



125 Broad Street
19th Floor
New York, NY 10004
212-607-3300
www.nyclu.org

2025-2026 Legislative Memorandum

Subject: Freedom to Read Act – A.9537 (Simone) /S.8630 (May)
Position: SUPPORT

The freedom to read—one of our most essential and cherished rights as Americans—is under attack.

Since July 2021, PEN America has recorded 22,810 cases of book bans across 45 states and 451 public school districts.¹ New York is no exception: challenges to books—particularly books about LGBTQIA+ people—have proliferated across the state, in some cases leading to permanent removals.²

A *Journal News* investigation found more than 200 complaints filed about books just in Hudson Valley school districts between 2020 and 2022.³ In 2022, the *Long Island Advocate* reported that districts in the area were “in the thick of a book-banning ‘crisis.’”⁴

While some communities have successfully fought back against book bans and restored books to library shelves, at least one New York court has questioned longstanding Supreme Court precedent that forbids viewpoint discrimination in library removals.⁵ The time to act on this issue is now.

Targeted Identities

Book bans disproportionately target books featuring Black and Brown and LGBTQIA+ characters and stories. In 2023-2024, 36% of banned titles included characters of color and 25% included LGBTQIA+ characters.⁶ In 2023, hundreds of books were discovered in a dumpster at a Staten Island elementary school.⁷ Chillingly, the books had been marked with notes such as “our country

¹ Sabrina Baêta et al., *The Normalization of Book Banning*, PEN AM. (Oct. 1, 2025), <https://pen.org/report/the-normalization-of-book-banning/>.

² *PEN America Index of School Book Bans – 2021-2022*, PEN AM., <https://pen.org/book-bans/banned-book-list-2021-2022/> (last visited Apr. 7, 2026); *PEN America Index of School Book Bans – 2022-2023*, PEN AM., <https://pen.org/book-bans/2023-banned-book-list/> (last visited Apr. 7, 2026).

³ Gary Stern, *Whose Call Is It? A Glimpse Inside Complaints to Schools About Books, Lessons, Diversity*, J. NEWS (Nov. 30, 2022, 5:00 AM), <https://www.lohud.com/in-depth/news/education/2022/11/30/culture-wars-in-hudson-valley-schools-flared-over-books-lessons/69631121007/>.

⁴ Madeline Armstrong, *Long Island Districts in the Thick of Book-Banning ‘Crisis,’* LONG ISLAND ADVOC. (Apr. 21, 2022), <https://longislandadvocate.com/long-island-districts-in-the-thick-of-book-banning-crisis/>.

⁵ See *Matter of Moms for Liberty of Wayne County v. State of N.Y. State Educ. Dept.*, 86 Misc.3d 1185 (Sup. Ct., Albany County 2025).

⁶ Madison Markham et al., *Cover to Cover: An Analysis of Titles Banned in the 23-24 School Year*, PEN AM. (Feb. 27, 2025), <https://pen.org/report/cover-to-cover/>.

⁷ Jessica Gould, *Books on Black History, Immigration Found in Trash by Staten Island School, Sparking Investigation*, GOTHAMIST (Mar. 11, 2024), <https://gothamist.com/news/books-on-black-history-immigration-found-in-trash-by-staten-island-school-sparking-investigation>.

has no room” on a book about communities on the U.S.-Mexico border and “negative slant on white people” on a book about Native Americans.⁸

In 2025, a challenge to *The Rainbow Parade*, a picture book about a young girl who learns to feel pride for her Queer family, threw board meetings in the Penfield Central School District near Rochester into chaos.⁹

Even failed challenges have a chilling effect. NYCLU has heard from educators across the state that after unsuccessful challenges, administrators rejected book orders containing “controversial” texts, questioned programming for Pride Month, and proposed new restrictions on read-aloud books featuring LGBTQIA+ themes.

National Landscape

The Trump Administration’s assault on diversity, equity, and inclusion has turbocharged attacks on free expression. Shortly following his inauguration, Trump signed a string of executive orders that purport to prohibit instruction about race or gender in any program receiving federal funding.¹⁰ Citing these orders as justification, the Department of Defense subsequently removed almost 600 books from schools serving military families worldwide, including the picture book *Julián is a Mermaid, Between the World and Me* by Ta-Nehisi Coates, and study guides for AP Psychology that discussed gender identity.¹¹

In other states, First Amendment protections have rapidly eroded under pressure. Multiple states have passed laws or regulations requiring statewide removal of books,¹² resulting in blanket bans on books like *The Perks of Being a Wallflower* and *Wicked*.¹³ The assault on the right to read has also expanded beyond schools to public libraries. In 2025, the Fifth Circuit Court of Appeals overruled circuit precedent and held that a Texas library’s removal of seventeen books, including *Caste: The Origins of Our Discontents*, did not violate the First Amendment.¹⁴

⁸ *Id.*

⁹ Noelle E. C. Evans, *Penfield Schools Flung Into Misinformation-Fueled Controversy. Here’s What We Know*, WXXI NEWS (Feb. 13, 2025, 5:07 p.m.), <https://www.wxnews.org/local-news/2025-02-13/penfield-schools-flung-into-misinformation-fueled-controversy-heres-what-we-know>.

¹⁰ Exec. Order No. 14190, 90 Fed. Reg. 8,853 (Jan. 29, 2025), available at <https://www.whitehouse.gov/presidential-actions/2025/01/ending-radical-indoctrination-in-k-12-schooling/>; see also Exec. Order No. 14168, 90 Fed. Reg. 8,615 (Jan. 20, 2025), available at <https://www.whitehouse.gov/presidential-actions/2025/01/defending-women-from-gender-ideology-extremism-and-restoring-biological-truth-to-the-federal-government/>; Exec. Order No. 14151, 90 Fed. Reg. 8,339 (Jan 20, 2025), available at <https://www.whitehouse.gov/presidential-actions/2025/01/ending-radical-and-wasteful-government-dei-programs-and-preferencing/>.

¹¹ Lisa Tolin, *596 Books Banned by Department of Defense Schools Include Titles on Democracy, Feminism, Racism*, PEN AM. (July 17, 2025), <https://pen.org/books-banned-by-department-of-defense-schools/>.

¹² Elizabeth A. Harris, *More States are Passing Book Banning Rules. Here’s What They Say*, NY TIMES (July 29, 2024), <https://www.nytimes.com/2024/07/29/books/book-banning-south-carolina-tennesse-idaho-utah.html>.

¹³ Carmen Nesbitt, *Utah Bans Three More Books from Public Schools – Including the Source for a Blockbuster Movie*, SALT LAKE TRIB. (Jan 5, 2026, 3:22 p.m.), <https://www.sltrib.com/news/education/2026/01/05/utah-bans-three-more-books-public/>; Cameron Limes, *South Carolina Leads the Nation in Book Bans. The Superintendent Now Faces a Lawsuit*, ABC 4 NEWS (Oct. 8, 2025, 6:47 p.m.), <https://abcnews4.com/news/local/south-carolina-has-the-most-books-bans-the-superintendent-now-faces-a-lawsuit-book-bans-regulation-43-170-aclu-of-south-carolina-wciv-abc-news-4-10-08-2025>.

¹⁴ *Little v. Llano County*, 138 F.4th 834, 850–51 (5th Cir. 2025), *cert. denied*, 146 S. Ct. 886.

The Right to Read in New York

To successfully navigate this moment and safeguard students' constitutional right to read, New York districts need policies that protect the professional judgment of qualified educators and lay out clear processes for addressing challenges to materials. Yet many districts have no policies, which can lead to panicked decision-making, inappropriate restrictions on educators, and outright censorship in the face of public pressure. The ones that do exist are often vague and lack necessary safeguards. This leaves librarians, teachers, and even superintendents at the mercy of school board hecklers. Last year, an individual parent made headlines by challenging 27 books in the Kenmore-Tonawanda School District outside of Buffalo, a district that had no formal library review policy in place.¹⁵

A.9537A (Simone)/S.8630A (May) aims to address this crisis by codifying students' right to read and ensuring that school districts have fair, rigorous protocols for evaluating challenges to library materials. It also provides protection for educators and library media specialists who select library materials that are later removed. Importantly, in the likely case that this issue goes before the Supreme Court, this bill will protect New York students' right to access diverse, developmentally-appropriate books.

The bill has four provisions:

- **Forbids book removals because of disapproval of the ideas or identity of the author.** The bill codifies the holding of *Board of Education, Island Trees Union Free School District No. 26 v. Pico*,¹⁶ a longstanding Supreme Court precedent that forbids the removal or restriction of library materials because of disagreement with the themes, ideas or viewpoints expressed, or because of the identities of the author, subject, or characters. Furthermore, the bill provides that no materials may be removed before the established review process is complete.
- **Requirement of written policy for considering challenges to school library materials.** The bill requires all school districts to adopt a written policy that provides how complaints regarding library materials may be submitted, who is responsible for reviewing complaints, and how a final decision is made. Complaints must be considered by a committee consisting of a library media specialist, a teacher, a school administrator, and a parent. The policy must also provide a timeline for reviewing and issuing a final decision about any complaints and a final appeal to the Board of Education.
- **Prevent pretextual book removals.** Extremists frequently claim that books featuring LGBTQIA+ characters are “sexually explicit,” “inappropriate,” or “obscene.”¹⁷ The bill would prevent pretextual book bans by prohibiting removal or restriction unless the material as a whole lacks literary, artistic, educational, political, or scientific value.
- **Protects educators and library media specialists.** While superintendents and school boards retain ultimate supervisory authority over staff, they may not discipline library media specialists or other school employees for selecting, retaining, or recommending materials in reasonable reliance on the district's adopted policies.

A previous version of this bill passed the Legislature in 2025. Governor Hochul vetoed the bill in

¹⁵ Stephen T. Watson, *A Ken-Ton Mother Wants 27 Books Pulled from School Libraries Over Explicit Sexual Content*, BUFFALO NEWS (May 25, 2025), https://buffalonews.com/news/local/education/article_1fbd149a-f323-4378-aaf7-32dce27f0ec1.html.

¹⁶ 457 U.S. 853 (1982).

¹⁷ See Baêta et al., *supra* note 1.

December, citing the possibility of confusion. **The new version of the bill addresses the concerns raised by the Governor and other stakeholders by clarifying that school boards and superintendents retain ultimate authority for selecting library materials and supervising staff.** The bill also explicitly mandates that districts adopt a clear policy for considering challenges for library materials, which is not currently required by law or statute.

The new bill also aligns with model library selection and complaint policies developed by NYCLU as templates for school districts.¹⁸ Our policies honor the professional judgment of educators, advocate for the creation of a committee to review complaints, and establish clear guidelines for evaluating library materials. Policies like NYCLU’s could serve as a roadmap for both the Commissioner and school library systems as they develop model policies for districts.

Young New Yorkers must have the freedom to read stories that reflect their lives and give them a window into other worlds. Young people read more and become more confident readers when they can engage with books that reflect their interests and experiences.¹⁹ Access to books that reflect students’ experiences is particularly important for students who are underrepresented in children’s literature.²⁰ Sixty-three percent of students get most of their books from public, school, and classroom libraries, and students who do not have access to a school library have trouble finding engaging books.²¹

In *Board of Education, Island Trees Union Free School District No. 26 v. Pico*, Justice Brennan wrote that “[a] school library, no less than any other public library, is a place dedicated to quiet, to knowledge, and to beauty.”²² “[S]tudents must always remain free,” he continued, “to inquire, to study, and to evaluate, to gain new maturity and understanding. The school library is the principal locus of such freedom.”²³ The Legislature must pass the Freedom to Read Act to protect these critical freedoms for all young New Yorkers.

The NYCLU strongly supports this bill and urges its expedient passage.

¹⁸ See *Model Policy for the Reconsideration of Curricular, Instructional, or Library Materials*, N.Y.C.L. UNION https://www.nyclu.org/uploads/2023/09/2023-nyclu-model-policy-reconsideration-_curricular-materials.pdf (last accessed Apr. 7, 2026).

¹⁹ See Suzanne E. Mol & Adriana G. Bus, *To Read or Not to Read: A Meta-Analysis of Print Exposure from Infancy to Early Adulthood*, 137 PSYCHOL. BULLETIN 267 (2011).

²⁰ See generally Tanya Christ et al., *Cultural Relevance and Informal Reading Inventory Performance: African-American Primary and Middle School Students*, 57 LITERACY RSCH. & INSTRUCTION 117 (2018); Ann E. Ebe, *Culturally Relevant Texts and Reading Assessment for English Language Learners*, 50 READING HORIZONS: J. OF LITERACY & LANGUAGE ARTS 193 (2010); *Books by and/or about Black, Indigenous and People of Color 2018-*, COOP. CHILD. BOOK CTR., SCH. OF EDUC. UNIV. OF WISCONSIN-MADISON (Mar. 21, 2025), <https://ccbc.education.wisc.edu/literature-resources/ccbc-diversity-statistics/books-by-and-or-about-poc-2018/#USonly>; see also COOP. CHILD. BOOK CTR., SCH. OF EDUC. UNIV. OF WISCONSIN-MADISON, 2024 CCBC DIVERSITY STATISTICS: ABOUT (DIVERSITY SUBJECT) (Mar. 12, 2025), https://education.wisc.edu/wp-content/uploads/sites/4/2025/03/2024-CCBC-Diversity-Stats_ABOUT.jpg.

²¹ *Scholastic Kids & Family Reading Report*, SCHOLASTIC, <https://www.scholastic.com/content/corp-home/kids-and-family-reading-report/key-findings.html?appesp=CORP/intraapp/202411/txtl/keyFindings/kfrr/////> (last visited Apr. 7, 2026).

²² 457 U.S. at 868 (internal quotations and citations omitted).

²³ *Id.* at 868–69 (internal quotations and citations omitted).