



March 31, 2025

Committee on Education Pre-K – 12
The Florida Senate
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Dear Senators,

On behalf of the Foundation for Individual Rights and Expression (FIRE), a national nonpartisan nonprofit that defends free speech for all Americans, I write to express our opposition to SB 1692.¹ The bill’s broad restrictions on school library materials would likely lead to arbitrary book removals and potential First Amendment problems.

SB 1692 would amend Section 1006.28 of Florida Statutes to require each school district to establish a process for reviewing formal objections by parents or county residents to instructional and library materials “considered harmful to minors as defined by this section.” The definition of “harmful to minors” includes any description or depiction of “nudity, sexual conduct, or sexual excitement” that “[p]redominantly appeals to prurient, shameful, or morbid interest,” and “[i]s patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors.” The amendment would further ban school boards from “consider[ing] potential literary, artistic, political, or scientific value as a basis for retaining the material.” And it would mandate that districts remove material challenged as “harmful to minors” within five days of the objection and keep it inaccessible throughout the review process.

Library book removals can raise serious First Amendment issues. As a Supreme Court plurality explained in *Board of Education v. Pico*, students’ constitutional rights are “directly and sharply implicated by the removal of books from the shelves of a school library,” as the First

¹ *CS/SB 1692: Material that is Harmful to Minors*, FLA. SENATE, <https://www.flsenate.gov/Session/Bill/2025/1692>.

Amendment protects not only self-expression but the “right to receive information and ideas.”² While state and local officials have discretion to determine the content of school libraries, “that discretion may not be exercised in a narrowly partisan or political manner.”³ As the Court emphasized, public schools must adhere to “established, regular, and facially unbiased procedures for the review of controversial materials.”⁴

Obscenity, properly defined, is not protected by the First Amendment.⁵ But SB 1692’s definition of “harmful to minors” departs from the legal standard for obscenity in two ways. First, it does not require consideration of whether the work in question, *taken as a whole*, predominantly appeals to the prurient interest of minors. Second, it expressly bans consideration of whether a work, taken as a whole, has serious literary, artistic, political, or scientific value for minors of any age. These elements are critical to preventing censorship of literature, art, medical textbooks, history texts, and other speech that depicts or alludes to sex simply because someone finds them offensive.

School districts have a responsibility to assess whether library materials are appropriate for students of different ages. However, we are concerned that SB 1692 imposes a broad and inflexible content ban that will likely exclude many books with literary or educational value, including classic works of literature that have long been taught in our nation’s classrooms. While the standard does not outright prohibit all depictions and descriptions of nudity or sexual conduct, the amendment is likely to result in removal of many educationally suitable books, for several reasons.

First, the mandate that districts remove books challenged as “harmful to minors” within five days of the objection, before it is evaluated, creates a strong incentive for individuals to challenge any book they dislike or perceive as inappropriate, knowing it will be immediately pulled from all library shelves. With no deadline for resolving challenges, books of literary, cultural, or historical significance could remain unavailable for extended periods based on a single frivolous complaint—even if ultimately deemed not harmful. In some districts, the sheer volume of challenges makes timely resolution unlikely.

Second, as mentioned, SB 1692 would not allow consideration of a work’s overall literary, artistic, political, or scientific value, or whether a work, *taken as a whole*, predominantly appeals to an excessive interest in sex. This means that even works with significant educational value could be banned solely based on isolated passages taken out of context.

Third, SB 1692 would also direct the State Board of Education to monitor district compliance with the statutory requirements “through regular audits and reporting.” A finding that a district failed to comply could result in loss of state funding and other sanctions. The threat of such serious penalties—combined with the vague and highly subjective nature of the bill’s

² 457 U.S. 853, 866–67 (1982) (plurality op.); *see also Stanley v. Georgia*, 394 U.S. 557, 564 (1969) (stating the “Constitution protects the right to receive information and ideas,” which is “fundamental to our free society”).

³ *Pico*, 457 U.S. at 870.

⁴ *Id.* at 874.

⁵ *Miller v. California*, 413 U.S. 15, 24 (1973).

“harmful to minors” definition—would heavily pressure districts to remove any books challenged as “harmful to minors,” even if they do not actually meet the standard for removal.

As currently written, Section 1006.28 allows parents and residents to challenge library material that “depicts or describes sexual conduct” while granting districts discretion to assess whether, taken as a whole, a work is suitable for certain grade levels. This approach makes sense. Books vary significantly in their depictions of sexuality—in terms of frequency, explicitness, and narrative context. The statute incorporates the common-sense judgment that not every book containing sexual elements is inherently inappropriate for all K-12 students, including 18-year-old high school seniors.

Even under the current statute, however, Florida school districts have removed hundreds of books from libraries because they merely depict or describe sexual conduct. Collier County Public Schools, for example, removed *Brave New World*, *Atlas Shrugged*, *Catch-22*, *Dune*, *For Whom the Bell Tolls*, *Slaughterhouse-Five*, and *The Man in the Iron Mask*.⁶ Orange County Public Schools proactively pulled nearly 700 books from classroom libraries, including *East of Eden*, *Madame Bovary*, and *The Color Purple*.⁷ If passed, SB 1692 will further discourage districts from carrying any library books—including history books and literary classics—that have any allusions to sexual conduct or nudity.

For these reasons, and to ensure Florida’s students receive the highest-quality education, FIRE urges you to reject SB 1692.

Thank you for your time and consideration.

Sincerely,



Aaron Terr
Director of Public Advocacy

⁶ *Media Services*, COLLIER CNTY. PUB. SCHS., <https://www.collierschools.com/Page/19308>.

⁷ Leslie Postal, *Orange school district pulls 673 books from teachers’ classroom shelves*, ORLANDO SENTINEL (Dec. 20, 2023), <https://www.orlandosentinel.com/2023/12/20/ocps-books>.