



# Book Bans are Undemocratic and Unconstitutional

IDRA Testimony against SB 13, submitted by Chloe Latham Sikes, Ph.D., to the Texas Senate Committee on Education K-16, February 27, 2025

Dear Chair Creighton and Honorable Members of the Committee:

My name is Chloe Latham Sikes, Ph.D. I am the deputy director of policy at IDRA, an independent, non-partisan 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 Senate Bill 13 because it introduces unnecessary terms and processes permitting schools and communities to ban books inconsistent with individual personal or political values simply because a select few individuals do not like the perspective or content of the material. Troublingly, the bill uses vague and undefined terms susceptible to misinterpretation and is therefore likely to lead to unconstitutional censorship of library content.

While school and community leaders may use evidence-based policies and practices to reasonably review and assess whether a particular library material is appropriate for a student population, calls to censor books because they do not align with certain individuals' personal views is a misguided use of political power that plainly violates constitutional law.

Eighty years ago, the U.S. Supreme Court laid out a simple, common-sense principle: "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" (*West Va. State Bd. of Educ. v. Barnette*).

Allowing state and local governmental officials to ban books because they are "inconsistent with local community values," as SB 13 would do, violates this long-held principle. Similarly, allowing board members, with input and assistance from board-appointed community members, to cherry pick books to be removed from library materials creates a dangerous opportunity for censorship.

It is worth emphasizing that states and schools do not have unfettered discretion to censor curriculum for students. As the U.S. Supreme Court stated in *Island Trees v. Pico*, the 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 (*Bd. of Educ. Island Trees Union Free Sch. Dist.*).

Similarly, courts have repeatedly affirmed that 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*).

These constitutional mandates are designed to protect all viewpoints – including and especially minority and historically-marginalized individuals and communities and protections – as part of our democratic values and commitment to free speech and expression.

To date, thousands of books by or about Black, LGBTQ+ and other systemically-marginalized groups have been banned from our nation's schools. Analysis by PEN America found that over 4,000 unique titles were banned from schools in 2023-24 – more than double the number of bans from the previous year (2022). Particularly troubling, banned books overwhelmingly include books with people and characters of color (44%) and books with LGBTQ+ people and characters (39%).

Banned books include materials discussing the United States' history of racism; prominent books by Black women authors with themes of race and racism; anti-Black police brutality; and fiction centered on Black, Latino and LGBTQ+ characters and plotlines (Duggins-Clay, 2022). Regressive censorship policies are being used as a pretext to target Black and LGBTQ+ writers, educators, scholars and students (Reiling, 2022).

SB 13 contains no protections to ensure that state and local officials are not engaging in intentional or implicit discrimination or bias in their decisions on which books are worthy of our school libraries and which books should be excluded. It also contains no standards for training school officials and community members appointed for book review committees on legal, educational or ethical standards for book reviews.

Free societies do not ban books or censor perspectives or materials with which they merely dislike or disagree with.

Book bans and classroom censorship have exacerbated the teacher shortage in Texas, with a particular impact on educators of color (Davies, 2023). They also deprive youth of high-quality, culturally sustaining educational opportunities (Camiscoli & Duggins-Clay, et al., 2024); embolden the perpetration of identity-based bullying and harassment (Duggins-Clay & Lyons, 2024); and cause a chilling effect in classrooms, limiting students' ability to learn, engage, and authentically express thoughts and insights about curricular material (Feingold & Weishart, 2023; IDRA, 2022).

All students deserve access to culturally relevant teaching, library materials, equitable resources and a safe learning environment. All students, including Black students, other students of color, and LGBTQ+ students, deserve to learn in settings that are inclusive of their experiences and provide information that is relevant to their experiences.

IDRA is available for any questions or further resources that we can provide. Thank you for your consideration. For more information, please contact me at [chloe.sikes@idra.org](mailto:chloe.sikes@idra.org), or Paige Duggins-Clay, J.D., at [paige.duggins-clay@idra.org](mailto:paige.duggins-clay@idra.org).

## Resources

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

Camiscoli, S.M., Duggins-Clay, P., Salmanova, M., & Chamakh, I. (2024). Youth Dignity Takings: How Book Bans and Trans Bans Take Youth Property and Dignity. *Loyola Interdisciplinary Journal of Public Interest Law*, Vol. 1. <https://digitalcommons.lmu.edu/cgi/viewcontent.cgi?article=1000&context=lijpil>

Davies, D. (June 22, 2023). Facing Book Bans and Restrictions on Lessons, Teachers Are Scared and Self-Censor, NPR. <https://www.npr.org/2023/06/22/1183701813/facing-book-bans-and-restrictionson-lessons-teachers-are-scared-and-self-censor>

Duggins-Clay, P., & Lyons, M. (May 2024). Preventing and Addressing Identity-based Bullying and Harassment. IDRA Model Policy Issue Brief. <https://idraseducation.org/wp-content/uploads/2024/05/Identity-based-bullying-Model-Policy-Brief-IDRA-May-2024-1.pdf>

Duggins-Clay, P. (May 5, 2022). Letters Demand Books Returned to Shelves in Four School Districts. Knowledge is Power. <https://www.idra.org/resource-center/letters-demand-books-returned-to-shelves-in-four-school-districts/>

Feingold, J., & Weishart, J. (2023). How Discriminatory Censorship Laws Imperil Public Education. National Education Policy Center. <http://nepc.colorado.edu/publication/censorship>

IDRA. (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.” <https://www.idra.org/resource-center/students-deserve-access-to-books-and-curricula-that-reflect-their-experiences/>

Reiling, E. (July 5, 2022). Are Texas’ Efforts to Censor “Obscene” Books and CRT Based on a Pretext? What Does the First Amendment Have to Say About It? *Villanova Law Review*. <https://www.villanovawlawreview.com/post/1582-are-texas-efforts-to-censor-obscene-books-and-crt-based-on-a-pretext-what-does-the-first-amendment-have-to-say-about-it>

PEN America. (November 1, 2024). Banned in the USA: Beyond the Shelves. <https://pen.org/report/beyond-the-shelves/>

*Tinker v. Des Moines Indep. Cmty. Sch. Dist.* 393 U.S. 503 (1969).

*West Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624 (1943).

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