

NATIONAL COALITION AGAINST CENSORSHIP

YOUTH FREE EXPRESSION

September 2, 2025

School Board
Duval County Public Schools
1701 Prudential Drive
Jacksonville, FL 32207

Dear Members of the School Board,

The National Coalition Against Censorship is an alliance of national nonprofit groups dedicated to protecting freedom of expression, including the rights of K-12 students, teachers, and staff. We are writing with concern about proposed revisions to the School Board Manual's policy on challenged materials.

It is our understanding that the proposed changes to Policy 4:30 include both the implementation of book removal requirements pursuant to Florida law HB 1069 and the establishment of a new Material Review Committee. We are concerned about both of these potential revisions, and urge you not to adopt either proposed change.

Challenged Materials Policy

Firstly, the proposed revisions would require that material objected to "on the basis of s. 1006.28(a)(2)(B) (I) or (II), F.S., i.e., 'pornography' (s. 847.012, F.S.) or 'sexual conduct' (s. 847.001(19), F.S.) ... must be made unavailable to students at that school within 5 school days and until the objection is resolved." This draft language echoes state law HB 1069, which requires book removals pending adjudication of whether the challenged material contains sexual content.¹

The U.S. District Court for the Middle District of Florida recently held that the provision of HB 1069 requiring the removal of material challenged for "describ[ing] sexual conduct" is "overbroad and unconstitutional."² As you likely know, Duval County sits within Florida's Middle District and is bound by the decisions of its federal court. Therefore, revising your policies to require the temporary removal of a challenged book describing sexual conduct after the federal court held this provision unconstitutional would put the County at risk of violating the First Amendment.

In its decision, the Court made clear that school districts may choose to omit from their library shelves books which are obscene under the Supreme Court's test in *Miller v. California*, modified to consider the perspective of minors.³ Importantly, this standard protects books from removal for the mere mention of sex. Rather, the First Amendment requires that the value of the challenged material be assessed as a whole – including overall content and context. This requirement ensures that

¹ Fla. Stat. § 1006.28(2)(a)2.b.

² *Penguin Random House LLC v. Gibson*, Case No. 6:24-cv-1573-CEM-RMN at 48 (M.D. Fla. 2025).

³ *Miller v. California*, 413 U.S. 15, 23-24; *Free Speech Coal., Inc. v. Paxton*, 145 S. Ct. 2291, 2304 (2025) (adopting a modified version of the *Miller v. California* obscenity test which assesses 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").

schools do “not remove books from library shelves simply because they dislike the ideas contained in those books,”⁴ which violates the First Amendment.

Review Committee Structure

Secondly, review committees play an important role in adjudicating book challenges, including making an assessment of a work’s educational value. Recognizing that book challenges are often highly contentious and emotional, it is imperative that decisions about the educational value of books be made with input from all stakeholders to ensure the challenge procedure operates in an objective, nonpolitical manner that benefits the school community as a whole.

Currently, book challenges are evaluated by the Chief Academic Officer, Academic Services, or a designee and a diverse committee appointed by the Superintendent or their designee.⁵ The committee must include at least one instructional staff member, one certified media specialist, one lay person, and one parent who has access to the challenged material. The proposed policy changes would shift committee appointment power to the School Board and increase the presence of parent and community members while removing the requirement of membership for instructional staff members and negating the voting power of the certified media specialist.

We are concerned that shifting the power of committee appointments to the School Board and amending your current robust policy for review committees will fail to ensure a representative sampling of the school community, including experts on age-appropriate curricular value. Should you amend your policy, we urge you to ensure that the review committee continues to include the views of all stakeholders. In addition to better serving the Duval community, a diverse committee which will assess the challenged book as a whole will help defend the district against claims of First Amendment viewpoint-based discrimination in book removals.

As the School Board considers these proposed changes today, we urge its members not to rush through a policy that is currently unconstitutional under the very federal court where the district is located. Adopting these changes would be a mistake in terms of both substance and timing.

I am attaching a copy of our guidelines for administrators, which includes sample book challenge procedures from school districts across the country. We believe that a strong policy is in the best interest of everyone in the district. Effective book challenge procedures ensure that the district protects the free expression rights of its students and staff, and help avoid constitutional liability.

Thank you for your attention and consideration to this matter.

Sincerely,



Christine Emeran
Youth Free Expression Program Director
National Coalition Against Censorship

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⁴ *Board of Education v. Pico*, 457 U.S. 853, 872 (1982).

⁵ *Duval County School Board Policy Manual*, Ch. 4, § 30(II)(A) (Jan. 7, 2025).