

Protecting Students' Freedom to Learn



Premium Resource

CHALLENGE: Curriculum is under fire.

A social studies teacher in Tennessee was told not to say it was sexist to prevent women from voting (Pollock et al., 2023). In Florida, some teachers were instructed to remove pride flag stickers from their classroom doors (Laviertes, 2022a). A first-year music educator, who remains anonymous, decided to no

longer teach about jazz or the blues, because they don't know how to teach those genres without talking about race (Salvador, 2023).

This is what it means to be a teacher in the United States in 2023. Since 2021, laws limiting what teachers can say and teach about in the classroom have proliferated across the country. These laws, which we at PEN America call "educational gag orders," aim to restrict what educators can teach on an array of topics, particularly race, gender, sexuality, and U.S. history. They combine vague wording with steep punishments, instill fear in teachers, and have resulted in an epidemic of self-censorship in the classroom.

Since the beginning of the 2021 legislative session, 309 of these bills have been introduced in 45 states, and 19 states have passed a gag order into law or signed an executive order to the same effect (PEN America, 2022). As a result, teachers are unable to do their jobs without fear of reprisal. Millions of students are being deprived of crucial learning experiences.

In surveys, teachers report feeling pressured to sidestep topics some might find difficult or offensive, particularly views critical of American society or history (Modan, Ye Han, & Lucas, 2022). This external pressure is whittling away at the space for good-spirited political debate in classrooms and opportunities for young people to be exposed to different ideas, identities, and experiences.

Attacks and limitations on what can be taught in our schools—from book bans to conflict-filled school board meetings—are part and parcel of a larger effort to control public education. And legislators are mimicking one another across state lines, advancing creative ways to restrict education at all levels, from kindergarten classrooms to high school clubs to dissertation committees. This broad effort to impose control on school curricula from the outside is continuing to pick up steam.

The "Ed Scare": Bills and Book Bans

Controversy over school curricula isn't new in the United States. But the movement that has spread in the last few years is distinct, most notably in its multiplicity. We've periodically faced debates about the teaching of evolution and science, or about integrating stories of diverse ethnic groups into American historical narratives. We've seen widespread efforts to remove specific books from schools, propelled by religious or political ideologies. But we've never seen so many efforts to control schools across so many states, focused on curricula, libraries, sex ed, student clubs, flags, stickers, pronouns, email signatures, student plays, guest speakers, and field trips—all at once.

The "Ed Scare," as we at PEN America have dubbed this multifaceted movement, is unique in the way it shifts its focus to different terminology or subjects yet remains locked-in on the core notion that schools operate without sufficient parental oversight and must be reined in by the state. In the past three years, the movement's targets have shifted; the initial focus on "divisive concepts," critical race theory, and the 1619 Project, has expanded to include social-emotional learning (SEL), gender identity and sexual orientation, and sex education. More recently, the movement has reframed its chief target as "wokeness" (Sanzi, 2021).

Since the beginning of the 2023 legislative session, dozens of bills that would restrict a teacher's ability to teach certain lessons about race, gender, or LGBTQ+ topics have worked their way through state legislatures. Though many of these bills won't pass into law, those that do will put more teachers in the unenviable position of having their teaching muzzled by state governments. These bills take different forms. Of the 306 bills that have been introduced since January 2021, 49 are so-called "Don't Say Gay" laws, copycats of Florida's infamous HB 1557 that bans or restricts instruction related to gender and sexuality in elementary school. The original Florida bill only banned such instruction in grades K–3 but has recently expanded to cover all of K–12.

The uptick in Don't Say Gay copycats in 2023 alone is worrisome (Friedman et al., 2023). Such bills potentially implicate not just picture books of gay penguins, but the ability for LGBTQ+ parents to volunteer at their child's school, a picture of Michelangelo's David, or even teachers mentioning their same-sex spouse (Howard, 2023).

Attacks on teaching about racism haven't gone away, either. Missouri, for example, created a patchwork bill in January 2023 that would require a "patriotic curriculum" and prohibit requiring students or teachers to adopt or affirm certain concepts related to race and racism, including the idea

that any race should "bear collective guilt" for historical events or that any group should be "adversely or advantageously treated" based on their race. Utah adopted legislation in March that prohibits those concepts from being included in curricula at all.

These bills strike at the heart of public education, creating no-go zones that inhibit teachers' ability to respond to students' questions and interests. They impose pressures on teachers from the outside about what *not* to say, putting little faith in teachers' professional judgement.

PEN America has also tracked 1,477 instances of book bans in the first half of the 2022–23 school year, most targeting books about people of color, U.S. history, and LGBTQ+ topics. Many bans were driven by legislation, either explicitly banning certain books or making it easier for parents or activists to request the removal of any book they don't like (Meehan & Friedman, 2023). These bills undermine the work of teachers and librarians by empowering any individual to object to instructional materials and library books, potentially intimidating school officials into removing them.

A Chilling Effect

The impact of this legislation isn't abstract. While some states, including Florida, have released guidance to districts on how to follow the laws, many others have chosen to keep the language vague, resulting in a broad chilling effect. To avoid any controversy or backlash, many teachers have taken to self-censorship, removing books from their classroom shelves and editing their lesson plans before anyone has a chance to object. An art teacher in Tennessee even told PEN America she deleted a personal photo of her family outside the Stonewall Inn from her desktop screensaver, lest she be accused of indoctrinating students.

We've heard endless stories of real impact. In May, a Florida teacher was placed under investigation by the state's education department for showing a Disney film that includes a gay character after parents accused her of indoctrination (Lavietes, 2023). Last year, homophobia and harassment from activists, administrators, and lawmakers caused Kentucky's former teacher of the year to quit teaching altogether (Lavietes, 2022b).

The implications aren't relegated to K–12 classrooms, either. While only a handful of restrictions on higher education have made it into law, gag orders on K–12 schools can impact how colleges and universities function. Consider AP courses. After a protracted fight with the department of education in Florida, the College Board made several changes to their AP African American Studies course to comply with the state's gag order. While they ultimately reversed course, the implication that the restrictions on high school speech would directly impact college credit was startling (Goldstein & Saul, 2023). Similar issues plague dual-enrollment courses. More abstract, but still consequential, is how these laws will impinge upon critical thinking skills or inquiry, leaving K–12 graduates underprepared for rigorous college courses.

What Can We Do?

Attempts to censor classrooms show no signs of abating, but not all hope is lost. Polling data suggests American parents *don't* support attacks on the integrity of our education system. Broad coalitions have come together to defend children's freedom to learn (Gambino, 2023). There are also concrete steps teachers can take to mitigate the effects of these laws in their classrooms.

Understand the law. The first step in defending your classroom is understanding what the threat really is. Check [PEN America's Index of Educational Gag Orders](#) to see if there is a law or policy in your state. Take steps to understand the policy in your district and check for any available guidance from administrators.

Don't do the censors' dirty work. Part of knowing the law means knowing where the law stops. While K–12 teachers have certain restrictions on their First Amendment rights while on the clock (and should follow guidance from their institutions), don't censor yourself more than necessary. If you don't think a lesson plan violates the law, don't edit it out of fear. These laws are often purposefully vague to have a broader chilling effect, so it's important that educators don't go beyond what these laws demand. Otherwise, vast swaths of content are at risk of being removed from schools.

Help your students understand. If your students ask you something you don't think you can legally answer or wonder why books have been removed from shelves, don't avoid the question. Help them understand the legal context or consider presenting them with the law, without endorsing or criticizing it. It should certainly be acceptable to read the language of these laws with students and ask them to reflect on potential ambiguities about what these laws mean. Depending on your circumstances, you may be able to point them to state guidance or spur them to read more independently to understand current commentary and analysis. Teachers will have to make judgements in this area, but no law should have the power to circumscribe even discussion of its meaning and tenets.

Speak out! If you can, it's crucial to help the public understand how these laws impact your ability to teach and students' ability to learn. Speaking at school board meetings, using social media to speak out for colleagues who can't safely do so on their own, and advocating as a private citizen to elected officials can make a real difference in how the public understands these laws and their impact on public education. Assess your risk in speaking out: For instance, you may be the sole breadwinner and unable to risk your job, or you may have stronger union protections than colleagues in other states. Consider

how—and how much—you're willing to publicly fight against these laws, knowing there's no right or wrong answer.

Know your allies. You are not alone. You may turn to your union or to local officials who you know oppose restrictions on instruction. But you also have national allies beyond the organizations most active in K–12 education. PEN America, the National Coalition Against Censorship, the Foundation for Individual Rights and Expression, and the American Library Association are committed to protecting the freedom to read, learn, and think in schools. These organizations have helped others in similar positions by amplifying their stories to the media, connecting them with advocacy resources, and even assisting in lawsuits.

Protecting the Bedrock

While teaching under an educational gag order can be isolating, frightening, and demoralizing, remember that there are steps you can take to fight back—and you have allies. The freedom to learn is a bedrock of our democratic society, something that's essential to both education professionals and the future citizens we hope to mold and inspire.

Reflect & Discuss

- The authors say laws to restrict what educators can teach about, or which texts are acceptable, have led to "an epidemic of self-censorship." Have you recently second-guessed whether to teach certain content, texts, or discussion topics because of such pressures?
- For teachers: If restrictions like these operate in your state/district, what one thing would you like your school leaders to do to help you navigate them?