EDUCATION LAW CENTER | FACT SHEET

THE FREEDOM TO READ & CHALLENGING BOOK BANS

August 2026

Attempts to ban books are a continuing concern nationally, and Pennsylvania is no exception. Between 2021 and 2025, there were nearly 22,810 instances of individual books banned in public schools nationally and 737 book bans in Pennsylvania.[1] In addition, ELC-PA and our partners at PA WInS regularly respond to requests for help as school boards across the Commonwealth attempt to significantly limit students' access to diverse school library books through overly restrictive and legally unsupported policies. This worrisome practice is already negatively impacting Pennsylvania students, giving them less access to the diverse viewpoints and ideas expressed in the banned books. Although school districts have the power to select and, in some cases, remove books from public schools, important limitations are in place on a school board's ability to ban books. Students, parents, and community members can take action to fight back against these harmful policies and ensure the freedom to read as guaranteed by our Constitution.

WHAT IS A BOOK BAN?

A book ban occurs when a school administrator or other personnel removes or restricts student access to a book that was previously available, based on the content of that book. According to PEN America, an organization devoted to protecting free expression rights in this country, a book ban is an "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."[2] The initial decisions made by schools over which books to purchase or assign to students are not considered "book bans."

WHAT BOOKS ARE BEING TARGETED AND BANNED?

In the last few years, the number of books challenged has grown exponentially. Parents and community members are raising objections to books in school libraries and asking administrators to review and/or remove the books from circulation based on content that the individual finds objectionable. The targeted books range from those that are "sexually explicit" to books that simply contain "potential controversy."[3] The objectors often ignore the literary merits of the book, focusing only on certain words or passages. People promoting a book ban often claim they are "protecting" students from harmful ideas or information."[4]

In practice, individuals are targeting books based on ideas that some people find controversial, such as references to race and racism or books that focus on LGBTQ+ characters or themes. Among the 3,743 unique books that were banned in the 2024-25 school year, 44% featured characters or

people of color and 39% include LGBTQ+ people or characters.[5] In the 2023-24 school year, one of the most banned books was *The Bluest Eye* by the Pulitzer and Nobel-prize winning author Toni Morrison, a novel that addresses, among other themes, the intergenerational harm caused by racism and sexual assault.[6]

WHAT IS THE SCHOOL BOARD'S AUTHORITY REGARDING BOOK BANS?

In Pennsylvania and elsewhere, school boards have the power to remove books if the boards comply with 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.[7] School boards have far greater authority to select or remove books that are part of the curriculum, with less latitude over books that are optional, including library books.[8] School districts also have policies related to selection and removal of books, and districts should follow those policies. Book bans, both within schools and in local public libraries, remain a contested issue across the country.[9]

BOOKS ASSIGNED AS PART OF THE CURRICULUM: Pennsylvania school boards have broad discretion over curricular decisions under Pennsylvania law, with responsibility to adopt a "course of study" that is adapted to the "age, development, and needs of the pupils" in school.[10] Typically, a school board delegates the details of these decisions to superintendents, who work with teachers and other school personnel to select or recommend curricular materials. Together, school boards and superintendents have the authority 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. The Supreme Court has recognized that school boards have a "duty to inculcate community values" and may make curricular decisions to reflect those values.[11] This discretion is not limitless, and school boards may not impose, for example, "an identifiable religious creed" or "otherwise impair permanently the student's ability to investigate matters that arise in the natural course of intellectual inquiry," but their discretion is broad.[12] For example, federal courts have affirmed the ability of a school board to remove previously approved curricular materials if the decision is "reasonably related" to the "legitimate pedagogical concern" of denying students access to "potentially sensitive topics."[13]

This low bar makes it difficult to assert successful legal challenges to school board actions on their choice of curricular materials. Courts have found that legitimate pedagogical concerns include regulating student access to books for being "pervasively vulgar," containing sexually explicit content, including "factual inaccuracies," or generally displaying "educational unsuitability."[14] By claiming that certain books are "sexually explicit," book ban proponents attempt to argue that school boards are operating within constitutional limits.

LIBRARY BOOKS (NOT PART OF CURRICULUM): Pennsylvania school boards have less discretion in restricting noncurricular materials in schools, such as library books. The Supreme Court has held that "the special characteristics of the school library" create additional First Amendment protections for students.[15]

In 1982, the U.S. Supreme Court ruled in *Board of Education, Island Tree Free School District No. 26 v. Pico,* 457 U.S. 853 (1982) that books in libraries are different from mandatory school curricula because 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 from materials proscribed in the school's curriculum, over which the board has greater discretion.[16] The court agreed that although 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.[17] A school board "may not, consistently with the spirit of the First Amendment, contract the spectrum of available knowledge"[18] by proscribing 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."[19] The First Amendment requires that "students must always remain free to inquire" and "the school library is the principal locus of such freedom."[20]

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."[21] In practice, this means that school boards may not remove a library book because it is "too concerned with racial matters and too controversial."[22] School boards also may not remove a book simply because it depicts gay or lesbian relationships.[23] 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.[24]

Additionally, board policies, including book policies, are unlawful if they are deemed impermissibly vague or arbitrary and capricious.[25] See ELC-PA's fact sheet about the powers of school boards for more information. Vague language and overbroad prohibitions may be challenged as having a chilling effect on book choices and speech protected by the First Amendment.[26] 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.[27]

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.[28]

ARE THERE PROCEDURES THAT SCHOOL BOARDS MUST FOLLOW TO REMOVE BOOKS?

The First Amendment requires school districts to have "established, regular, and facially unbiased procedures" governing the removal of noncurricular books.[29] 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,[30] where districts failed to follow their own policy and procedures regarding book removal,[31] or where that policy merely amounted to a disapproval of the ideas contained in certain books.[32]

School boards also must follow relevant state laws governing the addition or removal of books from schools. 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.[33] 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.[34] For additional information, community members should review concerns and recommendations about book policies from the Pennsylvania School Librarians Association on the website for Pennsylvanians for Welcoming and Inclusive Schools (PA-WInS).

HOW CAN PARENTS, STUDENTS, OR COMMUNITY MEMBERS CHALLENGE BOOK BANS?

The first step is to become familiar with your district's policies, which you can find on your district's website. Many districts use a standard numbering format for their policy manuals, placing curricular policies in the 100 category of school board policies.[35] Check to see that your school district has a policy on how to challenge book bans and is following its approved policy. In addition, check to see if your district has a policy for reconsideration whereby you may be able to request that an already banned book be returned to the shelves.[36]

To determine whether your district has removed books from circulation or has received complaints about any books, you can request information from your school librarian or superintendent or file a request under Pennsylvania's Right-to-Know law. Learn more in ELC-PA's fact sheet on Transparency in Public Schools.

If you find that your school district has removed books, report the removal to the American Library Association's Office for Intellectual Freedom. They record book bans, help provide support for challenging them, and offer resources on how to effectively protest book bans and mobilize your community to resist them. For Pennsylvania-specific support, we recommend you also report the book ban to the Pennsylvania School Librarians Association (PSLA) Intellectual Freedom Task Group.

Attend your school board meeting, and speak out if you believe that the board or administration is taking actions that are inappropriate or illegal. Your opinion as parents and taxpayers is very important. It is best to fully read the books that your school district is threatening to ban so you

can speak about the book in context and explain why the book has educational value.[37] If you don't have time to read the book before the next meeting or need help explaining why the book is important, Unite Against Book Bans has crafted a collection of Book Résumés to help you understand and explain to others why the book is worth being accessible to students.

It is also important to inform others that your school district has banned or is considering banning a book.[38] Other parents, community members, and students likely will be interested in preserving students' rights to access knowledge. Consider sharing what you've learned on social media and in conversations with others. You can invite and empower others to attend school board meetings, making their voices heard and amplifying the importance of the issue to the school district. Participating and advocating for free access to information in your schools can make a difference for all students and school communities.[39]

A group of parents may want to consider bringing a legal challenge to a school district that is banning books. During a school board election cycle, parents and community members can most forcefully advocate by voting. School boards are democratically elected and accountable bodies, and community members can fight against book bans by voting out school board members who endorse book bans and by supporting candidates who oppose them. For information and suggestions and to connect with others in school districts facing similar issues, connect with Pennsylvanians for Welcoming and Inclusive Schools (PA-WInS).

The National Coalition Against Censorship has collected a range of resources for students, parents, and even school staff to advocate against and protest book bans, including sample letters that can be sent to school boards by students or parents.[40] Students especially should understand their rights to protest.[41] The National Coalition Against Censorship has collected a number of advocacy tools and resources for students and others.

The Education Law Center-PA (ELC-PA) is a nonprofit, legal advocacy organization with offices in Philadelphia and Pittsburgh, dedicated to ensuring that all children in Pennsylvania have access to a quality public education. Through legal representation, impact litigation, community engagement, and policy advocacy, ELC-PA advances the rights of underserved children, including children living in poverty, children of color, children in the foster care and juvenile justice systems, children with disabilities, multilingual learners, LGBTQ+ youth, children experiencing homelessness, and children at the intersection of multiple underserved identities.

ELC-PA's publications provide a general statement of the law. However, each situation is different. If questions remain about how the law applies to a particular situation, contact ELC-PA's Helpline for information and advice — visit www.elc-pa.org/contact or call 215-238-6970 (Eastern and Central PA) or 412-258-2120 (Western PA) — or contact another attorney of your choice.

---

[1] Kasey Meehan & Sabrina Baêta, *Memo on School Book Bans from PEN America*, PEN Am. (Sep. 23, 2024); *Banned in the USA: The Normalization of Book Banning*, PEN AM. (Oct. 1, 2025), https://pen.org/report/the-normalization-of-book-banning/ (last visited July 7, 2026). *See PEN America's Index of School Book Bans – 2021-2022*, PEN Am., https://pen.org/book-bans/banned-book-list-2021-2022/; *PEN America's Index of School Book Bans – 2022-2023*, PEN Am., https://pen.org/book-bans/2023-banned-book-list/; *PEN America's Index of School Book Bans – 2023-2024*, PEN

Am., https://pen.org/book-bans/pen-america-index-of-school-book-bans-2023-2024/; PEN America's Index of School Book Bans 2024-2025, PEN Am., https://pen.org/book-bans/pen-america-index-of-school-book-bans-2024-2025/.
[2] *Banned in the USA: Rising School Book Bans Threaten Free Expression and Students' First Amendment Rights*, PEN Am. (Apr. 11, 2022), https://pen.org/banned-in-the-usa/ (last visited Aug. 5, 2025) (emphasis added).
[3] *See School Library Policy*, Pa. for Welcoming & Inclusive Schs. (PA WINS), https://pawins.org/library-policy/ (last visited Aug. 1, 2025).
[4] *Banned and Challenged Books: Banned Book FAQ*, Am. Libr. Ass'n, https://www.ala.org/advocacy/bbooks/banned-books-qa (last visited June 9, 2026). Some of the most common reasons provided by individuals attempting to ban books are that the book is considered to be "sexually explicit," or contains LGBTQIA+ or Diversity, Equity, and Inclusion ("DEI") content.
[5] *Facts & Fiction*, PEN Am. (May 7, 2026), https://pen.org/report/facts-fiction.
[6] Lisa Tolin, *The 11 Most Banned Books of the 2023-2024 School Year*, PEN Am. (Dec. 12, 2024), https://pen.org/banned-books-list-2024/.
[7] As the U.S. Supreme Court has explained, "we have held that in a variety of contexts 'the Constitution protects the right to receive information and ideas.'" *Bd. of Educ., Island Trees Union Free Sch. Dist. No. 26 v. Pico*, 457 U.S. 853, 867 (1982) (quoting *Stanley v. Georgia*, 394 U.S. 557, 564, (1969) and citing *Kleindienst v. Mandel*, 408 U.S. 753, 762-763 (1972)).
[8] *Id.* at 869 (explaining that while a district may defend a claim of significant discretion in matters relating to curriculum, relying on their duty to inculcate community values, such reliance is misplaced in a school library context, which extends beyond the compulsory environment of the classroom and the "regime of voluntary inquiry" holds sway).
[9] In other parts of the country, there have been mixed results regarding the validity of book bans and the scope of an individual's authority to challenge them. For example, in *Book People, Inc. v. Wong*, 91 F.4th 318 (5th Cir. 2024), the Fifth Circuit determined that requiring book vendors to issue sexual content ratings for every book they have or ever will sell to Texas public school libraries constituted compelled speech and therefore was unconstitutional. In *Little v. Llano C'nty*, 138 F.4th 834 (5th 2025) (en banc), *cert. denied,* 146 S.Ct. 886 (2025), the Fifth Circuit decided that members of the public had no power to challenge removals of library books from the public library because library collections constitute government speech. However, in another case, *E.K. v. Dep't of Def. Educ. Activity*, 807 F. Supp. 3d 517, 542 (E.D. Va. Oct. 20, 2025), a district court granted a preliminary injunction prohibiting school library book removals on the ground that a school library cultivating a collection of books did not bear the "imprimatur" of the school.
[10] 24 PA. CONS. STAT. § 5-510.2 (1949) (School boards have the power to adopt "courses of study."); 24 PA. CONS. STAT. § 15-1512 (1949) (Courses of study may be adapted to age, development, and need of pupils).
[11] *Bd. of Educ., Island Trees Union Free Sch. Dist. v. Pico*, 457 U.S. 853 (1982).
[12] *Zykan v. Warsaw Cmty. Sch. Corp.*, 631 F.2d 1300 (7th Cir. 1980).
[13] *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 were reasonably related to board's legitimate concern regarding the appropriateness of materials for the age of students).
[14] *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").
[15] *Pico*, 457 U.S. at 868 ("the special characteristics of the school library make that environment especially appropriate for the recognition of the First Amendment rights of students").
[16] *Id.* at 868-69.
[17] *Id.* at 869.
[18] *Id.* at 866.
[19] *Id.* at 869.
[20] *Pico*, 457 U.S. 853 (1982).
[21] *Id.*
[22] *Loewen v. Turnipseed*, 488 F.Supp. 1138 (N.D. Miss. 1980).
[23] *Case v. Unified Sch. Dist. No. 233*, 908 F.Supp. 864 (D. Kan. 1995).
[24] *Counts v. Cedarville Sch. Dist.*, 295 F.Supp. 2d 996 (W.D. Ark. 2003).
[25] *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).

[26] *See Penguin Random House LLC v. Gibson*, 796 F. Supp. 3d 1052 (M.D. Fla. Aug. 13, 2025) (finding Florida's law prohibiting books that "describe[] sexual conduct" or are "pornographic" from being included in any school library was constitutionally overbroad and qualified as "chilling speech").
[27] *Pico*, 457 U.S. at 874-75.
[28] *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).
[29] *Pico*, 457 U.S. at 874.
[30] *See Sund v. City of Wichita Falls*, 121 F.Supp. 2d 530 (N.D. Texas, 2000).
[31] *See Case v. Unified Sch. Dist. No. 233*, 908 F.Supp. 864 (D. Kan. 1995).
[32] *Id.*
[33] 24 P.S 5-508.
[34] 24 P.S 8-803.
[35] *See Policies and Procedures,* Pa. Sch. Libr. Ass'n, https://sites.google.com/view/pslaiftg/proactive-actions/policies-and-procedures (last visited June 9, 2026) for examples of what policies might look like.
[36] *Selection & Reconsideration Policy Toolkit for Public, School, & Academic Libraries*, Am. Libr. Ass'n, https://www.ala.org/tools/challengesupport/selectionpolicytoolkit/formalreconsideration (last visited June 9, 2026).
[37] *Do's and Don'ts*, Pa. Sch. Libr. Ass'n, https://sites.google.com/view/pslaiftg/facing-a-challenge/do-and-donts (last visited June 8, 2026).
[38] *Id.*
[39] *See* Megan Tomasic, *Pine-Richland nixes controversial library book policy*, Pittsburg Post Gazette (June 8, 2026), https://www.post-gazette.com/news/education/2026/06/08/pine-richland-library-book-policy-ban/stories/202606080055 (ending a school library policy that allows parents to challenge book access for all students in a school).
[40] *School Book Challenge Resource Center,* Nat'l Coal. Against Censorship, https://ncac.org/resource/book-challenge-resource-center (last visited Aug. 9, 2022).
[41] KAI TEXEL, NATIONAL COALITION AGAINST CENSORSHIP, BE HEARD! PROTECTING YOUR PROTEST RIGHTS (2021) https://ncac.org/wp-content/uploads/2021/12/Be-Heard-2021.pdf.