

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA**

M.A., by and through his parent  
AMBER ARMSTRONG, et al.,  
  
Plaintiffs,

v.

FLORIDA STATE BOARD OF  
EDUCATION, et al.,

Defendants.

Civil Action No. 4:22-cv-00134  
(AW) (MJF)

**NOTICE OF SUPPLEMENTAL AUTHORITY IN  
OPPOSITION TO DEFENDANTS' MOTIONS TO DISMISS**

Pursuant to Local Rule 7.1(j), Plaintiffs notify the Court of developments since the filing of the Second Amended Complaint in October 2022. In December, Defendant Florida Department of Education released a draft training, effective February 2023, addressing the impact of HB 1557 on the selection of library books. Exs. A, B. That training is relevant in at least two ways.

*First*, while Defendants argue that HB 1557 is directed to teachers and limited to “classroom instruction,” ECF 134 at 16, 21, the draft clarifies that HB 1557 speaks to librarians and other school personnel and applies to the selection of library materials in addition to classroom instruction, *see* Ex. A at 37 (citing HB 1557 and directing librarians to “EXCLUDE any instruction regarding sexual orientation or gender identity”); Ex. B at 5 (“[L]ibrarians are told: ‘There is some overlap between

the selection criteria for instructional and library materials.” (video available at <https://bit.ly/3W3uLUC>)).

*Second*, as Plaintiffs alleged was inevitable, ECF 123 ¶ 38, libraries statewide are heeding the call, removing books that even touch on LGBT issues, in grades K-3 and beyond, for the explicit purpose of compliance with HB 1557. Lake County removed books from K-3; Seminole County removed books from “general circulation,” so even older students can only access them if a parent gets them from the principal. Ex. B at 3-4.<sup>1</sup> Defendant Manatee County is restricting access to books for students of all ages. Exs. C, D. All of these restrictions are being attributed to HB 1557. Ex. B at 4.

These developments underscore why the Court should not defer to Defendants’ unsupported, litigation-motivated assertions about the meaning and impact of HB 1557 and should deny their Motions to Dismiss and permit discovery. Indeed, there is every reason to believe these unconstitutional applications of HB 1557 to selectively censor library books about LGBT people or issues are only the tip of the iceberg and that similar actions will continue unless and until the Court adjudicates the merits of Plaintiffs’ claims.

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<sup>1</sup> These facts were only disclosed weeks ago as a result of public information requests. Ex. B at 3-4.

Dated: New York, New York  
January 18, 2023

Respectfully submitted,



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# **EXHIBIT A**



## Certification of Alignment and Adoption of Instructional Materials (Form IM-A)

Where a school district implements its own instructional materials program under the provisions of section (s.) 1006.283, Florida Statutes (F.S.):

I certify, the following:

- Instructional materials used by the school district in core courses are aligned with state academic standards, as set forth in s. 1003.41, F.S., and Rule 6A-1.09401, Florida Administrative Code; and
- The school district's process for the review, selection and adoption of instructional materials complies with hearing requirements established by a district school board and the public meeting requirements set forth in s. 1006.283(2)(b)8., F.S.

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Printed Name of Superintendent

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Signature of Superintendent

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District

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Date

Due by March 31, via <https://districts.flimadoption.org>

Form IM-A, Certificate of Alignment and Adoption of Instructional Materials  
Incorporated in Rule 6A-7.0715, F.A.C.  
Effective February 2023



## Certification of Implementation of Instructional and Library Media Materials (Form IM-B)

I certify, pursuant to section (s.) 1011.67(2), Florida Statutes (F.S.), the following:

- The district school board has approved a comprehensive staff development plan that supports fidelity of implementation of instructional materials programs;
- The plan includes a process for verifying training was provided;
- Instructional materials are being implemented as designed;
- All instructional materials for core courses used in the school district are aligned to applicable state academic standards;
- Core reading materials and reading intervention materials used in kindergarten through grade 5 meet the requirements of s. 1001.215(8), F.S.; and
- Any material objected by a parent or a resident of the county where the school district is located during the preceding school year, under the provisions of s. 1006.28, F.S., has been identified, along with the reason for the objection and the grade and courses for which the material was removed or discontinued, in accordance with the requirements of Rule 6A-7.0714, Florida Administrative Code.

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Printed Name of Superintendent

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Signature of Superintendent

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District

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Date

Due by July 1, via <https://districts.flimadoption.org>



## Certification of Library Media Training (Form IM-C)

I certify, pursuant to section (s.) 1006.29(6), Florida Statute, (F.S.), that all school librarians and media specialists employed by the district have completed the online training entitled Library Media Training, incorporated in this rule.

\_\_\_\_\_  
Printed Name of Superintendent

\_\_\_\_\_  
Signature of Superintendent

\_\_\_\_\_  
District

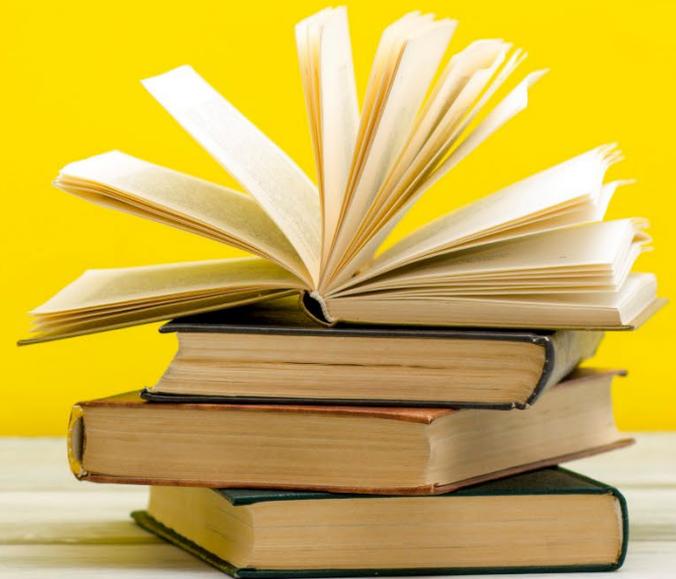
\_\_\_\_\_  
Date

| CERTIFICATION OF LIBRARY MEDIA TRAINING INFORMATION |  |
|---|--|
| Job Code  | Number of those who completed the training |
|   |  |
|   |  |

Due by July 1, via <https://districts.flimadoption.org>



# Library Media and Instructional Materials Training





# Main Purpose

Part 1: Criteria for Selection of Library Materials and Reading Lists

Part 2: Collection Development Policies for Library Media Specialists

Part 3: Selection and Maintenance of Library Media Materials for Library Media Specialists

Part 4: Training to Assist Reviewers of Instructional Materials



# **Criteria for Selection and Maintenance of Library Materials and Reading Lists**

# The Primary Objective of the Library Media Center:



To implement, enrich, and support the educational program of the school. The library media center shall provide a wide range of materials on all levels of difficulty, with diversity of appeal, and with the representation of different points of view.



# House Bill 1467

## Section (s.) 1006.29(6), Florida Statutes

*The department shall develop an online training program for school librarians, media specialists, and other personnel involved in the selection and maintenance of library media and collections or materials maintained on a reading list. This training must assist reviewers in complying with the requirements of s. [1006.31\(2\)](#). The department shall make this training available no later than January 1, 2023. No later than July 1, 2023, and annually thereafter, each superintendent must certify to the department that all school librarians and media specialists employed by the district have completed the online training program.*



# Criteria for Selection of Library Materials

## Section 1006.40(3)(d), F.S.

All materials in a school library or included on a reading list must be:

1. Free of Pornography and material prohibited under s. 847.012, F.S.
2. Suited to student needs and their ability to comprehend the material presented.
3. Appropriate for the grade level and age group for which the materials are used and made available.



## Pornography

While there is no statutory definition of pornography in the Florida Statutes, the Merriam-Webster dictionary defines it as “the depiction of erotic behavior (as in pictures or writing) intended to cause sexual excitement.”



## Materials Prohibited by Section 847.012, F.S.

An adult may not knowingly distribute to a minor on school property:

- *Any picture...or visual representation of a person or a portion of a human body which depicts nudity or sexual conduct, sexual excitement, sexual battery, bestiality, or sadomasochistic abuse and which is harmful to minors.*
- *Any book, pamphlet, magazine [or] printed matter...that contains...explicit and detailed verbal descriptions or narrative accounts of sexual excitement, or sexual conduct and that is harmful to minors.*



## Materials Prohibited by Section 847.012, F.S. (cont.)

- The phrase “harmful to minors” requires that any description or representation of nudity, sexual conduct or sexual excitement meet three requirements in order to be found “harmful to minors.”
- The description or representation must:
  - Predominantly appeal to a prurient, shameful, or morbid interest;
  - Be patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; **and**
  - Taken as a whole the material is without serious literary, artistic, political, or scientific value for minors.



## Penalty for Violating Section 847.012, F.S.

*(6) Any person violating any provision of this section commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).*

To protect librarians and media specialists, it must be clear that a book depicting nudity, sexual conduct, or sexual excitement does not meet the tenets of “Harmful to minors” (s. 847.001, F.S.), which are:

- (a) Predominantly appeals to a prurient, shameful, or morbid interest;*
- (b) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors; and*
- (c) Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.*



# Suited to Student Needs and Appropriate for Age and Grade Level

## Considerations should include:

- Student ability to comprehend material.
- The degree to which the material will be explained/supplemented by classroom instruction.
- The educational purpose of the material.
- The accurate portrayal of the state's broad racial, ethnic, socioeconomic and cultural diversity, without bias or indoctrination.
- Age and grade level of students
- Maturity of students
- Err on the side of caution



# Additional Requirements

## Section 1006.34(2)(b), F.S.

- 1. The age of the students who normally could be expected to have access to the material.*
- 2. The educational purpose to be served by the material. Priority shall be given to the selection of materials that align with the Next Generation Sunshine State Standards as provided for in s. [1003.41](#) and include the instructional objectives contained within the curriculum frameworks for career and technical education and adult and adult general education adopted by rule of the State Board of Education under s. [1004.92](#).*
- 3. The degree to which the material would be supplemented and explained by mature classroom instruction as part of a normal classroom instructional program.*
- 4. The consideration of the broad racial, ethnic, socioeconomic, and cultural diversity of the students of this state. Any instructional material containing pornography or otherwise prohibited by s. [847.012](#) may not be used or made available within any public school.*



## Additional Requirements (cont.)

### Section 1006.28(2)(d)2., F.S.

- a. *Require that book selections meet the criteria in s. [1006.40\(3\)\(d\)](#).*
- b. *Require consultation of reputable, professionally recognized reviewing periodicals and school community stakeholders.*
- c. *Provide for library media center collections based on reader interest, support of state academic standards and aligned curriculum, and the academic needs of students and faculty.*
- d. *Provide for the regular removal or discontinuance of books based on, at a minimum, physical condition, rate of recent circulation, alignment to state academic standards and relevancy to curriculum, out-of-date content, and required removal pursuant to subparagraph (a)2.*



# Parental Rights

- The Parents' Bill of Rights (s. 1014.04(1)(a), F.S.) states that a parent has the right to direct the education and care of his or her minor child.
- Upon written request, school districts are required to provide parents access to any material or book in a school library specified in the request (s. 1006.28(2)(d), F.S.)
- Per Rule 6A-7.0713, F.A.C. each elementary school is required to publish on its website a list of all materials maintained in the school library media center including classroom libraries.
- Parents must be informed of the district policies that are in place to provide transparency to families.
- The department's parental rights page may be found at <https://www.fldoe.org/ParentalRights/>



# District Objection (Challenged Materials) Policy

- Follow your district policy.
- Each district is responsible for having a policy on challenged materials.
- Objections can be brought forth by any person residing within the district or a parent of a district student.

## Section 1006.28(2)(a)2., F.S.:

*Each district school board must adopt a policy regarding an objection by a parent or a resident of the county to the use of a specific material, which clearly describes a process to handle all objections and provides for resolution.*



# **Collection Development Policies**



# Collection Development

Library collection development is the ongoing process of systematically building high-quality print and non-print information resources to meet the information needs of a particular district or school.



## Goals of Collection Development

Provides guidelines for selecting material for the collection of the library that are balanced.

Determines the retention, preservation and archiving of materials.

Describes the process for removal of inappropriate materials.



# School Districts Must Establish and Maintain School Libraries

## Districts must establish procedures that:

- Require library books meet the statutory selection criteria of being suited to student needs, are age and developmentally appropriate, and are free from pornography and materials harmful to minors under s. 847.012, F.S.
- Requires input of stakeholders, including parents.
- Requires the consultation of reputable, professionally recognized reviewing periodicals.





# Collection Development Process

## Goals

- Mission and vision of the school or district
- Special program considerations
- Current collection analysis
- Responsibilities of the media specialist

## Audience

- School demographics
- School community
- Population needs
- Transparency to the community

## Acquisition

- Budget
- District policies and procedures
- School expectations
- Stakeholder reviews
- Peer reviews

## Maintenance

- Inventory policies
- Know your district procedures for removal of materials

## Preservation

- Ongoing development of the collection to mirror district policies or procedures



# Removal or Discontinuance of Materials

The removal or discontinuance of library materials and resources is determined by a continuous review of the existing collection, both print and digital. In the removal process, many factors are taken into consideration including, but not limited to, space constraints, age or relevancy of material, physical condition of the material, and circulation data.

Follow district policies for regular removal or discontinuation of materials.



## Library Media Specialists

Only persons who are certified as an Educational Media Specialist under Rule 6A-4.0251, Florida Administrative Code (F.A.C.), are authorized to make selections of:

- Materials available to students in a school library; and
- Books included on a recommended or assigned school, grade-level, or classroom reading list.

School principals are responsible for compliance with school district procedures for the selection of school library materials.

Elementary classroom libraries are a type of school library. Materials in all school libraries must be selected by a certified media specialist. (Rule 6A-7.0714, F.A.C.; s. 1006.28 (2)(d)1., F.S.)



# **Selection, Evaluation and Maintenance of School Library Materials**



# Criteria For Selection of Library Materials

## Collections must:

- Support academic standards and curriculum.
- Support the academic needs of students and faculty.
- Support the broad racial, ethnic, socioeconomic and cultural diversity of the students of this state.
- Be based upon reader interest.
- Be appropriate for the grade level and age group for which the materials are made available.
- Be suited to student needs and their ability to comprehend the material.
- Follow Florida Statutes, State Board of Education rules and school district policies.



## Appropriate for the Grade Level and Age Group

- Choose materials that are relevant for the ages of your students.
- Choose materials that address the reading levels, special curricular needs and programs of your school/district.
- Look at professional peer-reviewed journals for age or grade level recommendations.
  - Section 1006.28(2)(d)2., F.S., provides that school districts must adopt policies that:
    - Require consultation of reputable, professionally recognized reviewing periodicals and school community stakeholders.*
  - While the law requires consultation of peer reviews, districts should consider the consultation of crowd-sourced reviews.



# Suggestions for Selecting New Materials

- Curriculum needs - high priority
- Survey stakeholders - teachers, students, parents, administration
- Balance fiction vs. nonfiction
- Diversity and age of collection
- High interest needs of readers
- Use reputable book vendors that offer quality bindings
- Look at professional and reputable award lists and state compiled book lists appropriate for your school age level
- Follow district protocol for selection of new books
- Check any books that have been removed or restricted due to a challenge in other districts. Those books should be carefully considered before purchasing.



# Academic Standards and Academic Needs of Students and Faculty

- Consider titles from state standards booklists such as the ELA B.E.S.T. Sample texts and the Civic Literacy Reading List
- Evaluate school academic organizational needs to include, but not be limited to:
  - School mission and vision;
  - School performance or improvement plan;
  - Specialized curriculum needs such as those for career or technical courses;
  - School population needs such as exceptional student education (ESE), gifted and English language learners (ELL); and
  - Material to supplement state-approved, district-adopted core curriculum.
- Age of student population should be considered when selecting materials based on student interest.



# School Community Stakeholders

## Examples:

- Parents
- Students
- School Advisory Council
- Parent Teacher Association
- School Faculty and Subject departments
- Administrators
- Media Advisory Committee
- Community Members

## Ideas for Input:

- Present/Publish lists to be ordered to SAC/PTA/Media Advisory before ordering.
- Host a preview night for stakeholders before placing books on shelf.
- Provide materials suggestion box or Google/Microsoft form for suggestions.
- Conduct interest inventories with learners.

## Suggestions for gaining stakeholder contributions:

Online surveys, QR codes, suggestion box, virtual meetings, emails, newsletters, etc.



# Maintenance

- Organization
  - Decide how materials are organized
  - Make sure signage is clear and up-to-date.
- Availability
  - Inventory everything in collection at regular intervals
- Know:
  - Cataloging profile - classifications and prefixes, location of barcode, spine label, and any other additional needed labels.
  - MARC (Machine-Readable Cataloging) Records
- Damaged books



# **Instructional Materials Reviewers**



# Common Selection Criteria for Instructional Materials, Library Materials and Reading Lists

## Factors to consider for any material include:

- Avoiding unsolicited theories that may lead to student indoctrination.
- Meetings for the purpose of selecting instructional materials must be open to the public, including parents (s. 1006.28(2)(a)4, F.S.) and consultation with school community stakeholders, including parents is required in the purchasing of new library media materials (s. 1006.28(2)(d), F.S.)
- Age of the students who normally could be expected to have access to the material
- Educational purpose to be served by the material
- The degree to which the material will be supplemented and explained by classroom instruction
- The broad racial, ethnic, socioeconomic and cultural diversity of the students of this state
- Materials must be free of pornography and prohibited by s. 847.012, F.S.



# Additional Selection Criteria for Instructional Materials

## **Instructional Materials must be:**

- Accurate, objective, balanced, noninflammatory and current
- Aligned with state academic standards
- Suited to student needs, including academically talented students
- Suited to students' ability to comprehend material and maturity levels
- Readable, contain appropriate pacing, and easy to use

## **Instructional Materials should:**

- Not contain any matter reflecting unfairly upon persons because of their race, color, creed, national origin, ancestry, sex, religion, disability, socioeconomic status or occupation.
- Accurately portray the ethnic, socioeconomic, cultural, religious, physical and racial diversity of our society.



# Instructional Materials and the Principles of Individual Freedom (s. 1003.42(3), F.S.)

Instructional Materials may not contradict the principles enumerated under [s.1003.42\(3\)](#) These six principles are set forth below:

- (a) *No person is inherently racist, sexist, or oppressive, whether consciously or unconsciously, solely by virtue of his or her race or sex.*
- (b) *No race is inherently superior to another race.*
- (c) *No person should be discriminated against or receive adverse treatment solely or partly on the basis of race, color, national origin, religion, disability, or sex.*
- (d) *Meritocracy or traits such as a hard work ethic are not racist but fundamental to the right to pursue happiness and be rewarded for industry.*
- (e) *A person, by virtue of his or her race or sex, does not bear responsibility for actions committed in the past by other members of the same race or sex.*
- (f) *A person should not be instructed that he or she must feel guilt, anguish, or other forms of psychological distress for actions, in which he or she played no part, committed in the past by other members of the same race or sex.*



# Other Criteria for Instructional Materials

## s. 1006.31(2), F.S.

Whenever appropriate, include instructional materials that portray

- The necessity to protect the environment and conserve natural resources
- The effects of the use of tobacco, alcohol, controlled substances and other dangerous substances.
- Humane treatment of people and animals
- Fire prevention
- Thrift – using money and other resources wisely and not carelessly.



# Other Criteria for Instructional Materials (cont.)

s. 1006.31(2), F.S.

Whenever appropriate for social science, history, or civics courses, the materials submitted must contain:

- The Declaration of Independence
- The Constitution of the United States



# Core Questions Rubric for IM Reviewers

The full rubric may found at:

<https://www.fldoe.org/academics/standards/instructional-materials/>

| Core Questions Rubric   |   |
|---|---|
| <i>This serves as the rubric used for evaluation of all instructional materials bid for state adoption.</i> |   |
| Content   |   |
| 1.  | <b>A. Alignment with curriculum:</b> The content aligns with the state's standards, benchmarks and clarifications for subject, grade level and learning outcomes. |
| 2.  | <b>A. Alignment with curriculum:</b> The content is written to the correct skill level of the standards, benchmarks and clarifications in the course.             |
| 3.  | <b>A. Alignment with curriculum:</b> The materials are adaptable and useful for classroom instruction.  |
| 4.  | <b>B. Level of Treatment:</b> The materials provide sufficient details for students to understand the significance of topics and events.                          |
| 5.  | <b>B. Level of Treatment:</b> The content matches the standards.  |
| 6.  | <b>B. Level of Treatment:</b> The content matches the student abilities and grade level.  |
| 7.  | <b>B. Level of Treatment:</b> The content matches the time period allowed for teaching.   |
| 8.  | <b>C. Expertise for Content Development:</b> The primary and secondary sources cited in the materials reflect expert information for the subject.                 |
| 9.  | <b>C. Expertise for Content Development:</b> The primary and secondary sources contribute to the quality of the content in the materials.                         |
| 10.   | <b>D. Accuracy of Content:</b> The content is presented accurately. (Material should be devoid of typographical or visual errors.)                                |



# Core Questions Rubric for IM Reviewers (cont.)

The full rubric may found at:

<https://www.fldoe.org/academics/standards/instructional-materials/>

| <b>Florida Statutes and State Board of Education Rule</b>  |
|--|
| <b>1. Critical Race Theory:</b> Do materials align to Rule 6A-1.094124, F.A.C., which prohibits Critical Race Theory (CRT) in instructional materials?   |
| <b>2. Culturally Responsive Teaching:</b> Do instructional materials omit Culturally Responsive Teaching as it relates to CRT?   |
| <b>3. Social Justice:</b> Do instructional materials omit Social Justice as it relates to CRT?   |
| <b>4. Social Emotional Learning:</b> Do instructional materials NOT solicit Social Emotional Learning (SEL), as these are considered extraneous and unsolicited strategies outside the scope of subject-area standards?  |
| <p><b>5. Principles of Individual Freedom:</b> Do instructional materials align to s. 1003.42(3), F.S., by acknowledging that all people are equal before the law and have inalienable rights and materials are consistent with the following principles:</p> <ul style="list-style-type: none"> <li>(a) <i>No person is inherently racist, sexist, or oppressive, whether consciously or unconsciously, solely by virtue of his or her race or sex</i></li> <li>(b) <i>No race is inherently superior to another race.</i></li> <li>(c) <i>No person should be discriminated against or receive adverse treatment solely or partly on the bases of race, color, national origin, religion, disability, or sex.</i></li> <li>(d) <i>Meritocracy or traits such as hard work ethic are not racist but fundamental to the right to pursue happiness and be rewarded for industry.</i></li> <li>(e) <i>A person, by virtue of his or her race or sex, does not bear responsibility for actions committed in the past by other members of the same race or sex.</i></li> <li>(f) <i>A person should not be instructed that he or she must feel guilt, anguish, or other forms of psychological distress for actions, in which he or she played no part, committed in the past by other members of the same race or sex.</i></li> </ul> |
| <b>6. Student Welfare:</b> Do instructional materials align to s. 1001.42(8)(c)3., F.S., in grades K-3 to EXCLUDE any instruction regarding sexual orientation or gender identity?   |



# Instructional Materials – District Responsibilities

- The responsibility of the content of instructional materials lies with those that choose the materials. Parental feedback is important and parents should be included in all aspects of choosing materials.
- The district school board oversees the final process of instructional materials after a vetting process that involves all stakeholders, including teachers, students, district staff, and community members.
- Districts must adopt procedures to permit a parent or resident to object to the adoption or use of any instructional material if it doesn't meet the criteria of 1006.31(2) or 1006.40(3)(d).



# Copyright and Fair Use

When using instructional materials, know the guidelines and permissions for use.

- Please discuss copyright and fair use guidelines with publishers before purchase.
- Follow district policies.
- Potential violations may include:
  - Reproducing pages in textbooks without publisher permission or watching videos without having a license.
  - Use of streaming services may violate individual contracts with service.



**Thank you!**

# **EXHIBIT B**

# "Don't Say Gay": Florida schools purge library books with LGBTQ characters

Judd Legum 

Jan 5

 177  19  



Florida Governor Ron DeSantis (R) on November 8, 2022 (Photo by Octavio Jones/Getty Images)

In March 2022, Florida Governor Ron DeSantis (R) signed into law the Parental Rights in Education Act, which critics dubbed the "Don't Say Gay" bill. DeSantis angrily accused the media of promoting a "[false narrative](#)," insisting the bill does not prohibit mentioning LGBTQ people in Florida schools.

According to DeSantis, the scope of the bill is limited and only prohibits "sexual instruction" directed at young students. "When you actually look at the bill and it says 'no sexual instruction to kids pre-K through three,' how many parents want

their kids to have transgenderism or something injected into classroom instruction?" DeSantis [said](#). "It's basically saying for our younger students, do you really want them being taught about sex? And this is any sexual stuff."

The relevant portion of [the law](#) reads as follows:

Classroom instruction by school personnel or third parties on sexual orientation or gender identity may not occur in kindergarten through grade 3 or in a manner that is not age appropriate or developmentally appropriate for students in accordance with state standards.

Conservative media outlets echoed DeSantis' argument. The [Wall Street Journal editorial board](#), for example, argued the law would have "no immediate effect" because "sexual orientation and gender identity is not something that is being taught in grades K-3." The editorial board said the bill was limited to "classroom instruction."

But despite these protestations, Florida schools are using the law to justify the erasure of LGBTQ people. Public records obtained by Popular Information through the Florida Freedom to Read Project reveal that several Florida schools have already removed books with LGBTQ characters from their libraries, citing the Parental Rights in Education Act. Further, training materials produced by the Florida Department of Education for librarians reveal that the DeSantis administration is encouraging this expansive interpretation of the law.

In Lake County, for example, the school district has removed three books with LGBTQ themes from libraries. The school district claimed the removal of these books was required "due to content regarding sexual orientation/gender identification prohibited in HB 1557," the Parental Rights in Education Act.

Elementary Schools (Grades K-3):

Day in the Life of Marlon Bundo – Jill Twiss

And Tango Makes Three – Justin Richardson and Peter Parnell

In our Mother's House – Patricia Polacco

Administratively removed due to content regarding sexual orientation/gender identification prohibited in HB 1557.



Lake County school district response to  
public records request, 12/12/22

These books do not involve "sexual instruction." One book that was removed, *And Tango Makes Three*, is the true story of two male Penguins, Roy and Silo, who lived in the Central Park Zoo. The pair build a nest together, and — after the zookeeper provides them with an egg — they raise an adopted child, Tango. There is no sexual content in the book.

In Seminole County, the school district has also pulled three books with LGBTQ themes from circulation, citing the Parental Rights in Education Act (1001.42(8)(c)3 in Florida Statutes). The books will now only be available only to 4th and 5th graders if a parent explicitly grants permission and picks the book up from the principal.

### First Form: 3 books

The first form you submitted objects to three specific books available for check-out in the Carillon Elementary Media Center: 10,000 Dresses (Ewert), I am Jazz (Herthel & Jennings), and Jacob's New Dress (Hoffman & Hoffman). I have collaborated with other administrators to complete the district-level review. Each book was reviewed independently from the others using the standards established in s. 1006.28(2)(a)2.b. and 1001.42(8)(c)3., Florida Statutes.

The finding of the district level review is that each of the three books include content that, pursuant to the forementioned statute, would be deemed as not being age appropriate or developmentally appropriate for students in kindergarten through grade 3. Therefore, the books have been discontinued from general circulation in the media center. Each book will only be available for check-out to a student in grade 4 or 5 when the parent has provided written consent and picks up the book from the principal or designee at the school.



Seminole County school district response  
to public records request, 8/9/22

The books pulled from the shelves in Seminole County include gender-nonconforming characters, but have nothing to do with sex. *Jacob's New Dress*, for example, is about a little boy that likes to wear dresses. Officials in Manatee County have also removed several books with LGBTQ characters from the shelves based on the Parental Rights in Education Act.

## **What the DeSantis administration told a federal judge**

After the Parental Rights in Education Act was signed into a law, a group of LGBTQ students and their parents filed a lawsuit in federal court. The complaint alleges that the law violated "the First and Fourteenth Amendments to the United States Constitution." The plaintiffs allege "they have been subjected to a discriminatory educational environment that treats LGBTQ people and issues as something to be shunned and avoided, on pain of discipline and liability."

To support their argument, the plaintiffs cite the 1982 Supreme Court case of *Board of Education v. Pico*. In *Pico*, the court ruled that the First Amendment protects students' "right to receive information and ideas." The plaintiffs state that the new

law violates the standard established in *Pico* because the restrictions are not “reasonably related to legitimate pedagogical concerns.”

In a motion to dismiss the case, lawyers representing DeSantis and the State of Florida argue that *Pico* does not apply. DeSantis' lawyers state that *Pico* applies to the availability of library books while the Parental Rights in Education Act applies only to classroom instruction.

Plaintiffs point to *Board of Education vs. Pico* for the plurality’s statement that the State’s discretion to select school library books may not be exercised “in a narrowly partisan or political manner.” ...Plaintiffs ...overread *Pico* on its own terms. The plurality was clear that classroom instruction is different, expressing “full agreement” that States “must be permitted to establish and apply their curriculum in such a way as to transmit community values, and that there is a legitimate and substantial community interest in promoting respect for ... traditional values be they social, moral, or political.”

While this is what DeSantis' lawyers are telling a federal judge, school librarians are receiving a different message.

## What the DeSantis administration told librarians

The Florida Department of Education is currently in the process of [developing a training](#) for school librarians regarding the selection of library materials. Notably, the training does not inform librarians that the Parental Rights in Education Act does not apply to library books. Rather, librarians are told: "There is some overlap between the selection criteria for instructional and library materials."

The slide that follows says that library books *and* instructional materials cannot include "unsolicited theories that may lead to student indoctrination."



# Common Selection Criteria for Instructional Materials, Library Materials and Reading Lists

**Factors to consider for any material include:**

- Avoiding unsolicited theories that may lead to student indoctrination.

A subsequent slide provides a list of "unsolicited theories that may lead to student indoctrination." That list, citing the Parental Rights in Education Act, states that information about "sexual orientation or gender identity" is prohibited for K-3 students. The training seeks to encourage librarians to remove books with LGBTQ themes from elementary school libraries by conflating the standards for instructional materials and library books.

To encourage the removal of more books, the training instructs librarians to "err on the side of caution" and [consider](#) "whether you as an adult would be comfortable reading the material in person in a public meeting." The "read aloud" standard has [no basis in Florida or federal law](#) but is being pushed aggressively by right-wing organizations like Moms For Liberty. Members of Moms For Liberty regularly attend school meetings and read passages aloud as "proof" they are inappropriate for students.

Florida is [accepting public comment](#) regarding the draft training until January 18, 2023.

## 19 Comments



Write a comment...



**Adam** Jan 5 · *edited Jan 5*

They are building a wall. A great and beautiful wall. To keep out uncomfortable ideas and give themselves something to hide behind. What joy it would be to have the power to extend such a wall around only those who wish to cling to the hatred and outmoded ideas, so that they and only they are ensconced in their own little pocket universe, unable to affect anyone but themselves. Dream a little dream indeed!

♡ 23 Reply Collapse ...



**Gloria Kunik** Jan 5

Whenever I read something like this, I immediately think of it in context of myself and the people I care about, and ask how I would feel if it was happening to me or them. This isn't about a book or a pronoun question that's tough to explain, nor is it about keeping kids safe. It's not about education. It's about discrimination and re-education and it's damn scary.

This makes me think of RBG's case involving discrimination against a man in the 70's who wasn't deemed qualified to receive govt't financial support for the same kinds of situations women were qualified for. RBG argued on his behalf, demonstrating anyone can be the target of discrimination. It was brilliant in its simplicity - anyone can be a target of discrimination in any situation. And of course Marc Elias is the most visible example in this moment with voter suppression.

Florida parents need to find their RBG or Marc Elias to keep the legal issue in the news, demonstrate to parents in general that someone has their back, and fight like hell.

♡ 13 Reply Collapse ...

**17 more comments...**

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# **EXHIBIT C**



## CURRICULUM AND PROFESSIONAL LEARNING LIBRARY MEDIA MATERIALS REVIEW COMMITTEE

July 19, 2022 – PSC 1007

3:00 – 5:00 pm

### Attendees:

| Name                      | Title  |
|---------------------------|--|
| Dr. Laurie Breslin        | Executive Director, Curriculum & Instruction       |
| Shannon Fleming           | Director Secondary Curriculum                      |
| Alison Nichols            | Director Elementary Curriculum                     |
| Melissa Morgan            | Media Specialist – Bashaw Elementary               |
| Ginger Collins            | Principal – Southeast High School                  |
| Lori Pick                 | District Instructional Specialist – Media Services |
| Carol Ricks               | Principal – Myakka Elementary                      |
| Terrance Marshall         | Assistant Principal – Lee Middle School            |
| Crystal Rothhaar (absent) | Parent   |
| Regina Boyd               | Parent   |
| Laurie Payne              | Executive Secretary - Curriculum                   |

|    | Topic Discussion  | Notes and Action Items  |
|----|---|---|
| 1. | Introductions   |   |
| 2. | Statute   | <ul style="list-style-type: none"> <li>• Review of HB 1467               <ul style="list-style-type: none"> <li>○ Discussion of “age-appropriate” school library books per HB 7.</li> <li>○ Gender-related or sexual content in books comes from legislation comes from HB 1557.</li> <li>○ Donated books and classroom libraries are also subject to the legislation and must be reviewed by a media specialist.</li> <li>○ Discussion of Lexile level vs. age-appropriate content.</li> </ul> </li> </ul> |
| 3. | Public Comment  |   |
| 4. | District Procedures   | <ul style="list-style-type: none"> <li>• Review of any questions</li> </ul>   |
| 5. | Books to Review: <ol style="list-style-type: none"> <li>1. I am Jazz</li> <li>2. When Aiden Became a Brother</li> <li>3. Both Can Be True</li> <li>4. Lily and Dunkin</li> <li>5. Mondays Not Coming</li> <li>6. The Nowhere Girls</li> </ol> | <ul style="list-style-type: none"> <li>• Review of title/author</li> <li>• Copies of books</li> <li>• Time to review</li> </ul> <ol style="list-style-type: none"> <li>1. I am Jazz: Unanimous vote was to withdraw book from elementary and secondary. Not appropriate for middle and</li> </ol>   |

|    |  |  |
|----|--|--|
|    | <ol style="list-style-type: none"> <li>7. Sold</li> <li>8. Red Hood</li> <li>9. Damsel</li> <li>10. Crank</li> <li>11. Tricks</li> <li>12. Push</li> <li>13. Impulse</li> <li>14. Flowers in the Attic</li> <li>15. L8r. g8r</li> <li>16. Laura Dean Keeps Breaking Up with Me (push to 7/21)</li> <li>17. Me and Earl and the Dying Girl</li> <li>18. My Jim</li> <li>19. Ready or Not</li> <li>20. The House on Mango Street (push to 7/21)</li> </ol> | <p>high due to readability. Remove from K-3 unanimous. Keep for 4-5 with parent consent.</p> <ol style="list-style-type: none"> <li>2. When Aiden Became a Brother: Unanimous vote to remove from middle and high. Unanimous vote to keep for 4-5 with parent consent.</li> <li>3. Held for further review</li> <li>4. Held for further review</li> <li>5. Held for further review</li> <li>6. Held for further review</li> <li>7. Held for further review</li> <li>8. Red Hood: Unanimous vote to remove from all school libraries.</li> <li>9. Held for further review</li> <li>10. Held for further review</li> <li>11. Held for further review</li> <li>12. Held for further review</li> <li>13. Held for further review</li> <li>14. Held for further review</li> <li>15. Held for further review</li> <li>16. Held for further review</li> <li>17. Held for further review</li> <li>18. Held for further review</li> <li>19. Held for further review</li> <li>20. Held for further review</li> </ol> |
| 6. | Evaluation Tool  | <ul style="list-style-type: none"> <li>• Time to complete evaluation</li> </ul>  |
| 7. | Placement of Books   | <ul style="list-style-type: none"> <li>• Committee Recommendations</li> </ul>  |
| 8. | Next meeting Dates   | <ul style="list-style-type: none"> <li>• 7/21 and TBD</li> </ul>   |
| 9. | Topic for next week  | <ul style="list-style-type: none"> <li>• See handout</li> </ul>  |



## CURRICULUM AND PROFESSIONAL LEARNING LIBRARY MEDIA MATERIALS REVIEW COMMITTEE

August 25, 2022 – PSC 1093  
3:00 – 5:00 pm

| Name                       | Title  |
|----------------------------|--|
| Dr. Laurie Breslin         | Executive Director, Curriculum & Instruction       |
| Shannon Fleming            | Director Secondary Curriculum                      |
| Alison Nichols             | Director Elementary Curriculum                     |
| Melissa Morgan             | Media Specialist – Bashaw Elementary               |
| Ginger Collins             | Principal – Southeast High School                  |
| Lori Pick                  | District Instructional Specialist – Media Services |
| Carol Ricks (absent)       | Principal – Myakka Elementary                      |
| Terrance Marshall (absent) | Assistant Principal – Lee Middle School            |
| Crystal Rothhaar (absent)  | Parent   |
| Regina Boyd                | Parent   |
| Laurie Payne               | Executive Secretary - Curriculum                   |

|    | Topic Discussion  | Notes and Action Items   |
|----|---|--|
| 1. | Review Minutes  | The minutes from the 8/18/22 meeting were unanimously approved.  |
| 2. | Public Comment  | <ul style="list-style-type: none"> <li>• Joanne Telesco, Media Specialist from Rowlett</li> <li>• Lee Ann Hoffman, Retired Teacher</li> <li>• Meg Newsome, Retired Teacher &amp; Media Specialist</li> </ul>   |
| 3. | Future Meeting Dates  | 9/21 4:00-5:00 pm (Informational/no voting)<br>10/6 4:00-5:30 pm<br>10/13 3:00-5:00 pm   |
| 4. | Books to Review: <ol style="list-style-type: none"> <li>1.</li> <li>2.</li> <li>3. Both Can Be True</li> <li>4.</li> <li>5. Mondays Not Coming</li> <li>6.</li> <li>7.</li> <li>8.</li> <li>9.</li> <li>10. Crank</li> <li>11. Tricks</li> <li>12.</li> <li>13.</li> <li>14.</li> <li>15. L8r. g8r</li> <li>16. Laura Dean Keeps Breaking Up with Me</li> </ol> | <ul style="list-style-type: none"> <li>• Review of title/author</li> <li>• Copies of books</li> <li>• Time to review</li> </ul> 3. Held for further review<br>5. Unanimous vote to allow in middle schools with parent restriction; no restriction for high schools.<br>10. Unanimous vote to allow in high schools only with parent consent.<br>11. Unanimous vote to remove from all libraries.<br>15. Unanimous vote to allow in high schools only with parent consent.<br>16. Held for further review<br>17. Held for further review |

|    |   |  |
|----|---|--|
|    | <p>17. Me and Earl and the Dying Girl<br/> 18. My Jim<br/> 19.<br/> 20. The House on Mango Street<br/> 21. Scars<br/> 22. Light it Up<br/> 23. Protesting Police Violence in Modern America<br/> 24. Pet<br/> 25. Race and Policing in America<br/> 26. The 57 Bus<br/> 27. The Hate U Give<br/> 28. The Talk: Conversations about Race, Love, Truth<br/> 29. The Prince and the Dressmaker</p> | <p>18. Held for further review<br/> 20. Held for further review<br/> 21. Held for further review<br/> 22. Held for further review<br/> 23. Remains available as is without restrictions.<br/> 24. Held for further review<br/> 25. Remains available as is without restrictions.<br/> 26. Held for further review<br/> 27. Held for further review<br/> 28. Held for further review<br/> 29. Held for further review</p> |
| 5. | Evaluation Tool   | <ul style="list-style-type: none"> <li>• Time to complete evaluation</li> </ul>  |
| 6. | Placement of Books  | <ul style="list-style-type: none"> <li>• Committee Recommendations</li> </ul>  |
| 7. | Next Meeting Dates  | <ul style="list-style-type: none"> <li>• TBD</li> </ul>  |

# **EXHIBIT D**



## CURRICULUM AND PROFESSIONAL LEARNING LIBRARY MEDIA MATERIALS REVIEW COMMITTEE

November 3, 2022 – PSC 1007

4:00 – 6:00 pm

| Name               | Title  |
|--------------------|--|
| Dr. Laurie Breslin | Executive Director, Curriculum & Instruction       |
| Shannon Fleming    | Director Secondary Curriculum                      |
| Alison Nichols     | Director Elementary Curriculum                     |
| Terri Rohde        | Media Specialist – Southeast High School           |
| Ginger Collins     | Principal – Southeast High School                  |
| Lori Pick          | District Instructional Specialist – Media Services |
| Carol Ricks        | Principal – Myakka Elementary                      |
| Terrance Marshall  | Assistant Principal – Lee Middle School            |
| Melissa Morgan     | Parent   |
| Violeta Felix      | Parent   |
| Laurie Payne       | Executive Secretary - Curriculum                   |
| Katie Maus         | Administrative Secretary - Curriculum              |

|    | Topic Discussion  | Notes and Action Items  |
|----|---|---|
| 1. | Review Minutes  |   |
| 2. | Public Comment  | <i>*See note below.</i>   |
| 3. | Review of additional DRAFT FLDOE training info  |   |
| 4. | Books to Review: <ul style="list-style-type: none"> <li>• Pet</li> <li>• The 57 Bus</li> <li>• The Hate U Give</li> <li>• The Talk</li> <li>• The Prince and the Dressmaker</li> <li>• Never Let Me Go</li> </ul> | <ul style="list-style-type: none"> <li>• Review of title/author</li> <li>• Copies of books</li> <li>• Time to review</li> </ul> |
| 5. | Evaluation Tool   | <ul style="list-style-type: none"> <li>• Time to complete evaluation</li> </ul>   |
| 6. | Collection of Evaluation Tools  | <ul style="list-style-type: none"> <li>• Committee Recommendations</li> </ul>   |
| 7. | Next Meeting Date   | <ul style="list-style-type: none"> <li>• TBA</li> </ul>   |

- *Public comment pursuant to Florida Statute Section 286.011 is for action items only and public comment must solely address that particular action item. There are no public comments unrelated to the action item before the committee. Public comment is limited to two minutes.*