

Guidance to School Districts: Addressing Challenged Materials in K-12 Education

The Oregon Department of Education (ODE) fosters excellence for every learner and recognizes that academic success depends on a safe school environment that protects the rights of all students. As an organization, we value the freedoms protected under the First Amendment to the U.S. Constitution. In a school setting, the freedom of speech and expression is applied to academic freedom, including the freedom to read a diverse set of materials that provide support and enrichment for the general educational and program goals. The [Oregon School Boards Association \(OSBA\)](#) created a guidance policy around [freedom of expression](#).

We recognize that one of the most important responsibilities of district and school staff is to select instructional materials that are grade-level appropriate, aligned to standards and promote diversity of thought and critical thinking among students. Schools and districts follow an [instructional materials selection procedure](#) describing how district-adopted, supplemental, teacher-selected and library materials are vetted and chosen. Teachers facilitate discussion and engagement using these texts and other materials that encourage students to develop a deep understanding of the world's complexities, thus preparing them for success and ensuring college and career readiness.

Each year, teachers, librarians and schools across the country face [challenges](#) to books and other instructional materials for a variety of reasons: race, religion, sexuality, sexual orientation, gender identity, mental health, suicide, violence and others. It is important for districts to offer [professional guidelines for the selection of reading materials](#). In response, the National Education Association (NEA) asserts, "Quality teaching depends on the freedom to select materials and techniques. Teachers and librarians/media specialists must have the right to select instructional/library materials without censorship or legislative interference." Likewise, the Association for Supervision and Curriculum Development (ASCD) cautions that "[e]ducators' primary allegiance must be to the integrity of knowledge and the welfare of students...materials must never be removed or restricted for the purpose of suppressing ideas."

ODE affirms a parent's right to determine content that is not appropriate for their child and to [exempt their child](#) from those activities. However, a parent's judgment or preference may not be extended to other students or their families. It is the role of the schools, as government bodies, to ensure that all students have [equal access and opportunity](#) to consume educational materials. Censorship in the form of challenges to books or other instructional materials seeks to restrict knowledge available to students based on individual sensitivities and concerns. ODE strives to ensure that all students graduate college and career ready, having been exposed to a wide range of materials and schools of thought. [OAR 581-021-0045](#), entitled *Discrimination Prohibited*, is designed to protect all students and keep their learning environment free from discrimination based on age, disability, national origin, race, color, marital status, religion, sex, or sexual orientation. In a 1982 U.S. Supreme Court case, *Board of Education, Island Trees*

Union Free School District v. Pico, the Court held that school officials cannot remove books from a school library simply because they find the ideas in the book objectionable. Later, in *Hazelwood School District v. Kuhlmeier* (1988), the Court ruled that any regulation of student free speech needs to be “reasonably related to legitimate pedagogical concerns.” According to the Court, the First Amendment protects the rights of students to receive information and ideas.

The U.S. Constitution restricts what a government may do; therefore, public schools, public school libraries and school officials are bound by obligations to uphold and protect the rights guaranteed to all students under the Constitution. A democracy relies on an informed citizenry capable of self-governance. According to the Supreme Court in *Keyishian v. Board of Education* (1967), “The Nation’s future depends on leaders trained through wide exposure to that robust exchange of ideas which discovers truth out of a multitude of tongues, [rather] than through any kind of authoritative selection.” Nevertheless, the Supreme Court has repeatedly upheld school boards’ authority to prescribe curriculum. School boards must have clearly stated policies regarding how materials are selected for use in an educational setting. Districts and schools must ensure that instructional materials follow school district policy and procedures, have a clear educational purpose communicated to the parents and school leaders, and are appropriate for the ability levels, learning styles and emotional and social development of the students for whom the materials are selected.

Recommended Practices

School Districts:

- Define an educational philosophy that serves the needs of all students and promotes equity.
- Create an [instructional and library materials policy](#) that at a minimum contains clear statements about the following:
 - School’s anti-discrimination policy.
 - Objections not providing legal grounds for removal or restriction of materials.
 - The importance of exposing students to a wide variety of material.
 - [Academic freedom](#).
 - Parents [opting their students out](#) of using specific materials they deem objectionable.
 - Create a clear alternative for that individual student.
 - The alternative should address the same academic standards and have the same level of rigor.
- Create a formal and clear [instructional and library materials reconsideration process](#) that at a minimum contains the following requirements:
 - [Complaints must be made in writing](#).
 - Complainants must identify themselves by name and state their interest in the material (i.e., concerned parent, student, faculty member).
 - Complainants must have read (or seen, in the case of visual media) the entire work to which they object.

- Complaints must be specific about the reason for the objection to the material and clear about a desired outcome or specific remedy.
- Complaints in and of themselves are not cause for disciplining teachers or librarians.
- A clear timeline for a school or district response to a formal complaint that includes time for all steps of the reconsideration process.
- Establishes a broad group of stakeholders to review complaints that challenge instructional and library materials and to provide guidance in determining whether the complaint has merit. The [Equity Lens](#) may be a resource to determine whose voices are represented, identify voices that may be missing, and guide decisions to ensure equity for all students.
- Follow the instructional and library materials reconsideration policy and process with fidelity. While a complaint is being investigated, keep the material available.
- Consider that educators' and librarians' choices over instructional and library materials are influenced by content standards, graduation requirements and the desire to connect students to materials with which they can relate and engage.

Administrators:

- Understand and promote district policies and procedures regarding reconsideration of instructional and library materials.
- Include equity personnel, Title IX, and/or Section 504 Coordinators in discussions about procedures and about challenges that are related to school anti-discrimination policies.
- Work with your teaching staff and school librarians to develop an understanding about how challenges to instructional and library materials should be handled.
- If instructional or library materials are challenged, principals should be prepared to communicate about why those materials were selected.
- Provide materials that are representative of diverse cultures, including representations of religious, ethnic, cultural and gender identity groups.
- Be aware of personal biases and preferences when making decisions about instructional and library materials.

Teachers:

- Understand district policies and procedures regarding reconsideration of instructional and library materials. Know where to report a materials challenge, should the issue arise.
- When selecting instructional and classroom library materials, have a clear connection to established educational objectives and your content standards. Be able to clearly articulate that connection to students, parents and administrators.
- Provide [materials that are representative of diverse cultures](#), including representations of religious, ethnic, cultural and gender identity groups.
- Be aware of personal biases and preferences when making decisions about instructional and library materials.

- Engage with parents and the community in conversations about the importance of studying a wide range of materials and viewpoints that challenge students to be critical thinkers and consumers of information.
- Be willing to meet with parents or students who have concerns and talk about the issue in an attempt to resolve any conflict before an official complaint is filed. If the concern is related to a protected class issue (i.e. race/gender/religion/sexual orientation) in the materials, the teacher should consult the building administrator and can also seek guidance from the ODE civil rights office.
- No decision to remove materials can happen without formally following this procedure.

School Librarians:

- Understand district policies and procedures regarding reconsideration of instructional and library materials. Know where to report a materials challenge should the issue arise.
- Be familiar with the [Oregon Association of School Libraries' intellectual freedom policy](#) and the [American Library Association's Library Bill of Rights](#) and be able to articulate that information to parents, students, teachers and administrators.
- Continue to provide materials that will enrich and support the school's curricula and the district's goals.
- Have a current selection policy that is clearly written and available to all to see how materials are added to a library's collection.
- Provide materials that are representative of diverse cultures, including representations of religious, ethnic, cultural and gender identity groups.
- Be aware of personal biases and preferences when making decisions about instructional and library materials.

Resources

[Banned Books Week](#)

["Missing From the Shelf: Book Challenges and Lack of Diversity in Children's Literature."](#) 2016 PEN America.

National Coalition Against Censorship, ["The First Amendment in Schools: A Resource Guide"](#)

Teaching Tolerance, ["Critical Practices for Anti-bias Education"](#)

["The Students Right to Read."](#) (April 30, 2009) NCTE Executive Committee.

Policies

American Library Association, ["How to Respond to Challenges and Concerns about Library Resources"](#)

American Library Association, ["Selection & Reconsideration Policy Toolkit for Public, School, and Academic Libraries"](#)

Beaverton School District, [Instructional Materials Selection policy, regulations and supporting documents](#) (includes a reconsideration form and a conversation guide for principals).

NCTE Executive Committee, "[Guidelines for Selection of Materials in English Language Arts Programs](#)" (2014)

Intellectual Freedom

Education World, "[How to Handle Censorship](#)"

[NCTE Intellectual Freedom Center](#)

Oregon Association of School Libraries, Intellectual Freedom Committee, "[Controversial Materials and School Libraries](#)"

[Oregon Intellectual Freedom Clearinghouse](#)

Contacts for Questions or Comments

[Karin Moscon](#), Civil Rights Education Specialist, Oregon Department of Education

[Emily Nazarov](#), Government and Legal Affairs Manager, Oregon Department of Education

[Marc Siegel](#), Communications Director, Oregon Department of Education