FIRE
Foundation for Individual Rights and Expression

February 19, 2026

Committee on Rules
The Florida Senate
404 South Monroe Street
Tallahassee, Florida 32399-1100

Sent via Electronic Mail and U.S. Mail

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 HB 1119.[1] The bill's broad restrictions on school library materials would likely lead to arbitrary book removals and potential First Amendment violations.

HB 1119 would amend Section 1006.28 of Florida Statutes, which requires school districts to establish a process for reviewing formal objections by parents or county residents to instructional and library materials. The bill would require districts to entertain objections on the ground that materials are "harmful to minors," defined to include any description or characterization of "nudity, sexual conduct, or sexual excitement" that "[p]redominantly appeals to prurient, shameful, or morbid interest" and is "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 also prohibit districts from considering "potential literary, artistic, political, or scientific value as a basis for retaining [such] material"; require districts to remove material challenged as "harmful to minors" within five days of the objection and keep it unavailable until the objection is resolved; and "discontinue use of the material" if the district finds it is "harmful to minors."

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 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

[1] *HB 1119: Materials Harmful to Minors*, FLA. SENATE, https://www.flsenate.gov/Session/Bill/2026/1119.

[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").

discretion may not be exercised to deny access to ideas with which officials disagree.[3] As the Court emphasized, public schools must adhere to "established, regular, and facially unbiased procedures for the review of controversial materials."[4]

HB 1119 would compound the First Amendment problems of a statute that a federal court has already declared unconstitutional. Last year, in *Penguin Random House LLC v. Gibson*, the U.S. District Court for the Middle District of Florida held that the law's provision requiring the removal of books that contain content that describes "sexual conduct"—but is not legally obscene—is "overbroad and unconstitutional."[5] In his decision, Judge Carlos Mendoza provided examples of essential works of the literary canon that have been banned in Florida schools such as *On the Road*, *The Color Purple*, and *Slaughterhouse-Five*, and wrote that "none of these books are obscene."[6] Additionally, Judge Mendoza emphasized that "restrictions placed on these books are . . . unreasonable in light of the purpose of school libraries," which is to provide students with access to a wide array of subjects and viewpoints.[7]

To be clear, not every book is appropriate for every student. To that end, the court's ruling correctly reaffirmed that school districts may exclude library books that meet the Supreme Court's definition of obscenity under *Miller v. California*, as adapted for the perspective of minors.[8] This modified version of the obscenity test asks whether the materials "(a) taken as a whole, and under contemporary community standards, appeal to the prurient interest of minors; (b) depict or describe specifically defined sexual conduct in a way that is patently offensive for minors; and (c) taken as a whole, lack serious literary, artistic, political, or scientific value for minors."[9]

But HB 1119 departs from the obscenity standard and conflicts with the First Amendment in two ways. First, the "harmful to minors" definition 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 of the *Miller* test 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.

Again, FIRE recognizes that school districts have a responsibility to assess whether library materials are appropriate for students of different ages. But any such assessment must be carefully crafted to ensure that students are not broadly denied the opportunity to read age-appropriate works that speak to their particular interests. Instead, HB 1119 imposes a broad and inflexible content restriction that will likely result in more removals of books with serious literary and educational value, including classic works long taught in American classrooms.

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[3] *Pico*, 457 U.S. at 870–71.

[4] *Id.* at 874.

[5] 796 F. Supp. 3d 1052, 1081 (M.D. Fla. 2025).

[6] *Id.* at 1080.

[7] *Id.*

[8] *Miller v. California*, 413 U.S. 15, 23-24 (1973).

[9] *Free Speech Coal., Inc. v. Paxton*, 606 U.S. 461, 474 (2025).

While the bill does not categorically prohibit all descriptions of nudity or sexual conduct, it is nonetheless likely to sweep in many educationally suitable books, for several reasons.

First, the bill fails to account for the fact that age-appropriateness is a sliding scale. A book that may be unsuitable for a five-year-old is not necessarily inappropriate for a seventeen-year-old. The U.S. Court of Appeals for the Eleventh Circuit—whose decisions bind Florida school districts—has made clear that "if a reasonable minor, including a seventeen-year-old, would find serious value, the material is not 'harmful to minors'" generally.[10] In other words, older students' access cannot be restricted based on what may be unsuitable for younger children.

But HB 1119 disregards this commonsense principle. It requires districts to "discontinue use of the material" if they determine it is "harmful to minors," without regard to age or grade level. By contrast, another provision requires districts to discontinue use of material that "[d]epicts or describes sexual conduct" *only for* "any grade level or age group for which such use is inappropriate or unsuitable." The contrast is telling: While the bill contemplates age-specific restrictions in one context, it appears to mandate removal across all grade levels for materials deemed "harmful" to any students, even if the material would be appropriate for older students. This requirement means that materials deemed inappropriate for younger students could be removed from the district entirely, potentially depriving older students of access to works suitable for their age and maturity.

Second, by mandating that districts remove books challenged as "harmful to minors" within five days of the objection, even before the challenged material is evaluated, the bill creates a powerful incentive for individuals to object to any book they dislike or consider inappropriate, knowing it will be immediately pulled from circulation for all readers. Because the bill fails to impose a deadline for resolving challenges, a single meritless complaint can keep books of literary, cultural, or historical significance off shelves for extended periods even if the materials are ultimately deemed not harmful. This is not a speculative concern. Under current law, large numbers of library books have been pulled for review in several districts, and even books eventually returned to circulation were often unavailable to students for months or longer.[11]

Third, as mentioned, HB 1119 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.

Fourth, HB 1119 would 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 subjective nature of the bill's "harmful to minors" definition—would heavily pressure districts to remove any books challenged as

[10] *Am. Booksellers v. Webb*, 919 F.2d 1493, 1504-05 (11th Cir. 1990).

[11] Kate Cronin, *Lee, Collier, Charlotte County return majority of challenged books to libraries* (Aug. 12, 2025), WGCU News, https://www.wgcu.org/education/2025-08-12/lee-collier-charlotte-county-return-majority-of-challenged-books-to-libraries.

"harmful to minors," even on a preemptive basis, and even if they do not actually meet the standard for removal.

Again, this concern is by no means speculative. Under the current statute, Florida school districts have removed hundreds of books from libraries, including titles that are by no stretch of the imagination "pornography" and come nowhere close to the legal definition of obscenity. The Florida Department of Education's own report shows that during the last school year, literary classics and widely acclaimed modern works—including *One Hundred Years of Solitude*, *A Clockwork Orange*, *The Human Stain*, *The Kite Runner*, and *Life of Pi*—were removed even from libraries serving students in grades 9–12.[12] If enacted, HB 1119 will only accelerate this trend and further narrow the range of ideas on school library shelves.

In the interest of protecting students' educational opportunities and ensuring Florida's compliance with the First Amendment, FIRE respectfully urges you to reject HB 1119.

Thank you for your time and consideration.

Sincerely,

Aaron Terr
Director of Public Advocacy

Cc: Sen. Ben Albritton, President

[12] *2024-2025 School District Reporting Pursuant to Section 1006.28(2), Florida Statutes*, FLA. DEP'T OF EDUC., https://www.fldoe.org/file/5574/2425-SDRPS-100628-2.pdf.