

Questions for the Record from Senator Charles Grassley
U.S. Senate Committee on the Judiciary
“Book Bans: Examining How Censorship Limits Liberty and Literature”
September 12, 2023

Questions for Ms. Neily:

- 1. In your written testimony you mentioned parents who are bold enough to question the appropriateness of explicit material in a school setting are publicly shamed and likened to totalitarian dictators. Aside from the obvious irony of this, can you please elaborate on the various experiences you or other parents have had while having an active role in your children’s education?**

Parents across the country have been mocked and vilified by politicians and activists. Examples include:

- the White House’s behind-the-scenes work with the National School Boards Association, which culminated in the NSBA’s September 29, 2021 letter sent to President Biden requesting federal intervention in school board issues, citing the Patriot Act and other statutes as justification;¹
- Attorney General Merrick Garland’s refusal – as recently as September 20, 2023² – to rescind his October 4, 2021 memo³ released in response to the NSBA’s letter, which directed federal law enforcement agencies to engage on school board issues;
- two state legislators in Virginia calling parental rights “garbage,” “crap,” and “stupid”;⁴
- failed Virginia gubernatorial candidate Terry McAuliffe’s infamous “I don’t think parents should be telling schools what they should teach” statement in 2021;⁵

¹ Michael Best & Friedrichs, “Final Report on the Events Surrounding the National School Boards Association’s September 29, 2021 Letter to the President,” May 20, 2022 <https://www.nsba.org/-/media/Files/NSBA-Report.pdf?la=en&hash=A001354D23C9AE88B54D398270C9790D91B01FF9>

² Heather Hunter, “Merrick Garland hearing: Texas representative grilled Garland over whether his department was still targeting parents,” Washington Examiner, September 20, 2023 <https://www.washingtonexaminer.com/news/merrick-garland-hearing-texas-rep-grilled-ag-garland-over-whether-his-department-was-still-targeting-parents>

³ Office of the Attorney General, Department of Justice, “Partnership Among Federal, State, Local, Tribal, and Territorial Law Enforcement to Address Threats Against School Administrators, Board Members, Teachers, and Staff,” October 4, 2021 <https://www.justice.gov/media/1170056/dl?inline>

⁴ Brandon Gillespie, “Democratic lawmakers caught on hot mic mocking parental rights as 'garbage,' 'stupid',” Fox News, April 26, 2023 <https://www.foxnews.com/politics/democratic-lawmakers-hot-mic-mocking-parental-rights-garbage-stupid>

⁵ The Editors, “Terry McAuliffe’s War on Parents,” National Review Online, October 1, 2021 <https://www.nationalreview.com/2021/10/terry-mcauliffes-war-on-parents/>

- AFT President Randi Weingarten comparing parental rights advocates to “segregationists”;⁶ and
- the Southern Poverty Law Center’s 2023 addition of numerous parental rights organizations to its “Hate Map.”⁷

Families have also had their livelihoods threatened: in Michigan, Rochester Public Schools paid approximately \$190,000 to a mother who was fired from her job.⁸ Other families have lost their seats in private schools, as two families in Ohio faced,⁹ and in Rhode Island, the teacher’s union sued a parent over documents that a district lawfully released to her under the state’s open records law.¹⁰ Fear of such consequences chills the speech of would-be activists; Parents Defending Education’s tip line asks “do you wish to remain anonymous,” to which nearly all of our tipsters say yes.

Indeed, when parents have spoken up in public at school boards, a number of districts have affirmatively silenced parents and been sued as a result. Recent examples can be found in Pennsylvania, where the Pennsbury School District paid out \$300,000¹¹ – as well as in Maine, the School Board of Regional School Unit 22 paid \$44,000 to an activist who was banned from a public meeting.¹²

2. Do you find that these laws narrowly tailored to limiting young children’s access to prurient and salacious material substantially threaten the spirit and purpose of the First Amendment?

No, they do not threaten the spirit and purpose of the First Amendment. The Supreme Court has made clear that States may regulate “works which, taken as a whole, appeal to the prurient interest in sex, which portray sexual conduct in a patently offensive way, and which, taken as a whole, do not have serious literary, artistic, political, or scientific value.” *Miller v.*

⁶ Ian Miller, “Randi Weingarten Compares Parental Rights to Segregation,” Outkick, September 14, 2023 <https://www.outkick.com/randi-weingarten-compares-parental-rights-to-segregation/>

⁷ Victor Nava, “Southern Poverty Law Center adds parental rights groups to ‘hate and extremism’ report,” New York Post, June 7, 2023 <https://nypost.com/2023/06/07/southern-poverty-law-center-adds-parental-rights-advocates-to-hate-map/>

⁸ Ed White, “Rochester schools settles with parent for \$190K after she said lost her job criticizing their Covid policies,” Fox 2 Detroit, March 23, 2022 <https://www.fox2detroit.com/news/rochester-schools-settles-with-parent-for-190k-after-she-said-lost-her-job-criticizing-their-covid-policies>

⁹ Elissa Salamy, “Students expelled after their parents question private school’s curriculum,” The National Desk, July 9, 2021 <https://wpde.com/news/nation-world/students-expelled-after-their-parents-question-private-schools-curriculum>

¹⁰ Jeremy Beaman, “Teachers union files suit against mother who repeatedly requested information about curriculum,” Washington Examiner, August 6, 2021 <https://www.yahoo.com/video/teachers-union-files-suit-against-183600812.html>

¹¹ Peg Quann, “Pennsbury settles free speech lawsuit. What it could mean to other districts,” Bucks County Courier Times, July 19, 2022 <https://www.phillyburbs.com/story/news/2022/07/20/pennsbury-school-district-settles-free-speech-lawsuit-board-meetings-public-comment/65375953007/>

¹² Joshua Q. Nelson, “Maine school board ordered to pay a parent \$40K for violating First Amendment rights,” Fox News, September 6, 2022 <https://www.foxnews.com/media/maine-school-board-ordered-to-pay-parent-40k-violating-first-amendment-rights>

California, 413 U.S. 15, 24 (1973). And States “possess significant discretion to determine the content of their school libraries.” *Bd. of Educ., Island Trees Union Free Sch. Dist. No. 26 v. Pico*, 457 U.S. 853, 870 (1982) (plurality opinion). The First Amendment does not preclude school districts from removing library books that are “vulgar” or educationally unsuitable. *Id.* at 871; see also *Mahanoy Area Sch. Dist. v. B.L. by & through Levy*, 141 S. Ct. 2038, 2045 (2021) (outlining “specific categories of student speech that schools may regulate in certain circumstances,” including “‘indecent,’ ‘lewd,’ or ‘vulgar’ speech uttered during a school assembly on school grounds,” and “speech, uttered during a class trip, that promotes ‘illegal drug use’” (quoting *Bethel School Dist. No. 403 v. Fraser*, 478 U.S. 675, 685 (1986), and *Morse v. Frederick*, 551 U.S. 393, 409 (2007))).

In short, parents should have transparency regarding the content that their children can access and the ability to set guard rails for their own family. This is entirely consistent with the First Amendment.

3. Do the titles, particularly those more explicit ones which are subject to frequent restriction under these laws substantially contribute to the value of general K-12 education?

We believe that families are best positioned to know what their young learners’ educational needs and sensitivities are – and that a title that might be appropriate for one child in a family might not be appropriate for that child’s sibling at the same age.

4. Have you found parents generally want their children to have access to explicit material, and if not, from where do these efforts to expose children to what many would consider age-inappropriate materials generally derive?

In our experience, we have found that parents want to be both academically and emotionally supportive of their loved ones – so that if (or when) their children are exposed to such material, the themes, context, and imagery can be discussed at a level suitable for the child.

We believe parents know their minor children’s needs best, and have yet to encounter parents who wish to push explicit content on their children beyond age-appropriate levels; if anything, there are likely parents who would choose to err on the side of caution in this setting.

Accordingly, these efforts to expose children to age-inappropriate material originate from outside the home; in the school setting, where Parents Defending Education operates, we have identified lesson plans and curriculum originating with nonprofits and activist

organizations such as GLSEN,¹³ the Trevor Project,¹⁴ and Gender Spectrum;¹⁵ professional associations such as the American School Counselors Association,¹⁶ National Education Association,¹⁷ National School Libraries Association; and school employees themselves.^{18,19}

These efforts are not occurring in a vacuum; donors such as Arabella Advisors' New Venture Fund,²⁰ the Tides Foundation,²¹ and the Bill & Melinda Gates Foundation²² are funding such activism through organizations like the American Library Association.²³ Organizations like Students Engaged in Advancing Texas receive the backing of entities like the Human Rights Campaign & Campaign for our Shared Future²⁴ – also a project of Arabella Advisors' New Venture Fund.²⁵

¹³ GLSEN, "Ready, Set Respect! Elementary Toolkit," Accessed October 2, 2023

<https://shop.glsen.org/collections/educational-materials/products/glsen-ready-set-respect-elementary-toolkit>

¹⁴ The Trevor Project, "Public Education," Accessed October 2, 2023 <https://www.thetrevorproject.org/public-education/>

¹⁵ Gender Spectrum, "Introducing Gender: Girls, Boys and More!", Learning for Justice, Summer 2015, accessed October 2, 2023 <https://www.learningforjustice.org/magazine/summer-2015/toolkit-for-sex-sexual-orientation-gender-identity-gender-expression>

¹⁶ American School Counselor Association, "The School Counselor and Gender Equity," revised 2020, accessed October 2, 2023 <https://www.schoolcounselor.org/Standards-Positions/Position-Statements/ASCA-Position-Statements/The-School-Counselor-and-Gender-Equity>

¹⁷ Kristina Watrobski, "Teachers union recommends 'Gender Queer' to educators for summer reading," The National Desk, June 29, 2023 <https://thenationaldesk.com/news/americas-news-now/teachers-union-recommends-gender-queer-to-educators-for-summer-reading-national-education-association-nea-maia-kobabe-gender-identity-parents-school-students>

¹⁸ Tom Gantert, "School libraries across the country adding books on gender and white supremacy," The Center Square, March 27, 2023 https://www.thecentersquare.com/national/article_d31bfdd0-cc1d-11ed-843b-6ba27bb5144a.html

¹⁹ Vanessa Serna, "California Pre-K teacher sparks outrage after he says 'childhood innocence,' does not exist, refers to it as a 'mythology' and claims TODDLERS are not too young for 'sexuality' discussion," Daily Mail, February 12, 2023 <https://www.dailymail.co.uk/news/article-11742489/California-teacher-claims-toddlers-not-young-sexuality-discussion.html>

²⁰ New Venture Fund Form 990 FY2019, accessed October 2, 2023

<https://projects.propublica.org/nonprofits/organizations/205806345/202043389349300039/IRS990ScheduleI>

²¹ Tides Foundation Form 990 FY2021, accessed October 2, 2023

<https://projects.propublica.org/nonprofits/organizations/510198509/202233189349313898/IRS990ScheduleI>

²² Gates Foundation Committed Grants Database, accessed October 2, 2023

<https://www.gatesfoundation.org/about/committed-grants?q=American%20Library%20Association>

²³ American Library Association, "Banned Books Week Display Ideas," accessed October 2, 2023

<https://www.ala.org/advocacy/bbooks/bannedbooksweek/ideasandresources/display>

²⁴ Students Engaged in Advancing Texas, "About Us," accessed October 2, 2023

<https://www.studentsengaged.org/about>

²⁵ Influence Watch, "Campaign for Our Shared Future," accessed October 2, 2023

<https://www.influencewatch.org/organization/campaign-for-our-shared-future/>