies violates the United States Supreme Court’s holding on evaluating sexual content
23 according to a “community standard.” (*Miller, supra*, 413 U.S. at p. 19.) They also point to no
24 facts of illegal expenditure of funds to support their claim.

25 Additionally, Plaintiffs fail to allege any facts or circumstances where they were denied
26 access to the “stacks,” or read and/or skim books, media, or digital collection. They also fail to
27 allege any facts or circumstances showing when they were denied the ability to borrow any books
28 from the Children’s Library or the “stacks,” media, or digital collection. Rather, Plaintiffs’

1 allegations are based on “concern[ed]” (Pet. at 7, ¶ 14), “could be restricted” (Pet. at 8, ¶ 15),
2 “fears” (Pet. at 8, ¶ 16) and “information and belief” (Pet. at 17, ¶ 51; at 18, ¶ 52). Any assertion
3 based on “information and belief,” possibilities, or “what ifs” is conclusory and not sufficient to
4 constitute a cause of action. (See *Gomes v. Countrywide Home Loans, Inc.* (2011) 192
5 Cal.App.4th 1149, 1158-1159 [pleading that is based on information and belief is insufficient
6 when it merely asserts facts without alleging information that leads the plaintiff to believe that the
7 allegations are true].) Neither Ordinance No. 4318 nor Resolution No. 2023-41 conditions the
8 patron’s access to books based on parental access to a patron’s borrowing history. Simply,
9 Plaintiffs’ conclusions and opinions are not facts in support of all causes of actions raised in the
10 Petition and are irrelevant and immaterial to any alleged injury suffered by Plaintiffs.

11 Additionally, the City’s contemplation that the Board will eventually adopt a “community
12 standard” is not impermissibly broad or vague. It is consistent with the United States Supreme
13 Court’s holding in *Miller* that the review of content of sexual nature to be based on “local” on
14 community standards. (See *Miller v. California, supra*, 413 U.S. at pp. 36-37.)

15 Further, Plaintiffs fail to allege any facts that support their claims that their rights to
16 privacy have been violated. Defendants’ policy requiring a parent or guardian present when
17 minors apply for a library card ensures that there is an adult who will be financially responsible for
18 any damage or loss item. Additionally, a policy requiring parental consent when applying for a
19 library card is consistent with ALA’s policy that parents and guardians have the right and
20 responsibilities to determine their children’s access to library resources, especially parents have
21 the financial responsibilities to pay for any damaged or lost items.

22 Moreover, a policy requiring that children under the age of 13 be supervised at all times, in
23 addition to requiring supervision when entering parts of the library designated for patrons over the
24 age of 13, protects the health and safety of all patrons. In fact, requiring parental supervision for
25 children under the age of 13 is consistent with the Education Code section 19802, subdivision
26 (b)(3) that a library adopt policies and procedures that “preserve the safety or security of the
27 library materials” and ensure “effective management of the library and its resources to preserve
28 access for all library users.”

1 As Plaintiffs have acknowledged, the Library has not effectuated or implemented either
2 Ordinance or Resolution. (Pet. at 21, ¶ 68.) Because Defendants have not yet implemented any
3 policies nor appoint any members to the Board, there are no facts for which any cause of action
4 can rest upon. As residents of Huntington Beach, Plaintiffs can participate in the public hearings
5 on the discussion of local community standards when the Board is constituted. By participating in
6 the public process to implement any policy, Plaintiffs can be part of the process in developing
7 policies that ensure their rights are protected and concerns addressed without unnecessarily
8 expending judicial resources when an alternative remedy to a writ of mandate is **readily available**.

9 **V. PLAINTIFFS HAVE NO STANDING TO SUE UNDER CODE OF CIVIL**
10 **PROCEDURE SECTION 1085**

11 Standing to sue is the right to relief in court. Although a plaintiff may have “capacity” to
12 sue, if the complaint shows that he is not a real party in interest and therefore lacks “standing” to
13 sue, a general demurrer will be sustained. (*Friendly Village Community Assn., Inc. v. Silva & Hill*
14 *Constr. Co.* (1973), 31 Cal. App. 3d 220.) Whether a party has standing is “focus[ed] on the
15 plaintiff, not the issues he or she seeks to have determined.” (*Torres v. City of Yorba Linda* (1993)
16 13 Cal.App.4th 1035, 1040 (“*Torres*”); *Flast v. Cohen* (1968) 392 U.S. 83, 99.) Generally, a
17 plaintiff must demonstrate that he or she has either “suffered or is threatened with an injury of
18 sufficient magnitude that it is reasonably assured the *lawsuit will provide an adequate*
19 *presentation of all facts and issues.*” (*Torres, supra*, 13 Cal.App.4th at p. 1041; accord, *Bilafer v.*
20 *Bilafer* (2008) 161 Cal.App.4th 363, 370.) To have standing, a party must show “that he or she is
21 sufficiently interested as a prerequisite” to the court deciding on the merits, “whether a party’s
22 challenge to legislative or executive action independently has merit.” (*Weatherford v. City of San*
23 *Rafael* (2017) 2 Cal.5th 1241, 1247 (“*Weatherford*”).) “The party must be able to demonstrate
24 that he or she has some such beneficial interest that is concrete and actual, and not conjectural or
25 hypothetical. [Citation.]” (*Teal v. Superior Court* (2014) 60 Cal.4th 595, 599.)

26 **A. Plaintiffs C.A. and P.H. Do Not Have Standing**

27 Plaintiffs C.A. and P.H. provide no evidence that they are affected parties or have their
28 rights impacted by the City’s Library Measures. There are no allegations that any Plaintiffs were

1 denied access to any books or materials (printed and digital) in the Library or unable to borrow
2 any books, media, or digital collection.

3 Both Plaintiffs C.A. and P.H. are over the age of 13. Although they both assert that they
4 have minor's library cards, they do not specify if they possess a "Minor's Card" or a "Teen Card."
5 The only restriction imposed on Plaintiffs is the number of books they can borrow. Under a
6 Minor's Card, Plaintiffs C.A. and P.H. are limited to 35 books, including 10 media items. They
7 have unrestricted access to the digital collection. Both Plaintiffs C.A. and P.H. are eligible to
8 apply for a Teen Card or an Inspire Card, access to digital collections, and **access to all public**
9 **areas of the Library without a parent.** Regardless of the type of card that either Plaintiffs C.A.
10 and P.H. currently hold or choose to apply for a new card, their access to books located in the
11 "stacks," whether to read, skim, or borrow any materials, including items of "sexual content," are
12 not restricted. If Plaintiffs C.A. and H.P. have concerns about their privacy and do not want
13 parental involvement, then they can simply apply for the Teen Card which provides the same
14 unrestricted access to library materials. Accordingly, Plaintiffs have made no showing that they
15 either "suffered or is threatened with an injury."

16 **B. Plaintiffs Alianza Translatinx ("ATL") and Erin Spivey Do Not Have**
17 **Standing**

18 "To have standing, a party must be beneficially interested in the controversy; that is, he or
19 she must have some special interest to be served or some particular right to be preserved or
20 protected and above the interest held in common with the public at large." (*Gerawan Farming,*
21 *Inc. v. Agricultural Labor Relations Bd.* (2019) 40 Cal.App.5th 241, 256, internal quotation marks
22 and citations omitted.) Generally, there is no general public interest exception to standing
23 requirement. (*People ex rel. Becerra v. Superior Court* (2018) 29 Cal.App.5th 486, 497, citing
24 *People ex rel. Lynch v. Superior Court* (1970) 1 Cal.3d 910.) Permitting a general public interest
25 exception to standing would turn courts into a "super-legislature," capable of overturning statutes
26 enacted by elected representatives without a showing that any party has been harmed. (*People ex*
27 *rel. Becerra v. Superior Court, supra*, 29 Cal.App.5th at p. 497.)

28 Although the Supreme Court has recognized a "public interest" standing in Code of Civil

1 Procedure section 1085 cases, it continues to place limits on its applicability and does not serve as
2 an exception to standing under Code of Civil Procedure section 526a. (*Weatherford, supra*, 2
3 Cal.5th at p. 1248; *People ex rel. Becerra v. Superior Court, supra*, 29 Cal.App.5th at 497;
4 *Reynolds v. City of Calistoga* (2014) 223 Cal.App.4th 865, 873.) The Court places these
5 limitations to ensure that the public interest exception does not swallow the rule, as public interest
6 standing is not automatically available as a substitute where a party is unable to establish
7 beneficial interest. (*Reynolds v. City of Calistoga, supra*, 223 Cal.App.4th at pp. 873-874.) A
8 party suing under a statute in a litigation still must show that it has a statutory right to relief. (*San*
9 *Diegans for Open Government v. Public facilities Financing Authority of City of San Diego* (2019)
10 8 Cal.5th 733, 739, quoting *Weatherford, supra*, 2 Cal.5th at 1248.)

11 Plaintiffs ALT and Spivey fail to assert any beneficial interest and have not met their
12 burden of proof to sue under the California Freedom to Read Act. A litigant cannot assert a
13 violation of someone else’s rights under the guise of public interest. (*People v. ex rel. Becerra v.*
14 *Superior Court, supra*, 29 Cal.App.5th at p. 497.) This is exactly what Plaintiffs ATL and Erin
15 Spivey seek to do—asserting someone’s claim that Ordinance No. 4318 restricts “minors’ access
16 to certain library materials in the absence of parent/guardian consent.” (Pet at 3, ¶1.)

17 Nor does Plaintiff ATL meet the “associational standing” requirement to bring suit. “To
18 establish associational standing, [Petitioner] must demonstrate that its members would otherwise
19 have standing to sue in their own right.” (*Associated Builders and Contractors, Inc. v. San*
20 *Francisco* (1999) 21 Cal.4th 352, 361,-362.) Here, Petitioner ATL alleges that it is a nonprofit
21 organization that provides services to its members such as “hot meals, grocery distribution, health
22 care advocacy, rental assistance, and educational outreach on issues affecting the TGI
23 community.” (Pet. at 6, L. 13-14.) However, Plaintiff ATL does not allege that any of its
24 members who has a child in possession of a Minor’s Card, Teen Card or Inspire Card and has been
25 denied access to any public area of the Library or unable to access or borrow any books or items.
26 Because Plaintiff ATL fails to demonstrate that any of its members would have standing on their
27 own right, Plaintiff ATL does not have beneficial interest standing or associational standing.

1 Quite plainly, Plaintiff Spivey also has no standing. Under the Code of Civil Procedure
2 section 1085, litigants must demonstrate (1) a clear, present and ministerial duty on the part of the
3 respondent, and (2) a clear, present and beneficial right on the part of the petition to the
4 performance of that duty. (*California Assn. for Health Services at Home v. Department of Health*
5 *Services* (2007) 148 Cal.App.4th 696, 704.) Because Plaintiff Spivey brings forward a writ of
6 mandate under Code of Civil Procedure section 1085, she must meet the “beneficially interested”
7 standing requirements under section 1086. This she cannot do.

8 Plaintiff Spivey pleads no allegations of harm, injury, or even the possibility of harm. She
9 is an adult and has unrestricted access to *all* public areas of the Library. Plaintiff Spivey also fails
10 to satisfy the standard for beneficial interest articulated by the Supreme Court to establish a public
11 interest standing. (*Loeber v. Lakeside Joint School Dist.* (2024) 103 Cal.App.5th 552, 571-572.)
12 Plaintiff Spivey alleges her conclusion and opinion as allegations of possible harm or injury to
13 third parties, and “fears that this will interfere with minors’ rights to access information.” (Pet. at
14 8.) There are no facts alleged that establishes any beneficial interest and merely presents her
15 opinions as injury.

16 Plaintiffs ATL and Spivey fail to plead that they have suffered or threatened with an
17 injury; thus, they have no standing to sue and seek declaratory relief. Therefore, this Court should
18 grant Defendants’ Demurrer in its entirety as to the Petition and Complaint for Declaratory Relief.

19 **C. Plaintiff Erin Spivey Does Not Have Taxpayer Standing**

20 Not only does Plaintiff Spivey not have beneficial standing, she also does not have
21 taxpayer standing under Code of Procedure section 526a. A taxpayer does not have an absolute
22 right to assert in a taxpayer's action any claim for governmental waste. (*Animal Legal Defense*
23 *Fund v. California Exposition and State Fairs* (2015) 239 Cal.App.4th 1286, 1298; citing, *City of*
24 *Ceres v. City of Modesto* (1969) 274 Cal.App.2d 545, 555 [“courts should not take judicial
25 cognizance of disputes which are primarily political in nature, nor should they attempt to enjoin
26 every expenditure which does not meet with a taxpayer’s approval;” “otherwise would invite
27 constant harassment of city [officials] by disgruntled citizens”].)
28

1 Plaintiff Erin Spivey does not meet the taxpayer's standing requirement. Code of Civil
2 Procedure section 526a standing is an *exception* when "the question is one of public right and the
3 object of the action is to enforce a public duty-in which case it is sufficient that the plaintiff be
4 interested as a citizen in having the laws executed and the public duty enforced." (*Rialto Citizens*
5 *for Responsible Growth v. City of Rialto* (2012) 208 Cal.App.4th 899, 913-914, internal citations
6 and quotation marks omitted.) Importantly, the courts recognized citizen standing as an exception
7 and not a repudiation of the beneficial interest requirement. (*Reynolds v. City of Calistoga, supra*,
8 223 Cal.App.4th at pp. 873-874.) The purpose of standing under section 526a is to enable a
9 citizen to challenge governmental action that would otherwise go unchallenged in the courts
10 because of the standing requirements. (*Weatherford, supra*, 2 Cal.5th at p. 1249; *Bledsoe v.*
11 *Watson* (1973) 30 Cal.App.3d 105.) That is not the case here. If a library patron actually suffered
12 injury or harm, he would have standing to challenge any legislative or executive acts of the City
13 Council and a taxpayer's lawsuit would not be necessary. (*Weatherford, supra*, 2 Cal.5th at p.
14 1249.)

15 Further, Plaintiff Spivey makes no viable allegations of governmental waste or illegal
16 expenditure. "[Section] 526a does not create an absolute right of action in taxpayers to assert *any*
17 claim of government waste." (*Animal Legal Defense Fund v. California Exposition and State*
18 *Fairs* (2015) 239 Cal.App.4th 1286, 1298.) Plainly, Plaintiff Spivey attempts to skirt section 1086
19 requirement of beneficial interest by asserting standing as a taxpayer; but she does not meet the
20 requirement for a section 526a standing.

21 Even if Plaintiff Spivey meets the public right/public duty exception, she is not entitled to
22 proceed as a matter of right. The Court must conduct an analysis that balances the petitioner's
23 need for relief against the public need for enforcement for official duty. (*Reynolds v. City of*
24 *Calistoga* (2014) 223 Cal.App.4th 865, 873-874.) Plaintiff Spivey cannot meet that standard.
25 Plaintiff Spivey has not alleged any illegal expenditure of public funds or any action to deny any
26 minor access to *any books*. Any child with a Teen Card or Inspire Cared has access to the general
27 section of the library to read and skim books and freely check out any books. And requesting
28 parental consent for library cards for children under the age of 13 ensures there is a party

1 responsible for any damages or loss of an item. Accordingly, Plaintiff Spivey fails to demonstrate
2 a taxpayer's standing and the Demurrer must be sustained.

3 **VI. PLAINTIFFS' ACTION IS NOT RIPE AS THERE IS NO JUSTICIABLE**
4 **CONTROVERSY**

5 An action must be ripe in order to be justiciable. (*County of Santa Clara v. Superior Court*
6 (2009) 171 Cal.App.4th 119, 131.) Courts do not issue advisory opinions. (*Dominguez v. Bonta*
7 (2022) 87 Cal.App.5th 389, 412; *Nilson v. Transit Authority of Sacramento* (1962) 199
8 Cal.App.2d 716, 722.) "The ripeness requirement, a branch of the doctrine of justifiability,
9 prevents courts from issuing purely advisory opinions." (*Pacific Legal Foundation v. California*
10 *Coastal Com.* (1982) 33 Cal.3d 158, 170; accord, *People ex rel. Becerra v. Superior Court, supra*,
11 29 Cal.App.5th at p. 497.)

12 Code of Civil Procedure section 1060 requires a plaintiff to allege a concrete dispute so
13 that a declaratory relief is appropriate. (*City of Santa Monica v. Stewart* (2005) 126 Cal.App.4th
14 43, 64.) A controversy is ripe "when it has reached, but has not passed, the point that the facts
15 have sufficiently congealed to permit an intelligent and useful decision to be made." (*Pacific*
16 *Legal Foundation*, at p. 171.) In contrast, unripe cases are those "in which parties seek a judicial
17 declaration on a question of law, though no actual dispute or controversy ever existed between
18 them requiring the declaration for its determination." (*Wilson & Wilson v. City Council of*
19 *Redwood City* (2011) 191 Cal.App.4th 1559, 1573.)

20 Plaintiffs fail to plead any facts to support any cause of action. The Board has not been
21 established. The City Council has not appointed any members of the public to the Board. (See
22 HBMC § 2.66.040, subd. (A).) No public hearing has been held to determine the community
23 standards. No books, other than those subject to regular purging consistent with Education Code,
24 section 19802, subdivision (b)(2)(iii)(B), have been removed from the Library or placed in a
25 manner that a patron cannot freely access them. What is clear, is Plaintiffs claims are based on a
26 series of conclusions, assumptions, and "what ifs." Plaintiffs disguise a substantive constitutional
27 challenge to the ordinance as a facial constitutional challenge in order to obtain an advisory
28 opinion from this court. This court would be forced to engage in "what ifs" constitutional analysis

1 of what Huntington Beach residents and the Board will determine to be local community standards
2 and speculate how those community standards will be implemented. Indeed, Plaintiffs are asking
3 this court “to prevent the City from violating Plaintiffs’ rights *in the future*.” (Pet. at p. 4,
4 emphasis added.) That is not the function of the judiciary. Judicial intervention requires a
5 justiciable controversy between the parties and none exists here. Plaintiffs’ broad and sweeping
6 vague claims of violations of privacy and freedom of speech are speculative and assumptions
7 about future unknown policies.

8 Accordingly, this Court should grant Defendants’ Demurrer as to the Petition and
9 Complaint for Declaratory Relief without leave to amend.

10 **VII. OPERATION OF THE PUBLIC LIBRARY IS A MUNICIPAL AFFAIR**

11 As a Charter City, the City of Huntington Beach is entitled under the California
12 constitution to engage in local regulation and governance of public libraries. (See Cal. Const. art.
13 XI, § 5, subd. (a).) California law recognizes two types of cities. A city organized under the
14 general law of the Legislature is referred to as a general law city. (Gov. Code, § 34102.) “A
15 municipality organized under a charter...is a Charter City. (Gov. Code, § 34101.)” (*City of*
16 *Redondo Beach v. Padilla* (2020) 46 Cal.App.5th 902, 909.) Our Supreme Court explained that
17 “Charter cities are specifically authorized by our State Constitution to govern themselves, free of
18 state legislative intrusion, as to those matters deemed municipal affairs.” (*State Building &*
19 *Construction Trades Council of California v. City of Vista* (2012) 54 Cal.4th 547, 555 (“*Vista*”);
20 accord, *City of Redondo Beach, supra*, 46 Cal.App.5th at p. 910.) Article XI, § 5, subdivision (a)
21 of the California Constitution provides that city charters adopted pursuant to this Constitution,
22 “with respect to municipal affairs, shall supersede all laws inconsistent therewith.” (*Vista, supra*,
23 54 Cal.4th at p. 555; *City of Redondo Beach, supra*, 46 Cal.App.5th at p. 910.)

24 Known as the “Home Rule Doctrine,” the broad authority of Charter Cities was originally
25 “enacted upon the principle that the municipality itself knew better what it wanted and needed
26 than the state at large, and to give that municipality the exclusive privilege and right to enact direct
27 legislation which would carry out and satisfy its wants and needs.” (*Vista, supra*, 54 Cal.4th at p.
28 556.) This is an affirmative constitutional grant of power to Charter Cities to govern their

1 municipal affairs. Thus, when it comes to matters of municipal affairs, “charter cities are
2 supreme and beyond the reach of legislative enactment.” (*Ibid.* [internal quotation marks and
3 citations omitted]; *California Renters Legal Advocacy & Education Fund v. City of San Mateo*
4 (2021) 68 Cal.App.5th 820, 846-847; see *Johnson v. Bradley*, (1992) 4 Cal.4th 389; *California*
5 *Fed. Savings & Loan Assn. v. City of Los Angeles* (1991) 54 Cal.3d 1, 12 (“*Cal Fed*”).)

6 California’s Constitution empowers a Charter City “to make and enforce all laws and
7 regulations in respect to municipal affairs, subject only to the restrictions a limitations provided in
8 their several charters . . .” (Cal. Const., Article XI, § 5, subd. (a).) “[C]harter provisions,
9 ordinances or regulations ‘relating to matters which are purely “municipal affairs”’ prevail over
10 state laws covering the same subject. [Citations.]” (*Baggett v. Gates* (1982) 32 Cal.3d 128, 135-
11 136.) Thus, a charter city enjoys autonomous rule over matters that are “municipal affairs” and is
12 not subject to general laws governing such affairs. (*Pasadena v. Paine* (1954) 126 Cal.App.2d 93,
13 98.) It is well established that a public library used by the city’s inhabitants is a matter of
14 “municipal affairs.” (*Ibid.*)

15 In *Johnson v. Bradley*, *supra*, 4 Cal.4th at page 398, the Court elaborated on the
16 constitutional definition of “municipal affair”: “Whereas subdivision (a) of article XI, § 5,
17 articulates the general principle of self-governance, subdivision (b) sets out a nonexclusive list of
18 four ‘core’ categories that are, by definition, ‘municipal affairs.’” These are the scope of a Charter
19 City’s power granted by the California Constitution. (*City of Huntington Beach v. Becerra* (2020)
20 44 Cal.App.5th 243, 251.) Section 5, subdivision (b) provides that a Charter City “may make and
21 enforce all ordinances and regulations in respect to municipal affairs, subject only to the
22 restrictions and limitations provided in their several charters and in respect to other matters they
23 shall be subject to general laws.”

24 Plaintiffs claim that the California Freedom to Read Act conflicts with the City Ordinance
25 and preempts the local measures because the statute states that it applies to charter cities. (Pet. at
26 4, 9, 22.) However, the California Freedom to Read Act does not expressly state it is a mater of
27 “statewide concern” to over the charter city’s ordinance. (See *Buena Vista Gardens Apartments*
28 *Ass’n. v. City of San Diego Planning Dept.* (1985) 175 Cal.App.3d 289, 306.) And even if the

1 Legislature made such explicit statement, whether the statute applies to a Charter City is a judicial
2 determination. (*Ibid.*) The California Supreme Court has developed a four-part “analytical
3 framework” to determine whether a state unconstitutionally infringes on a charter city’s home rule
4 authority under the California Constitution article XI, section 5:

5 First, a court must determine whether the city ordinance at issue regulates an
6 activity that can be characterized as a “municipal affair. [Citation.] Second, the
7 court “must satisfy itself that **the case presents an actual conflict between [local
8 and state law].**” [Citation, emphasis added.] Third, the court must decide whether
9 the state law addresses a matter of “statewide concern.” [Citation] Finally, the
10 court must determine whether the law is “reasonably related to... resolution” of
11 that concern [citation] and ‘narrowly tailored’ to avoid unnecessary interference in
12 local governance [citation]. ‘If ... the court is persuaded that the subject of the state
13 statute is one of statewide concern and that the statute is reasonably related to its
14 resolution [and not unduly broad in its sweep], then the conflicting charter city
15 measure ceases to be a ‘municipal affair’ pro tanto and the Legislature is not
16 prohibited by Article XI, Section 5(a), from addressing the statewide dimension by
17 its own tailored enactments. [Citation.]

18 (*Vista, supra*, 54 Cal.4th at p. 556.)

19 Firstly, the California Freedom to Read Act merely states that the statute applies to charter
20 cities without a finding that there is a “statewide concern” to justify state intrusion into the
21 operation of a local public library in a charter city. A statement by the Legislature that the statute
22 applies to a charter city is insufficient to erode a charter city’s constitutionally granted power to
23 govern over its municipal affairs.

24 Secondly, it is well-established that operation of a public library is a matter of “municipal
25 affairs.” (*Pasadena v. Paine, supra*, 126 Cal.App.2d at p. 98.) As the Attorney General has
26 recognized, the Education Code provisions relating to city libraries apply only to general law cities
27 and “are **inapplicable to charter cities.**” (61 Ops. Cal. Atty. Gen. 512, 518.) Further, a court
28 must first resolve whether the case “presents an actual conflict” between the state statute and the
charter city authority. If there is no conflict, then there is no need to determine whether the matter
is a “municipal affair” and “statewide concern.” (*Cal Fed., supra*, 54 Cal.3d at p. 16.) The
operation of a library is a municipal affair and the absence of the Legislature’s expressed
declaration that it is a statewide concern clearly establishes that Education Code section 19802, the

1 “California Freedom to Read Act,” a general law that is **inapplicable to a charter city**. (*Ibid*;
2 *Buena Vista, supra*, 175 Cal.App.3d at p. 306; *Baggett v. Gates, supra*, 32 Cal.3d at p. 136.)

3 Lastly, the California Freedom to Read Act requires a process where the members of the
4 public can express their concerns about books. The Board, when it is constituted, will meet the
5 statutory requirement to permit members of the public to voice their concerns about library
6 materials. (Educ Code, § 19802, subd. (a)(10)(A).) Because Plaintiffs are unable to articulate a
7 conflict, the State cannot satisfy the second prong of the *Vista* four-part test analysis. Since the
8 four-part test fails, there is no preemption issue and the City’s Ordinance should survive any
9 judicial scrutiny.

10 Further, the mere fact that different boards may reach different conclusions as to the same
11 material does not mean that the First Amendment is violated or that it is overbroad and vague.
12 (See *Miller, supra*, 413 U.S. at p. 27, fn. 9 [“The mere fact juries may reach different conclusion
13 as to the same material does not mean that constitutional rights are abridged.”].) The high Court
14 rejected the notion of a “national standard” or a uniform standard, and found that a uniform
15 standard would more likely suppress free speech than allowing a local community standard.
16 (*Ibid.*, fn. 13.) The Court endorses the exercise of local police power to protect the general
17 welfare of its population to regulate materials that may be offensive. (*Ibid.*) Thus, the City’s
18 Library Measures that permit public participation regarding library resources are consistent with
19 established United States Supreme Court precedents and within the powers granted to a charter
20 city by the California Constitution, Article XI, section 5. Accordingly, this Court should grant the
21 Defendants’ Demurrer as to the Petition and Complaint and dismiss the entire action without leave
22 to amend.

23 **VIII. CONCLUSION**

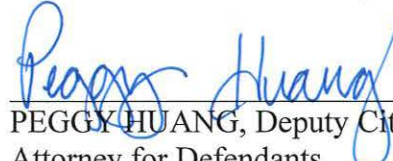
24 Defendants request the Court grant this Demurrer as to the Petition for Writ of Mandate
25 and Complaint for Declaratory Relief without leave to amend for the reasons stated herein.
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DATED: May 7, 2025

MICHAEL J. VIGLIOTTA, City Attorney

By:



PEGGY HUANG, Deputy City Attorney
Attorney for Defendants
CITY OF HUNTINGTON BEACH
HUNTINGTON BEACH CITY COUNCIL
ASHLEY WYSOCKI

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1. I am an attorney at law duly licensed to practice before all the courts of this state and am Deputy City Attorney for the City of Huntington Beach, counsel for Defendants CITY OF HUNTINGTON BEACH, CITY COUNCIL, and ASHLEY WYSOCKI in the above-entitled matter. The matters stated herein are within my own personal knowledge and, if called as a witness, I could and would testify thereto.

3. Attached as Exhibit A is a true and correct copy of the City of Huntington Beach Resolution No. 2023-41.

5. The City of Huntington Beach's Public Library's policies and procedures are available online for the members of the public. The types of library cards available to patrons and membership requirements are available at:

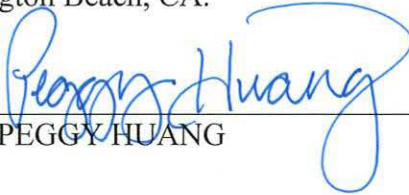
6. Attached as Exhibit C is a true and correct copy of the City of Huntington Beach Public Library's new Imagine and Inspire Cards' membership benefits and borrowing limitations.

7. The City of Huntington Beach's Public Library's loan policies and fees are available online for the members of the public, which is available at: https://huntingtonbeachca.gov/departments/library/my_account/loan_policies/index.php. This is a public document on the City's website.

1 8. In compliance with the provisions of Sections 430.41, subdivision (a) of the Code
2 of Civil Procedure, on May 5, 2025, I spoke with Plaintiffs' attorneys regarding Plaintiffs Petition
3 for Writ of Mandate and Complaint for Declaratory Relief. We were unable to agree on the
4 issues.

5 I declare under penalty of perjury under the laws of the State of California that the
6 foregoing is true and correct.

7 Executed this 7th day of May, 2025 at Huntington Beach, CA.

8 
9 _____
10 PEGGY HUANG
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RESOLUTION NO. 2023-41

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF HUNTINGTON BEACH ESTABLISHING A POLICY FOR CHILDREN'S
LIBRARY MATERIALS CONTAINING SEXUAL CONTENT

WHEREAS, the City Council has observed that there are some children's books and other materials in the City's libraries that contain sexual writings, explicit sexual references, explicit sexual images, and other sexual content, and views and considers much of this "obscene" and/or "pornographic;" and

WHEREAS, "obscenity" is defined as material appealing to prurient interests, portraying sexual content in a patently offensive way without serious literary, artistic, political, or scientific value and "pornography" is commonly defined as the depiction of erotic behavior intended to cause sexual excitement; and

WHEREAS, the City Council is concerned that some of the children's books and other materials ("books and "other materials"" also includes any digital content and/or online content) in the City's libraries contain sexual content that is viewed by the community as obscene and/or pornographic; and

WHEREAS, those books and other materials containing sexual content are presently readily available to children without any parental involvement or requirement for parental involvement; and

WHEREAS, the City Council seeks to protect our community's children by necessarily involving parental oversight and participation regarding children's access to obscene, pornographic, or sexual content in books and other materials at or from the City libraries; and

WHEREAS, the City libraries are funded by taxpayers from the community and children's books and other materials are necessarily procured by taxpayer funds; and

WHEREAS, the content of books and other materials are generally judged by "community standards" per *Miller v. California* (1973) 413 U.S. 15;

NOW, THEREFORE, the City Council of the City of Huntington Beach does hereby resolve as follows:

1. Children's Accessibility to Library Books:
 - a. No City Library or other City facility shall allow children ready access to books and other materials that contain any content of sexual nature. Books and other materials containing any sexual writings, sexual references, explicit sexual images, and any other sexual content shall not be placed in, or be present in, any section of any City Library or facility other than adult section(s), i.e., those areas/shelves designated for 18-years or older.
 - b. Parental or guardian consent will be required before accessing or checking out any book or other material that contains any sexual writing, sexual references, sexual images, and/or other sexual content by anyone under 18-years of age, whether the books or materials are intended for children or adults.

2. Procurement of New Books and Materials Required to Meet Community Standards:
 - a. No City Library or other City facility shall procure (children's) books or materials containing any sexual writing, sexual references, sexual images, and/or other sexual content that are intended for children without first receiving the approval of a community parent/guardian review board.
 - b. A community parent/guardian review board shall be established, comprised of up to twenty-one (21) adult community members, each Council Member appointing three (3) to review all proposed or new children's books and other materials procured by the City Libraries or City Librarians that may contain sexual content before the books or materials are placed in the City Libraries or facilities.
 - c. This community parent/guardian review board shall meet at least twice a year, and more if necessary, to review children's books recommended to the City Libraries to determine by majority vote if the books and materials meet the community standards of acceptance for the City of Huntington Beach. If recommended books or materials do not meet the City's community standards of acceptance, they may be rejected by vote of the community parent/guardian review board.
 - d. The community parent/guardian review board may also recommend books or other materials currently in circulation at City Libraries be subject to the same review process on a case-by-case basis. Should the community parent/guardian review board find a book or material currently in circulation does not meet community standards, it shall be placed in the adult section and subject to parental and guardian consent before being checked out by anyone under the age of 18.
 - e. This section does not modify the requirement in Section 1 of this Resolution that any book containing sexual content be placed in the adult section and require parental or guardian consent for children to access.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the _____ day of _____, 20____.

ATTESTED:

City Clerk

Mayor

Mayor Pro Tempore

APPROVED AS TO FORM:



City Attorney

ORDINANCE NO. 4318

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HUNTINGTON
BEACH AMENDING THE HUNTINGTON BEACH MUNICIPAL CODE
BY ADDING NEW CHAPTER 2.66 ENTITLED "COMMUNITY PARENT-GUARDIAN
REVIEW BOARD FOR PROCUREMENT OF CHILDREN'S LIBRARY MATERIALS"

WHEREAS, the City of Huntington Beach is a Charter City and municipal corporation duly created and existing under a charter pursuant to which the City has the right and power to make and enforce all laws and regulations in respect to municipal affairs.

The City Council of the City of Huntington Beach does hereby ordain as follows:

SECTION 1. The Huntington Beach Municipal Code is hereby amended to add new Chapter 2.66 Entitled "Community Parent-Guardian Review Board for Procurement of Children's Library Materials" to read as follows:

**"Chapter 2.66 COMMUNITY PARENT-GUARDIAN REVIEW BOARD PROCUREMENT
FOR CHILDREN'S LIBRARY MATERIALS**

2.66.010 Established

There is hereby established a new Community Parent-Guardian Review Board for Procurement of Children's Library Materials (hereinafter referred to in this Chapter as the "Board") which shall be a decision-making body pursuant to Huntington Beach Charter Section 405.

2.66.020 Definitions

For the purpose of this Chapter, the following definitions apply:

"Children" means persons under the age of eighteen (18) years old.

"Children's Books" means any book, literary work, or other material, whether in hard copy or electronic, intended for anyone under the age of 18 or intended to be placed in the Children's Section(s) within any of the City Libraries or intended for Children's access.

"Community Standards" means the Board's determinations regarding whether books are acceptable for Children's access, including books that may contain Sexual Content or Sexual References.

"Sexual Content" is any content of a sexual nature, whether in the form of written text, or in the form of graphic depictions such as photos, drawings, cartoons, images, etc., for example, textual or graphic content including sex, sexual organs, sex acts, relationships of sexual nature, or sexual relations in any form.

“Sexual Reference” is any reference of a sexual nature, whether in the form of written text, or in the form of graphic depictions such as photos, drawings, cartoons, images, etc., for example, textual or graphic references to sex, sexual organs, sex acts, relationships of sexual nature, or sexual relations in any form.

2.66.030 Purpose

The Board shall serve as a decision-making authority to the City to ensure that books that Children have access to in City Libraries meet the City’s Community Standards for material acceptable for Children’s access, including books that may contain Sexual Content or Sexual References, before such Children’s Books are purchased by the City prior to placement in circulation or made accessible to Children without parental consent.

Additionally, the Board may nominate Children’s Books currently in circulation for review by the Board for determination of whether those Children’s Books meet the Community Standards for material acceptable for Children’s access, or whether those books require parental consent and are to be placed in the Adult Section of the City’s Library.

2.66.040 Composition

A. The Board shall consist of up to twenty-one members. Each City Council Member shall appoint up to three members of the Board to serve the same term as the City Council Member until their successors are elected and qualified.

B. The service limitation contained in Section 2.100.060, which does not allow a person to serve on more than one Board or Commission at any one time shall not be applied to this Board due to its large membership, possible difficulty recruiting members, and limited scope of duties. Subject to California Government Code Section 1099, no Member may simultaneously hold two incompatible public offices.

2.66.050 Operating Policies

Except as otherwise provided in this Chapter, the Board shall conform to the operating policies for Boards and Commissions as set forth in Chapter 2.100 of this Code.

2.66.060 Election and Officers

The Board shall elect from its appointed members a Chairperson and Vice Chairperson at the first regular meeting of the calendar year and such officers shall serve for one year and until their successors are elected and qualified. The Chairperson and Vice Chairperson may make and second motions and shall have a voice and vote in all proceedings of the Board. No Chairperson or Vice Chairperson may serve consecutive years in the same role.

2.66.070 Secretary

The Director of Community & Library Services, or his or her designee, shall serve in a non-voting capacity as Secretary to the Board and shall prepare and retain permanent minutes of the Board meetings approved by the Board per the City's Record Retention Policy.

2.66.080 Meetings

The Board shall meet at least twice each calendar year, and more if deemed necessary by the Director of Community & Library Services. As a "Brown Act" Board, the Meetings shall be conducted consistent with the provisions of the Brown Act. Roberts' Rules of Order (current edition) shall govern the procedure of the meetings of the Board unless inconsistent with other provisions of this Chapter. As requires, the City Attorney and or his or her designee shall give legal advice to the Board regarding compliance with laws.

2.66.090 Quorum

- A. At any meeting of the Board, a simple majority of the current existing membership shall constitute a quorum for the transaction of business.
- B. In the event there is no quorum at a meeting, the Chair shall adjourn said meeting or shall adjourn to a date certain.

2.66.100 Funding

All budget and expenses by the Board shall be managed in a predetermined account(s) by the City, subject to City purchasing and contracting policies and procedures. The Board and their staff liaison may determine and request an annual budget for the purchase of Children's Books to review. After review, all efforts will be made to sell or donate non-approved Children's Books to libraries outside the City of Huntington Beach.

2.66.110 Duties

- A. Review all Children's Books proposed for procurement by the City to determine by majority vote, in the Board's sole discretion, if such Children's Books meet the Community Standards of acceptance for the City of Huntington Beach to be placed in City Libraries. Make Recommendations for Children's Books that meet the Community Standards of acceptance to be purchased by the City, and/or to be accessible to Children without parental consent. The Board shall be provided a budget and ability to procure advance copies of Children's Books or Children's Books reviews as required for Board review. Any Children's Book may be nominated to be reviewed again after one year has passed from a previous decision by the Board.

B. The Director of Community & Library Services or his or her designee will submit a list of Children's Books intended for purchase at least 45 days before the date of any Board meeting. Any Board Member may nominate any number of Children's Books from the list for review. If a Children's Book is nominated for review, it shall not be purchased by the City for Library circulation unless first approved by the Board. Once nominated, a Children's Book must be reviewed within one year of nomination. If a Children's Book is not nominated for review within 90 days from the submittal of the intended purchase list or reviewed by the Board within one year of nomination, it will be considered approved for purchase by the Board.

C. The Board may also recommend that Children's Books currently in circulation at City Libraries be subject to the same Board review process on a case-by case basis. Any Board Member may submit a recommendation form that a Children's Book currently in circulation be reviewed by the Board. Should the Board find that a Children's Book currently in circulation does not meet Community Standards for Children's access without parental notification, it shall be placed in the Adult Section and subject to parental and/or guardian consent before either Children obtain access or the book is checked out by anyone under the age of 18.

D. All Board Members present must review the Children's Book(s) before it may be subject to a Board vote.

E. The Board must vote whether a Children's Book meets the Community Standards before the Board may vote on procurement/placement.

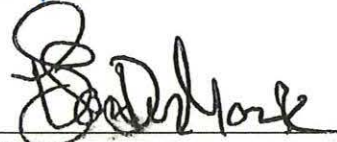
F. If a proposed Children's Book proposed by the Director for procurement and not yet placed in circulation is reviewed and then rejected by the Board, the Board must place findings in the record and complete the Library Materials Review Form, which shall be placed in the minutes by the Secretary in detail as to the reasons the Board determined the proposed Children's Book did not meet the Community Standards or is unfit for placement in the Library.

G. All decisions by the Board are final and non-appealable.

H. A list of all Children's Books voted on by the Board, including the nomination and voting date, shall be displayed on the City's website on the Board's webpage.

SECTION 2. This ordinance shall become effective 30 days after its adoption.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the 2nd day of April, 2024.



Mayor

ATTEST:



City Clerk

APPROVED AS TO FORM:



City Attorney

REVIEWED AND APPROVED:



City Manager

INITIATED AND APPROVED:



City Manager

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss:
CITY OF HUNTINGTON BEACH)

I, ROBIN ESTANISLAU, the duly elected, qualified City Clerk of the City of Huntington Beach, and ex-officio Clerk of the City Council of said City, do hereby certify that the whole number of members of the City Council of the City of Huntington Beach is seven; that the foregoing ordinance was read to said City Council at a **Regular** meeting thereof held on **March 19, 2024**, and was again read to said City Council at a **Regular** meeting thereof held on **April 2, 2024**, and was passed and adopted by the affirmative vote of at least a majority of all the members of said City Council.

AYES: Burns, Van Der Mark, Strickland, McKeon

NOES: Moser, Bolton, Kalmick

ABSENT: None

ABSTAIN: None

I, Robin Estanislau, CITY CLERK of the City of Huntington Beach and ex-officio Clerk of the City Council, do hereby certify that a synopsis of this ordinance has been published in the *Huntington Beach Wave* on April 11, 2024.

In accordance with the City Charter of said City.

Robin Estanislau, City Clerk

Senior Deputy City Clerk



City Clerk and ex-officio Clerk
of the City Council of the City
of Huntington Beach, California

YOUTH LIBRARY CARDS

Parents or legal guardians have a choice of library cards for their minor children: Inspire or Imagine.

Please review the descriptions of the two card types and feel free to speak with a staff member for more information.



Inspire Card

Inspire card holders:

- can borrow books
- can access digital collections
- can access Children's Library computers
- may borrow up to 35 books at a time
- cannot borrow media items (DVDs, music CDs, audiobooks, etc.)
- may access all public areas of the library without a parent at age 13

• EXHIBIT C



Imagine Card

Imagine card holders:

- can borrow books from the Children's sections
- cannot access digital collections
- can access Children's Library computers
- may borrow up to 35 books at a time
- cannot borrow media items (DVDs, music CDs, audiobooks, etc.)
- must have a parent or guardian present when accessing areas outside of the Children's section

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I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 2000 Main Street, Huntington Beach, CA 92648.

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SERVICE LIST

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