

Date of Hearing: April 26, 2023

ASSEMBLY COMMITTEE ON EDUCATION
Al Muratsuchi, Chair
AB 1078 (Jackson) – As Introduced February 15, 2023

SUBJECT: Instructional materials: removing instructional materials and curriculum: diversity

SUMMARY: Requires the State Board of Education (SBE) to develop, by July 1, 2024, a policy for local educational agencies (LEAs) to follow before removing any instructional materials or ceasing to teach any curriculum. Specifically, **this bill:**

- 1) Requires the SBE, by July 1, 2024, to develop a policy for LEAs to follow before removing any instructional materials or ceasing to teach any curriculum. Requires this policy to include, but not be limited to, a requirement that the LEA receive approval from the SBE before removing any instructional materials or ceasing to teach any curriculum.
- 2) Requires, commencing with the 2024–25 school year, the governing board of a school district to only remove books, publications, or papers from schools and school libraries with approval from the SBE and in compliance with other procedures developed by the SBE.
- 3) Requires, commencing with the 2024–25 school year, a school district, COE, or charter school to only cease teaching any curriculum or remove instructional materials with approval from the SBE.
- 4) Requires, commencing with the 2024–25 school year, a school district, COE, or charter school to only remove instructional materials with approval from the SBE and in compliance with other procedures developed by the SBE.
- 5) Requires, when adopting instructional materials for use in the schools, governing boards to include only instructional materials that, in their determination, accurately portray the cultural and racial diversity of our society, including:
 - a) The contributions of people of all gender expressions in all types of roles, including professional, vocational, and executive roles; and
 - b) The role and contributions of LGBTQ+ Americans, persons with disabilities, and members of other ethnic and cultural groups to the total development of California and the United States.
- 6) Requires every instructional material adopted by a governing board to include proportional and accurate representation of California’s diversity in the following categories:
 - a) Race;
 - b) Gender;
 - c) Socioeconomic status;

- d) Religion; and
 - e) Sexuality.
- 7) Defines the following terms:
- a) “LEA” to mean a school district, county office of education (COE), or charter school.
 - b) “Curriculum” means the components of a course of study.

EXISTING LAW:

- 1) Requires the SBE to determine all questions of policy within its powers. (Education Code (EC) 33030)
- 2) Requires the SBE to adopt rules and regulations not inconsistent with the laws of this state for its own government, for the government of its appointees and employees, for the government of the day and evening elementary schools, the day and evening secondary schools, and the technical and vocational schools of the state, and for the government of other schools, excepting the University of California, the California State University, and the California Community Colleges, as may receive in whole or in part financial support from the state. (EC 33031)
- 3) Establishes that the parents and guardians of pupils enrolled in public schools have the right and should have the opportunity, as mutually supportive and respectful partners in the education of their children within the public schools, to be informed by the school, and to participate in the education of their children, including: to examine the curriculum materials of the class or classes in which their child is enrolled. (EC) 51101 (a)(8))
- 4) Requires each district board to provide for substantial teacher involvement in the selection of instructional materials and to promote the involvement of parents and other members of the community in the selection of instructional materials. (EC 60002)
- 5) Requires, for the purposes of the California Healthy Youth Act, at the beginning of each school year, or, for a pupil who enrolls in a school after the beginning of the school year, at the time of that pupil’s enrollment, each school district to notify the parent or guardian of each pupil about instruction in comprehensive sexual health education and HIV prevention education and research on pupil health behaviors and risks planned for the coming year. (EC 51938(b))
- 6) Establishes the course of study for grades 1 to 6 and for grades 7-12, including in science and in history social science.
- 7) Requires, for the purposes of any provision of the California Constitution that requires the adoption of textbooks for use in the elementary schools, the SBE to adopt at least five separate basic instructional materials for each grade level and each subject area. (EC 60001)
- 8) Authorizes the governing board of any school district to exclude from schools and school libraries all books, publications, or papers of a sectarian, partisan, or denominational character. (EC 18111)

- 9) Authorizes an LEA to use instructional materials that are aligned with the academic content standards, including instructional materials that have not been adopted by the SBE. Requires, if an LEA chooses to use instructional materials that have not been adopted by the state board, the LEA to ensure that a majority of the participants of any review process conducted by the LEA are classroom teachers who are assigned to the subject area or grade level of the materials. (EC 60210)
- 10) Prohibits a governing board from adopting any instructional materials for use in the schools that, in its determination, contain: any matter reflecting adversely upon persons on the basis of race or ethnicity, gender, religion, disability, nationality, or sexual orientation, occupation, as specified, and any sectarian or denominational doctrine or propaganda contrary to law. (EC 60044)
- 11) Prohibits the SBE and any governing board from adopting any textbooks or other instructional materials for use in the public schools that contain any matter reflecting adversely upon persons on the basis of race or ethnicity, gender, religion, disability, nationality, or sexual orientation, as specified. (EC 51501)
- 12) Requires, when adopting instructional materials for use in the schools, governing boards to only include instructional materials which:
 - a) Accurately portray the cultural and racial diversity of our society, including: the contributions of both men and women in all types of roles, including professional, vocational, and executive roles; the role and contributions of Native Americans, African Americans, Mexican Americans, Asian Americans, Pacific Islanders, European Americans, lesbian, gay, bisexual, and transgender Americans, persons with disabilities, and members of other ethnic and cultural groups to the total development of California and the United States.; the role and contributions of the entrepreneur and labor in the total development of California and the United States;
 - b) Accurately portray humanity's place in ecological systems and the necessity for the protection of our environment;
 - c) Accurately portray the effects on the human system of the use of tobacco, alcohol, and narcotics and restricted dangerous drugs;
 - d) Encourage thrift, fire prevention and the humane treatment of animals and people;
 - e) Contain the Declaration of Independence and the Constitution of the United States;
 - f) Do not contain, in its determination: any matter reflecting adversely upon persons on the basis of race or ethnicity, gender, religion, disability, nationality, sexual orientation, occupation, or any sectarian or denominational doctrine or propaganda contrary to law;
 - g) Are accurate, objective, and current and suited to the needs and comprehension of pupils at their respective grade levels.
 - h) With the exception of literature and tradebooks, use proper grammar and spelling. (EC 60040-60045)

13) Requires the governing board of each school district maintaining one or more high schools to adopt instructional materials for use in the high schools under its control. (EC 60400)

FISCAL EFFECT: Unknown

COMMENTS:

Need for the bill. According to the author, “We must strive to create a more equitable and inclusive education system for all students. This bill will ensure that students in California receive a comprehensive education that celebrates the diversity of our state and promotes a sense of belonging in the classroom.

AB 1078 will require the SBE to consider the representation of underrepresented groups, including but not limited to race, ethnicity, gender, sexual orientation, and ability, in all textbooks used in the state's public schools. The bill also establishes a review process for the selection and approval of books, ensuring that only those materials that meet the standards for diversity and inclusiveness are approved for use in the classroom. I am confident that it will set a strong precedent for other states to follow and make a meaningful impact on students' lives across California.”

Curriculum, standards, frameworks. California’s public school curriculum is based on content standards in various subjects, including English language Arts, mathematics, science, history-social science, physical education, English language development, career technical education, health education, world languages, and visual and performing arts. These standards are developed by the Instructional Quality Commission (IQC) through a public process, and are adopted by the SBE.

These content standards form the basis of California’s curriculum frameworks. The frameworks, which are developed by the IQC and adopted by the SBE, guide the implementation of these standards, and are used to establish criteria for the evaluation of instructional materials for state adoption for grades kindergarten through grade 8. They also guide school district selection of instructional materials for grades 9 through 12.

SBE. The SBE was established first by statute in 1852, then by amendment to the California Constitution in 1884. Both the Constitution and statutes set forth the SBE’s duties. Constitutional duties of the SBE include the appointment of one deputy and three associate superintendents upon nomination of the SPI and the adoption of textbooks for use in grades one through eight. By statute, the SBE is the governing and policy-making body of the State. The Constitution and statute also assign the SBE a variety of other responsibilities: regulations, standards, waivers, assessment, district reorganization, instructional materials adoption K-8, charter schools, the federal Every Student Succeeds Act, funding allocations, and study and planning.

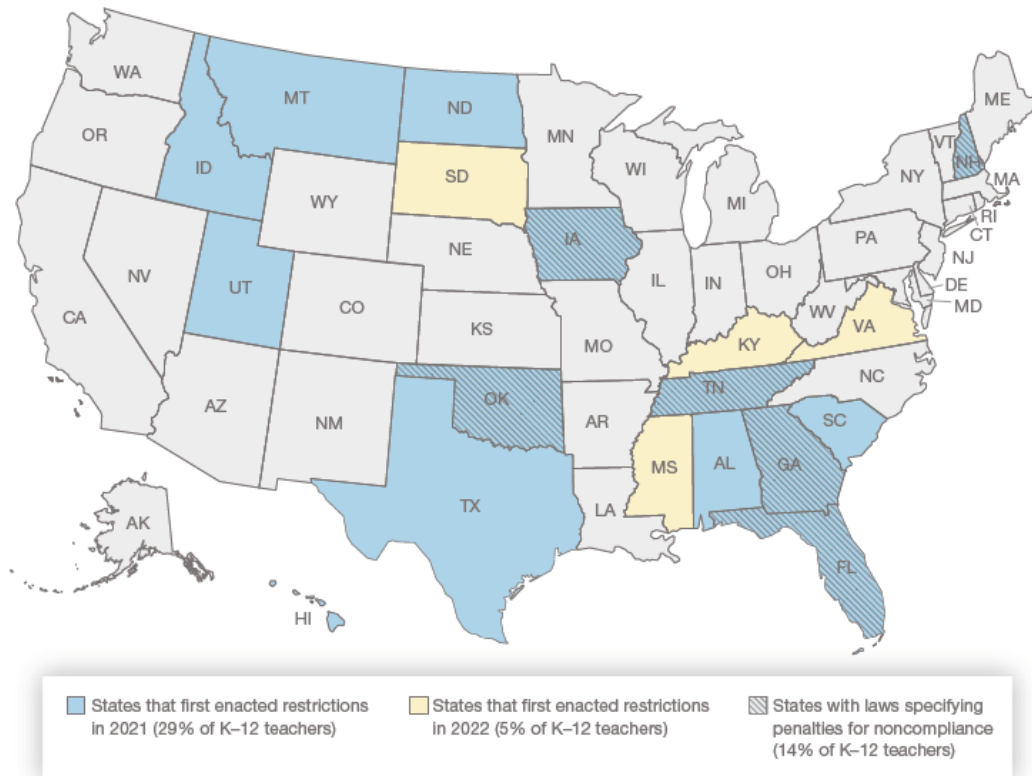
School district governance in California. California school districts are overseen by elected boards of trustees that set policy and hire a chief executive, the superintendent. School district governing boards usually have five to seven members. School district governing boards are responsible for passing an annual budget, hiring the superintendent, adopting instructional materials, and for setting policy. The superintendent has the job of implementing policies, managing the district, and making other hiring decisions.

Curriculum use at the local level. Existing law authorizes an LEA to use instructional materials that are aligned with the academic content standards, including instructional materials that have not been adopted by the SBE. If an LEA chooses to use instructional materials that have not been adopted by the SBE, the LEA is required to ensure that a majority of the participants of any review process conducted by the LEA are classroom teachers assigned to the subject area or grade level materials.

Californians elect local governing board members of school districts and county offices of education to adopt the policies for local schools, including curricula and instructional materials. This bill would require the SBE to develop a policy for LEAs to follow before removing school library books, removing instructional materials or ceasing to teach any curriculum, and require local governing boards to seek approval from the SBE before removing school library books, removing any instructional materials or ceasing to teach any curriculum. If the SBE was required to consider every local decision related to removing school library books, removing instructional materials or ceasing to teach any curriculum, they would likely be logistically unable to review the volume of requests. As the bill is written, any change to curriculum would require SBE approval. For example, if an LEA opted to offer a different foreign language course in lieu of an existing one in order to respond to student interest and demand, that LEA would be required to seek approval from the SBE.

National trend to limit race- or gender-related topics in the classroom. According to a 2023 Education Week analysis, 44 states have introduced bills or taken other steps that would limit how teachers can discuss racism and sexism since January 2021. To date, 18 states have imposed these bans and restrictions either through legislation or other avenues. PEN America's 2022 report, "Educational Gag Orders: Legislative Restrictions on the Freedom to Read, Learn, and Teach" found not only that state legislators have accelerated the introduction of these restrictions in recent years but also that the bills proposed during the 2022 legislative session were even more punitive and expansive in nature than the bills introduced in the 2021 session. For example, the proposals extended restrictions beyond race to also to limit lesbian, gay, bisexual, transgendered, queer, questioning, and more (LGBTQ+) topics and beyond classroom conversations and into other areas such as educator professional development."

FIGURE 1
States That Have Enacted Restrictions on How Teachers Can Address Topics Related to Race or Gender



Source: “Walking on Eggshells—Teachers’ Responses to Classroom Limitations on Race- or Gender-Related Topics: Findings from the 2022 American Instructional Resources Survey,” RAND Research Report, 2023.

Public schools and education battles can be a proxy for larger societal debates, and most recently the debate is focused on free speech in schools. According to a 2023 School Administrator article, “Public Schools as Contested Places” by Carl Cohn, a retired California superintendent, professor emeritus and senior research fellow at Claremont Graduate University in Claremont, California:

The pandemic also opened a unique window into curricular content that has shined intense light on social emotional learning, along with schools’ diversity, equity and inclusion initiatives in the aftermath of the George Floyd murder and the inevitable reckoning that followed. Beyond curricular content, an intensified examination of school library books is underway in many school communities with most observers who are old enough recognizing that book banning is not a new phenomenon in America. What is new regarding America’s public schools, however, is their centrality in these new culture wars.

Several sources have compiled information related to the number and type of policies limiting race- and gender-related topics in the classroom, but little has been done to study the impact of these policies on the public school system. A 2023 RAND Research Report “Walking on Eggshells—Teachers’ Responses to Classroom Limitations on Race- or Gender-Related Topics:

Findings from the 2022 American Instructional Resources Survey,” is the first description of nationally representative survey data from teachers about how limitations on the way they can address contentious topics in the classroom are influencing their instruction. Findings include:

- One-quarter of K–12 public school teachers nationally were directed by their school or district leaders to limit discussions about political and social issues in class, even though a majority of teachers and principals oppose legal limits on how teachers can discuss racism, sexism, and other contentious topics.
- About one-quarter of teachers reported that limitations placed on the topics teachers can address have included their choice of curriculum materials or instructional practices.
- Teachers described how having to navigate these restrictions has made carrying out their jobs more difficult. Teachers’ responses also indicate that these restrictions may be having negative impacts on their perceptions about their school climates.
- About 1 in 10 teachers in the sample expressed that they experienced anxiety, nervousness, worry, and fear that they might lose their job or license or face formal complaints or legal action for raising race- or gender-related topics in the classroom.
- Teachers reported that they avoided or were now hesitant and less willing to engage in controversial topics with students.

Authors of the report raised the possibility that these limitations may be affecting teachers of color, and especially Black or African American teachers, even more strongly than their White counterparts, which could eventually lead to a reduction in the diversity of the educator workforce given the concerns that teachers have raised about these restrictions. One English Language Arts teacher, summarizing the connection between student engagement, representation of diverse groups, and the development of students’ social and emotional skills, stated, “The [need] for students to learn about diverse group[s] of people is more important now more than ever. Students need to see themselves in books in order to feel as if their existence is [validated], in order to be engaged in text, in order to learn and empathize with others and to learn that we are more alike than unlike.”

Impact of recent state and local policies on school library collections. According to a 2022 working paper from the Wheelock Educational Policy Center at Boston University, *Politics and Children’s Books: Evidence from School Library Collections*, books on the topics of LGBTQ+, race/racism, or abortion are less likely to be found in school libraries in conservative areas, and are more likely to have discontinued Dr. Seuss and Christian fiction titles. Using web-scraping techniques to collect original data on hundreds of titles in over 6,600 school libraries nationally to identify patterns in library resources and content, researchers found that the book challenges in the 2021-22 school year have had “chilling effects” on the acquisition of new LGBTQ+ content.

A different approach. The 2023 RAND Research Report highlighted an emerging and promising practice in states that have not enacted restrictions. In the national survey of teachers, several described how their school or district provided supports to help them manage conversations about race or gender, such as books with diverse characters to support “equitable literacy,” encouragement and guidance on teaching about acceptance and inclusion, professional

learning that clarified how they can talk about contentious topics, opportunities for collaboration with other staff, and reviews of curriculum materials to ensure that they represent diverse perspectives and are culturally relevant. These efforts appear to improve teachers' perceptions of their school culture and increase their willingness to engage in conversations about race and gender.

Recommended Committee Amendments. *Staff recommends that the bill be amended as follows:*

- Require the CDE to issue guidance related to how to help LEAs and school personnel manage conversations about race and gender, and how to review instructional materials to ensure that they represent diverse perspectives and are culturally relevant.
- Remove provisions related to the SBE developing a policy for LEAs to follow before removing school library books, removing instructional materials or ceasing to teach any curriculum. Remove related provisions requiring local governing boards seek approval from the SBE before removing school library books, removing any instructional materials or ceasing to teach any curriculum.
- Expand existing law which requires governing boards, when adopting instructional materials for use in schools to only include instructional materials that accurately portray the cultural and racial diversity of our society, including (*text below from this bill as introduced*):
 - The contributions of people of all gender expressions in all types of roles, including professional, vocational, and executive roles.
 - The role and contributions of Native Americans, African Americans, ~~Mexican~~ **Latino** Americans, Asian Americans, Pacific Islanders, European Americans, ~~LGBTQ+~~ **LGBTQ+** Americans, persons with disabilities, and members of other ethnic, ~~and~~ cultural, **religious, and socioeconomic** groups to the total development of California and the United States
 - The role and contributions of the entrepreneur and labor in the total development of California and the United States. (EC 60040 (a))

Arguments in opposition. Moms for Liberty Santa Clara County California writes, “Simply put, AB 1078 is an egregious power grab by the State of California. In addition to infringing on a long-standing rule of having *local, community-based* control of public schools, it introduces a new and completely unnecessary level of bureaucracy which will eventually leave elected school board members with no authority whatsoever. The bill effectively eliminates local control over curriculum and school library materials in more than 900 school districts throughout our state. It would force every local school board to get permission from the California State Board of Education prior to removing inappropriate books and publications from school libraries. It would take away a school board's ability to remove inappropriate/undesirable instructional materials from a school's curriculum without first obtaining permission from the State Board. Both of these run counter to proper local control of our public school system. Moms for Liberty stands as an advocate of local control of California schools. We believe strongly in pushing management of our schools down to the lowest level of government possible. Only in this way

can California residents be assured that their public education system is running well within their communities.”

Related legislation. AB 802 (Patterson) of the 2023-24 Session would require each school district, COE, and charter school to provide written notice to a pupil’s parent or guardian of their right to examine the curriculum materials of the class or classes in which their child is enrolled, to post information on that right to their website, and to ensure that each of their individual schools posts information on that right on their individual website.

AB 1652 (Sanchez) of the 2023-24 Session would require each school district, COE, and charter school to post the process for examining curriculum materials on their internet website.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

California Parents Union
Moms for Liberty Santa Clara County
Natomas USD for Freedom
Pacific Justice Institute
Protection of The Educational Rights for Kids
Real Impact.
Stand Up Sacramento County
87 individuals

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