



## **Alert for Florida School Officials: Florida Attorney General Declares Education Code §1001.42 a.k.a. “Don’t Say Gay” Law Does Not Apply to School Libraries**

The National Coalition Against Censorship, the Florida Freedom to Read Project, We Need Diverse Books, and PEN America are writing to ensure that you are aware of recent legal developments regarding Education Code §1001.42, also known as the “Don’t Say Gay” law.

Our goal is to alert school officials throughout Florida of an important development in the interpretation of Florida Education Code §1001.42.

Florida Education Code §1001.42 provides that “[c]lassroom instruction by school personnel or third parties on sexual orientation or gender identity may not occur in prekindergarten through grade 8” and that any such instruction in grades 9-12 “must be age-appropriate or developmentally appropriate for students in accordance with state standards.” Since the original enactment of the law in 2022 there has been some dispute regarding whether its provisions apply to materials in school libraries, and some districts have removed or restricted books out of an abundance of caution.

However, on August 4, the Florida Attorney General filed a motion to dismiss a lawsuit on this issue, Parnell v. School Board of Lake County, Florida, United States District Court for the Middle District of Florida Case 5:23-cv-00381. In that motion, the Attorney General Ashley Moody stated: “HB 1557’s meaning is clear: It applies to formal classroom instruction, not library books[.]” The Attorney General also said that “the Legislature’s decision that certain materials are inappropriate for use in classroom instruction does not mean they are categorically inappropriate in the very different setting of a school library.”

Therefore, all districts that have removed or grade restricted school library books in response to HB 1557 must return those books to the shelves and remove restrictions as soon as possible.

FFTRP is your in-state resource to assist in your efforts to better understand Florida Education Code §1001.42, and how the law applies to collection selections and curriculum.

NCAC is an alliance of 59 national nonprofit groups dedicated to protecting freedom of expression, including the rights of K-12 students, teachers and staff.

Florida Freedom to Read Project are Floridians dedicated to protecting student's rights particularly the right to access information and ideas in the school library.

PEN America stands at the intersection of literature and human rights to protect free expression in the United States and worldwide. We champion the freedom to write, recognizing the power of the word to transform the world. Our mission is to unite writers and their allies to celebrate creative expression and defend the liberties that make it possible.

We Need Diverse Books advocates essential changes in the publishing industry to produce and promote literature that reflects and honors the lives of all young people.

We are here to assist during this difficult and confusing time to ensure we minimize the impacts felt by students and educators throughout Florida. If you need help replenishing these titles because they have already been removed from your inventory, please let us know. All of the organizations listed here with help from publishers would love to support you in bringing these books back into our schools.

