



Students Deserve Access to Diverse Curricula that Supports and Sustains All Aspects of their Identity

IDRA Testimony Against Senate Bill 226, Submitted to the Georgia House Judiciary Non-Civil Sub-Committee on January 25, 2022

Dear Chairman Burchette and Honorable Members of the Committee:

My name is Terrence Wilson, J.D., and I am the Regional Policy and Community Engagement Director for the Intercultural Development Research Association, an independent, non-partisan, education non-profit committed to achieving equal educational opportunity for every child through strong public schools that prepare all students to access and succeed in college. IDRA opposes SB 226 because of the threat it poses to the access and use of curricula that affirms the identities of all students, particularly students that identify as part of the LGBTQIA+ community.

While the bill drafters' goal of protecting students is laudable, the provisions contained within Senate Bill 226 may in actuality do the opposite. In fact, the operation of this bill threatens students' access to materials that may be covered and protected by the First Amendment of the U.S. Constitution. While the bill's language tracks the standard for obscenity articulated by the U.S. Supreme Court in *Roth v. United States* (354 U.S. 476, 1957), it would place the responsibility for interpretation not with judges or other trained legal professionals, but rather with local school principals or their designees. Without the proper evidentiary protections and legal processes available in court proceedings, these decisions will largely be based on the subjective determinations of these officials. Thus, it is foreseeable that these officials will prohibit information that would likely be protected, and the harm of not having access to these materials would be felt by students.

We ask that the committee remember the words of the Supreme Court written in *Erznoznik v. Jacksonville*, that says, "Minors are entitled to a significant measure of First Amendment protection, and only in relatively narrow and well-defined circumstances may government bar public dissemination of protected materials to them"(442 .S. 205, 212-213, 1975). It further states, "Speech that is neither obscene as to youths nor subject to some other legitimate proscription cannot be suppressed solely to protect the young from ideas or images that a legislative body thinks unsuitable for them" (*Erznoznik, supra*, at 213-214). Thus, legislators should rethink the wisdom of creating this system that will likely lead to protected content being restricted.

Beyond legal considerations, we believe that this bill is likely redundant based on the current provisions outlined in Georgia Rules and Regulations for Instructional Media/Resources (Ga. Rule 160-4-4-.01), Instructional Materials Advisory Committee (Ga. Rule 160-4-4-.20), and Instructional Materials Selection and Recommendation (Ga. Rule 160-4-4-.10). These provisions value local control and include parents as eligible parts of the process. Likewise, the current provisions value the expertise of our educators, librarians, and media specialists who are trained to choose appropriate materials for young people to access.

Finally, we are concerned that, under the current processes, this measure will inappropriately limit material that covers topics that explain and address themes from individuals with marginalized identities, including racial and ethnic minorities, LGBTQIA+ individuals, and religious minorities. This concern has been borne out by several other states that have enacted provisions similar to SB 226 and have subsequently sought to remove books that covered topics from these perspectives (NCAC, 2021).

Recommendation

For the aforementioned reasons, we ask that this bill be withdrawn and that legislators enact measures to bolster community-based approaches to ensuring that the curricula and materials that students can access affirms all of their identities.

IDRA is available for any questions or further resources that we can provide. Thank you for your consideration. For more information, please contact Terrence Wilson, J.D., Regional Policy and Community Engagement Director, at Terrence.wilson@idra.org.

Resources

Erznoznik v. Jacksonville, 442 .S. 205 (1975).

Instructional Materials Advisory Committee. Georgia Rules and Regulations § 160-4-4.20.

Instructional Materials Selection and Recommendation. Georgia Rules and Regulations § 160-4-4.10.

Media Programs. Georgia Rules and Regulations § 160-4-4.01.

National Coalition Against Censorship. (April 8, 2021). [Anti-LGBTW Book Legislation Proceeds in Multiple States](#), web page. See also [NCAC News Updates](#).

Roth v. United States, 354 U.S. 476 (1957).

IDRA is an independent, non-profit organization led by Celina Moreno, J.D. Our mission is to achieve equal educational opportunity for every child through strong public schools that prepare all students to access and succeed in college. IDRA strengthens and transforms public education by providing dynamic training; useful research, evaluation, and frameworks for action; timely policy analyses; and innovative materials and programs.