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THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 860 Session of 2025

INTRODUCED BY FRIEL, PIELLI, PROBST, MADDEN, WAXMAN, KHAN, KENYATTA, OTTEN, SANCHEZ, GUENST, BURGOS, HOWARD, RIVERA, DONAHUE, WARREN, SHUSTERMAN, CERRATO, MALAGARI AND STEELE, MARCH 11, 2025

REFERRED TO COMMITTEE ON EDUCATION, MARCH 11, 2025

AN ACT

Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," in terms and courses of study, providing for prohibited review of curriculum, instructional materials and voluntary inquiry material in public school entities.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Article XV of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, is amended by adding a subarticle to read:

(e) Prohibited Review of Curriculum, Instructional Materials and Voluntary Inquiry Material in Public School Entities.

Section 1561. Findings and declaration of policy.

The General Assembly finds and declares as follows:

(1) The sharing of all ideas and the freedom to read are essential for a strong democracy.

(2) Suppressing the freedom to read and denying access to literature, history and knowledge are antidemocratic approaches that have only been employed by regimes seeking to limit free speech and debate.

(3) The unreasonable restriction of access to books and instructional materials in schools violates students' freedom to learn and impairs their ability to think independently and is contrary to the First Amendment to the Constitution of the United States.

(4) Students have a right to access a diverse range of age-relevant information, stories, perspectives and ideas.

(5) PEN America identified 457 books that were challenged or banned in this Commonwealth from July 2021 to July 2022.

(6) The Supreme Court has held that, as centers for voluntary inquiry and the dissemination of information and ideas, school libraries enjoy a special affinity with the rights of free speech and press.

(7) In *Board of Education, Island Trees Union Free School District No. 26 v. Pico*, the court noted that removal of books is constitutionally permitted only if it is done based on the educational appropriateness of the book, not because it was intended to deny students access to books with which school officials disagree.

Section 1562. Definitions.

The following words and phrases when used in this subarticle shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Committee." An educational resource material review committee established under section 1567.

"Department." The Department of Education of the Commonwealth.

"Instructional expert." A public school administrator, instructional staff or school librarian with expert knowledge in the subject areas in which they hold a certification.

"Instructional material." A textbook and supplementary material used as a part of required classroom instruction.

"Parent or guardian." A biological parent, adoptive parent, legal guardian or other person with legal custody of a child.

"Public school entity." A public school, including a school district, charter school, intermediate unit or area career and technical school.

"Qualifying complainant." A student or a parent or guardian of a student enrolled in the public school entity where a complaint is filed.

"Qualifying complaint." A complaint concerning an instructional material's literary or educational merit.

"Soft censorship." The removal of instructional materials and voluntary inquiry materials outside of established processes.

"Voluntary inquiry material." A nonfiction or fiction book, magazine, reference book, supplementary title, multimedia and digital material, software and instructional material and other material not required as part of classroom instruction.

"Weeding." The process of clearing the collections in the library or media center of materials that have outlived their usefulness.

Section 1563. Prohibited censorship.

(a) Removal.--Voluntary inquiry materials of sound factual authority shall not be removed from library shelves or

classrooms due to any of the following reasons:

(1) Partisan approval or disapproval.

(2) The author's race, nationality, gender identity, sexual orientation or political or religious views.

(3) School board of directors' or complainants' discomfort, personal morality or political or religious views.

(4) The author's points of view concerning the problems and issues of our time, whether international, national or local.

(5) The race, nationality, gender identity, sexual orientation or political or religious views of the protagonist or other characters.

(6) Content that is relevant to the research, independent reading interests and educational needs of older students based on their age, development or grade level.

(7) Content related to sexual health that addresses physical, mental, emotional and social dimensions of human sexuality, including puberty, sex and relationships.

(b) Soft censorship prohibition.--Instructional materials and voluntary inquiry materials shall not be removed from circulation of a public school entity except in accordance with the process outlined in section 1568. The following apply:

(1) Each public school entity and the department shall furnish on their publicly accessible Internet websites a censorship complaint form where qualifying complainants can report experiences of materials removed or hidden without abiding by the formal process outlined in this subarticle.

(2) The Secretary of Education or a designee shall investigate reports of soft censorship.

Section 1564. Curriculum review by parents and students.

Public school entities shall adopt policies to ensure that parents or guardians have the following:

(1) Access to information about the curriculum, including academic standards to be achieved, instructional materials and assessment techniques.

(2) A process for the review of instructional materials.

(3) The right to have their children excused from specific instruction that conflicts with their beliefs, upon receipt by the public school entity of a written request from the parents or guardians.

Section 1565. Qualifying complaints on instructional materials.

(a) Written request.--A qualifying complainant shall remit a written request to the school principal, teacher, certified school librarian or relevant staff member regarding an instructional material. A separate request must be submitted for each instructional material.

(b) Assistance.--The teacher or staff member may offer to assist the parent or guardian or student to find an alternative to the instructional materials that would better meet the needs and interests of the parent or guardian or student.

(c) Removal.--Materials shall not be removed or restricted from use by other students as a result of individual qualifying complaints.

Section 1566. Powers.

The responsibility for selection, purchase and weeding of voluntary inquiry materials shall be delegated by the board of school directors to the instructional experts employed by the school entity.

Section 1567. Qualifying complaints on voluntary inquiry

materials.

(a) Removal.--A board of school directors or administrators of a public school entity may not remove voluntary inquiry materials that have been challenged outside the process outlined in section 1568.

(b) Establishment.--Each intermediate unit shall establish an educational resource material review committee. The selection of the committee shall be the responsibility of the superintendent advisory council of the intermediate unit.

(c) Membership.--A committee shall minimally consist of the following individuals associated with the intermediate unit:

(1) Principal.

(2) Director of curriculum or similar position.

(3) Certified school librarian from the public school entity or other school entity if the entity has no certified school librarian.

(4) The superintendent or a designee of the superintendent.

(5) Faculty members from an elementary, middle and high school located within the intermediate unit.

(6) Special education director.

(d) Selection.--Members must be selected from multiple school districts with no more than two members from a single school district.

Section 1568. Process.

If a qualifying complaint cannot be resolved informally without removing the voluntary inquiry material from circulation, the following guidelines shall be followed:

(1) A school may handle a book challenge at the local level with the school's own preferred process, reviewing and

removing books for reasons of educational and age appropriateness, not to conflict with section 1563.

(2) The principal or designee shall furnish the qualifying complainant with a district form for reconsideration of materials. The form shall require a qualifying complainant to explain the objection to the material's literary, educational value or age appropriateness and include an attestation that the qualifying complainant has read the voluntary inquiry material in its entirety. The qualifying complainant shall file the objection with the committee.

(3) A qualifying complainant can submit one complaint at a time. Complaints are limited to 10 complaints per year for each qualifying complainant.

(4) Voluntary inquiry material shall not be removed from the collection until the review process is complete.

(5) The committee shall establish a process and criteria for reconsideration that includes, at a minimum:

(i) Reading and examining the voluntary inquiry material in question and the submitted request for reconsideration.

(ii) Communicating with the individual making the request for reconsideration and clarifying the objections.

(iii) Checking general acceptance of the material by reading authoritative reviews and conducting other research as necessary.

(iv) Evaluating the positive and negative aspects of the voluntary resource material as a whole, not on selected passages read out of context.

(v) Preparing a report that includes a recommendation regarding the request for reconsideration.

(vi) Preparing a minority report should the committee fail to reach an agreement.

(vii) Submitting each report to the superintendent of the school district in question no later than 60 days after the reconsideration is filed, unless an exception is granted by the board of school directors.

(viii) Functioning as an appeal arbitrator for a dispute between a complainant and a local district's decision. A complainant may appeal a local district's decision if the complainant believes a book should have been removed or believes that the book was removed for inappropriate reasons.

(6) In the event that the committee's findings support removal or restriction based on the age appropriateness of the materials, a copy of the report shall be submitted to the department for the department's evaluation and concurrence.

Section 2. This act shall take effect in 60 days.