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**HOUSE OF REPRESENTATIVES**  
COMMONWEALTH *of* PENNSYLVANIA

*Joint Democratic Policy Committee Hearing*

Freedom to Read: The Unsettling Increase of Censorship in our Libraries and Schools  
Thursday, October 5, 2023 | 10:00 a.m.

Representative Paul Friel, Senator Amanda Cappelletti

**OPENING REMARKS**

10:00a.m. Rep. Paul Friel (D-Chester)  
Sen. Amanda Cappelletti (D-Delaware, Montgomery)  
Rep. Ryan Bizzarro (D-Erie)  
Sen. Katie Muth (D-Berks, Chester, Montgomery)

**PANEL ONE**

10:10a.m. Keith Willard, Secondary Social Studies Teacher  
*Central Bucks School District*

*Q & A with Legislators*

**PANEL TWO**

10:30a.m. Darren Lausten, Parent  
*Pennridge School District*

Kate Nazemi, Parent  
*Central Bucks School District*

**PANEL THREE**

11:10a.m. Deborah Gordon Klehr, Executive Director  
*Education Law Center of Pennsylvania*

Sarah DeMaria, President-Elect  
*Pennsylvania School Library Association*

Senate Policy Chair Katie Muth, House Policy Chair Ryan Bizarro, Senator Amada Cappelletti, Representative Paul Friel, and elected members of the Pennsylvania House and Senate,

Thank you for giving me the opportunity to address this crucial issue today – the issue of censorship in the public schools of our commonwealth. It is essential that we recognize the tactics used by right-wing groups to ban books and materials that promote diversity and inclusivity in our educational system. It is also important to formulate a plan. One that will confront organized attacks on education across our commonwealth – because these attacks from far-right groups, are impacting teachers and librarians who are acting in good faith to provide a well-rounded and inclusive education.

A small bit of background about me – I have been a social studies teacher in Central Bucks for 23 years. I have been an advisor for my school's gay-straight alliance since 2017. I have my Master of Arts in teaching from the University of Pittsburgh and I also have my Administrator/Supervisor certificate from Delaware Valley University. I mention the admin piece, because I think that experience has helped provide me with some ability to see the world of education not only through a teacher lens, but through the lens of an administrator. It has also helped me to navigate school law and the rights of educators to speak on matters of community concern. With that being said, I speak not as a representative of my school district today. I speak as a citizen of the commonwealth with great concern about the future of public education.

In our democratic society, public education plays a fundamental role in shaping the values and perspectives of our future generations. It should be a place where all students feel safe, valued, and empowered to explore diverse ideas and perspectives. However, in the last three years, right-wing groups including "Moms 4 Liberty" have been attempting to stifle this very essence of education.

The banning of books has made headlines across our commonwealth. Groups argue that certain books are "inappropriate" for students, and they talk about "Parental Rights." But often, the targeted books are ones that address issues of diversity, inclusion, and LGBTQ+ identities. And these groups such as m4l, are not content to restrict books and resources for their child alone (which they are entitled to do), but rather they seek to eliminate these books and resources for the entire student body.

I found myself at the nexus of the book controversy in the fall of 2021. Even though I am not a librarian, I'm a social studies teacher, I have a small library of approximately 50-60 lgbtq+ titles to support the gay-straight alliance in my school. I've always been told that even though I may be social studies, we are all teachers of reading and writing, which I've embraced. To that end, I collaborated with our librarians to curate a list of books appropriate for the middle school reader. I trust my fellow educators; I trust my librarians – these are the natural experts in the field of literature that I sought counsel from. These books were purchased with grant money from a local educational non-profit that was partnered with the district. A partnership that no-longer exists (which some individuals, including the president of the organization, believe my grant is part of the severance of that relationship). Political extremists trespassed into my classroom after-hours, created a video of the library that they set to creepy music, and then superimposed books into the

library that are not in my collection when they didn't find the controversial titles they had hoped to (such as *Lawnboy* or *Gender Queer*). This was floated on right wing social media.

On top of the video, a website created by a local right extremist called "WokePa" featured my library, some titles they found inappropriate, and then slandered me by falsely saying I give students extra credit to take them to gay pride parades. The insinuation that I'm "grooming kids" was being made clear. These tactics are more than just words on a website, or videos that appear on one's social media accounts – because they "misinform" the community, and then my name and the work I'm doing gets brought up at public comment in school board meetings. This then prompts the administration to respond.

The books in the GSA library have been audited, a list shared with the public relations director for the district, and it has been held to a higher standard than any other classroom library – merely because of the subject matter. Some books were removed because of one parent's complaint. Some books that did not have enough supportive professional reviews online were boxed away for fear of future controversy. The library still exists as an important support for students – I credit my building administrators for their continued support. I recognize they navigate a difficult path supporting their staff, doing what is best for students, while being held sway to the politics of the community, and serving at the pleasure of the school board who may have different ideologies on supporting LGBTQ+ students and other marginalized groups.

The controversy with the GSA library, and books in general, has created another layer of censorship though. That is, the pressure on teachers who feel compelled to self-censor in the face of tension from external groups, unsupportive administrators, or even parents. The fear of backlash or the threat to their job security can force teachers to think twice about introducing materials that may be deemed controversial, even if those materials are educationally valuable and promote empathy and understanding. I know colleagues who have done this with collections in their own classroom; collections that support the curriculum. Some colleagues have removed their classroom libraries altogether. This is not limited to literature though, there are fears of even teaching history, or showing artwork of the Renaissance without being accused of exposing students to salacious material. When a colleague asked our social studies supervisor about Renaissance art, he was told it was supported, but it's hard to know where the line is. It isn't far-fetched to think that a teacher in the commonwealth could be accused of showing pornography, when they were showing Renaissance art. This literally happened in Florida – and many of our policies and politics in schools are beginning to reflect what is happening there. Teachers need to be protected from undue pressures to self-censor. Is this not the point of tenure? They should be able to choose materials that are educationally valuable without fear of repercussions. They are the experts in their field and know what is age appropriate.

Right-wing groups such as Moms 4 liberty in Bucks have used misinformation and fear tactics to gain influence in the Central Bucks community and others throughout the commonwealth. They spread false narratives about the content of certain materials taking one line or excerpt, to nullify the value of an entire work. These books are not even being read by these book-banners. The book-banning effort is a highly organized political

campaign to whitewash public education. A parent who seeks to book ban only needs to go to websites such as “Book Looks” to find the titles they consider inappropriate according to their values and faith. Books that mention “different gender ideologies’ for example are targets of their bans. In a conversation with a librarian, she had said she could have more respect for a parent’s complaint that a book should not belong if they even read it, but librarians are fully aware of the systemic efforts to ban books. The far right has made it easy. For example, within a matter of days, two parents challenged 60 books, I doubt a single one was read.

The book banners play on parents' concerns for their children's well-being and the damage to their children’s innocence. But the real damage happening is the loss of lgbtq+ stories, works of black and indigenous authors, and people of color, in our schools. All students deserve to see themselves reflected in our buildings, in our curriculum, and in our literature. When we ban books, particularly those of marginalized communities – it sends a message – that these stories don’t belong, that these stories are perhaps invalid, perhaps perverse, and that the lives reflected in them are not worthy of being in school. If these books don’t belong, what does this say to lgbtq+ children, and people of color? It sends the message that you don’t belong here either. Perhaps a lgbtq+ teacher doesn’t belong.

In conclusion, the issue of censorship in Pennsylvania schools is an immediate concern that we cannot ignore. There are districts out there who are fully supportive of students who are transgender, gay, persons of color. I cite Upper Dublin as an example. A district that has resisted book bans, and even flies the Pride flag during the month of June. Their support is reflected not in rhetoric, but their policies, and their actions. We can look to them and the efforts of our politicians for help. No child should have their dignity censored because of the zip code they live in, and the school district they attend. We must stand up against censorship, promote diversity and inclusivity in our educational institutions throughout the commonwealth, and ensure that all students have access to a well-rounded education. This is how we prepare our youth for the challenges and opportunities of the world. Thank you.

Darren Laustsen

## Testimony

Hi my name is Darren Laustsen. I am a parent of two young girls and we live in Upper Bucks County PA.

Our local high school has a 15-year tradition of celebrating the freedom to read during Banned Book Week. Or should I say, we **had** that tradition. Last year it all ended abruptly.

Halfway through Banned Book Week in 2022, the high school librarians were instructed by the administration to take down the posters, the book display, and stop the festivities. Banned Book Week was banned in our school district.

It was an eerie foreshadowing of the events to come.

On September 27th, 2022 the Penridge School Board adopted a new library policy written by Harrisburg lobbyists from the PA Family Council.

That evening, our Board members insisted that we needed **them** to protect **our** kids from books. They claimed that “smut, filth, and pornography” existed in our school libraries. I kid you not, those are the **actual** words that they used to describe library books.

What was never mentioned that night was, specifically, which “x-rated” titles the school board was even referring to. Nonetheless, the situation was apparently dire-enough to justify pushing a policy through ahead of schedule.

At around that same time, books started disappearing from our high school library shelves. The public was not even notified about what was happening. It involved all the same titles being targeted across the nation by groups like Moms for Liberty.

It started with all 9 copies of Looking for Alaska by John Green, and all 3 copies of Sold by Patricia McCormick, Allegedly by Tiffany D Jackson, the Perks of Being a wallflower by Stephen Chobsky, Out of Darkness by Ashley Perez, the Haters by Jesse Andrews, Push by Sapphire, and even Beloved by Toni Morrison; a Pulitzer Prize winning work of literature written by a Nobel prize winning author.

Apparently, this was the *porn* that our School Board needed to ban: Award winning books that have been in the school library for 5, 10, 20, even 30 years. The same books we used to celebrate every single year during Banned Book Week. But now they are a problem? Now they are hurting our kids? Why? What happened?

At the end of the school year, every single copy of these titles (and many more) were listed under ‘Obsolete Items’ section of the school board meeting agenda. Discretely voted out the backdoor without pomp, circumstance or even due process.

Perhaps the craziest part of this whole episode was the complete lack of transparency. Parents were never given any warning. The public was never even told which titles were at risk of being banned. Dozens of parents emailed the district throughout the 2022-2023 school year asking for the names of the titles pulled for review. No answers were ever provided. In fact, Penridge

spent large amounts of taxpayer money on attorneys to fight Right-To-Know requests that parents submitted seeking that very information.

And the result? There was no time for parents to read the books for themselves and draw our own conclusions. No chance to say “hey wait, stop. What are we doing? These books are **not porn.**” No opportunity to defend the First Amendment rights of their own kids. It was all done under the banner of ‘Parental Rights.’ It is so hard to swallow that irony.

My oldest child is only in third grade. People often ask me: Why do you even care about this book banning thing in the high school library anyways? The answer is simple. Because I care about her future. I’ve read enough history to understand that book banning leads to other bad ideas. And let’s be clear, this has not stopped at our school libraries.

As groups have been successful in their efforts to limit access to books in schools, they have been emboldened to try out the same tactics at our local public library. In nearby Telford Borough, certain councilmen are insisting that the Indian Valley Public Library remove LGBTQ books from their collection at the threat of pulling their funding. Again, under the false flag of “protecting children.”

It is a bad path that I don’t want to see this country take. I ask lawmakers to do what they can to put an end to this attack on our libraries. How many times do we need to relearn the same lesson?

My oldest daughter has a thirst for knowledge. She is an avid reader. Her favorite genre is realistic fiction. Thanks to her wonderful teachers, she reads well above her grade level. She enjoys reading about difficult topics. She wants to better understand the world: the good, the bad, the ugly. She reads, we talk, and she asks questions. That is a healthy instinct that I, **as her dad**, would like to continue to foster into her high school years. But most importantly, I want to be the adult who parents what she reads, not self-proclaimed moralist politicians.

I think about the type of high school student that would walk into the school library in today’s age; with all the technology, phones, TikTok, video games, and other distractions, looking for a book to read. What kind of young adult would pull *Sold* off the shelf, read the jacket, and then check it out? It is clear from the cover what this book is about. It addresses the very difficult topic of the trafficking of children in India.

I’ve read this book myself, it is the farthest thing for pornography that you could ever imagine. In fact, if this is your idea of pornography, you are sick. It is a story about hope, perseverance, and survival under the worst possible circumstances...it shows the immense strength of the human spirit... but at the same time, as you can imagine, it is difficult to read.

It takes a special type of young adult to want to tackle this book. A student who wants to understand the good, the bad, and the ugly of our world. The type of person who refuses to walk through life with their head buried in the sand. The type of young adult who might be inspired to grow up and confront the **real** evil in this world. That evil is not books. Please protect the freedom to read.

Thank you.

October 3, 2023

Dear Senate Policy Chair Katie Muth, House Policy Chair Ryan Bizzarro, Senator Amanda Cappelletti, Representative Paul Friel, and elected members of the Pennsylvania House and Senate:

Thank you for the opportunity to share my perspective regarding the concerning rise of efforts to challenge and ban books in our public schools.

My name is Kate Nazemi, and I am a mother of two school aged children in Central Bucks School District, in Bucks County Pennsylvania.

My family, like many families in Central Bucks, truly love our community public schools. My kids, now in 12th and 8th grade, have received an outstanding education thanks to our incredible teachers, librarians, and administrators.

School libraries are the magic space where kids transform into readers. When a librarian can put the exact right book into a student's hands, the doors of life swing open.

Books widen students' horizons, broaden their perspectives, spark imagination, and teach life lessons.

Books enable children to learn how to think critically and to develop empathy and compassion for others.

Books enable children to safely process difficult emotions and experiences and help many realize that they are not alone when coping with difficult challenges.

Books provide a sense of belonging.

Ultimately, books empower children by enabling them to better understand themselves and the world around them.

We want all students to read great books of their own choosing and to fall passionately in love with reading. I believe the best way to do that is to show them a diverse array of age-relevant books in their schools.

This is precisely why I and many others in my community choose to fight the rapidly intensifying movement to challenge and remove books in school libraries in my district, and across PA.

Right now, Pennsylvania ranks among the top five states in the country for book bans, even though a significant majority of Pennsylvanians are opposed to banning books.

Imagine taking a single scene or isolated image out of context, with no consideration of a book in its entirety, and the book is suddenly at risk for removal from our library shelves.

That's exactly the policy that my school district enacted in 2022. It's out of the norm. It intentionally ignores the literary merit and critical acclaim of age-relevant books in favor of vague and overly

broad prohibitions on excerpts of “sexual content” chilling educators book choices and students’ freedom of speech protected by the First Amendment.

You can read a summary of the decision [here](#).

You can read the Central Bucks Library Policy [here](#).

You can read the Central Bucks Library Policy Administrative Regulations [here](#).

My school district, like so many others in PA, is on the slippery slope to censorship. Where does this end?

Right now, in Florida there are censorship efforts that have removed race from the Rosa Parks story. Another Florida district Superintendent directed librarians to remove all books with LGBTQ characters. We don’t know what parts of history or which members of our community could be erased next.

In September, PEN America published their 2023 sobering report on censorship: [Banned in the USA: The Mounting Pressure to Censor](#):

“The toll of the book banning movement is getting worse. More kids are losing access to books, more libraries are taking authors off the shelves, and opponents of free expression are pushing harder than ever to exert their power over students as a whole. Those who are bent on the suppression of stories and ideas are turning our schools into battlegrounds, compounding post-pandemic learning loss, driving teachers out of the classroom and denying the joy of reading to our kids. By depriving a rising generation of the freedom to read, these bans are eating away at the foundations of our democracy.” Suzanne Nossel, Chief Executive Officer of PEN America

A few notable findings from the report akin to the censorship tactics in Central Bucks:

- Hyperbolic and misleading rhetoric about “porn in schools” and “sexually explicit,” “harmful,” and “age inappropriate” materials led to the removal of thousands of books covering a range of topics and themes for young audiences.
- Prohibitions overwhelmingly target YA books featuring female, queer, and/or nonbinary protagonists.
- Calls for books to be removed have frequently and inaccurately labeled books as “harmful” or “obscene,” and conflated any LGBTQ+ content with “pornography,” in a reliance on long-standing, discriminatory tropes.
- More and more districts, board members, school administrators, educators, and librarians are facing both community pressure and state legislation restricting what books they can make available to students. This has left many educators and administrators feeling forced to remove books because of intimidation or fear of penalty.

As a parent, I am deeply concerned that censorship tactics which inaccurately label books as “harmful” or “obscene,” contributed to the Central Bucks Library policy in 2022 that the majority in my community opposed, including our own district librarians, teachers, 1000’s of community members who petitioned, and repeated censorship warnings from the ELC, NAACP, ACLU, PSLA, FIRE, PFLAG, and National Coalition Against Censorship.

You can read the following censorship warnings sent to CBSD School Board Directors here:

### [Two letters from the Education Law Center:](#)

“The Proposed Policies 109, 109.1 and 109.2 seek to broadly exclude books that include sexual conduct, claiming it is “generally inappropriate and/or unnecessary for minors in school.” But the Supreme Court has clearly held that a Board may not remove books “simply because they dislike the ideas contained in those books and seek by their removal to ‘prescribe what shall be orthodox in politics, nationalism, religion or other matters of opinion.’”

“Education Law Center (ELC) provides this letter in response to continuing concerns brought to our attention by parents in Central Bucks School District regarding the Board’s proposed policies relating to book selection and removal. We urge the Board to reject the proposed Policy 109.2 (the Policy) in its current form and make further revisions as described in our May 19 letter and herein. Without such revisions, the Policy impermissibly violates students’ First Amendment right to receive information and ideas.”

### [Bucks County NAACP](#)

“Central Bucks School District is joining the escalating force of book banning in response to a small group of extremely vocal parents who are far from representing the majority and truly do not speak for Black and Brown parents whose voices must be included in the conversation.”

### [PA ACLU](#)

“These new rules amount to censorship, plain and simple. It’s not just wrong, it’s probably illegal. And once books start flying off shelves, we will see you in court.”

### [PSLA](#)

“Books are an opportunity for them to experience authentic portrayals of children whose backgrounds, abilities, and circumstances are different from their own. PSLA advocates for policies that include, not exclude, all students... PSLA stands behind the professional expertise and sound judgment of Central Bucks School District’s school librarians.”

### [FIRE](#)

“Policy 109.2 considerably narrows students’ opportunities for self-education and individual enrichment outside the classroom. Here are just some of the renowned books the policy may ban from high schools for containing “explicit written descriptions of sexual acts”:

- Slaughterhouse Five
- Siddhartha
- The Bluest Eye
- Beloved
- I Know Why the Caged Bird Sings
- Ulysses

- The Perks of Being a Wallflower
- The Kite Runner
- Catch-22
- Native Son
- The Handmaid's Tale
- The Color Purple

The policy would also broadly restrict the inclusion of classic and popular literature in middle school libraries by requiring staff to prioritize materials that do not contain “implied written description of sexual acts or implied nudity.” Titles affected by this provision could include (in addition to everything on the above list):

- 1984
- The Catcher in the Rye
- The Odyssey
- The Great Gatsby
- Brave New World
- A Farewell to Arms
- The Hunger Games
- Lord of the Flies
- Flowers for Algernon
- Invisible Man
- The Bible

Sweeping restrictions on certain subject matter—whether sex, violence, drug use, or any other potentially controversial topic—are a blunt tool and a poor substitute for individualized, contextual assessment of a work’s educational value or age-appropriateness.”

### [NCAC](#)

“Our second concern is that the proposed policy does not include safeguards to ensure that books are not improperly removed based on the views they express. The Supreme Court has warned that “school boards may not remove books from library shelves simply because they dislike the ideas contained in those books” Board of Education v. Pico, 457 U.S. 853, 872 (1982) (plurality opinion). But your proposed policy includes many vague and undefined terms that create opportunities for unconventional and controversial ideas to be censored. It provides that books that contain “sexualized” and “inappropriate” content must be removed from school libraries.”

### [Texas librarian](#)

“It is a slippery slope when districts begin responding to concerns over a few books by changing long standing state and local policies without the rigor required. And there are professionals (librarians and teachers) who are very knowledgeable in this area. We would hope the district would rely on their expertise. Surely, if a new field were needed for the football team, or new wrestling mats needed, wouldn't the coach's advice be critical to that decision?”

### [PFLAG](#)

“Kids deserve the chance to learn and develop critical thinking skills, no matter where they come from, transgender or not, straight or LGBTQ+. Removing the resources that empower a child to learn and ask questions removes a critical function of education. No single story or a couple of stories suffice to represent the diversity of an entire group.”

[Community petition](#) signed by 3,369 people to “Uphold Central Buck's National Library Collection Standards & Library Bill of Rights”:

“The signers of this petition seek to uphold current CB library collection procedures that are in alignment with AASL National School Library Standards, so book selection remains unbiased, objective, and representative of all points of view. We seek to sustain the Library Bill of Rights, as specified below, which states in part that “Libraries should provide materials and information presenting all points of view on current and historical issues. Materials should not be proscribed or removed because of partisan or doctrinal disapproval, and that libraries should challenge censorship in the fulfillment of their responsibility to provide information and enlightenment.”

You can read about our press conference held before the vote [here](#).

**Five months of parent, student, teacher, librarian, legal, and professional concern went completely ignored.**

Instead, our board majority used misleading rhetoric and collaborated, *in private*, with the Independence Law Center (ILC), a Harrisburg religious liberties law firm, an affiliate of the [Pennsylvania Family Institute](#), the state branch of the [Family Research Council](#) (FRC), to write the restrictive policy.

None of this was known publicly until a [local investigative journalist uncovered](#) it in November 2022. The PA Family Institutes’ national affiliate, the FRC, takes the following position on sexual orientation: “Homosexual conduct is harmful to the persons who engage in it as it is associated with negative physical and psychological health effects.” The FRC is an [SPLC designated hate group](#).

You can read about the Independence Law Center’s private collaboration to craft our library policy administrative regulations with Central Bucks School Board directors [here](#).

This policy then paved the way to five book reviews (*This Book is Gay*, *Gender Queer Beyond Magenta*, *Lawn Boy*, *Me and Earl and the Dying Girl*) [two book bans](#) (*This Book is Gay*, *Gender Queer*, and more [than sixty book challenges](#)) submitted by just two people in our school district in an effort to control how other people’s children grow and think against the will of their own parents and against the best interests of education and democracy.

Parents have always had the right and an easy method to select or restrict materials for their own children in every school in Central Bucks and across PA. But it stops there. Parents should not be making decisions that impact other parents' children in public education.

[Read how the Central Bucks committees wanted 'vital' LGBTQ+ themed books to remain at high schools](#) but made the decision to remove 2 books based solely on wording of the district's library policy, which restricts access to implied or explicit sexual content and nudity. Further, the committee's full comments, in support of retaining the books, were stripped from the published reports.

Library policies that intentionally ignore the literary merit and critical acclaim of age-relevant books in favor of vague and overly broad prohibitions on excerpts of "sexual content" is one of the methods used in the growing national movement to censor library materials.

This wave of censorship is a blatant attempt to erase our collective history and silence countless students, families, and communities. This is an assault on democracy and public school's collective obligation to educate every child.

High school kids in Central Bucks are truly heartbroken that some of their favorite award-winning books are at risk for removal: *The Perks of Being a Wallflower*, *All Boys Aren't Blue*, *The Bluest Eye*, *Looking for Alaska*, to name just a few.

The message this sends to them: Certain ideas are not welcome. We are telling our students that their desire to read and learn matters less than political extremists desire to sow division and spread misinformation.

We must turn away from division and fear and toward education and freedom.

We must elect leaders who support principled deliberation, research-based decision making, and a commitment to the best interest of all our students.

We must balance a parent's interest in guiding their child with public school's mandate to educate each student.

We need legislation to protect research-based, standard PSLA, PSBA school library policy. We must balance a parent's interest in guiding their child with the school's mandate to educate every student. Every family must retain the right for their kid to read high quality, age-appropriate literature freely and according to their interests in every school district in the commonwealth.

This is a matter of parents' rights, of students' rights, and of the state's obligation in a just, multiracial democracy to educate each of our children freely, honestly and accurately.



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## **Testimony to the Senate and House Democratic Policy Committees**

October 5, 2023

Thank you for the opportunity to testify today. I am Deborah Gordon Klehr, Executive Director of the [Education Law Center](https://www.elc-pa.org), a non-profit legal services organization whose mission is to ensure access to a quality public education for students who are underserved by our education system, including Black and Latino students, students with disabilities, those in the foster care or juvenile justice system, children experiencing homelessness, LGBTQ students, and students who are at the intersection of these identities. I am here today to share our experiences with district-level book bans, and to ask you to take action to ensure students continue to have access to age-relevant, culturally affirming reading materials.

Pennsylvania has been at the forefront of an alarming national trend to ban books. Since 2021 there have been more than 2,500 decisions to ban books in public schools nationally and 458 book bans in Pennsylvania in 2022, ranking our state third in the nation.<sup>1</sup>

Nationally, during the first half of the 2022-23 school year alone, there were 1,477 instances of individual books banned, affecting 874 unique titles, an increase of 28% compared with the prior six months.<sup>2</sup>

Over the past two years, the trend toward book banning has accelerated. The Education Law Center has been contacted by parents in 15 communities across the Commonwealth who are alarmed by and opposed to book bans and censorship attempts by school boards and school leaders.

This censorship may occur through a formal process by a school board to modify a school district's long-standing book purchase and removal policies, but it also takes the form of soft, or informal, censorship in which school officials remove book titles in circumvention of established board policies. In just the past two weeks alone, ELC received reports of at least six school districts that appear to have practiced this form of soft censorship.

This trend is negatively impacting Pennsylvania students, who have less access to the diverse viewpoints and ideas expressed in the books being banned. It's worth noting that many of the districts banning books are predominantly white districts with few teachers of color banning books by authors of color.

The evidence is clear that book bans across the country and in Pennsylvania directly target

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<sup>1</sup> PEN America's Banned in the U.S.A.: Rising School Book Bans Threaten Free Expression and Students' First Amendment Rights (April 2022) available at <https://pen.org/banned-in-the-usa/> (listing book bans by state).

<sup>2</sup> PEN America's Update on Book Bans in the 2022-2023 School Year Shows Expanded Censorship of Themes Centered on Race, History, Sexual Orientation and Gender, available at <https://pen.org/report/banned-in-the-usa-state-laws-superchargebook-suppression-in-schools/>.

works that feature Black and Brown characters, address racism, and include LGBTQ+ characters.<sup>3</sup> Book bans not only deprive students of important learning, they directly undermine student self-esteem, erase identities, and treat students of color and students who identify as LGBTQ+ as inferior and unwelcome.

In addressing school district book bans, the General Assembly must address two legal issues: (1) the legal authority to review and remove books and (2) whether that authority is being exercised in a lawful way.

While school boards do have some authority to remove books, there are significant limitations and this authority is being unnecessarily exercised based on misinformation and fear, and is being targeted to works that center on the experiences of marginalized people, including people of color and those who identify as LGBTQ. Such targeted book bans violate the First Amendment. Moreover, in tandem with other practices, such book bans can and do result in a hostile learning environment for students of color and those who identify as LGBTQ.<sup>4</sup>

We agree that reading materials should be reviewed by qualified adults for age-relevance and appropriateness, a process that school districts already follow with the oversight of trained educators and school librarians.

We also agree that parents are important partners in education along with school personnel and students themselves. However, the efforts we have seen at the local level are the opposite of parental control and undermine this educational partnership. Instead, we see attempts by school boards, community members, outside organizations, and/or parents, who want to take away parental choice for others and impose their own perspective and agenda.

### ***Authority of School Boards to Ban Library Books***

While school boards have power to approve or remove books, those powers are limited by federal and state law, including the First Amendment. Students have a First Amendment right to read and receive information and school boards cannot target certain viewpoints to be prohibited. As the U.S. Supreme Court has explained, “the special characteristics of the school library” create additional First Amendment protections for students.<sup>5</sup> The Court ruled that books in libraries are different from mandatory school curricula, as libraries are intended as a “place to test or expand upon ideas presented to [a student], in or out of the classroom” and are distinct

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<sup>3</sup> *Banned in the USA: Rising School Book Bans Threaten Free Expression and Student’s First Amendment Rights*, PEN America (June 28, 2022), <https://pen.org/banned-in-the-usa/> (emphasis added).

<sup>4</sup> See e.g., Off. of Civil Rts., U.S Dep. Of Ed., Letter to Forsyth County Schools Re: OCR Complaint No. 04-22-1281 (2023), <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/04221281-a.pdf>. (OCR investigated Forsyth County Schools in Georgia for the school district’s policy removing select books that depicted sexually explicit content. Through comments made at school board meetings, OCR found that the policy had an underlying motivation of targeting books due to gender identity, sexual orientation, or race, and therefore created a hostile environment for students of certain racial and gender identities.)

<sup>5</sup> *Bd. of Educ., Island Trees Union Free Sch. Dist. v. Pico*, 457 U.S. 853, 868 (1982) (“the special characteristics of the school library make that environment especially appropriate for the recognition of the First Amendment rights of students”).

from materials included in the school’s curriculum, over which the board has greater discretion.<sup>6</sup> The court agreed that while school boards have discretion to transmit community values, that discretion is not unfettered, and libraries have a unique role different and separate from mandatory school curriculum.<sup>7</sup> Accordingly, a school board “may not, consistently with the spirit of the First Amendment, contract the spectrum of available knowledge”<sup>8</sup> by imposing a narrow view of “community values” that limits the books available in a school library where the “opportunity at self-education and individual enrichment ... is wholly optional.”<sup>9</sup>

Moreover, the First Amendment requires school districts to have “established, regular, and facially unbiased procedures” governing the removal of noncurricular books.<sup>10</sup> Book removals by school districts that rely on irregular procedures without standards or a review process are more likely to violate the First Amendment. For example, courts have found that the removal of noncurricular books by school districts violated the First Amendment when those schools failed to provide a standard or review process regarding book removal,<sup>11</sup> where districts failed to follow their own policy and procedures regarding book removal,<sup>12</sup> or where that policy merely amounted to a disapproval of the ideas contained in certain books.<sup>13</sup>

This higher standard offers additional protections for students. The Supreme Court has held that school boards may not remove books from a school library “simply because they dislike the ideas contained in those books” or in an effort “to prescribe what must be orthodox in politics, nationalism, religion, or other matters of opinion.”<sup>14</sup> In practice, this means that school boards may not remove a library book because it does not agree with what is discussed, such as “controversial racial issues.” School boards also may not remove a book simply because it depicts gay or lesbian relationships.<sup>15</sup> Further, school boards may not remove or restrict a library book based on an unfounded “concern that the books might promote disobedience and disrespect for authority” or because a book deals with “witchcraft”—a common complaint against the *Harry Potter* series.<sup>16</sup>

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<sup>6</sup> *Id.*, 457 U.S. at 868-69 (citing *Right to Read Defense Committee v. School Committee*, 454 F.Supp. 703, 715 (Mass. 1978)).

<sup>7</sup> *Id.*, 457 U.S. at 869.

<sup>8</sup> *Id.*, 457 U.S. at 866 citing *Griswold v. Connecticut*, 381 U.S. 479, 482 (1965).

<sup>9</sup> *Id.*, 457 U.S. at 869.

<sup>10</sup> *Pico*, 457 U.S. at 874.

<sup>11</sup> See *Sund v. City of Wichita Falls*, 121 F. Supp. 2d 530, 552-53 (N.D. Texas, 2000).

<sup>12</sup> See *Case v. Unified Sch. Dist. No. 233*, 908 F. Supp. 864, 876 (D. Kan. 1995) (ordering case to proceed to trial where the school officials’ motivations for removing books with LGBTQ themes from school libraries was a genuine issue of fact); see also *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 265–66 (1977) (law is unconstitutional under the Equal Protection Clause if race, sex, or gender is a motivating factor in its enactment).

<sup>13</sup> *Case*, 908 F. Supp. at 875-76.

<sup>14</sup> *Pico*, 457 U.S. at 872 citing *West Virginia Board of Education v. Barnette*, 319 U.S. 624, 642 (1943).

<sup>15</sup> *Case v. Unified Sch. Dist. No. 233*, 908 F. Supp. 864 (D. Kan. 1995).

<sup>16</sup> *Counts v. Cedarville Sch. Dist.*, 295 F. Supp. 2d 996, 1002 (W.D. Ark. 2003).

Additionally, board policies, including book policies, are unlawful if they are deemed impermissibly vague or arbitrary and capricious.<sup>17</sup> Vague language and overbroad prohibitions may be challenged as having a chilling effect on book choices and speech protected by the First Amendment. The reliance on vague, subjective criteria and failure to require consideration of a book in its entirety, including whether it has received critical acclaim, may be evidence that the policy is not tailored to be objective and to identify “educational suitability” but instead serves to impermissibly enforce a particular viewpoint.<sup>18</sup>

Courts also consider the context of proposed policies and the motivation of policymakers to determine if animus toward a particular population is a motivating factor.<sup>19</sup> And in a recent investigation by the U.S. Department of Education’s Office for Civil Rights (OCR), the agency found that Forsyth County (Ga.) Schools’ book removal policy created a hostile environment for LGBTQ students and students of color, with an underlying motivation of targeting books due to gender identity, sexual orientation, or race.<sup>20</sup>

Despite these legal protections and supporting caselaw, we find again and again that school districts in Pennsylvania are very clearly targeting and removing books that center the lived experience of people of color and people who identify as LGBTQ, causing direct harm to students. Such book bans alienate students from school, undermine student self-esteem, and treat students of color and students who identify as LGBTQ as inferior. As Ibram X. Kendi, author of the frequently challenged book *How to Be an Antiracist* explains, books that don’t say anything about Black people reinforce perceptions of Black inferiority and what our society believes constitutes education.<sup>21</sup>

### ***Authority to Restrict Curriculum***

Pennsylvania school boards have broader discretion over curricular decisions under state law, with responsibility to adopt a “course of study” that is adapted to the “age, development, and needs of the pupils” in schools. Together, school boards and superintendents have the authority

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<sup>17</sup> See e.g., *Flaherty v. Keystone Oaks Sch. Dist.*, 247 F. Supp.2d 698, 704 (W.D. Pa. 2003) (holding a policy that prohibited “abuse, offense, and harassment” was overly vague because the terms were not defined in any way); *Bender v. Exeter Twp. Sch. Dist.*, 63 Pa. D. & C.4th 414, 425 (Berks Cty. Ct. C.P. July 18, 2003), *aff’d mem.*, 839 A.2d 486 (Pa. Commw. Ct. 2003) (holding that a transfer to an alternative school for minor misbehavior was arbitrary and capricious).

<sup>18</sup> *Pico*, 457 U.S. at 874-75.

<sup>19</sup> See e.g., *Case v. Unified Sch. Dist. No. 233*, 895 F.Supp.1463, 1470 (D. Kan. 1995) (ordering case to proceed to trial where the school officials’ motivations for removing books with LGBTQ themes from school libraries was a genuine issue of fact); see also *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 265–66 (1977) (law is unconstitutional under the Equal Protection Clause if race, sex or gender is a motivating factor in its enactment).

<sup>20</sup> Off. of Civil Rts., U.S Dep. Of Ed., Letter to Forsyth County Schools Re: OCR Complaint No. 04-22-1281 (2023), <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/04221281-a.pdf>. (OCR investigated Forsyth County Schools in Georgia for the school district’s policy removing select books that depicted sexually explicit content. Through comments made at school board meetings, OCR found that the policy had an underlying motivation of targeting books due to gender identity, sexual orientation, or racial orientation, and therefore created a hostile environment for students of certain racial and gender identities.)

<sup>21</sup> Zan Romanoff, Readers Digest, *Ibram X. Kendi on His New Book and Why Kids Today Need the Kinds of Books Being Banned* (Nov. 07, 2022), <https://www.rd.com/article/ibram-x-kendi-book-banning/>.

to select the textbooks and other curricular materials used by teachers and students in public schools. Federal courts have largely affirmed the discretion of school boards under the First Amendment to make these choices.<sup>22</sup>

Under state law in Pennsylvania, any school district's decision to adopt a new textbook or course of study requires an affirmative vote by a majority of all members of the school board. This vote must be recorded, showing how each member voted.<sup>23</sup> Pennsylvania law also requires a recommendation from the superintendent before a change in textbooks is made. A change in textbooks cannot be made without the superintendent's approval unless two-thirds or more of the school board votes for it.<sup>24</sup>

Over the past two years, we have seen school districts rush through book bans, curriculum changes, and other policy revisions outside of the normal process, using the boards' emergency powers to accelerate votes and limit debate. The notion that book restrictions serve to protect parents' interests belies the evidence we have seen in districts from Pennridge to Penncrest, where parents have fought vigorously and largely unsuccessfully to protect their children's freedom to read. These parents need your help.

For this reason, ELC strongly supports legislation that would protect students' First Amendment rights and prohibit unconstitutional and detrimental book censorship consistently across all school districts. While you will hear that Pennsylvania is a local control state, local control cannot and should not trump the constitutional rights of students. Instead, we need legislation at the state level to combat growing trends of unbridled censorship, which seeks to harm students and create a hostile environment – while maintaining the existing right of parents to determine at an individual level what books their own child may check out of school libraries.

H.B. 1506, Rep. Friel's bill, establishes a good balance. It maintains and enforces school district book review processes while offering a neutral body, the IUs, for the appeals processes, which will depoliticize the process and ensure that final decisions are made by trained educators. In addition, SB 926, Sen. Cappelletti's bill, prohibits libraries and school libraries from removing books because of partisan or doctrinal disapproval and withholds funds from library entities that practice unlawful censorship. While normally we are reluctant to withhold funding from public entities such as municipal libraries and public schools, we recognize that a disincentive may be necessary in this context to prevent extremists on elected school boards from taking actions that are unlawful and harmful to students and often do not take into account the important perspectives of current parents, students, teachers, and administrators.

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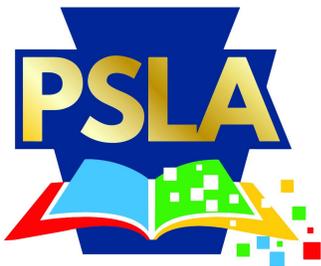
<sup>22</sup> *Virgil v. Sch. Bd. of Columbia Cnty.*, 862 F.2d 1517 (11th Cir. 1989) (finding school board's actions of removing certain materials from high school curriculum while allowing the same books to remain in school library was reasonably related to Boards legitimate concern regarding the appropriateness of materials for the age of students). See also *Pratt v. Independent School District*, 670 F.2d 771 (8th Cir. 1982) (ordering reinstatement to high school curriculum of films which had been removed by school board because of alleged violence and effect on students' religious and family values).

<sup>22</sup> *Pico*, 457 U.S. 853, 871 (1982) (“pervasively vulgar” and “educational unsuitability”); *ACLU v. Miami-Dade Cnty. Sch. Bd.*, 557 F.3d 1177, (11th Cir. 2009) (“factual inaccuracies”).

<sup>23</sup> 24 P.S. § 5-508.

<sup>24</sup> 24 P.S. § 8-803.

The Education Law Center has witnessed first-hand the devastating consequences of restrictive book bans that are motivated by political agendas, anti-LGBTQ discrimination, and anti-Black racism. These actions harm the ability of schoolchildren to learn, create hostile learning environments, and undermine our school communities. We need state legislation to address this growing problem, support inclusive schools, and ensure compliance with the constitutional rights of students and federal and state laws.



## Pennsylvania School Librarians Association

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Good morning, members of the House and Senate Democratic Policy Committee,

My name is Sarah DeMaria and I am a high school librarian in the commonwealth of Pennsylvania as well as the President-Elect of the Pennsylvania School Librarians Association (PSLA). Thank you for your invitation today to speak to you about the alarming practice of censorship in schools and libraries in Pennsylvania. In the past year alone, school librarians have been faced with an increase in challenges, organized attacks on sound policy, and subjected to school board members who are biased toward regional parent groups, all in an effort to undermine our students' First Amendment Rights. School librarians have also been targeted with harassment, hostility, unfounded accusations, and organized bullying campaigns. But even under fire, school librarians continue to stand up for our students' rights to intellectual freedom and access to relevant literature.

As you may know, this week is Banned Books Week, a week which is celebrated across the nation in recognition of students' right to read and their constitutional right to access information. According to the American Library Association, when material is challenged it is an attempt to remove or restrict a title because one person or group finds it objectionable. If the material is then removed, it is considered a "banned book" (American Library Association). PEN America specifically defines school book bans as, "...any action taken against a book based on its content and as a result of parent or community challenges, administrative decisions, or in response to direct or threatened action by lawmakers or other governmental officials, that leads to a previously accessible book being either completely removed from availability to students, or where access to a book is restricted or diminished" (Meehan et al). Yet in the past year, those who oppose our efforts to provide balanced, equitable access to materials have tried to change the narrative that a book removed or restricted from a school library is not "banned" because it is still available to the general public by other means. Just because this twist of semantics has been repeated, it does not make it true. Censorship must be called out for what it is. Removing, restricting or imposing policy and intimidation on school librarians that limits the selection of material will harm all of our students. These tactics create barriers that deny the rights of all Pennsylvanians that are guaranteed in our Constitution.

One of the many functions of a school library is to provide free access to voluntary inquiry materials, with an emphasis on choice. Choice, or empowering children to choose what they want to read, is an important step in the metacognitive growth of recognizing who they are as readers. Readers come in all abilities and interests. As readers learn to recognize their interests and abilities, they are better able to find the "right fit" text to read. School libraries are filled with choices for students, none of which are meant to be assigned or forced. Our collections are curated so that all students may have the ability to

freely access information and stories that may represent themselves or others unlike them. This also means that the school librarian is obligated to curate a balanced collection. A collection in which students can see themselves, explore new perspectives, and challenge their own pre-existing thoughts and prejudices. School librarians serve as consultants to their building's faculty and administrators concerning the acquisition of library materials and the use of library facilities. Selected print and digital materials support the educational goals of the district, and the materials meet the highest standards of quality in both content and presentation. School librarians have policies and procedures in place for selecting materials by using professional review tools, looking for curricular connections, and finding relevant and developmentally-appropriate materials, free from stereotypes.

School librarians take the selection of materials very seriously with their patrons in mind. We carefully choose resources for the school library collection that meet the academic, literacy, and social and emotional learning needs of all students. We guide learners to relevant, reliable, and authoritative books and resources within the library. We advocate for representation in school library collections because representation matters. All young people deserve to see themselves represented in the stories contained within a book. As author and artist ND Stevenson recently wrote of their childhood, "I searched the world for some reflection of myself somewhere, anywhere [...] Seeing yourself in the world, knowing that you're not alone, that you could actually have a future as yourself – it's lifesaving." Children should likewise have access to literature that reflects and honors the lives of all young people. Books are an opportunity for them to experience authentic portrayals of children whose backgrounds, abilities, and circumstances are different from their own. PEN America found that, "Overwhelmingly, book bans target books on race or racism or featuring characters of color, as well as books with LGBTQ+ characters," further marginalizing these groups (Meehan et al.). PSLA advocates for library collections that include, not exclude, all students.

Most of the books that are currently being banned are meant for the YA, or young adult audiences. YA literature is typically defined as literature meant for ages 12-18, the type of book read before adult literature and after middle-grade literature. The protagonist in YA literature is usually an adolescent themselves and the voice and style provides an "in the moment" flow and sense of immediacy since this is reflective of teens' lives. The content of YA literature is edgy and contains grit because just as adolescents are trying to make sense of their world, they are made to live in the constraints of social boundaries while their instinct is to push those boundaries (Salao). YA literature is the absolute safest place for adolescents to push these boundaries and experience the protagonists' authentic consequences rather than their own. The books that are being restricted or removed from students specifically are meant for them. PEN America states that, "... this year, banned books also include books on physical abuse, health and well-being, and themes of grief and death. Notably, most instances of book bans affect young adult books, middle grade books, chapter books, or picture books—books specifically written and selected for younger audiences" (Meehan et al.).

PSLA stands behind the professional expertise of Pennsylvania's school librarians to select relevant material for their students. We recognize and respect the work that trained, certified school librarians do to connect students with the right book at the right time. We also advocate for parental involvement in the

reading journey of each individual student by encouraging open conversations with parents to identify relevant reading choices for their own children, while respecting parents' beliefs and the unique learning needs of each child. School libraries have procedures in place allowing for the review and reconsideration of books in the library collection, should a parent, student, or staff member have concerns about a particular title.

With such policies in place, it is particularly concerning that families and those generally concerned with the contents of the school library's collection are not asking the school librarian for a solution that suits their needs. To school librarians, it feels as though our professionalism is not being considered. In one case, law enforcement was called to one school library due to the presence of a book that one parent deemed objectionable. In another county in Pennsylvania, seven police reports were filed naming books the complainants felt were pornographic or obscene; the investigation by the District Attorney that followed determined that none of the books met these definitions. Administrators and board members have removed titles or forced school librarians to remove books from shelves, fueled by the loud voices of very few people. School boards are passing policies and administrators are setting regulations that are not being followed, resulting in a lack of due process for these titles when they disappear from the shelves. Open school librarian positions are not being filled and school librarians are being reassigned to other departments. School library programs are being renamed or phased out. School board policies are stripping school librarians from their professionalism under the guise of "accountability". There is a tidal wave of backdoor tactics happening within school organizations to avoid public knowledge. It is not okay and we, the school librarians, are not okay while our students suffer as the real victims.

Censorship in all forms is meant to control what our young people can know, learn, and make of the world. Our students deserve better. Our students deserve to be able to voluntarily seek information. To know the world around them. To seek understanding of multiple perspectives and viewpoints. To be recognized by the adults in their lives as capable learners and users of information. To critically think for themselves so they can develop into informed citizens. Pennsylvania school librarians are critical to supporting these skills and upholding these rights. Thank you for this opportunity to speak out in solidarity with the school librarians who support every child's freedom to read, their access to school library collections, and their First Amendment rights.

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