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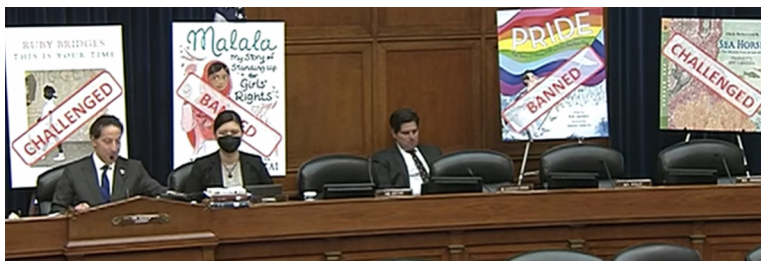


April 7, 2022

Students Deserve Access to Books and Curricula that Reflect Their Experiences

IDRA Statement on U.S. House Hearing "Free Speech Under Attack: Book Bans & Academic Censorship"

Today, the U.S. House Committee on Oversight and Reform's subcommittee on Civil Rights and Civil Liberties held a hearing entitled "Free Speech Under Attack: Book Bans and Academic Censorship." The hearing focused on how students and educators are impacted by the recent rash of bans in states and school districts that specifically target books by and about people of color, people in the LGBTQ+ community and other marginalized groups.¹



The three high school student witnesses in the hearing – Christina Ellis, Shreya Mehta, and Olivia Pituch – clearly explained the impact of limiting access to books and other materials in their libraries and classrooms. They noted that censorship of books by and about diverse

communities exacerbates the routine bullying and harassment of students of color, LGBTQ+ students and others in their schools.

Other witnesses, including a teacher, librarian and parent, shared that books can serve as a lifeline for students, providing them with access to information and stories about people with shared identities and experiences. Civil rights icon Ms. Ruby Bridges expressed surprise that her book about her experience integrating her elementary school at age six would be targeted as “divisive” when it was written to bring people together.²

“The witnesses shared experiences that are faced by far too many students and their families, who continue to endure discrimination and harassment in their schools,” said Celina Moreno, J.D., IDRA President and CEO. “These students have fought bravely for more inclusive books and instruction that reflect their communities and lives, and IDRA is proud to support their courageous efforts.”

Book bans – the focus of today’s hearing – are only one piece of a large-scale attack on speech and ideas in public schools.³ Lawmakers across the nation are proposing policies censoring what students can learn in their classrooms. Students should not feel targeted because of any aspect of their identity, including their race, ethnicity, gender, religion or gender identity.

Federal and state actors and schools must protect students, not create or implement policies that compromise their safety or make it difficult for them to learn and succeed in the classroom. These obligations are rooted in our most fundamental civil rights protections and made clear through landmark federal laws, court decisions and policy documents.

IDRA urges policymakers and schools to consider the following when confronted with classroom censorship policies and book bans that target diverse perspectives.

1. States and schools do not have unfettered discretion to censor curriculum for students.⁴

The U.S. Constitution “does not permit the official suppression of ideas” based upon “narrowly partisan or political” interests or a desire to deny access to ideas with which school officials merely disagree.⁵ And the First Amendment protects opportunities for students and educators to engage in dialogue and draw their own conclusions about why racial and other inequalities persist despite the promise of individual equality under the law.⁶

The federal government has a role to play in enforcing these constitutional protections in the face of anti-democratic and discriminatory efforts to censor such engagement through, for example, issuing guidance affirming long-standing constitutional principles, enforcing equity mandates in federal law, and defending the civil rights of students through compliance reviews and, in some cases, litigation.

2. Censorship policies likely run afoul of foundational civil rights laws.

Censorship policies do not protect against discrimination in schools.⁷ Instead, they attempt to ban speech and resources that can help counteract racism and discrimination.⁸ Courts have found that governmental efforts to censor authentic and truthful discussions about race and discrimination violate the Fourteenth Amendment, particularly where the impact of such efforts disproportionately impacts people of color.⁹

Federal law also prohibits states and schools from taking action that disproportionately impacts students based on their racial, ethnic and gender identities. Because book bans and censorship policies intentionally and specifically take aim at literature and concepts that center the experiences and ideas of Black and LGBTQ+ communities, they likely run afoul of our nation’s civil rights protections.

3. Policies that falsely equate equity with discrimination harm children.

There is no basis to characterize equity and inclusion measures in schools as violating the Equal Protection Clause or any civil rights law implementing Fourteenth Amendment protections. On the contrary, laws that chill instruction, discussion, training, activities or speech in schools erase

the lived reality, history and experiences of historically-marginalized students.¹⁰ They also undermine legitimate and necessary efforts to create inclusive and culturally sustaining schools.¹¹

It is critical to emphatically rebut intentional efforts to spread disinformation about equity interventions in schools. Proponents of book bans and censorship laws contend that no individual should feel discomfort, guilt, or psychological distress because of their race. Yet, officials who limit discussions of race, gender and discrimination will likely do just that for students of color and LGBTQ+ students. Allowing students and educators to engage freely and authentically to question why racial inequalities persist, despite the promise of individual equality under the law, is a necessary aspect of a healthy school environment for all students.

We urge federal lawmakers to honor the students' testimony heard today and provide a robust federal response to book bans, classroom censorship and related attacks. We implore the adults with the power to make change to support the work and follow the lead of young people, like those from the [Georgia Youth Justice Coalition](#), the [DEEP Center](#), the [Kentucky Student Voice Team](#), the [Southlake Anti-racism Coalition](#), [Voters of Tomorrow](#), the [Panther Anti-Racist Union](#), and so many other student-led organizations and movements across the country. "These students are fearless in their fight against discrimination of all kinds and tireless in their pursuit of equitable and excellent schools for every young person," Ms. Moreno said. "They understand that truth, inclusion and equity are not threats to anyone but rather reflect a holistic educational experience that promotes the well-being of all students, encourages empathy and self-expression, and prepares students to be the agents of positive change in this world that we all need them to be."

The federal government must play a central role to protect students' civil rights, ensure data collection and programming that address educational inequities, and promote safe school environments that prepare all students for college and career. Intervention and enforcement in response to classroom censorship laws, book bans, and related policies are urgently needed. We look forward to continuing our work with students, teachers, families and policymakers at every level to ensure all students have access to safe schools and materials that reflect their rich and diverse experiences.

For more information, please contact [Morgan Craven, J.D.](#), National Director of Policy, Advocacy, and Community Engagement.

Notes

¹The American Library Association, which tracks book bans across the country, [recently released its latest findings](#): book bans have increased dramatically across the country and "most targeted books were by or about Black or LGBTQIA+ persons." Additionally, [a recent review by Pen America](#) revealed that among an index of books banned in U.S. school libraries and classrooms, "467 contain protagonists or prominent secondary characters of color (41%), and 247 directly address issues of race and racism (22%); 379 titles (33%) explicitly address LGBTQ+ themes or have protagonists or prominent secondary characters who are LGBTQ+."

²Ms. Bridges' book, *This is Your Time*, is one of the 850 titles that appear on the [list of books](#) targeted for review [by Texas state Rep. Matt Krause](#).

³Related harmful policies include, but are not limited to, those that censor accurate depictions of history; limit discussions about the long history of systemic racism in the United States and how it continues to impact communities of color; attempt to expand parent control over education without regard to how schools can support authentic and crucial engagement with *all* families; limit the participation of transgender students in school activities; control discussions of the real, lived experiences of the LGBTQ+ community; attack the academic freedom and careers of those in institutions of higher education; and tie school funding to compliance with censorship laws.

⁴The U.S. Supreme Court has been clear that a state cannot "impose upon the teachers in its schools any conditions that it chooses" and cannot prohibit teaching a "theory or doctrine where that prohibition is based upon reasons that violate the First Amendment." See *Epperson v. State of Arkansas*, 393 U.S. 97, 107 (1968) (invalidating law prohibiting teaching the concept of evolution). Students "may not be regarded as closed-circuit recipients of only that which the State chooses to communicate," and "school officials cannot suppress

'expressions of feeling with which they do not wish to contend.'" *Tinker v. Des Moines Indep. Cmty. Sch. Dist.* 393 U.S. 503, 511 (1969).

⁵*Bd. of Educ. Island Trees Union Free Sch. Dist. No. 26 v. Pico*, 457 U.S. 853, 870-72 (1982).

⁶See *West Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943) ("If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion or other matters of opinion.").

⁷There are already federal civil rights laws, like Title VI and Title IX, and similar state laws, that prohibit racism, discrimination and harassment in schools.

⁸Notably, in crafting resolution agreements with districts accused of violating Title VI, the Office for Civil Rights has recently affirmed the role of equity-based interventions, such as training on implicit bias and cultural sensitivity, in resolving complaints of discrimination and harassment in schools. See, e.g., Office for Civil Rights, U.S. Dep't of Educ., [Resolution Agreement](#), Loleta Union Elementary School District, OCR Case No. 09-14-1111 at 6, 10 (Nov. 20, 2017) (requiring the school district to "assess implicit bias and cultural sensitivity and their possible role in disparities in school discipline and racial harassment" and to provide staff training on "how to administer discipline fairly and equitably, including ensuring nondiscrimination in discipline by eliminating any bias or implicit bias in discipline decision-making").

⁹See, e.g., *Arce v. Douglas*, 793 F.3d 968, 978 (9th Cir. 2015).

¹⁰See the letter to the Texas Attorney General [submitted by the TEACH Coalition](#), sharing the stories of Texas students and the discrimination they face in their schools.

¹¹Censorship legislation and book bans proliferating across the country also conflict with the U.S. Department of Education's policy priorities relating to the enforcement of civil rights in education, which "focus on creating the conditions under which students have equitable access to opportunity." See Proposed Priorities and Definitions – Secretary's Supplemental Priorities and Definitions for Discretionary Grants Programs, 86 [FR 34664](#), 34665 (June 30, 2021).

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