



ACLU of Massachusetts  
One Center Plaza, Suite 850  
Boston, MA 02108  
617-482-3170  
[www.aclum.org](http://www.aclum.org)

January 10, 2024

Joint Committee on Education  
Sen. Jason Lewis & Rep. Denise Garlick, Chairs

**SUPPORT FOR S.2528 & H.4229**  
**Protecting Free Expression; Defending Against Library Censorship**

The ACLU of Massachusetts strongly supports S.2528 & H.4229, *An Act regarding free expression*. In an era of politicized attacks on education and diverse library materials, this legislation would establish standards and procedures to govern how schools respond when vocal minorities push to remove books from their libraries. It will simultaneously safeguard students' right to learn, grow and explore, and help librarians, educators, administrators and school committees manage book challenges efficiently, transparently, and in a manner consistent with core free expression principles.

This legislation is a timely, much-needed response to disturbing facts on the ground in the Commonwealth. In 2022, Massachusetts saw a tidal wave of at least 45 attempts to restrict access to nearly five dozen books in school and public libraries. This is more than the previous 9 years combined and puts Massachusetts among the top 5 states with the highest book ban attempts. Unfortunately, this trend continued in 2023 and shows no sign of abating.

Most calls to ban books specifically aim to remove books that are by and about LGBTQ people, communities of color, and other marginalized groups. These efforts threaten both students' constitutional right to free expression and their right to equal protection in the form of an education free from discrimination.

Beyond the legal import of these censorship attempts, they represent attacks on young people and educators across the Commonwealth. Having access to diverse books not only helps educate all students about the experiences of others but also creates a more inclusive and supportive environment for students whose history and experiences are reflected. For LGBTQ+ youth and students of color who may be isolated at school or in their community, access to representation or information in books and literature can be a refuge—and in some cases lifesaving. Conversely, removing books that reflect students' experiences not only removes a support; it tells a student that they, their family, and their community are not accepted by their teachers and peers.

Debates about these books and their subject matter may add to bullying of children who are members of (or whose family members are part of) the communities discussed in the books. This is particularly the case when opponents describe the books' content as obscene, pornographic, disgusting, or otherwise unacceptable. While respecting the right of opponents to speak and be heard, the legislature must take steps to affirm and protect students' right to free expression and ensure a safe, supportive, and equitable educational experience.

Organizations like the ACLU and GLAD have worked to educate school administrators and school committees about their constitutional responsibilities regarding book censorship. We sent an [open letter to school officials](#) throughout the Commonwealth describing students' rights to access materials that are relevant to their lives, experiences, and concerns, and the details of the laws through which these rights are established. Even so, schools continue to face new challenges to the material on their library shelves, requiring each district to grapple with these issues on a case-by-case basis, without adequate state guidance.

*An Act regarding free expression* will help schools and school officials navigate these difficult situations with clarity and consistency. Specifically, it will:

- Articulate that students' free expression rights include the right to receive information deemed appropriate by school librarians<sup>1</sup>;
- Require school librarians to base book selection choices on their professional training, not political or personal views;
- Allow the decisions of professional educators to be overruled only with a vote of the school committee after notice and a public hearing;
- Establish the standard for school committee determinations: whether, based on clear and convincing evidence, the "material is devoid of any educational, literary, artistic or social value or is not age appropriate for any children who attend the school"; and
- Require schools to keep materials on the shelves while any challenge is pending.

Removing books from school libraries, particularly those that focus on the experiences of historically marginalized communities, often constitutes unlawful censorship. Book removals also strike at the very heart of the purpose of a public education in our pluralistic society. When school officials attempt to "sanitize" the learning space and remove books based on community members' disagreement with the author's message or point of view, it paves the way for an unending series of attempts to purge a school based on subjective views about what is objectionable. Our schools are too important to our children's development and the very future of our country to become another arena for political warfare and intolerance.

We urge you to advance this legislation with a favorable report to protect students, their right to free expression, and educational equity — and we would welcome the opportunity to work with the Committee. Thank you.

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<sup>1</sup> In light of recent attempts to remove books from classroom shelves as well as libraries, we recommend broadening this language to ensure it is not underinclusive. We would be happy to work with the committee to address this issue.