

The Book Ban State: An Analysis of the Texas READER Act and Third-Party Book Review
Systems

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Introduction

School boards and classrooms have become battlefields and the First Amendment is seemingly the first casualty. As of 2022, 1,648 unique book titles had been banned in 32 states, affecting approximately 4 million students.¹ But book bans are not a new issue in the United States— the US has seen several waves of book ban frenzies, often at times of great ideological divide. McCarthyism in the 1940s-50s, the rise of neoconservatism in the 1980s, and now the Trump era of culture wars and radicalized social conservatism has ushered in renewed efforts to ban books.

Organizations that initiate bans have been careful to challenge books on the basis of their suitability for children rather than specific types of content. Challenging books on these grounds is one of the accepted paths for a books removal, a precedent established by the Supreme Court in *Board of Education v. Pico*. Groups that challenge books broadly paint their efforts as a necessary step to protect their children from the threat of content they perceive as pornographic or sexually explicit. This fear and outrage has translated to parental and political organizations working to “protect” American youth from the corrupting influence of such literature by advancing efforts to ban these books. Troublingly, efforts to ban books and “protect” children seem to have become another front of the broader political fight between social conservatism and liberalism.

¹ Friedman, Jonathan, and Nadine Farid Johnson. “Banned in the USA: The Growing Movement to Ban Books.” PEN America, April 4, 2023. Accessed January 12, 2024. <https://pen.org/report/banned-usa-growing-movement-to-censor-books-in-schools/>.

Overview of Board of Education v. Pico

As of today, only one case on book bans has been brought before the Supreme Court: Board of Education, Island Trees Union Free School District No. 26 v. Pico. In 1979, the case was brought before the U.S. District Court for The Eastern District of New York by a group of students². Steven Pico, and four other plaintiffs, sought injunctive relief from the court after the Board of Education for the Island Trees Free School District removed “objectionable” books from the school library. Pico and his fellow plaintiffs brought the case before the court arguing that such an action from the Board of Education constituted a violation of their First Amendment rights. The United States District Court for the Eastern District of New York granted the Board summary judgment. Upon appeal to the Second District, the case was remanded back to the District Court for trial before being appealed to the Supreme Court. The Supreme Court took up the case and heard arguments March 2, 1982 before releasing its decision on June 25, 1982.

Facts of the Case

The Board of Education began looking into “objectionable” literature in school libraries after the president, vice president, and a third board member attended a conference organized by the Parents of New York- United³. The group, comprised of conservative parents across the state of New York, disseminated a list of books the group found objectionable⁴. Upon receiving the list, board members searched the high school and junior high school libraries for any books that

² “Pico v. Board of Ed., Island Trees Union Free Sch., 474 F. Supp. 387 (E.D.N.Y. 1979),” Justia Law, accessed January 28, 2024, <https://law.justia.com/cases/federal/district-courts/FSupp/474/387/1964668/>.

³ Island Trees Sch. Dist. v. Pico by Pico, 457 U. S. 856

⁴ Ibid.

appeared on the list. Their search turned up nine books at the high school and one book at the junior high school⁵.

After finding that such objectionable books were the property of the school district, the Board met and directed the Superintendent and Principals of the schools to quietly remove the ten books from the shelves of their respective libraries. Crucially, the Board overrode the superintendent's objection that the district had a set policy for addressing book objections in the form of an appointed committee that would review the books.⁶ The Board was ultimately unswayed, and only appointed a committee when their actions were made public.

In a statement, the Board expressed its rationale for the removals, explaining:

While at the conference, we learned of books found in schools throughout the country which were anti-American, anti-Christian, anti-Semitic (sic), and just plain filthy...

To date, what we have found is that the books do, in fact, contain material which is offensive to Christians, Jews, Blacks, and Americans in general. In addition, these books contain obscenities, blasphemies, brutality, and perversion beyond description...

[W]e all agree that these books simply DO NOT belong in school libraries, where they are so easily accessible to children whose minds are still in the formative stage, and where their presence actually entices children to read and savor them...

We who are elected by the community, are the eyes and ears of the parents. It is our duty, our moral obligation, to protect the children in our schools from this moral danger as surely as from physical and medical dangers.⁷

The committee was tasked with considering the "books' 'educational suitability,' 'good taste,' 'relevance,' and 'appropriateness to age and grade level.'"⁸ Upon review, the committee recommended to the Board that only two books be removed and a third be only accessible with parental permission. However, the Board rejected the advice of the review committee, without

⁵ Id. 853 (1982). The books found at the high school were *Slaughter House Five*, by Kurt Vonnegut, Jr.; *The Naked Ape*, by Desmond Morris; *Down These Mean Streets*, by Piri Thomas; *Best Short Stories of Negro Writers*, edited by Langston Hughes; *Go Ask Alice*, of anonymous authorship; *Laughing Boy*, by Oliver LaFarge; *Black Boy*, by Richard Wright; *A Hero Ain't Nothin' But A Sandwich*, by Alice Childress; and *Soul On Ice*, by Eldridge Cleaver, and at the junior high: *A Reader for Writers*, edited by Jerome Archer.

⁶ Id. 857; Footnote 4.

⁷ Kelly Bowers *Banning Books in Public Schools: Board of Education v. Pico*, 10 Pepp. L. Rev. Iss. 3 (1983) <https://digitalcommons.pepperdine.edu/plr/vol10/iss3/2>, Pepperdine Law Review accessed January 28, 2024

⁸ *Island Trees Sch. Dist. v. Pico*, 457 U.S. 857 (1982)

explanation, and removed all of the books from circulation in the school libraries and barred their use in school curriculum.⁹

Pico v. BOARD OF ED., ISLAND TREES UNION FREE SCH., 474 F. Supp. 387 (E.D.N.Y. 1979)

The Pico suit was filed against the Board because of the decision by the Board to remove the books regardless of actual parents' and teachers' thoughts on the matter and, most importantly, the actual recommendation of the review committee. Pico's lawsuit alleged that the Board's motivation for removing the books was because "passages in the books offended their social, political and moral tastes, and not because the books, taken as a whole, were lacking in educational value."¹⁰ As such, Pico and his fellow plaintiffs asserted that their First Amendment rights had been violated and that the Board's actions were unconstitutional.

The District Court ruled against Pico and his fellow plaintiffs request for injunctive relief because the court found that the actions taken by the Board fell under their constitutionally protected powers to regulate educational decisions within the district. Citing *East Hartford Education Assn. v. Board of Education* which found that decisions regarding school administration does fall to the duly elected school board.¹¹ On these grounds, the District Court ruled that there was no First Amendment violation and issued summary judgment rather than bringing the case to trial. However, upon appeal to the Second Circuit, the case was remanded to the District Court for trial on the "merits of the respondent's allegations."¹²

Island Trees Sch. Dist. v. Pico by Pico, 457 U.S. 853 (1982)

⁹ Id. 858.; 474 F. Supp. at 391, n. 9.

¹⁰ Id. 858-859.

¹¹ *East Hartford Education Ass'n v. Board of Education of East Hartford*, 562 F.2d 859 (2d Cir. 1977)

¹² *Island Trees Sch. Dist. v. Pico by Pico*, 457 U.S. 853 (1982)

The Supreme Court took up *Board of Education v. Pico* and issued a plurality opinion written by Justice Brennan. The plurality opinion held that due to the fact that the books in question were not textbooks, or required readings, but optional reading available in the school library, the book removal did not fall under the Board's authority over school curriculum.¹³ Furthermore, Justice Brennan wrote that, "Local school boards may not remove books from school libraries simply because they dislike the ideas contained in those books."¹⁴ They could, however, remove books if it had been on the basis that the book was "pervasively vulgar" or "educationally unsuitable."¹⁵ Despite this ruling, Justice Brennan's decision did not secure enough support from fellow Justices to become binding precedent.

As a result of the opinion not garnering a majority, the *Board of Education v. Pico* decision must be interpreted under the "Marks rule." This rule was established by the Supreme Court in their decision in *Marks v. United States* and provides guidance for how a plurality opinion ought to be interpreted by lower courts. The Court wrote that, "when a fragmented Court decides a case and no single rationale explaining the result enjoys the assent of five Justices, 'the holding of the Court may be viewed as that position taken by those Members who concurred in the judgments on the narrowest grounds. . . .'"¹⁶ However, the Marks rule is both vague and difficult to employ. The "narrowest" ground is not always clear and leaves a large degree of ambiguity as to how lower courts should utilize plurality decisions in their own judgments. With regard to *Board of Education v. Pico*, lower courts have generally accepted Justice Brennan's opinion on the matter but the fact remains that there is no clear precedential answer to the question of book bans.

¹³ Id. 862

¹⁴ Id. 854

¹⁵ Id. 871

¹⁶ *Marks v. United States*, 430 U.S. 188 (1977).

Current Book Ban Legislation

Today, legislation that seeks the removal and ban of certain books seeks to exploit the ambiguity in the *Board of Education v. Pico* decision. To do so, current and proposed book ban legislation uses language that categorizes books as sexually explicit, pornographic, indecent, vulgar, or obscene. By categorizing books in this way, these pieces of legislation seek to align with the narrowest grounds of the opinion which allows for the removal of books that are “educationally unsuitable” or “pervasively vulgar.”¹⁷ To that end, some legislation employs the “Miller Test”, a standard for determining if content is obscene. The Miller Test was devised by the Supreme Court in *Miller v. California*, 413 U.S. 15 (1973) and is as follows:

1. Whether the average person, applying contemporary adult community standards, finds that the matter, taken as a whole, appeals to prurient interests (i.e., an erotic, lascivious, abnormal, unhealthy, degrading, shameful, or morbid interest in nudity, sex, or excretion);
2. Whether the average person, applying contemporary adult community standards, finds that the matter depicts or describes sexual conduct in a patently offensive way (i.e., ultimate sexual acts, normal or perverted, actual or simulated, masturbation, excretory functions, lewd exhibition of the genitals, or sado-masochistic sexual abuse); and
3. Whether a reasonable person finds that the matter, taken as a whole, lacks serious literary, artistic, political, or scientific value.¹⁸

Taken together, *Pico* and *Miller*, provide a clear path for how a book could be removed from schools and not be considered an infringement on the First Amendment. First, if the offending book is assigned in the curriculum and second, if the book is obscene. There are two ways that contemporary legislation achieves this end: 1) through the use of book content ratings, and 2) through legislatively defining what constitutes sexual conduct, explicitness, indecency, etc.

¹⁷ *Island Trees Sch. Dist. v. Pico*, 457 U.S. 871

¹⁸ “Citizen’s Guide to U.S. Federal Law on Obscenity,” Criminal Division, August 11, 2023, <https://www.justice.gov/criminal/criminal-ceos/citizens-guide-us-federal-law-obscurity>.

These methods can be used individually, as seen in legislation from Missouri and Florida, or in conjunction with each other, as seen in legislation from Texas and Utah, to establish sufficient grounds for a book's removal. What I intend to show is that by employing these two strategies, state legislatures are creating a legal path for the removal of books that contain certain ideas under the auspices of educational unsuitability. To do this, I will analyze the Texas READER Act as a representative example of this path.

Texas READER Act

In 2023, Texas passed the Restricting Explicit and Adult-Designated Educational Resources (READER) Act. The bill amends the Texas Education Code to allow the Texas State Library and Archives Commission to develop a set of standards to govern school districts “library collection development policies.”¹⁹ The READER Act begins with a new definition of what the State of Texas considers to be sexually explicit material. It reads:

“Sexually explicit material” means any communication, language, or material, including a written description, illustration, photographic image, video image, or audio file, other than library material directly related to curriculum required under Section 28.002(a), that describes, depicts, or portrays sexual conduct... in a way that is patently offensive.²⁰

The standards the Texas State Library and Archives Commission were to adopt were voluntary for school libraries to follow *except* in the case of collection development. Regarding collection development, the standards were to prohibit the possession and acquisition of any library material that was rated as sexually explicit by a library material vendor, or “library material that is pervasively vulgar or educationally unsuitable as referenced in *Pico v. Board of Education*.”²¹

¹⁹ Texas Legislature Online. "HB 900." Sec. 33.021 (b). Texas Legislature Online. Accessed April 14, 2024. <https://capitol.texas.gov/tlodocs/88R/billtext/pdf/HB00900E.pdf#navpanes=0>

²⁰ Id. Sec 33.021 (a)

²¹ Id. Sec. 33.021 (d) (2) (A) (iii)

The READER Act also makes reference to *Miller v. California* with a clause that “recognizes that obscene content is not protected by the First Amendment.”²²

Also within the bill was language requiring that library material vendors must review and determine whether the material they sell is sexually explicit or patently offensive. If the vendor would not comply, the bill has language that allows the state board of education to review the ratings issued by the vendor and alter them if they deem the rating to be incorrect. Furthermore, the state board of education is required to compile and publish a list of vendors who fail to “rate the library material according to the agency’s corrected rating.”²³ If a vendor is placed on this list, the READER Act prohibits school districts from purchasing anything from library material vendors on the list.

In conjunction, these clauses can be understood as establishing a method for identifying and removing a very specific type of book in a way that steers clear of First Amendment violations. These books, here termed *identity-focused content*, encompass topics and themes such as mental health, abuse and sexual assault, the experiences of people of color, racial identity and racism, LGBTQ+ identity, and experiences with grief and death. The use of the rating system and state definitions work together to establish prima facie proof that books targeted for removal are obscene or pervasively vulgar, thus allowing their removal. Further, the language of the bill is written in such a way to not only compel compliance from library material vendors at the cost of their business, but also gives the state board of education the power to override the ratings assigned by vendors.

The effect of such a policy is the removal of identity-focused content that can be incredibly helpful and affirming to students. Topics of LGBTQ+ and POC experiences, sexual

²² Id. Sec. 33.021 (d) (2) (B)

²³ Id. Sec. 35.003 (b) (1)

assault, and stories of physical abuse all get swept up in broad categorizations that these books are not suitable for students because of their construed “sexually explicit” nature or “pervasive” vulgarity. School boards face no problems removing these books because they can point to facially neutral legislation that protects their actions from accusations that specific ideas are being targeted. However, data from PEN America suggests that identity-focused content is disproportionately being banned. They found that out of all bans that occurred during the 2022-2023 school year, 48% of books banned included themes of violence or abuse, 42% dealt with health and well being of students, 30% addressed race and racism, and another 30% dealt with LGBTQ+ identity or experience.²⁴

READER Act Injunction

The clauses of the READER Act that stipulated a vendor rating system drew a lawsuit from the Authors Guild against the State of Texas. The District Court for the Western District of Texas granted an injunction on the section of the READER Act that mandates the vendor rating system on the grounds that the bill violated the First Amendment by compelling speech from library vendors.²⁵ Crucially, the injunction only affects this portion of the legislation and leaves intact the language in the bill that stipulates the creation of library collection standards and prohibits school libraries from acquiring or keeping library material deemed “sexually explicit.”

While the courts struck down this specific iteration of a rating and review system, the State of Texas is not prevented in implementing such a system in a subsequent bill, written in such a way that it would not be compelled speech. Such a system could look like a new responsibility of the state Board of Education or a task of third party reviewers. The problems

²⁴ PEN America. “Banned in the USA: The Mounting Pressure to Censor,” 2023. Accessed April 15, 2024. <https://pen.org/report/book-bans-pressure-to-censor/>

²⁵ *Book People, Incorporated v. Wong* (5th Cir. 2024)

with state review are self-evident and the use of third party reviewers does not necessarily protect against the systematic removal of identity-focused content.

Rating and Review Systems

One of the key mechanisms of book banning is the rating system employed to determine whether a book is appropriate for a specific audience. The READER Act stipulates such a system, which seeks to restrict books on the basis of their appropriateness for certain age groups. Proponents of book rating systems liken such a system to the rating system employed by the Motion Picture Association, a widely accepted process for the movie industry.²⁶ However, this comparison is disanalogous. Where the MPA system is formalized, universally accepted, and has a formal structure, book rating systems are informal, lack uniformity, and are highly subjective despite their seemingly stringent rubrics.

For example, BookLooks.org, the favored rating system of Moms for Liberty, employs a zero to five scale for their rating system.²⁷ Their rubric, recreated in Table 1, identifies the components that qualify a book as appropriate for certain age levels. However, even with the rubric, the terms and definitions used for evaluation prove to be quite subjective. The rubric uses imprecise terms like, “frequent” and “infrequent,” “mild” and “moderate.” While BookLooks does provide their definitions for these terms, found in Appendix A,²⁸ the definitions fail to specify the quantity that makes up these thresholds. This is especially confusing given that each

²⁶ “Rating System,” Rated Books, accessed April 5, 2024, <https://www.ratedbooks.org/ratingsystem>.

²⁷ “Books: M4L National - USA |,” Moms for Liberty, accessed April 12, 2024, <https://portal.momsforliberty.org/resources/current-issues/books/>.

²⁸ “Book Rating System,” Ratings system - book looks, accessed April 5, 2024, <https://booklooks.org/ratings-system>.

BookLooks review includes a profanity counter that totals the number of each swear word included in a text.

Table 1

BookLooks.org Content Rating Rubric

Rating	Description
0	For Everyone - Content contains mild inexplicit violence, no hate, no nudity, no profanity, no references to sexuality, gender ideologies, or sexual activities, and no drug or alcohol use.
1	Child Guidance - Some content may not be appropriate for very young children. Content contains mild violence, mild/infrequent hate, mild/infrequent profanity, non-sexual nudity excluding genitalia, no references to sexual activities, no drug or alcohol use, inexplicit sexuality, inexplicit gender ideologies.
2	Teen Guidance - Some content may not be appropriate for children under 13. Content contains moderate violence, moderate hate, moderate profanity, non-sexual nudity involving genitalia, inexplicit sexual nudity/sexual activities, drug or alcohol use, explicit sexuality, explicit gender ideologies.
3	Minor Restricted - Under 18 requires guidance of parent or guardian. Content contains excessive/explicit violence, extreme/frequent hate, excessive/frequent profanity, references to sexual activities (not involving penetration, cunnilingus, fellatio, or ejaculation), drug or alcohol abuse.
4	No minors - Adult content, no child under 18. Content contains explicit sexual nudity (depictions of sexual organs in a state of arousal), "obscene" references to sexual activities (involving anal, oral, or vaginal intercourse, fingering, anilingus, or ejaculation).
5	Aberrant Content - Adult only. Content contains explicit references to aberrant sexual activities (sexual assault/battery, bestiality, or sadomasochistic abuse).

Source: From "Rating System," by Book Looks, accessed April 5, 2024,

<https://www.ratedbooks.org/ratingsystem>

A separate problem manifests with the definition of obscene. BookLooks utilizes the Miller Test to make the "obscene" distinction but does so in a one size fits all manner.

BookLooks stipulates that an obscene work is one that, "depicts or describes, in a patently

offensive way, sexual conduct specifically defined by the applicable state law.”²⁹ Evaluation of content based on applicable state law makes sense for the legal system of a state, but not for an interstate book reviewing organization. The use of such a policy presents two possible problems. The first is that if the content of a book is judged on the basis of state law there’s the possibility that books would be judged on a varying standard between states, potentially leading to differing book ratings from one state to the next. The second problem is the potential for all books to be evaluated with the most restrictive definition that can be found in state law. This way, the reviewer does not risk a rating satisfying one state’s definition and not another’s. A system that operates this way poses obvious challenges for federalism, with the potential for books in less restrictive states being judged by the laws of more restrictive states.

The issues with review systems don’t end there, the system is also ill-equipped to address works that include adult themes for the sake of commentary. BookLooks provides the example of *To Kill a Mockingbird*:

The book contains terrible instances of racism that would fit well in the "Minor Restricted" (3) rating. However, taken as a whole, the book has a positive narrative rebuking racism and contains significant historical value. Therefore, we have assigned it the "Teen Guidance" (2) rating.³⁰

At face value, the ability of a rating system to consider mitigating factors that might adjust the suitability of a text is a strength. However, such a system is only a strength if there are clear guidelines for evaluating the message of the text versus the content. BookLooks provides no such guidelines, leaving readers guessing whether a fixed standard has been used. Further evidence suggests that no such standard has been applied. On their website, Book Looks makes available “Book Reports” that list a given book’s rating, whether the rating was lowered due to a

²⁹ Ibid.

³⁰ Ibid.

mitigating factor, and a count of the number of swear words found within the book. Of the 738 books BookLooks has reviewed, only six book reports list a lower rating due to mitigating factors.³¹ The opacity of third party reviewers is not unique to BookLooks. Rated Books, another reviewer, utilizes the same rubric as BookLooks and similarly provides no guidelines on what constitutes a mitigating factor.

In the BookLooks rubric, content rated at a four is described as obscene, a five presumably meets the “obscene” bar and then some. But to be obscene is to “lack serious literary, artistic, political, or scientific value.” Thus, the application of the Miller Test as a review standard presents a more insidious problem: the invalidation and condemnation of certain identity-focused content. For example, consider that sexual assault and battery immediately qualify a book as a five. Further consider that a book rated at a five contains “aberrant” behavior, imprecisely defined as “deviant” behavior. With these three actions, immediately any content that addresses sexual assault, domestic violence, and certain LGBTQ+ narratives are condemned to removal from schools. In this way, the opacity of what constitutes a mitigating factor, is particularly damning. To omit a mention of a mitigating factor and apply a rating of a four or five is to dismiss out of hand the experiences of innumerable authors.

Discussion

The Texas READER Act presents a representative case of a broader effort of Republican controlled legislatures to create pathways that legally allow the removal of content that offends socially conservative values. Legislation has been enacted in Florida (HB 1467 and 1223), Georgia (SB 226), Missouri (SB 775), Tennessee (HB 0843 and SB 1060), Texas (HB 900), and

³¹ These books are: *To Kill a Mockingbird*, by Harper Lee; *Can I Touch Your Hair?*, by Irene Latham and Charles Waters; *Native Son*, by Richard Wright; *Brave New World: A Graphic Novel*, by Aldous Huxley adapted by Fred Fordham; *MAUS 1: A SURVIVOR'S TALE: MY FATHER BLEEDS HISTORY* and *MAUS 2: A SURVIVOR'S TALE: AND HERE MY TROUBLES BEGAN*, by Art Spiegelman.

Utah (HB 374 and 29). Legislation has also been proposed in Oklahoma (SB 397, 1141, and 1142), South Carolina (HB 3826). State legislation has been crafted in such a way to prohibit the acquisition and possession of “sexually explicit” content from public schools. Such legislation is facially neutral but disproportionately impacts identity-focused content. Such content is primarily composed of narratives and experiences of BIPOC and LGBTQ+ people.³²

State legislators wield significant power through their power to define and refine definitions of sexually explicit content. This power, coupled with the use of content review systems, enables a state legislature a high degree of control over the types of content permissible in public schools. With this power comes the ability to suppress certain narratives in a way that, on its face, does not infringe the First Amendment rights of students. The problems with such a system are self-evident.

The problems are further exacerbated by political groups, such as Moms For Liberty, that rely on third party book reviewers for their challenges. Third party book reviewers are not regulated or held to any concrete standards on which to base their reviews. Though these organizations may adopt and publish their standards for review, the fact remains that there is no oversight to ensure that the standards are appropriately objective, and consistently applied. Furthermore, given the reliance political groups place on these third-party reviewers, and that these third-party reviewers accept review requests, it seems reasonable to expect that a level of selection bias to occur. Parents or individuals who feel strongly about book access are more likely to request a book review of content they worry is too explicit or inappropriate to be in schools. As a result, third-party reviewers are chosen on their perceived suitability and fed

³² "Book Ban Data", American Library Association, March 20, 2023.
<http://www.ala.org/advocacy/bbooks/book-ban-data> (Accessed April 15, 2024)

certain books thought to be “suspect” for review. Thus, a feedback loop is born. Parents are heartened by reviews confirming their belief and book reviewers receive a consistent client base.

This is not to say that the idea that obscene content should be allowed in schools. However, the crucial difference between content that is sexually explicit, and content that is obscene, is that obscene content lacks significant value in any of the capacities laid out in the Miller Test. If a given piece of content does satisfy all three prongs of the Miller Test then schools would be well within their rights to remove such a book. This path satisfies Justice Brennan and the plurality decision that books can be removed if they are “pervasively vulgar.” The problem highlighted with legislative definitions of sexual content is that it conflates sexually explicit content with obscene content. No attempt is made to establish a process to determine if content that is sexually explicit has mitigating factors that might make it particularly valuable to a school curriculum.

What has become clear is that there are still several questions that remain about evaluation of a book's content. How should a school board or legislature weigh the potential value of a text that might contain sexually explicit content? The Miller Test seems to be an effective standard to remove particularly egregious content but that likely constitutes a slim portion of a public school's books. *Board of Education v. Pico* does not establish a settled standard to evaluate books, it merely stipulates that a book cannot be removed merely because of the ideas contained therein. The result of such a slim determination is that school boards and legislatures are left with significant latitude in determining their own standard by which to evaluate books. Leaving such a power to the states is not inherently a problem, it becomes one when a disproportionate amount of books that deal with certain themes and ideas are being banned or forbidden from schools.

Appendix A

Definitions of Terms for Figure 1

Aberrant: deviant.

Drug/Alcohol Abuse: the habitual use of illicit drugs/alcohol.

Excess: exceeding a reasonable limit; extreme in frequency, intensity, or severity.

Explicit Sexuality/Gender Ideology: descriptive reference(s) to one's sexuality or gender identity, e.g. "Jake thinks he's bisexual because he gets equally as excited by thoughts of having sex with Jane as with John" or "John takes hormones to transition his body to a female."

Explicit Violence: Realistic depictions of physical conflict. May involve extreme and/or realistic depictions of human injury/death involving blood, gore.

Inexplicit Sexuality/Gender Ideology: nondescript reference(s) to one's sexual or gender identity, e.g. "Jake and Bob are gay and married to each other" or "John was born a boy but feels like a girl."

Mild: low frequency, intensity, or severity.

Moderate: reasonable limit; not extreme in frequency, intensity, or severity.

Nudity: Depiction of human male or female genitals, pubic area, or a female breast without a covering of any portion thereof below the top of the nipple, or of male genitals in a turgid state.

Obscene: material "the average person, applying contemporary community standards," would judge as appealing primarily to prurient interests; (2) "the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law"; and (3) the work "lacks serious literary, artistic, political, or scientific value."

Violence: behavior involving physical force intended to hurt, damage, or kill someone or something

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