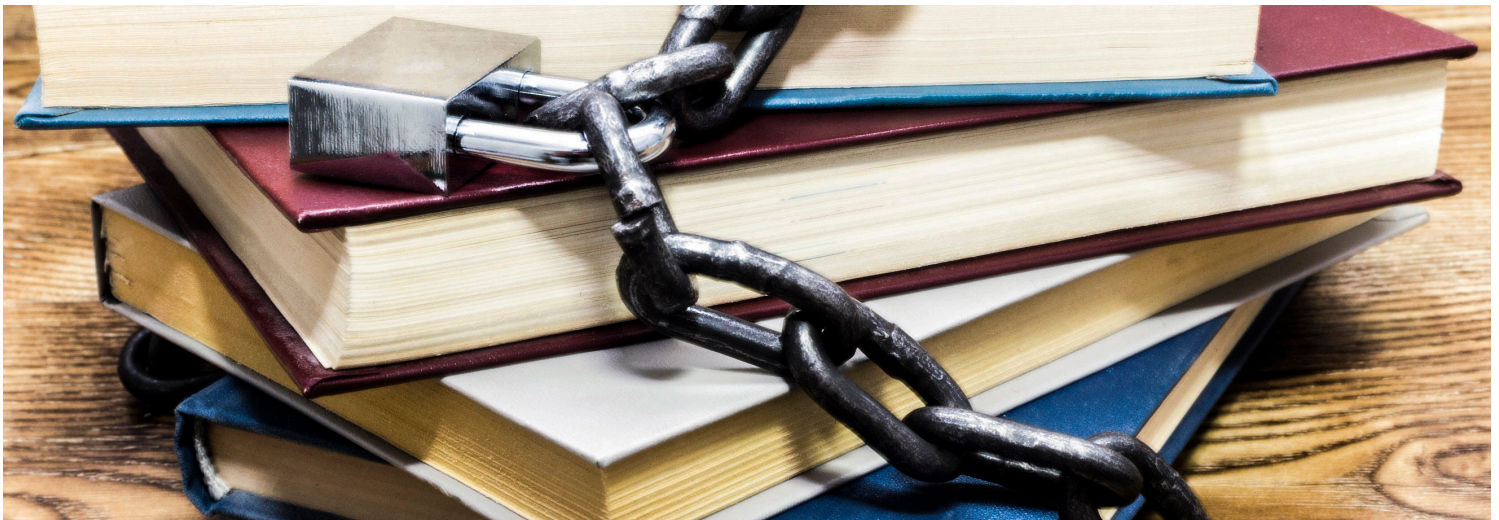


CENSORSHIP NEWS



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CENSORS, CENSORS EVERYWHERE...

The one thing we all seem to be able to agree on is that we live in a polarized time. Unfortunately, another thing a lot of people seem to agree on is that books are dangerous. In response to the public spotlight on systemic racism, school districts and libraries are under increased pressure to remove books that contain stereotypical depictions of characters of color or use historically-accurate racist language. *The Adventures of Huckleberry Finn* and *To Kill A Mockingbird* are joined on the chopping block by picture books from Dr. Seuss, among many others. The book publishing industry faces both internal and external calls to deny publishing contracts to anyone associated with the Trump administration. Meanwhile, conservative lawmakers in several states have introduced legislation to limit what is taught in schools and available in libraries—particularly around topics like race, social justice, and sexuality. Every Republican state senator in Tennessee signed a letter demanding that Tennessee universities prohibit student-athletes from protesting during the national anthem. And since last summer's protests for racial justice, multiple cities and states have attempted to enact new restrictions on protesters.

The temptation to try to silence views one disagrees with, or even abhors, is understandable. But that is why we must remain vigilant in our nonpartisan defense of free speech. Free expression is not just a keystone of democracy. It's a fundamental human right.

LEGISLATIVE PROPOSALS TAKE AIM AT PUBLIC EDUCATION

A slew of state-level legislation has been introduced across the country that aims to exert control over classroom teaching. The bills focus on two major themes: sexuality and social justice and the new perspectives it offers in understanding both the present and history. One bill goes so far as to incentivize parents to pull their children out of public school entirely if they disagree with the curriculum.

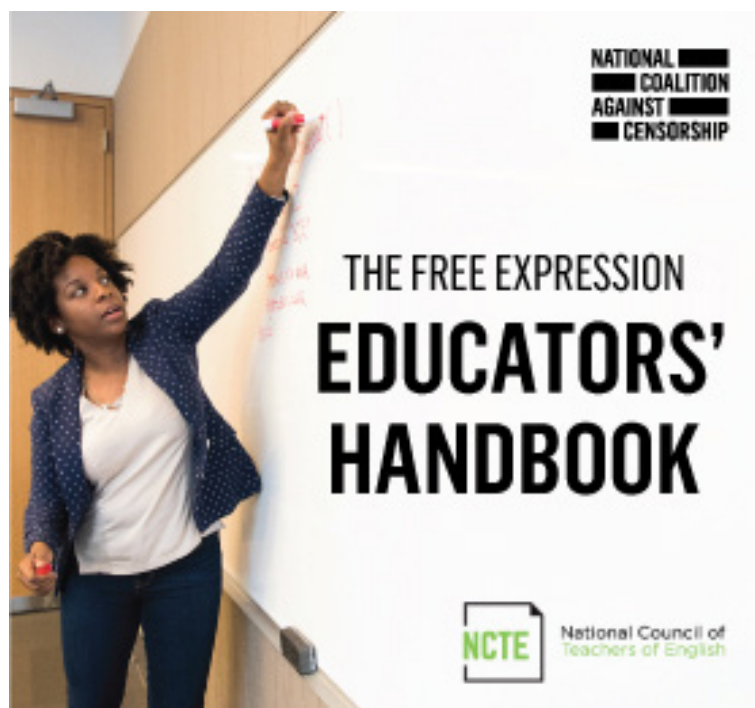
The most common target is The 1619 Project, a curriculum based on a series of New York Times articles which, in its words, “aims to reframe the country’s history by placing the consequences of slavery and the contributions of Black Americans at the very center of the United States’ national narrative.” Bills have been introduced in at least five states to bar schools from teaching the curriculum.

While some historians have taken issue with the project, these bills are blatant attempts to silence perspectives with which the bills’ authors disagree. Other bills seek to bar teaching anything which “promotes division between, resentment of, or social justice for a race, gender, political affiliation, social class; or particular class of people.” Although a state legislature can legitimately attempt to reduce divisions among groups of people, it cannot legitimately ban the promotion of “social justice,”

or any other criticism of current social and political structures without raising serious First Amendment concerns. The similarity in wording of many of these bills suggest that they originated from a common interest group.

The other target is a perennial favorite: sex and sexuality. These bills attempt to criminalize teachers and librarians for exposing students to books deemed “obscene,” a tactic we’ve seen before, most recently in 2019 bill defeated in Maine. By definition, a work with serious literary, artistic, political or scientific value cannot be legally “obscene.” Since instructional materials are chosen for precisely those values, the true motive of this type of legislation is to intimidate teachers and librarians into avoiding books that contain any references to sexuality. Such laws are, indeed, likely to foster a culture of fear and self-censorship, making teachers’ jobs even more difficult and severely limiting the breadth of literature and inquiry available to students.

Some of the introduced legislation has already died in committee. Some will be defeated by the full legislature. But whether any of this year’s bills pass or not, they will likely be replaced by others, if not this year, then next. Updates on specific bills are available at ncac.org/news/2021-legislation-teaching.



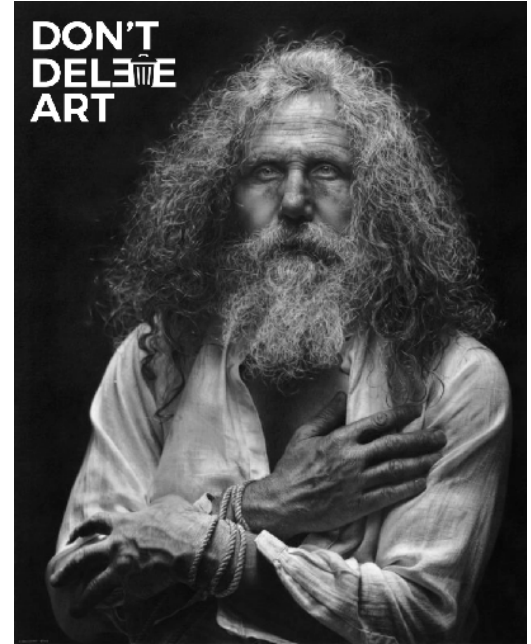
NCAC Partners with English Teachers on New Handbook for Educators Facing Book Challenges

NCAC’s new Educators Handbook contains practical tools and advice for managing book challenges and censorship controversies in schools and school libraries. The handbook, created in collaboration with the National Council of Teachers of English (NCTE), offers guidance for teachers, librarians, and school administrators in developing inclusive and viewpoint-neutral instructional material policies, including sample review policies. The resource also provides strategies and advice for educators navigating book challenges in classrooms and libraries. In addition to this handbook, NCAC and NCTE are offering a series of webinars for teachers. NCAC also offers confidential guidance to educators.

IN THE NEWS: SOCIAL MEDIA CENSORSHIP

NCAC Leads Don't Delete Art Coalition Battling Social Media Censorship

An international coalition of artists and free expression organizations, lead by NCAC, has created the first comprehensive resource for artists to avoid and combat censorship on social media. Don't Delete Art (online at dontdelete.art) began as an advocacy campaign and virtual gallery showcasing artwork which has been banned or restricted online. In March 2021, Don't Delete Art launched a new guide that combines advice from Facebook and Instagram staff, with insights from arts advocates and artists about how to comply with the vague, and often capriciously-applied, rules that govern what art is allowed on social media. The resource draws from the hard-earned wisdom of artists who have weathered countless post removals, shadow bans and account deletions. It includes specific advice for avoiding and appealing removals. Don't Delete Art is calling on social media companies to commit to consistent, accurate enforcement and to adopt a set of principles governing how they handle art on their platforms. Until those principles are adopted, though, the resource center lets artists help artists navigate the tumultuous



Facebook's Oversight Board Pushes for Stronger Free Expression Protections

Several recent rulings from Facebook's Oversight Board push Facebook to show greater respect for principles of free expression in its content moderation decisions. The Oversight Board is an independent body that evaluates Facebook's content review decisions. It's been colloquially described as Facebook's "Supreme Court."

In recent case decisions, the Board encouraged Facebook to protect free expression within the confines of its Community Standards, rather than taking antagonistic or confrontational stances, and established precedents for providing users with detailed reasoning behind its decisions, a core demand of NCAC's advocacy with social media platforms. One crucial recommendation to emerge from these cases calls on Facebook to clarify the language in its Community Standards in order to ensure transparency and increase accessibility. NCAC has long criticized the use of subjective terms in these policies, including words like "inappropriate" or "offensive."

The Board overturned Facebook's decision to remove an Instagram post which included eight images, five of which depicted visible and uncovered anatomically-female nipples with text overlays explaining that the pictures were posted to raise awareness of signs of breast cancer. Instagram's female nipple ban has an exception for raising awareness for medical reasons. Nevertheless, an automated system removed the post. The case is notable for several reasons, including a recommendation for human review in the appeals of content removed by automated systems due to nudity. The case analysis also noted that "the lack of proper human oversight raises human rights concerns" and reinforced that, because the policy treats male and female bodies differently, inaccurate automated content decisions "disproportionately affects women's freedom of expression." Although we appreciate that this decision shows some progress in line with the goals of our campaigns We the Nipple and Don't Delete Art, NCAC continues to advocate for a less restriction on artistic nudity and a more inclusive approach to images of bodies. A more detailed analysis of the Oversight Board decisions is available at NCAC.org.

Want more news?

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WHEN CAN SPEECH BE PUNISHED?

AN OVERVIEW OF UNPROTECTED SPEECH

Free speech advocates have consistently defended the right of individuals to engage in offensive speech, including speech which many observers might deem “hate speech.” In the wake of the riot on Capitol Hill, questions arose about the line between protected, even if hateful, speech and incitement to violence, which is not protected.

Offensive Speech

There is no “hate speech” exception to the First Amendment; hence, there is no legal definition of what constitutes “hate speech” in the United States. The Supreme Court has repeatedly upheld that “the public expression of ideas may not be prohibited merely because the ideas are themselves offensive to some of their hearers.” In the US, punishing opinion is, and should be, forbidden. No person or group that happens to hold power at any given time should be permitted to determine what others are allowed to think.

When Is Offensive Speech Unprotected?

Certain types of speech that are often conflated with “hate speech” go beyond mere expression of opinion and can sometimes be unprotected.

Incitement to violence, including incitement to racial violence, is not protected by the First Amendment. This is a very narrow exception and does not include mere advocacy of violence. Three elements must be met: (1) the speaker must intend to cause violence, (2) the speaker must intend that the violence occur immediately, and (3) the violence must be likely to occur immediately.

Harassment goes beyond mere expression of opinion and targets a particular person for harm. The threshold for speech rising to this legal definition is generally quite high. Anti-harassment laws often refer to speech directed at a particular person, based on the victim’s race, religion, or other group characteristic, and which has the purpose or effect of substantially interfering with, for example, a student’s educational performance or creating an intimidating, hostile or offensive environment.

These exceptions to First Amendment protections are very narrow, but they are well established. Supporters of free expression—including protest, writing and art—can and should support the right to express hateful opinions, but can draw a clear line that no one has a right to incite a riot or to harass another person.

