

STUDENTS' CIVIL RIGHTS ENFORCEMENT INITIATIVE

The Students' Civil Rights Act

ADVOCATE'S TOOLKIT

**PART 6: PROTECTIONS FROM
CENSORSHIP IN EDUCATION**

Part 6: Protections from Censorship in Education

About this Section

The *Protections from Censorship* section helps protect students' access to books and educational materials by establishing fair, transparent procedures for schools and libraries to review challenges to those materials. It is designed to counteract viewpoint-based censorship while preserving the professional judgment of educators and librarians, consistent with applicable professional standards. The model distinguishes professional decision-making (such as updating curriculum or removing damaged, outdated, duplicated, or factually inaccurate materials) from viewpoint-based censorship. It does so by requiring that decisions to remove, restrict, relocate, or redact materials follow fair, transparent procedures.

Because states organize their education systems differently, this model should be adapted to work with existing state law. The drafting considerations below point out provisions advocates may want to tailor to reflect their state's existing laws and policy goals.

Drafting Considerations

WHO SHOULD THE BILL COVER?

The model uses the term "covered entity" to refer to the public schools, school districts, libraries, governing bodies, and other educational institutions that would have responsibilities under the legislation.

State and Local Authority

States differ in how authority over instructional materials and school libraries is divided between state and local governments. Before adopting this model, review your state's existing law to understand which entities are responsible for selecting instructional materials, maintaining school library collections, reviewing challenges, and carrying out these requirements.

After identifying the appropriate entities, you should adapt the definition of "covered entity" to reflect your state's education system and existing decision-making structure.

WHO SHOULD REVIEW CHALLENGED MATERIALS?

The model requires educators and certified librarians to review challenged materials due to their professional expertise in selecting and evaluating instructional and library materials.

If your state chooses to include parents, students, or other community representatives on review committees, consider how those members can participate while maintaining a fair, objective, and professionally informed review process.

HOW OFTEN MAY THE SAME MATERIAL BE CHALLENGED?

The model suggests that instructional and library materials generally should not be reconsidered more than once every three years unless there is a material change in circumstances. A shorter period would allow communities to revisit challenges to materials more often. When determining the review period for your state, you should consider which approach is most aligned with existing state and local laws and policies. You may also want to include language in your bill to define what qualifies as a “material change in circumstances.” Some potential examples include changes in state educational standards, major revisions to the material, newly available information about the material, or other significant developments that were not considered during the previous review.

WHY THE CENSORSHIP SECTION USES THE CONSTITUTIONAL “OBSCENITY” STANDARD

Some state laws and local policies allow educational materials to be restricted using terms like “sexually explicit” or “harmful to minors.” Those terms are vague and can be interpreted differently from one community to another, which may lead to materials being removed simply because they discuss complex or sensitive topics or represent diverse identities and experiences.

Instead of including those vague terms, this model uses the constitutional standard for obscenity established by the United States Supreme Court. This definition provides clearer guidance for covered entities and helps ensure that library and instructional materials are not removed simply because someone disagrees with the ideas, viewpoints, or people represented in them.

STRATEGY TIP:

Before introducing the censorship bill section, become familiar with your state’s current laws on who makes decisions about curriculum, instructional materials, and school libraries. This bill section will be strongest when it builds on existing state law and addresses gaps in current protections against censorship.