



CDF-Texas testimony in opposition to HB 900
Submitted by Maggie Stern, Program and Policy Manager
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CDF-Texas is a nonpartisan children's advocacy organization with the mission to ensure every child a *Healthy Start*, a *Head Start*, a *Fair Start*, a *Safe Start* and a *Moral Start* in life and successful passage to adulthood with the help of caring families and communities. We champion policies and programs that lift children out of poverty; protect them from abuse and neglect; and ensure their access to health care, quality education and a moral and spiritual foundation.

We oppose HB 900 in its entirety for four primary reasons:

- HB 900 emboldens book bans that have targeted marginalized stories;
- HB 900 creates a surveillance system that harms vulnerable Texas students;
- HB 900 takes crucial educational decisions out of the hands of parents and educators, and places it in the hands of unqualified book vendors and unaccountable state agencies; and
- HB 900 would have a costly and chilling effect on Texas schools and educators that would likely result in lost funding for other student supports, a heightening of the teacher shortage, and increased censorship of library materials.

HB 900 emboldens books bans that have targeted marginalized stories

All students deserve the freedom to read and to see their stories reflected in their schools. In fact, the Supreme Court has ruled in *Island Trees School District v. Pico* (1982) that students have a First Amendment right to read and that the government cannot restrict access to library books solely because it does not agree with the social, political, or moral content of those books. HB 900 is a blatant attempt to ban books in violation of students' right to read.

Texas leads the nation in books banned over the past two school years, according to PEN America, a national nonprofit founded to protect free expression. It is especially concerning to see the types of books singled out by politicians and book banners:

- While LGBTQ+ identity is not inherently sexual, the language of "sexual explicitness" used in HB 900 has been improperly used to ban books about LGBTQ+ characters and history. According to PEN America, **books featuring LGBTQ+ characters comprised 29 percent of all books banned** from Texas schools in the first half of the 2022-2023 school year (above the national

average).¹ Since 2018, books about LGBTQ+ characters have made up under 5 percent of the total list of children's and YA books being published,² suggesting that book bans disproportionately target these titles for removal.

- **Stories about characters of color or addressing race and racism comprised over 30 percent of books banned** in the first half of this school year in Texas.³ Yet just over 16 percent of children's and YA books published in the last two decades have been about characters of color,⁴ again a disproportionate impact.
- **Ten percent of books banned last school year discussed themes of rights and activism.**⁵ The Texas Education Code states that the mission of public education "is to ensure that all Texas children have access to a quality education that enables them to achieve their potential and fully participate now and in the future...of our state and nation" and recognizes that "a general diffusion of knowledge is essential for the welfare of this state and for the preservation of the liberties and rights of citizens." A school library stripped of titles about student rights is antithetical to this mission.
- It is incomprehensible that in Texas this year, **36 percent of banned books have been about death or grief; 45 percent about mental health related topics such as bullying and suicide; and over 50 percent about violence or abuse.**⁶ Students don't read these narratives to be titillated. They read them to process and understand difficult emotions and experiences. Banning these stories leads to a culture of silence that facilitates abuse.

The *impact* of inflammatory bills like HB 900 is clear: Students lose access to books that reflect themselves and the world around them. Students do not need to be protected from resources that help them interpret real life situations like sexual assault and abuse, race and racism, or sexual orientation and gender identity.

HB 900 creates a surveillance system that harms children.

HB 900 has the strong potential to *harm* students who are experiencing abuse or live with unsupportive families through the increased surveillance of student library records proposed by Section 35.005. 1 in 10 children experience sexual abuse before their 18th birthday, and 98% of child victims know their abuser.⁷ An abusive parent could use this surveillance system to prevent their child from finding support and protection. Not only does the parental consent clause put vulnerable students at

¹ Banned in the USA: State Laws Supercharge Book Suppression in Schools. PEN America, 2023.

² CCBC Diversity Statistics. School of Education at the University of Wisconsin-Madison, updated 2023.

³ Banned in the USA: State Laws Supercharge Book Suppression in Schools. PEN America, 2023.

⁴ CCBC Diversity Statistics. School of Education at the University of Wisconsin-Madison, updated 2023.

⁵ Banned in the USA: The Growing Movement to Censor Books in Schools, 2022.

⁶ Banned in the USA: State Laws Supercharge Book Suppression in Schools. PEN America, 2023.

⁷ <https://www.cactx.org/statistics>

further risk, but it also limits student access to crucial educational resources. When children don't have a safe place at home, books may be the first and only place students can find the language to describe what is happening to them and the strength to ask for support.

Students with homophobic families especially should not be subjected to increased surveillance of their library records. For LGBTQ+ youth, increased surveillance risks forced outing that can lead to family conflict, lack of acceptance, and harm. Straight students too could risk punishment for wanting to learn more about their LGBTQ+ classmates or even just looking for a good book. Our most vulnerable students need the freedom to find resources, support, and healing without the risk of surveillance of their library records.

HB 900 takes crucial educational decisions out of the hands of parents and educators, and places it in the hands of unqualified book vendors and unaccountable state agencies.

HB 900 subverts local control and the rights of students and parents across multiple sections.

SECTION 2, Sec. 33.021(c) requires the creation of mandatory statewide standards for library collection development. Currently, the Texas State Library and Archives Commission adopts model library standards that school districts *may* consider with input from families, students, and staff based on their expertise and community needs. Mandatory statewide standards remove local control.

SECTION 3, Sec. 35.002, Sec. 35.0021, and Sec. 35.003 take even more control away from local communities and places it in the hands of unelected and unaccountable businesses and the Texas Education Agency (TEA). Businesses should not be the ultimate arbiter of what is "patently offensive" because they are unaccountable to local families and students. Nor is it clear how the TEA will determine which material to review, who will determine the rating, and how the cost for these reviews will be borne. There is no system to ensure the TEA is accountable to parents or educators when making these decisions, nor is there any mechanism to keep track of the books being pulled from the shelves. This takes parent, educator and student voices out of the picture. We need to trust librarians and teachers to work with parents and students to identify books that fit students' age, reading level, and interests.

These sections further create infeasible burdens on vendors. School libraries purchase books from multiple vendors and vendors could rate books differently due to undefined and subjective expectations. Additionally, many vendors who would be affected are small businesses and local booksellers who do not have the resources to comply with a law that is not only burdensome but also contains vague definitions (and does not define "educationally unsuitable" or "pervasively vulgar" at all).

Parents, teachers, and students work together to ensure all students feel valued, loved, and affirmed in their schools. The state government has no business

Commented [IF1]: The amendment that would've made it so that the TEA would have to provide a list of all the books banned each school year failed in the house. Is that relevant to include here, or is mentioning there is no way to keep track sufficient?

determining approved or banned reading lists, nor do book vendors have the expertise or the time to read every proposed school library book to create a rating list. If this bill were truly about parental empowerment, we would not be discussing book bans considering that 70% of parents oppose book bans.⁸ These decisions should be made by community members, and we are concerned by the lack of public input in this process.

HB 900 would have a costly and chilling effect on Texas schools and educators.

Texas is already facing extreme teacher shortages and burnout due to state surveillance and censorship. Since Texas first passed HB 3979 and SB 3 last session, stories have proliferated of teachers facing confusion and fear over implementing the vague law and reporting the negative impacts of censorship policies on classroom discussions and curriculum. As a predictable result, three in four Texas teachers are seriously considering leaving their profession.

HB 900 would create more strain for librarians and educators by requiring that they conduct a review of any content considered “sexually explicit” on a biannual basis. This unfunded mandate would require schools to take money away from programs that truly support our students. Texas will not be able to seriously address educator shortages while simultaneously attacking educators' ability to exercise their autonomy. Under HB 900, Texas risks losing more beloved educators and threatening students' ability to learn.

Conclusion

No matter our color, background, or zip code, we want our kids to have a quality education where they can learn honestly about the past, see themselves accurately represented in the present, and be part of creating a better future.

And young people are telling us directly what they need and want from their schools. When young Texas voters were asked in February what the legislature should prioritize in K-12 education, 28 percent said school safety and 21 percent said teacher pay/teacher retention. Just 3 percent said public library school materials. Students across Texas have spoken up against book bans, whether organizing banned book clubs in Leander, hosting rallies in Katy, or showing up to school board meetings in Southlake.

HB 900 harms students and threatens public schools. Students need access to diverse school libraries. We urge you to oppose this bill.

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⁸ <https://www.ala.org/news/press-releases/2022/03/large-majorities-voters-oppose-book-bans-and-have-confidence-libraries>