

Senator Hirono Questions for the Record for the September 12, 2023 Hearing in the Senate Judiciary Committee Hearing Entitled “Book Bans: Examining How Censorship Limits Liberty and Literature.”

QUESTIONS FOR SECRETARY GIANNOULIAS

Current Library Review Policies

Having spoken with our state librarian, I know Hawaii’s public libraries have a comprehensive process in place to identify materials appropriate for their collections. The process is based on national best practices. It is implemented by professionals who review materials for accuracy, age suitability, and content quality. Perhaps most importantly, the process is transparent, and it is available online for anyone to review.

I have serious concerns about recent efforts to undermine well-established processes like these that are already in place, especially legislation that takes the decision-making power away from the community and gives it to people who sometimes do not even have children in schools.

QUESTION:

1. Do most libraries have processes in place to review materials before adding them to their collections? **Yes, and public libraries in Illinois are required to have collection development policies that direct their selection of materials which will be added to their holdings. Librarians and staff designated to this responsibility have extensive education, training and experience that guides them in reviewing materials before adding to their collections and with respect to culling those collections from time to time to ensure that the needs of the community are reflected in the circulation. Reviews in professionally recognized resources are a primary source for materials selection. Book lists by recognized authorities and bestseller lists are also used.**
2. Are the processes to review materials generally effective? **Yes. I trust the librarians in the State of Illinois to continue to effectively review materials.**
3. Do libraries have sufficient resources to support these best practices? **While there is always more than can and should be done to provide for our libraries and librarians, the answer is yes. Libraries have sufficient resources and librarians have sufficient information, training, education, and experience to support the best practices that are already in place throughout the State of Illinois.**

Availability of Books Online

During the hearing, some Senators suggested that some of the banned books are not really banned because they are still available to purchase online.

QUESTION:

1. What are the implications for accessibility, particularly for low income children and adults, to books exclusively available for purchase rather than available for free through a school library or public library? **Children do not have access to their own Amazon accounts and cannot possibly purchase every book they find interesting or compelling in a bookstore. Low-income adults are also entitled to the same free exchange of information and ideas as any other person. We still have a digital divide in this country that does not allow everyone access to materials online, even if they are available free of charge. Removing a book from**

a library is a complete prohibition for a lot of adults and children from accessing that material. We should be lifting our libraries and librarians up and ensuring that every person has access to read freely and without the constraints of financial limitations.

Avoiding Bulk Challenges to Books

We have seen many challenges to books coming from a small number of people. According to the Washington Post, people who file more than 10 complaints account for two-thirds of all book challenges. In response, a number of schools have set a requirement that you must have a personal connection to the school in order to challenge a book. It seems reasonable that a challenger should be a member of the community. You may have rights to influence your own child's education, but not everyone else's.

QUESTION:

1. Do you believe that anyone challenging a book at a school library should at the very minimum have a child that goes to that school? **As I have often said, parents have the right and responsibility to determine what their own child—and only their own child—may read. Challenging a book at a school library when you have no child enrolled that will even access it is absurd.**
2. What would encourage more school districts to adopt this requirement? **In Illinois we have seen students, parents, librarians, community stakeholders and school officials take the lead in demanding their schools keep books in circulation despite the protests of outside interests. While it's unfortunate that we have put this responsibility on students, it is very motivating to see the students stand for their rights in this regard. School districts can avoid the unnecessary time and burden of responding to each and every challenge if they simply require a parental connection to the school district before entertaining every person that wants to disrupt the flow of education within that school district.**

SENATOR TED CRUZ
U.S. Senate Committee on the Judiciary

Questions for the Record for Secretary Alex Giannoulias, Illinois Secretary of State

I. Directions

Please provide a wholly contained answer to each question. A question's answer should not cross-reference answers provided in other questions. Because a previous nominee declined to provide any response to discrete subparts of previous questions, they are listed here separately, even when one continues or expands upon the topic in the immediately previous question or relies on facts or context previously provided.

If a question asks for a yes or no answer, please provide a yes or no answer first and then provide subsequent explanation. If the answer to a yes or no question is sometimes yes and sometimes no, please state such first and then describe the circumstances giving rise to each answer.

If a question asks for a choice between two options, please begin by stating which option applies, or both, or neither, followed by any subsequent explanation.

If you disagree with the premise of a question, please answer the question as-written and then articulate both the premise about which you disagree and the basis for that disagreement.

If you lack a basis for knowing the answer to a question, please first describe what efforts you have taken to ascertain an answer to the question and then provide your tentative answer as a consequence of its reasonable investigation. If even a tentative answer is impossible at this time, please state why such an answer is impossible and what efforts you, if confirmed, or the administration or the Department, intend to take to provide an answer in the future. Please further give an estimate as to when the Committee will receive that answer.

To the extent that an answer depends on an ambiguity in the question asked, please state the ambiguity you perceive in the question, and provide multiple answers which articulate each possible reasonable interpretation of the question in light of the ambiguity.

II. Questions

1. Do children have a right to view and read sexually explicit materials in their school library?

I agree with the right of a child to access library materials at their school library that their own parent or guardian has determined is appropriate for them to read. Materials that can be classified as obscenity are not protected by First Amendment rights and you won't find those items in the library collections of school libraries..

Librarians and staff designated the responsibility to acquire materials for school library collections have extensive education, training and expertise in determining whether a book or any other library material meets the needs of its patrons.

2. Are there books that depict minor children engaging in sex with one another in American schools and libraries?

Not to my knowledge.

3. Is *Gender Queer* available in Illinois schools or children's libraries?
***Gender Queer* is available in some, but not all Illinois school or public libraries. As the State Librarian, I do not determine the collection development policy of any library in the State of Illinois, other than the Illinois State Library.**

- a. Does it include a graphic illustration of sex?

Yes. It should be noted that this answer pertains to three pages in a 256-page graphic novel.

- b. Does it have an illustration of an adult and minor boy engaged in a sexual act?

Not to my knowledge.

4. *Gender Queer* book ignited a firestorm at Keller Independent School District in Texas, and parents demanded the school board remove the book.

- a. Were the parents correct to demand the book's removal?

Each parent has the right to determine what book is appropriate for their own children to read. No parent or group of parents has the right to determine what anyone else's children may read. I am a parent of three young daughters. While my children are minors, my wife and I will continue to take an active interest in what each of our daughters is reading. At any given time we may decide that a book is not age-appropriate for our daughters. I would never consider telling any other parent, or the child of any other parent, what anyone else's children can and cannot read.

5. Should public libraries allow drag performers to host story hour for young children?

Libraries are public institutions and should be treated as such. As the State Librarian I do not consider it appropriate for me to either mandate or prohibit any performance that a library in this State determines appropriate. Again, each parent must be allowed to decide whether a performance is appropriate for their child.

6. Should there be any age requirement at all for children to attend drag story hours?

That is a decision for each individual parent to make for their child, and only their child.

7. Under HB 2789, could a school library remove material that is racist, anti-Semitic, or bigoted or would that constitute "doctrinal disapproval"? Yes. Through a library's own evaluation of their collection or in response to a request for reconsideration, a school library might determine that a title is not responsive to the community it serves and is inconsistent with the collection development policy it has established for its operation.

A person or a group of persons cannot determine that a book is "racist, anti-Semitic, or bigoted" and insist that the book be removed. HB2789 does not require that any library carry any particular book and relies upon the experience, expertise, and education of librarians to make that determination. In certain instances, the book "To Kill a Mockingbird" has been banned for being racist, as if it has no literary value.

The United States Supreme Court decided this issue in Board of

Education v. Pico, 457 U.S. 853 (1982) and found that “If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion...If there are any circumstances which permit an exception, they do not now occur to us.”

8. Who should be deciding what materials are seen by kids: school librarians or parents?

Librarians should decide what materials are in a library and available to the community. The collection should reflect the needs and interests of all individuals that the library serves. Each parent should decide what materials are seen by their own children—and only their own children.

9. Do you disagree with the Supreme Court’s opinion in *Board of Education v. Pico* that book removal is permissible based on educational suitability or vulgarity?

I wholeheartedly agree with the Supreme Court’s opinion in *Board of Education v. Pico*, 457 U.S. 853 (1982). And while the opinion does include the sentence, “[R]espondents implicitly concede that an unconstitutional motivation would not be demonstrated if it were shown that the petitioners had decided to remove the books at issue because those books were pervasively vulgar,” that is not the substance of the opinion.

Instead, the substance of the opinion is that, “[i]f there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion...If there are any circumstances which permit an exception, they do not now occur to us.”

The substance of the opinion supports my position that students and library patrons have a First Amendment right to read freely and that removal of a book from a library’s circulation should not be done on the basis of partisan or doctrinal disapproval. The US Supreme Court actually ruled against the school board for doing just that in this case, finding that “In making their removal decisions petitioners ignored ‘the advice of literary experts,’ the views of ‘librarians and teachers within the Island Trees School System,’ the advice of the Superintendent of Schools, and the guidance of publications that rate

books for junior and senior high school students.” The Court also stated in its opinion that school boards may not remove books “simply because they dislike the ideas contained in those books and seek their removal to ‘prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion.’” In so holding, the Court explained at length that while the school board may determine the curriculum of the school, it must act within the context of the First Amendment, particularly where the school library is concerned.

Finally, I do agree with the Court’s holding in this case. “In sum, just as access to ideas makes it possible for citizens generally to exercise their rights of free speech and press in a meaningful manner, such access prepares students for active and effective participation in the pluralistic, often contentious society in which they will soon become adult members. Of course, the First Amendment rights accorded students must be construed ‘in light of the special characteristics of the school environment.’ [citation omitted] But the special characteristics of the school library make that environment especially appropriate for the recognition of the First Amendment Rights of students.” *Id.*

10. In an interview with the Chicago Sun Times, you described the purported book ban as an “assault on democracy.”
 - a. How is a law removing the ability of parents and local school boards to make decisions concerning what materials young children can view under the threat of losing state funding not an assault on democracy? **Each parent may determine what is appropriate for their child—and only their child. The State has a responsibility, though, to ensure that publicly funded applicants for state grants are not in violation of the First Amendment. The First Amendment prohibits the government from restricting or prohibiting access to the free exchange of speech, expression and ideas. No person or group of people have the right to determine what the rest of the community may access in a library. That decision should be left to the library’s staff who have worked to select and maintain age-appropriate content in the library to meet the needs and interests of all individuals it serves. Every time one parent determines what a community of children can access, every time one group determines what the rest of the community can learn, read, or say is an assault on our democracy. Our democracy depends on the**

free exchange of ideas—books represent those ideas. Free people have the right to read freely. Any attempt to thwart that is an assault on democracy.

11. In the same interview, you also stated, “to me, this is a slippery slope, and it goes against what education is about. The purpose of education is to teach children to think for themselves.”

How do books on sodomy, masturbation, and the graphic descriptions of these events constitute what education is about for young children? **This question presumes that the dedicated library workers that support education in this country have not selected and maintained age-appropriate content to meet the needs and interests of all individuals the library serves. Age-appropriate content can ultimately lead minors to healthier decisions.**