

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT
IN AND FOR POLK COUNTY, FLORIDA

COUNTY CITIZENS DEFENDING
FREEDOM USA, INC.,
ROBERT GOODMAN, ERIN FIORE, and
DEBRA BAUBLITZ.

Plaintiffs,

vs.

CASE NO.:

THE SCHOOL BOARD OF
POLK COUNTY, FLORIDA

Defendant,

_____ /

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Plaintiffs COUNTY CITIZENS DEFENDING FREEDOM USA, INC., ROBERT GOODMAN, ERIN FIORE, and DEBRA BAUBLITZ sue Defendant SCHOOL BOARD OF POLK COUNTY and allege:

INTRODUCTION

1. Florida Statute 1006.28, which became effective July 1, 2023, assigned a non-delegable duty and responsibility to every school board 1) to select adequate instructional materials, and 2) to ensure that the content of all materials available to students be appropriate. Further, the board “must adopt a policy regarding an objection by a parent or a resident of the county to the use of a specific material, which clearly describes a process to handle all objections and provides for resolution.” Fla. Stat. 1006.28(2)(a)(2). In presumably attempting to comply with that statute, the Polk County School Board adopted Policy 2522.

While the policy fails to comply with the law itself, the School Board has disregarded the provisions of its Policy 2522. Collectively these failures include the following: 1) Failure of the Board to take responsibility for the content of the material placed in the schools by removing itself from its own duty to review material brought to

their attention by whatever means, and further, by allowing itself to be shielded from the citizens' initiated review process as required by law, 2) enacting a nonconforming appellate process in the policy, 3) disregarding the requirement that certain individuals be appointed to the School Library Review Committee, and instead contributing to the sexualization of children by appointing children to review unbelievably graphic sexual content under objection, 4) the requirement that the "district-level curriculum supervisor" meet with the material objector and attempt to resolve the objection, 5) Failure to allow the appealing parent or resident to speak at an appeal, 6) failure to follow Open Meetings Law at such reviews/appeals, 7) failing to remove all copies districtwide of an objectionable book and instead limiting removal to one school at a time only thus requiring up to ten challenges to protect all the children from one book. By disregarding these provisions, the School Board violated the requirements of Florida Statute 1006.28 and the regulations promulgated thereunder. As a group Polk County residents, Plaintiffs seek declaratory and injunctive relief, and an order requiring the School Board of Polk County to abide by its own policy and Florida Law.

JURISDICTION AND VENUE

2. This is a lawsuit for injunctive relief over which this Court has jurisdiction under Fla. Stat. § 26.012.
3. This is a lawsuit for declaratory judgment over which this Court has jurisdiction under Fla. Stat. § 86.
4. Venue is proper in Polk County under Fla. Stat. § 47.011 because it is where the cause of action accrued.

PARTIES

5. Plaintiff, County Citizens Defending Freedom USA, Inc. ("CDF"), is an Ohio not-

for-profit corporation with a principal place of business in Butler County, Ohio and is registered to business in the state of Florida. CDF is acting on behalf of Polk County residents and parents of Polk County District Schools students. CDF provides the tools and support needed to empower citizens to defend their freedom and liberty, and place local government back into the hands of the people. Plaintiffs ROBERT GOODMAN, ERIN FIORE, and DEBRA BAUBLITZ, are residents and taxpayers of Polk County. Robert Goodman is the Polk County Executive Director of CDF.

6. Defendant, School Board of Polk County (“School Board”), is a local government entity organized under the laws of the State of Florida and located in Polk County, Florida.

FACTS

DISREGARDED POLICY AND PROCESS

7. Florida Statute 1006.28 requires that the board itself be responsible for all book content, and further, that “Each district school board must adopt a policy regarding an objection by a parent or a resident of the county to the use of a specific material, which clearly describes a process to handle all objections and provides for resolution.” Fla. Stat. 1006.28(2)(a)(2). Attached at **Exhibit A** is the full text of Section 1006.28 and it along with the regulations promulgated thereunder are asserted here as if fully pled.

8. In accordance with that statute, the Polk County School Board adopted Policy 2522, attached as **Exhibit B**, containing the process for book objections and the process for appealing the final decision on a book objection.

9. Since the enactment of Section 1006.28 in July of 2023 and prior thereto, members of CDF and plaintiffs have filed numerous formal objections to books on

display in the school libraries.

10. The School Library Review Committee (“Review Committee”), the committee designated by Policy 2522 to hold examination hearings on challenged books, has upheld several challenged books.

12. Thereafter, members of CDF submitted requests for appeals of the final decisions of the Review Committee to Superintendent Heid (“Superintendent”).

13. The appeals were never taken up by the Superintendent and he did not recommend that the School Board take action on CDF’s objections, therefore disregarding Policy 2522 and Florida law.

14. Sections G and H of Policy 2522, titled “Appeals Process for Objections to Material Used in Classrooms, Made Available in the School Library, or Included on a Reading List,” reads:

G. The complainant may appeal this decision, within thirty (15) business days, to the Board through a written request to the Superintendent, who shall forward the request and all written material relating to the matter to the Board.

H. The Board will review the case, including all evidence proffered by the complainant, during a publicly noticed Board meeting. The Board shall announce during the meeting whether the challenged material meets the requirements of this Policy. The complainant shall submit any additional evidence for the Board’s consideration no later than seven (7) days before the meeting at which the Board will consider the challenge.

(emphasis added)

15. Erin Fiore, a member of CDF and resident of Polk County, filed a challenge of the book “Breathless” on June 26, 2023. A hearing on the challenge was held October 27, 2023. The committees voted to retain the book in all schools. An appeal request was made thereafter. The School board has never voted on whether to keep the book.

16. Debra Baublitz, a member of CDF and resident of Polk County, filed a challenge

of the book “Identical” on June 26, 2023. A hearing on the challenge was held September 29, 2023. The committees voted to retain the book in all schools. An appeal request was made thereafter to the Superintendent. The School Board has never voted to whether keep the book.

17. The Superintendent decision not to take up the requested appeals and his refusal to recommend the School Board take action on CDF’s objections is a violation of Policy 2522 and § 1006.28 Florida Statutes.

18. Plaintiffs and CDF are therefore entitled to have its requested appeals reviewed by the School Board. During this writing, more than 6 months after enactment of the law, and after many book challenges, CDF is aware of only one review by the School Board considering objections. Plaintiffs cannot be sure whether such recent review will continue to be followed. Thus, Plaintiffs seek the remedies herein. None of the Plaintiffs have ever been given notice of an appeal taking place or being underway—not once.

DISREGARDED REVIEW COMMITTEE MEMBERSHIP

19. Furthermore, Policy 2522, specifically states who will serve as a member of the Review Committee:

Upon receipt of the information, the Superintendent after advising the Board of the complaint, shall appoint a review committee which shall consist of:

1. Regional Superintendent supervising the school bringing the challenge;
2. Senior Coordinator for Library Media Services;
3. Director of Curriculum and Instruction and/or Curriculum Specialist (representative of content area);
4. A teacher from the appropriate content area and level - Secondary should have an English/Language Arts teacher;
5. A Library Media Specialist representative of the grade

level of the material in question;

6. Three (3) parents - (one (1) SAC committee member from the school bringing the challenge, two (2) SAC committee members representing the same grade division in the District); and

7. Board member representing the school bringing the challenge.

(Policy 2522, "!"#\$%&'()*+&&,*)-./#0*2&0'3\$(#)\$%'2'6&&)*7&&3\$5#!9\$%&'2'0#';+:*%&1)\$=8*)'2+%5#5'-2'\$@#\$52A'<80)

20. Although Policy 2522 does not provide for minor children to be part of the review committee, the School Board has allowed minor children to serve on the Review Committee.

22. Additionally, although Policy 2522 provides for a current Member of the School Board Member to serve on the Review Committee, no such Member has been appointed to the Review Committee or attended the meetings.

DISREGARDED DISTRICT-LEVEL CURRICULUM SUPERVISOR MEETINGS

23. Policy 2522 requires that a "district-level curriculum supervisor" meet with an objector to materials and attempt to resolve the objection.

24. The district-level curriculum supervisor, STACY DAVIS, has never met this meet-and-resolve requirement in response to any book complaint and continues to ignore the mandate. Therefore, the School Board is in further violation of Policy 2522.

CONFUSING POLICIES WITH CONFLICTING TIME FRAMES

25. The timeframes in the Policy are contradictory and confusing.

26. Policy 2522 states, at sub-paragraph G, that "The complainant may appeal this decision, within thirty (15) business days," an apparent typographical error that

has prevent Plaintiff Fiore and others from understanding her rights under the Policy.

27. Further, the Policy states that it will be “business days” that are tolled, only for Plaintiff Fiore to be told via email that it would instead be “calendar days” that would be counted instead.

28. These confusing and contradictory timelines are in violation of Florida Statute 1006.28, which mandates that enacted policy must “clearly describe(s) a process to handle all objections.” § 1006.28(2)(a)(2).

FAILURE TO ALLOW APPEALING PARENTS AND RESIDENTS TO SPEAK AT
APPEAL HEARINGS AND THEREFORE VIOLATING
FLORIDA’S OPEN MEETINGS LAW

22. Florida Statute 1006.28(2)(a)(4) states that:

Meetings of committees convened for the purpose of ranking, eliminating, or selecting instructional materials for recommendation to the district school board must be noticed and open to the public in accordance with s. 286.011. Any committees convened for such purposes must include parents of students who will have access to such materials.

23. The School Board has not complied with this mandate and has prevented objecting parents and residents, including Plaintiffs, from speaking at these meetings.

24. This exclusion is in violation of 1006.28(2)(a)(4) and Florida’s Open Meetings law.

UNLAWFUL CONTENT

25. The failure of the School Board to abide by §1006.28(2)(a)(2) by not requiring immediate removal during the challenge process, and Policy 2522 has resulted in school children having access to books with prohibited pornographic passages, in

violation of 847.012, Florida Statutes (2024.)

26. The book "Breathless" by Jennifer Niven, at issue in this case, contains the following pornographic passages:

Shane has his tongue in my ear, but I can still hear the music outside. ...Being hot is not what I'm known for, so I kiss him a while longer. ...Then he gives my underwear a tug, chasing the thoughts away. ...Shane's hands are snaking their way down, ...Suddenly there's something hard and damp against my thigh, and I shift a little so he can't slide it in. ...It always ends the same way—him coming into the air or into his shirt or onto himself or against my leg. ...Shane is staring at me and his eyes are rolling and his breath is coming faster and faster, and he's humping my leg like a dog. ...so I maneuver my lower half away from him, and that's when he groans and explodes. All over my inner thigh. And this is where I freak out a little, because I swear I can feel some of it dripping into me.

(Breathless, Page 11)

He's getting a condom. ...I kiss the dimples on either side of his mouth, and then he's kissing my throat, and just when I think my body might explode like a firework, it happens. ...Now he's opening the condom packet. Now he's putting the condom on. ...Now you can feel him. Now he's putting the condom in. ...Now you can feel him—all of him. And there's the surprise again. Not pain, necessarily, but the surprise of my body registering something entirely new. I actually suck in air. ...Before he can ask what the hell that was or change his mind about ever wanting to have sex with me, I kiss him. I wonder if I'm bleeding all over his couch, if my mythical hymen has actually broken. ...Now he's moving on top of you. And you are moving with him even though you don't know how. ...But then, suddenly, we're done. Which means he's done.

(Breathless, Page 179)

27. The book "Identical," by Ellen Hopkins, contains the following pornographic passages:

"This should cover what I smoked. Please take me home now." Don't want your money. His zipper opens, and what escapes is eager. Then he pushes my head down. Haven't you missed me? I could just do it. Get it over with. Pretend it never happened. But I don't think so. It has to be my idea or not at all. "No, Mick. Goddammit, I said no!" But he's all over me and I may not have a choice. He outweighs me by a hundred pounds and he's got me pinned against the door. His fingers, clumsy, work at my own zipper. I try to push him off.

(Identical, Page 415)

Daddy had been back to Kaeleigh for "lollipop licking" (my term) a few times. She had a vague notion that it was "wrong," but she wasn't sure why, and didn't know who to ask. They'd probably just be jealous. That warm summer night, she slept in a thin white nightie, nothing more, nothing at all under. The moon, full, shimmered against the tan of her exposed skin, and her hair whispered over the pillow like a pale waterfall. As usual, the smell of Wild Turkey preceded Daddy. In the bright moonlight, you could see Kaeleigh cringe in shallow sleep. Daddy crept thought the door, to the side of the bed, stood looking down for a very long time before stirring her with a volley of kisses. Cheeks. Forehead. Lips. Oh, little girl. Do you know how beautiful you are? No one was ever as lovely as you, not even your mother when she was a child. I can't believe you're mine. Kaeleigh roused at his words, came into the moment, secure in the aura of Daddy's love. She tried to sit up, but Daddy pushed her gently back down against the mattress. Stay just like that for Daddy. I want to teach you something new. He lifted her nightgown, rolled it up over her belly, coaxed her Thoroughbred legs apart. She squirmed, a paltry protest. Don't move! Daddy's scarlet face underlined his command. I thought he might smack her. But as quickly as his anger flared, it dissipated, smoke. Don't be afraid. This won't hurt. You'll like it. I promise. He kissed the length of her torso, down to the small, naked V. It was only his mouth that night. He didn't even ask her to touch him, prove how much she loved him. Afterward, she worried. Didn't he want her love anymore? What had she done wrong? And yet, he had taught her something new. Something awful. Worse, something wonderful. Something every girl should know the joy of, though, of course, she shouldn't learn it from Daddy. At ten, it isn't exactly easy to separate good touch from bad touch, proper love from improper love, doting daddy from perv.

(Identical, Page 238)

28. Upon challenge to these materials, the books are to be removed from all schools. Defendants failed to do so. Instead they only removed the materials from the single school at which it was challenged.

INJUNCTIVE RELIEF

29. To obtain a preliminary injunction, Plaintiffs must prove: (1) a substantial likelihood of success on the merits, (2) a lack of an adequate remedy at law, (3) the likelihood of irreparable harm absent the entry of an injunction, and (4) that injunctive relief will serve

the public interest. ; +: BC5B*, 'D#)2\$25* '6 0-B9B@ #\$, 213 So.3d 1032, 1040 (Fla. 1st DCA 2017).

Plaintiffs have a substantial likelihood of success on the merits because two separate provisions of Policy 2522 have been disregarded, thereby violating the requirements of Florida Statute 1006.28.

Additionally, Plaintiffs lacks any other remedy at law: this action is the only remedy available for Plaintiffs to force the School Board to follow the law of Section 1006.28 and Policy 2522. No other remedy exists to protect Plaintiff's rights. The test for the unavailability of an adequate remedy at law is whether the "irreparable injury is an injury that cannot be cured by money damages." <?OE='9B; +: * #2F#00#), 172 So.3d 534, 534 (Fla. 3d DCA 2015) (citing G)* 9#' &%!' &&18>+B9BG)* 9#' &%!' &&* +&, LLLP, 137 So.3d 1081, 1092 (Fla. 3d DCA 2014)). The deprivation of Plaintiff's rights cannot be remedied by money or any judgment other than an injunction. Unless an injunction is issued, Plaintiffs will suffer irreparable harm because his §1006.28 establishes the sole process for ensuring book objections against materials with unlawful content are enacted.

Furthermore, an injunction against the School Board will serve the public interest because the public has a vested interest in having a book objection policy established in accordance with Florida law.

DECLARATORY RELIEF

30. Declaratory relief is appropriate because the matter before the court deals with a present, ascertained state facts and present controversy as to a state of facts.
31. The rights and privileges of Plaintiffs are dependent upon the facts and law applicable to the facts concerning Policy 2522 and Section Fla. Stat. 1006.28(2)(a)(2).

32. Plaintiffs are a group of residents and taxpayers of Polk County with an actual, present, adverse, and antagonistic interest in this subject matter, and all antagonistic and adverse interests are before this Court. CDF's foundational purpose is to stand for educational integrity, and safety of Polk County children.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs respectfully requests that this Court enter as judgement:

- (a) a declaration that the Polk County School Board has failed to comply with Policy 2522 and therefore violated Section Fla. Stat. 1006.28(2)(a)(2).
- (b) an order enjoining the School Board to administer the appeals process contained in Policy 2522 and Fla. Stat. 1006.28(2)(a)(2).
- (c) an order enjoining the School Board to administer the correct Review Committee membership in accordance with Policy 2522 and Florida Law.
- (d) an order enjoining the School Board and its district-level curriculum supervisor to administer the meet-and-resolve requirement of Policy 2522.
- (e) an order enjoining the School Board to remove the books at issue.
- (f) Attorney's fees in accordance with s. 286.011, Florida Statutes.
- (g) any other relief as this Court deems necessary and just.

DATED: 3-18-2024.

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KeyCite Red Flag - Severe Negative Treatment

Enacted Legislation Amended by 2024 Fla. Sess. Law Serv. Ch. 2024-2 (S.B. 74) (WEST),



KeyCite Yellow Flag - Negative Treatment

Proposed Legislation

West's Florida Statutes Annotated

Title XLVIII. Early Learning-20 Education Code (Chapters 1000-1013)

Chapter 1006. Support for Learning (Refs & Annos)

Part I. Public K-12 Education Support for Learning and Student Services

F. Instructional Materials for K-12 Public Education

West's F.S.A. § 1006.28

1006.28. Duties of district school board, district school superintendent;
and school principal regarding K-12 instructional materials

Effective: July 4, 2023

Currentness

(1) Definitions.--

(a) As used in this section, the term:

1. “Adequate instructional materials” means a sufficient number of student or site licenses or sets of materials that are available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software that serve as the basis for instruction for each student in the core subject areas of mathematics, language arts, social studies, science, reading, and literature.

2. “Instructional materials” has the same meaning as in s. 1006.29(2).

3. “Library media center” means any collection of books, ebooks, periodicals, or videos maintained and accessible on the site of a school, including in classrooms.

(b) As used in this section and s. 1006.283, the term “resident” means a person who has maintained his or her residence in this state for the preceding year, has purchased a home that is occupied by him or her as his or her residence, or has established a domicile in this state pursuant to s. 222.17.

(c) As used in this section and ss. 1006.283, 1006.32, 1006.35, 1006.37, 1006.38, 1006.40, and 1006.42, the term “purchase” includes purchase, lease, license, and acquire.

(2) District school board.--The district school board has the constitutional duty and responsibility to select and provide adequate instructional materials for all students in accordance with the requirements of this part. The district school board also has the following specific duties and responsibilities:

(a) *Courses of study; adoption.*--Adopt courses of study, including instructional materials, for use in the schools of the district.

1. Each district school board is responsible for the content of all instructional materials and any other materials used in a classroom, made available in a school or classroom library, or included on a reading list, whether adopted and purchased from the state-adopted instructional materials list, adopted and purchased through a district instructional materials program under s. 1006.283, or otherwise purchased or made available.

2. Each district school board must adopt a policy regarding an objection by a parent or a resident of the county to the use of a specific material, which clearly describes a process to handle all objections and provides for resolution. The objection form, as prescribed by State Board of Education rule, and the district school board's process must be easy to read and understand and be easily accessible on the homepage of the school district's website. The objection form must also identify the school district point of contact and contact information for the submission of an objection. The process must provide the parent or resident the opportunity to proffer evidence to the district school board that:

a. An instructional material does not meet the criteria of s. 1006.31(2) or s. 1006.40(3)(d) if it was selected for use in a course or otherwise made available to students in the school district but was not subject to the public notice, review, comment, and hearing procedures under s. 1006.283(2)(b) 8., 9., and 11.

b. Any material used in a classroom, made available in a school or classroom library, or included on a reading list contains content which:

(I) Is pornographic or prohibited under s. 847.012;

(II) Depicts or describes sexual conduct as defined in s. 847.001(19), unless such material is for a course required by s. 1003.46, s. 1003.42(2)(n)1.g., or s. 1003.42(2)(n) 3., or identified by State Board of Education rule;

(III) Is not suited to student needs and their ability to comprehend the material presented; or

(IV) Is inappropriate for the grade level and age group for which the material is used.

Any material that is subject to an objection on the basis of sub-sub-subparagraph b.(I) or sub-sub-subparagraph b.(II) must be removed within 5 school days of receipt of the objection and remain unavailable to students of that school until the objection is resolved. Parents shall have the right to read passages from any material that is subject to an objection. If the school board denies a parent the right to read passages due to content that meets the requirements under sub-sub-subparagraph b.(I), the school district shall discontinue the use of the material. If the district school board finds that any material meets the requirements under sub-subparagraph a. or that any other material contains prohibited content under sub-sub-subparagraph b.(I), the school district shall discontinue use of the material. If the district school board finds that any other material contains prohibited content under

sub-sub-paragraphs b.(II)-(IV), the school district shall discontinue use of the material for any grade level or age group for which such use is inappropriate or unsuitable.

3. Each district school board must establish a process by which the parent of a public school student or a resident of the county may contest the district school board's adoption of a specific instructional material. The parent or resident must file a petition, on a form provided by the school board, within 30 calendar days after the adoption of the instructional material by the school board. The school board must make the form available to the public and publish the form on the school district's website. The form must be signed by the parent or resident, include the required contact information, and state the objection to the instructional material based on the criteria of [s. 1006.31\(2\)](#) or [s. 1006.40\(3\)\(d\)](#). Within 30 days after the 30-day period has expired, the school board must, for all petitions timely received, conduct at least one open public hearing before an unbiased and qualified hearing officer. The hearing officer may not be an employee or agent of the school district. The hearing is not subject to the provisions of chapter 120; however, the hearing must provide sufficient procedural protections to allow each petitioner an adequate and fair opportunity to be heard and present evidence to the hearing officer. The school board's decision after convening a hearing is final and not subject to further petition or review.

4. Meetings of committees convened for the purpose of ranking, eliminating, or selecting instructional materials for recommendation to the district school board must be noticed and open to the public in accordance with [s. 286.011](#). Any committees convened for such purposes must include parents of students who will have access to such materials.

5. Meetings of committees convened for the purpose of resolving an objection by a parent or resident to specific materials must be noticed and open to the public in accordance with [s. 286.011](#). Any committees convened for such purposes must include parents of students who will have access to such materials.

6. If a parent disagrees with the determination made by the district school board on the objection to the use of a specific material, a parent may request the Commissioner of Education to appoint a special magistrate who is a member of The Florida Bar in good standing and who has at least 5 years' experience in administrative law. The special magistrate shall determine facts relating to the school district's determination, consider information provided by the parent and the school district, and render a recommended decision for resolution to the State Board of Education within 30 days after receipt of the request by the parent. The State Board of Education must approve or reject the recommended decision at its next regularly scheduled meeting that is more than 7 calendar days and no more than 30 days after the date the recommended decision is transmitted. The costs of the special magistrate shall be borne by the school district. The State Board of Education shall adopt rules, including forms, necessary to implement this subparagraph.

(b) *Instructional materials.*--Provide for proper requisitioning, distribution, accounting, storage, care, and use of all instructional materials and furnish such other instructional materials as may be needed. Instructional materials used must be consistent with the district goals and objectives and the course descriptions established in rule of the State Board of Education, as well as with the applicable state academic standards provided for in [s. 1003.41](#).

(c) *Other instructional materials.*--Provide such other teaching accessories and aids as are needed for the school district's educational program.

(d) *School library media services; establishment and maintenance.*--Establish and maintain a program of school library media services for all public schools in the district, including school library media centers, or school library media centers open to the public, and, in addition such traveling or circulating libraries as may be needed for the proper operation of the district school

system. Beginning January 1, 2023, school librarians, media specialists, and other personnel involved in the selection of school district library materials must complete the training program developed pursuant to s. 1006.29(6) before reviewing and selecting age-appropriate materials and library resources. Upon written request, a school district shall provide access to any material or book specified in the request that is maintained in a district school system library and is available for review.

1. Each book made available to students through a school district library media center or included in a recommended or assigned school or grade-level reading list must be selected by a school district employee who holds a valid educational media specialist certificate, regardless of whether the book is purchased, donated, or otherwise made available to students.

2. Each district school board shall adopt procedures for developing library media center collections and post the procedures on the website for each school within the district. The procedures must:

a. Require that book selections meet the criteria in s. 1006.40(3)(d).

b. Require consultation of reputable, professionally recognized reviewing periodicals and school community stakeholders.

c. Provide for library media center collections, including classroom libraries, based on reader interest, support of state academic standards and aligned curriculum, and the academic needs of students and faculty.

d. Provide for the regular removal or discontinuance of books based on, at a minimum, physical condition, rate of recent circulation, alignment to state academic standards and relevancy to curriculum, out-of-date content, and required removal pursuant to subparagraph (a)2.

3. Each elementary school must publish on its website, in a searchable format prescribed by the department, a list of all materials maintained and accessible in the school library media center or a classroom library or required as part of a school or grade-level reading list.

4. Each district school board shall adopt and publish on its website the process for a parent to limit his or her student's access to materials in the school or classroom library.

(e) *Public participation.*--Publish on its website, in a searchable format prescribed by the department, a list of all instructional materials, including those used to provide instruction required by s. 1003.42. Each district school board must:

1. Provide access to all materials, excluding teacher editions, in accordance with s. 1006.283(2)(b)8.a. before the district school board takes any official action on such materials. This process must include reasonable safeguards against the unauthorized use, reproduction, and distribution of instructional materials considered for adoption.

2. Select, approve, adopt, or purchase all materials as a separate line item on the agenda and provide a reasonable opportunity for public comment. The use of materials described in this paragraph may not be selected, approved, or adopted as part of a consent agenda.

3. Annually, beginning June 30, 2023, submit to the Commissioner of Education a report that identifies:

a. Each material for which the school district received an objection pursuant to subparagraph (a)2., including the grade level and course the material was used in, for the school year and the specific objections thereto.

b. Each material that was removed or discontinued.

c. Each material that was not removed or discontinued and the rationale for not removing or discontinuing the material.

The department shall publish and regularly update a list of materials that were removed or discontinued as a result of an objection and disseminate the list to school districts for consideration in their selection procedures.

(3) District school superintendent.--

(a) The district school superintendent has the duty to recommend such plans for improving, providing, distributing, accounting for, and caring for instructional materials and other instructional aids as will result in general improvement of the district school system, as prescribed in this part, in accordance with adopted district school board rules prescribing the duties and responsibilities of the district school superintendent regarding the requisition, purchase, receipt, storage, distribution, use, conservation, records, and reports of, and management practices and property accountability concerning, instructional materials, and providing for an evaluation of any instructional materials to be requisitioned that have not been used previously in the district's schools. The district school superintendent must keep adequate records and accounts for all financial transactions for funds collected pursuant to subsection (4).

(b) Each district school superintendent shall notify the department by April 1 of each year the state-adopted instructional materials that will be requisitioned for use in his or her school district. The notification shall include a district school board plan for instructional materials use to assist in determining if adequate instructional materials have been requisitioned.

(c) Annually by August 1, each district school superintendent shall certify to the Commissioner of Education that the district school board has approved a comprehensive staff development plan that supports fidelity of implementation of instructional materials programs, including verification that training was provided, that the materials are being implemented as designed, and that core reading materials and reading intervention materials used in kindergarten through grade 5 meet the requirements of s. 1001.215(8). Such instructional materials, as evaluated and identified pursuant to s. 1001.215(4), may be purchased by school districts without undergoing the adoption procedures in s. 1006.40(4)(b).

(4) School principal.--The school principal has the following duties for the management and care of materials at the school:

(a) *Proper use of instructional materials.*--The principal shall assure that instructional materials are used to provide instruction to students enrolled at the grade level or levels for which the materials are designed, pursuant to adopted district school board rule. The school principal shall communicate to parents the manner in which instructional materials are used to implement the curricular objectives of the school and the procedures for contesting the adoption and use of instructional materials.

(b) *Money collected for lost or damaged instructional materials; enforcement.*--The school principal shall collect from each student or the student's parent the purchase price of any instructional material the student has lost, destroyed, or unnecessarily damaged and to report and transmit the money collected to the district school superintendent. The failure to collect such sum upon reasonable effort by the school principal may result in the suspension of the student from participation in extracurricular activities or satisfaction of the debt by the student through community service activities at the school site as determined by the school principal, pursuant to policies adopted by district school board rule.

(c) *Sale of instructional materials.*--The school principal, upon request of the parent of a student in the school, shall sell to the parent any instructional materials used in the school. All such sales shall be made pursuant to rule adopted by the district school board, and the principal shall annually provide information to parents that they may purchase instructional materials and how to purchase the materials.

(d) *Disposition of funds.*--All money collected from the sale, exchange, loss, or damage of instructional materials shall be transmitted to the district school superintendent to be deposited in the district school board fund and added to the district appropriation for instructional materials.

(e) *Accounting for instructional materials.*--Principals shall see that all instructional materials are fully and properly accounted for as prescribed by adopted rules of the district school board.

(f) *Selection of library media center materials.*--School principals are responsible for overseeing compliance with school district procedures for selecting school library media center materials at the school to which they are assigned and notifying parents of the process for objecting to the use of specific materials.

Credits

Added by Laws 2002, c. 2002-387, § 303, eff. Jan. 7, 2003. Amended by Laws 2009, c. 2009-59, § 18, eff. July 1, 2009; Laws 2009, c. 2009-222, § 1, eff. July 1, 2009; Laws 2010, c. 2010-154, § 17, eff. July 1, 2010; Laws 2011, c. 2011-55, § 18, eff. July 1, 2011; Laws 2013, c. 2013-237, § 1, eff. July 1, 2013; Laws 2014, c. 2014-15, § 1, eff. July 1, 2014; Laws 2014, c. 2014-39, § 60, eff. May 12, 2014; Laws 2017, c. 2017-177, § 2, eff. July 1, 2017; Laws 2021, c. 2021-9, § 14, eff. July 1, 2021; Laws 2022, c. 2022-21, § 2, eff. July 1, 2022; Laws 2023, c. 2023-8, § 167, eff. July 4, 2023; Laws 2023, c. 2023-13, § 11, eff. July 4, 2023; Laws 2023, c. 2023-105, § 6, eff. July 1, 2023; Laws 2023, c. 2023-245, § 31, eff. July 1, 2023.

Notes of Decisions (75)

West's F. S. A. § 1006.28, FL ST § 1006.28

Current with laws, joint and concurrent resolutions and memorials in effect from the 2023 Special B and C Sessions and the 2023 first regular session. Some statute sections may be more current, see credits for details. The statutes are subject to change as determined by the Florida Revisor of Statutes.



EXHIBIT B

Book	Policy Manual
Section	2000 Program
Title	CHALLENGES TO ADOPTION OR USE OF INSTRUCTIONAL, LIBRARY, OR READING LIST MATERIALS
Code	po2522
Status	Active
Adopted	October 25, 2022

2522 - CHALLENGES TO ADOPTION OR USE OF INSTRUCTIONAL, LIBRARY, OR READING LIST MATERIALS

The following individuals may contest the adoption of a specific instructional material, or object to the use of specific material used in a classroom, made available in a school library, or included on a reading list:

- A. parent of a student in the district; and
- B. resident of the county.

For purposes of this policy, "parent" means a parent of a student enrolled in the District's schools. "Resident" means a person residing in the county who has maintained their residence in Florida for the preceding year, has purchased a home that is occupied by them as their residence, or has established a domicile in Florida pursuant to F.S. 222.17.

Contest of School Board's Adoption

Filing a Petition

A parent or resident must file a petition with the Board within thirty (30) calendar days after the Board's adoption of specific instructional material, on a form provided by the Board. The petition form shall be publicly available by visiting any school in person or by accessing the link on the Board's website. The petition must be signed by the parent or resident, include the required contact information, and state the objection to the instructional material based on the criteria set forth in F.S. 1006.31(2) or 1006.40(3)(d).

Timeframe for Hearing

When the thirty (30) calendar day period following Board adoption of the instructional material in question has expired, the Board will conduct at least one (1) open public hearing before an unbiased and qualified hearing officer for all timely petitions received.

Hearing Officers

Hearing officers are not employees or agents of the District with the exception of any agreement entered into for purposes of conducting the hearings set forth herein. Hearing officers shall be selected annually by the Board from a list of candidates provided by the Superintendent.

Procedures for Hearings

Petitioners will have an adequate and fair opportunity to be heard and present evidence to the hearing officer. Hearings shall be conducted as follows:

- A. The petitioner may make an opening statement.
- B. The District's representative may make an opening statement.
- C. The petitioner may present evidence (including documents and testimony from witnesses) that instructional material does not meet the criteria of F.S. 1006.31(2) or 1006.40(3)(d) if it was selected for use in a course or otherwise made available to students in the School District but was not subject to the public notice, review, comment, and hearing procedures under F.S. 1006.283(2)(b)8., 9., and 11.
- D. The District representative may present evidence (including documents and testimony from witnesses) that the instructional material does meet the criteria of F.S. 1006.31(2) or 1006.40(3)(d) if it was selected for use in a course or otherwise made available to students in the School District but was not subject to the public notice, review, comment, and hearing procedures under F.S. 1006.283(2)(b)8., 9., and 11.
- E. The petitioner may make a closing statement.
- F. The District representative may make a closing statement.

Within fourteen (14) days of the date of the hearing, the hearing officer shall submit a recommended order to the Board. The Board shall consider the recommended order and enter a final order at a publicly noticed Board meeting. If the petitioner proves that the instructional material does not meet the criteria required under F.S. 1006.28, or contains prohibited material under that statute, the material shall be removed in accordance with Florida law. The Board's decision is final and not subject to further petition or review.

Hearings under this policy are not subject to the provisions of F.S. Chapter 120.

Objections to Material Used in Classrooms, Made Available in School Library, or Included On a Reading List

Parents and residents of the county may object to the use of a specific instructional material in the classroom, made available in a school library, or included on a reading list, based on the criteria set forth in F.S. 1006.28(2)(a)2. or F.S. 1014.05(1)(c).

Parents and residents of the county should make any such objection in writing to the principal on the form prescribed by the District, identifying the specific instructional material and stating the basis for the objection.

The principal will review the objection and may meet with the teacher or parents/resident, or both, in an attempt to resolve the objection, using an alternative instructional material. If the objection is not resolved to the objector's satisfaction, the principal shall refer the matter to the appropriate District-level curriculum supervisor.

The District-level curriculum supervisor will meet with the objector and attempt to resolve the objection. The objector is further permitted to provide any evidence it desires to the District-level curriculum supervisor to consider as set forth in F.S. 1006.28(2)(a)2. a. and b. If the objection is not resolved to the objector's satisfaction, the matter may be appealed within fifteen (15) business days of receipt using the appeals process below.

Appeals Process for Objections to Material Used in Classrooms, Made Available in the School Library, or Included On a Reading List

All challenges under this policy shall be addressed as follows:

- A. The complaint's original complaint form shall be used as the basis for appeal.
- B. Upon receipt of the information, the Superintendent after advising the Board of the complaint, shall appoint a review committee which shall consist of:
 1. Regional Superintendent supervising the school bringing the challenge;
 2. Senior Coordinator for Library Media Services;
 3. Director of Curriculum and Instruction and/or Curriculum Specialist (representative of content area);
 4. A teacher from the appropriate content area and level - Secondary should have an English/Language Arts teacher;
 5. A Library Media Specialist representative of the grade level of the material in question;
 6. Three (3) parents - (one (1) SAC committee member from the school bringing the challenge, two (2) SAC committee members representing the same grade division in the District); and
 7. Board member representing the school bringing the challenge.
- C. The Superintendent shall be an ex officio member of the committee.
- D. The committee, in evaluating the questioned material, shall be guided by the following criteria:
 1. the appropriateness of the material for the age and maturity level of the students with whom it is being used
 2. the accuracy of the material
 3. the objectivity of the material
 4. the use being made of the material
- E. The material in question will not be available for use pending the committee's recommendation to the Superintendent.
- F. The committee's recommendation shall be reported to the Superintendent in writing within fifteen (15) business days following the formation of the committee. The Superintendent will advise the complaint, in writing, of the committee's recommendation and their recommendation.
- G. The complainant may appeal this decision, within thirty (15) business days, to the Board through a written request to the Superintendent, who shall forward the request and all written material relating to the matter to the Board.
- H. The Board will review the case, including all evidence proffered by the complainant, during a publicly noticed Board meeting. The Board shall announce during the meeting whether the challenged material meets the requirements of this Policy. The complainant shall submit any additional evidence for the Board's consideration no later than seven (7) days before the meeting at which the Board will consider the challenge.

No challenged material may be removed from the curriculum or from a collection of resource materials except by action of the Board, and no challenged material may be removed solely because it presents ideas that may be unpopular or offensive to some. Any Board action to remove material will be accompanied by the Board's statement of its reasons for the removal.

The Board shall discontinue use of any material challenged under this policy if it contains content that is pornographic or prohibited under F.S. 847.012, is not suited to student needs and their ability to comprehend the material presented, or is inappropriate for the grade level and age group for which the material is used.

The decision of the Board shall be final.

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[F.S. 119.071](#)

[F.S. 212.183](#)

[F.S. 1001.215](#)

[F.S. 1002.22](#)

[F.S. 1003.485](#)

[F.S. 1006.28](#)

[F.S. 1006.28 through 1006.42](#)

[F.S. 1008.22](#)

[F.S. 1008.25\(5\) \(a\)](#)

[F.S. 1008.25 \(5\) \(c\)](#)

[F.S. 1014.05](#)

[F.A.C. 6A-6.03028](#)

[34 C.F.R. Part 300](#)