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## Law Librarians, Let's Talk About Book Banning

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## RIPS Law Librarian Blog

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### Law Librarians, Let's Talk About Book Banning

Posted on [May 11, 2023](#) by [Olivia Smith Schlinck](#)

As seems to be the new normal, there is a *lot* happening in the news (\*gestures vaguely around\*). It's easy to focus on a few issues at the expense of others or to get overwhelmed and check out entirely. But there is one issue that keeping tabs on feels like a professional obligation: book banning.

The American Library Association (ALA) began compiling book censorship data more than twenty years ago and [in 2022 reported the highest number of attempted book bans to date](#). And while these bans are unlikely to impact the kinds of places a law librarian works in,<sup>1</sup> book bans nonetheless violate our professional ethics. Libraries, librarians, and the freedom to read are under attack.

I'll admit that I have not done the best job of keeping tabs on what is happening in the world of book banning. But it feels like my professional, ethical obligation to at least know what is happening. For all our sakes, here is an explainer and bibliography to look at so you, too, can be a bit more in-the-know.

#### What is a book ban and how does it typically work?

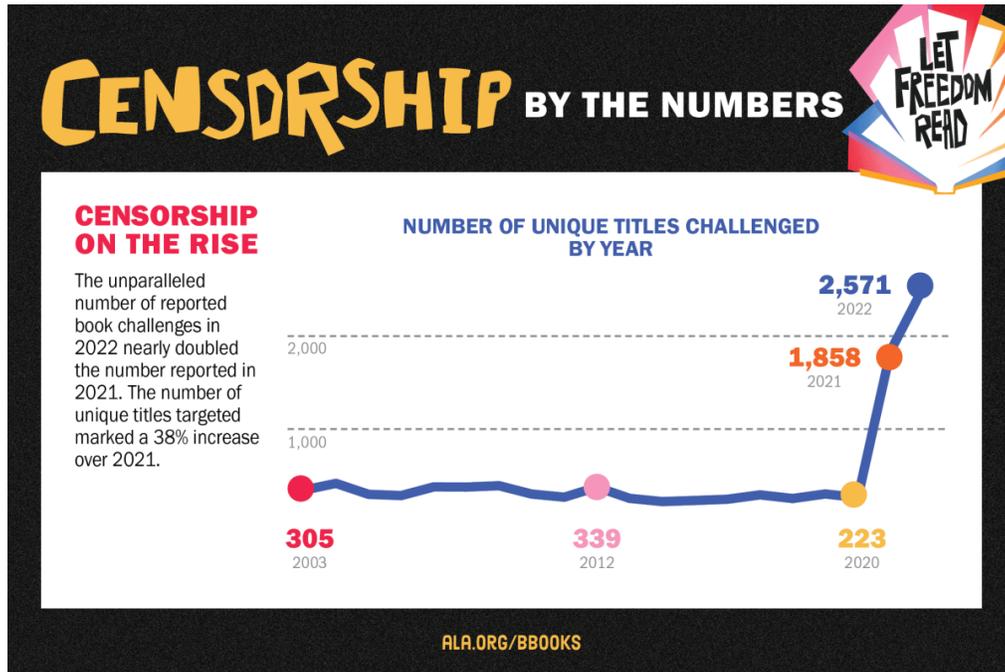
[Per PEN America](#), a book ban is “any action taken against a book based on its content and as a result of parent or community challenges, administrative decisions, or in response to direct or threatened action by lawmakers or other government officials, that leads to a previously accessible book being either completely removed from availability to students, or where access to a book is restricted or diminished.” The First Amendment’s free speech protections extend to books and book banning (see [Board of Education, Island Trees Union Free School District v. Pico, 457 U.S. 853, 872 \(1982\)](#) (“local school boards may not remove books from library shelves simply because they dislike the ideas contained in those books and seek by their removal ‘to prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion.’”). Of course, school boards are still granted wide discretion when deciding whether to remove a book from the school library’s shelves, especially when it comes to the “educational suitability” and or vulgar nature of a book.

The [ALA](#) and the [National Coalition Against Censorship \(NCAC\)](#) have both created guidance for school districts and librarians to follow when receiving a complaint about a book available in a school library, including:

- Forming committees of mostly teachers and librarians to review challenged materials.
- Reviewing materials based on clear and objective criteria like accuracy, age appropriateness and reviews and recommendations from experts (and *not* relying on whether the materials are offensive to the reviewer or “contradicts community values”).
- Reviewing materials, and not pulling passages “out of context.”
- Keeping materials on the shelf until the review process is complete.

## What's going on now, and how did it start?

The record-breaking number of attempted book bans in 2022 [almost doubles the number recorded in 2021](#), which itself was a sharp increase from 2020 and earlier.



Part of the reason for this increase is a new trend in book challenges: instead of a request from an individual parent seeking to “remove or restrict access to a book their child was reading,” ninety percent of requests in 2022 sought to remove *multiple* titles at one time, [with forty percent seeking to remove “more than 100 books all at once.”](#)

And it's not just the number of requests that has changed, but also *who* is making the requests. While historically an individual parent was the typical person seeking to remove a book from a library, today, the vast majority of book bans initiated over the past two or so years were [brought by the school board itself or school administrators and without any written forms or documentation](#). Conservative groups like Moms for Liberty, No Left Turn in Education, and Parents Defending Education have created lists of books to be banned, using the lists to pressure schools. And over the last year, newly enacted state laws have added new restrictions and challenges for school libraries.<sup>2</sup>

[According to PEN America](#), 26 states currently have book bans, with the most in Texas. In the 2022-2023 school year, [“book bans were most prevalent in Texas, Florida, Missouri, Utah, and South Carolina.”](#) In [2022, the Top 10 Most Challenged Books](#) include those that have LGBTQIA+ content (7 books) and that challengers claim have sexually explicit content (12 books). [Other banned books](#) are those with non-White and non-Christian characters, books that provide sexual health education, and books addressing race, racism, diversity, social justice, history, death, grief, and suicide. Prior to 2021, the top 10 banned books tended to be banned for reasons like sexually explicit content, violence, and vulgar or offensive language.

Guidelines from NCAC and the ALA suggest formal policies, standards, and procedures in the face of a reconsideration request, including the formation of committees to handle such requests. [But “the vast majority \(98%\) \[of book bans analyzed in 2021-2022\] involved departures of various kinds from the best practice guidelines designed to protect students’ First Amendment rights.”](#) And while the NCAC and ALA guidance calls for challenged materials to be left on the shelf until the formal review process is complete, [some schools are pulling swaths of material pending review.](#)

### **How might this impact law librarianship?**

Current book bans primarily impact public and school libraries, but that doesn’t mean higher education can be marked safe from impending censorship. Across the country, legislation to restrict teaching and learning in higher education continues to materialize, like Florida’s “Stop the Wrongs to Our Kids and Employees (WOKE) Act,” which bans classroom content relating to race and gender in schools including public colleges and universities (although a [temporary injunction](#) has paused enforcement in higher education for now), and South Dakota’s House Bill 1012,<sup>3</sup> which prohibits colleges and universities from compelling students to adopt or affirm certain ideas from a list of “divisive concepts.”

Could these restrictions and challenges come for law schools, too? I don’t see why not. Books that are already staples in the modern law library collection—like Michelle Alexander’s *The New Jim Crow* and Kimberlé Crenshaw’s *Critical Race Theory: The Key Writings That Formed the Movement*—have already been restricted in some states. Should the movement expand, academic law librarians might find themselves in the position of defending their collection development and acquisitions policies.

### **What next?**

[The ALA Code of Ethics](#) requires librarians to uphold the principles of intellectual freedom, resist efforts to censor library resources, and protect a library user’s right to privacy and confidentiality. [The Library Bill of Rights](#) calls on libraries to “challenge censorship in the fulfillment of their responsibility to provide information and enlightenment.”

Looking to take action? Here are some thoughts:

- Learn more and keep tabs on censorship efforts (see below for resources)
- [Attend local library and school board meetings](#) where book banning or other censorship is discussed to make your voice heard
- If your state is considering book banning legislation, contact your representatives to express your concerns
- Add displays and programming against censorship during [Banned Books Week](#) (October 1–7, 2023) in your library
- Read banned books! Get them from your local public library and/or purchase them from local bookstores to show authors, publishers, and decisionmakers that there is support for this kind of work.

### **For more information & keeping current:**

- Book Riot’s [#Censorship page](#) (updated regularly)
- Chronicle of Higher Education’s [DEI Legislation Tracker](#)

- EveryLibrary’s [Legislation of Concern in 2023](#)
- Kasey Meehan & Jonathan Friedman, *Banned in the USA: State Laws Supercharge Book Suppression in Schools*, PEN America (Apr. 20, 2023): <https://pen.org/report/banned-in-the-usa-state-laws-supercharge-book-suppression-in-schools/>
- *Banned in the USA: Book Bans Threaten Free Expression and Students’ First Amendment Rights* (Apr. 2022) <https://pen.org/banned-in-the-usa/>
- [ALA’s Advocacy List](#) (for email updates from ALA’s Public Policy & Advocacy Office)
- [UniteAgainstBookBans.org](https://uniteagainstbookbans.org)

<sup>1</sup> According to the ALA, in 2022 99% of book challenges targeted material in schools and public libraries, with 1% of book challenges coming from college libraries and other public institutions.

<https://www.ala.org/advocacy/bbooks/by-the-numbers>.

<sup>2</sup> See, e.g., Fla. Ch. L. 2022-21 (adding more parental oversight in the book selection and approval process); Parental Rights in Education, Fla. Stat. § 1001.42 (restricting discussion of and materials pertaining to gender and sexual identity in public schools); Mo. Rev. Stat. § 573.550 (criminal penalty for public *and* private school employees who provide students access to books deemed “sexually explicit”); Okla. Stat. tit. 70, § 11-202 (revoking licenses for database and ebook vendors who are unable to verify they do not allow students access to “obscene materials” or “pornography”); Age-Appropriate Materials Act of 2022, Tenn. Code Ann. § 40-6-3801 et seq. (requiring all teachers create and provide a full catalog of books available in their classrooms to parents and provide those lists for review to determine their appropriateness in the classroom); Sensitive Materials in Schools Act, Utah Code Ann. § 53G-10-103 (giving the state Attorney General the authority to define “sensitive materials,” which are prohibited in schools).

<sup>3</sup> S.D. Codified Laws § 13-1-67—13-1-71.

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## 1 Response to *Law Librarians, Let’s Talk About Book Banning*



**Kate Hartman** says:

May 12, 2023 at 1:54 pm

Thank you for bringing attention to this important topic! In addition to taking action ourselves, we can encourage our students to become aware and involved too. They are the future lawmakers and lawyers (not to mention citizens, library board members, and parents) who will be presented with this fight; if they remember their law librarians as strong advocates for intellectual freedom and pushing back against censorship, that will make a difference.

[Reply](#)