

CENSORSHIP NEWS



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THE NEW CULTURE WAR

Many of today's parents don't recognize a lot of the titles on their children's school reading lists. Educators have spent years working to diversify curricula to engage young readers with books that better reflect their own lives; to address changing discussions of gender identity, race, ethnicity and culture; and to improve access to a wider range of stories and voices. And for just as many years, parents have objected to those changes. NCAC has been doing this work for more than 45 years. School book controversies are nothing new. But the educational debates currently playing out in school board meetings and state legislatures across the country are nothing short of a culture war.

Emboldened by legislation aimed at restricting teaching of ideas that have been broadly labeled (almost always incorrectly) as Critical Race Theory (or CRT), groups are attempting to recall school board members at double the average rate of the past 14 years. Critics are targeting entire curricula, and far too frequently school districts are removing titles to try to avoid controversy.

This is a direct attack on students' freedom to read and learn. Denying students easy access to information discourages them from engaging with the complex ideas that build critical thinking skills. We owe it to the next generation of students—our future citizens—to fiercely protect one of democracy society's pillars—free and open inquiry in schools.

IS SOCIAL MEDIA THE NEW TOWN SQUARE? DIGITAL CENSORSHIP MAKES WAVES



Instagram Appears to Allow Female Nudity, But Just For a High-Profile Film

In either a promising shift for artists everywhere or a reinforcement of the inconsistency of its rules, Instagram reversed its decision to remove a promotional poster for Pedro Almodóvar's new film starring Penelope Cruz, *Madres Paralelas*, which shows an image of a lactating nipple.

The image was initially removed in line with Instagram's published rules. After a public outcry, the image was restored with an apology from Instagram. "We do...make exceptions to allow nudity in certain circumstances, which includes when there's clear artistic context," it said. However, other artists who use the platform have not had similar luck.

Instagram and its algorithms have long confused and dismayed artists whose work depicts the human body. Instagram bans nudity, including female nipples, in photography (including artistic photography) and its algorithms frequently struggle to distinguish between photography and photorealistic painting. In addition to constraining artistic expression, Instagram's process for appealing content removal decisions can be onerous and ineffective for artists who lack a contact in the company.

In response to the complex, shifting, and often opaque terms of services, Don't Delete Art, a coalition led by NCAC, recently hosted a webinar, "How to Avoid Being Censored on Instagram," offering guidance to artists struggling with social media censorship.

Because most artists are not Pedro Almodóvar or Penelope Cruz, the context of their art is not considered when their photographic content is censored. NCAC calls on Instagram to apply its "exceptions to allow nudity in certain circumstances" to all artists, no matter their level of fame.

In the Courts: SCOTUS Rules on Off-Campus Student Speech in Mahanoy

In a much-anticipated decision, the Supreme Court ruled 8-1 in *Mahanoy Area School District v. B. L.* that a Pennsylvania public high school violated a student's First Amendment rights when it suspended her for off-campus speech. While this is a win for student speech rights, the Court also held that schools could, in some circumstances, be permitted to regulate students' speech off campus.

Lower courts have struggled with whether, and to what extent, the so-called "Tinker standard" — i.e., the ability of schools to penalize student speech that threatens to "substantially disrupt" the school — applies to online speech that takes place off campus. The *Mahanoy* case involved a student who insulted the school and cheerleading team on Snapchat and was subsequently removed from the cheerleading team as punishment.

The Supreme Court decision made clear that schools must satisfy a much higher standard when they seek to punish off-campus speech than when they seek to punish speech that takes place on campus. The Court also explicitly stated that "[w]hen it comes to political or religious speech that occurs outside school or a school program or activity, the school will have a heavy burden to justify intervention."

The Court's suggestion that schools have an affirmative duty to protect unpopular speech may prove to be the most important part of the decision. The Court did not have anything to say about the shifting definitions of on- and off-campus speech in the digital age. The decision is a victory for students' First Amendment rights, but leaves some of the thorniest issues of off-campus speech to be determined by future cases.

Learn more about the movement for online artistic freedom at www.dontdelete.art

MCCARTHYISM ON DISPLAY IN FLORIDA

In July 2021, echoing the rhetoric of Senator Joseph McCarthy in the 1950s and in flagrant disregard of fundamental constitutional principles, Coral Gables Mayor Vince Lago urged the city's commissioners to condition city funding for Illuminate Coral Gables, a public art show, on the exclusion of two of the participating artists, who he described as "Communists." (One was born in China and the other in Cuba.) In order to protect the integrity of the work and reject such a blatant act of censorship, the chief curator resigned. As a result, the whole 2022 edition of the show was cancelled.

NCAC led a group of over 40 international artists, curators and arts professionals, along with a dozen advocacy organizations, in condemning this blatant act of censorship.



Fireflies, Cai Guo-Qiang, planned as part of Illuminate Coral Gables / Photo by Jeff Fusco Photography, courtesy Association for Public Art 2017

PENNSYLVANIA STUDENTS SUCCESSFULLY DEFEND THEIR RIGHT TO READ

Students in York, Pennsylvania, won a victory for free speech this fall when their protests convinced the Central York School District to reverse a ban on a list of anti-racism texts and materials by and about people of color. In November 2020, the school board responded to parent complaints by banning the list of supplementary materials circulated to help contextualize the national conversation around racism. The extensive list included both fiction and nonfiction books, as well as articles,

videos and picture books. The student protests attracted national media attention, which ultimately led to the board's reversal.

NCAC urged the school board to avoid future controversies by creating clear policies and procedures regarding instructional material selection and improving the procedure for reviewing challenged materials that privilege keeping materials in classrooms over the personal opinions of complainants.

WHAT'S HAPPENING IN LEANDER, TEXAS?

In 2020, the Leander Independent School District in Texas took steps to diversify its curriculum by creating high school "book clubs" that give students the freedom to choose titles from a list of 120 books that are either written by diverse authors or address racial, ethnic, LGBTQ and disability issues.

Although the district had provided a period of public review before approving the new reading lists, it agreed

to reconsider the list in response to parent complaints. It also created advisory committees that were open to all and ranged in size from 49 to 185 members. So far, the district has removed 13 books from the list and is considering the removal of six more. However, some parents remain unsatisfied and have urged the local police department to take action. NCAC and its partner organizations are closely monitoring the situation.

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NEW YORK CITY ELEMENTARY SCHOOL CENSORS STUDENT MURAL



Student mural at P.S. 295 in Brooklyn, New York / Image courtesy of www.investigatingchoicetime.com

In Brooklyn, New York, a mural created by several fifth graders recently ignited a political firestorm when a school administrator complained that it was “too divisive” and demanded its removal.

Students at P.S. 295 in the Park Slope neighborhood were selected to work with a non-profit organization, Groundswell, to produce a mural for display in the school. Shortly after the works were placed on public display, the principal of a middle school that shares a building with P.S. 295 (a common practice in New York City), reportedly demanded that P.S. 295’s principal remove the work because it included, among other things, a “Black Trans Lives Matter” sign and a quote from author Audre Lorde that stated, “Your Silence Will Not Protect You.” The mural was taken down.

Although the school later apologized to the students, NCAC has urged the New York City Department of Education to take steps to ensure that such an act of censorship does not happen again, including the creation of guidelines governing the display of artwork in school spaces.

This silencing of student expression, based purely on its viewpoint, is inconsistent with freedom of expression and may violate the public school’s First Amendment obligations. Mere disagreement with the students’ speech is not enough to meet the standard set more than fifty years ago in the *Tinker* decision, which holds that student speech can only be silenced if it threatens to significantly disrupt school activities.

No one was well served by this violation of expressive freedom, certainly not the students at P.S.295, who have been illegitimately deprived of the opportunity to view and evaluate artistic work for themselves. It also sends a terrible message that students’ passionately held views and months of work on the piece could be erased on the whim of school administrators. The action opens the door to suppressing speech in an arbitrary fashion, leaving decisions to the subjective opinions of school officials. It also goes against New York State Culturally Responsive Sustaining Education Framework to which the school subscribes.