



Opponent Testimony for HB 2662 – Parents’ Bill of Rights

**Aileen Berquist, Community Engagement Manager,
American Civil Liberties Union of Kansas
House Committee on K-12 Education Budget
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Committee Chairs and Members of the Committee,

Thank you for the opportunity to present testimony today. My name is Aileen Berquist. I am the Community Engagement Manager and lobbyist for the ACLU of Kansas. We are a nonpartisan, non-profit organization that works to preserve and strengthen the civil rights and liberties of every person in Kansas.

My testimony today does not address all of the ACLU of Kansas’ concerns with HB 2662. Luckily, there is a strong coalition of citizens and organizations who will speak to how this bill undermines the ability of schools and teachers to teach the truth about our history and our modern world. In light of this, our testimony will focus on the attempt to ban books from our schools. We will also highlight a very concerning trend of vague, subjective language throughout this legislation that is at best confusing and at worst legally unenforceable.

HB 2662 outlines a process to ban books, thereby stifling facts deemed controversial and creating an environment to freely censor the exchange of ideas. The new Section 1(d)(5) states that:

“The board of education of each school district shall develop and adopt policies to guarantee a parent's right to be involved in a child's education...and shall include policies and procedures for a parent to...challenge the material or educational benefit of any book, magazine or any other material available to students in the school library such that a successful challenge results in the removal of the book, magazine or material from the school.”

The Supreme Court, and many lower court decisions, have made it clear that removing books from schools because of disagreement with their content is unconstitutional.¹ The First Amendment protects the right to share ideas and the right of listeners to receive information and share knowledge—including students’ unfettered access to books. Legislation that attempts to censor books based on discussions of race and racism and/or gender and sexuality run afoul of students’ First Amendment rights to receive information and share ideas.

The First Amendment promises that “Congress shall make no law...abridging the freedom of speech.” This promise is the bedrock of our democracy, and it protects **all speech**— whether we like it or not, whether we agree with it or not, and whether it makes us uncomfortable or not. HB 2662’s attempt to ban books is anti-American, and it creates a system whereby our students could be taught only specific viewpoints—to their detriment. Students today will inherit the most multicultural, multi-ethnic, multi-racial America we have ever seen. Censoring books about our history and opinions and lives that differ from their own severely limits their access to the truth and sets them up for a skewed perspective on the modern world.

¹ Board of Education, Island Trees Union Free School District No. 26 v. Pico by Pico.

In addition to setting up a process to ban books, HB 2662 has multiple instances of vague and subjective language. Without clear definitions and statutory grounding, much of this legislation would be void for vagueness. Page 3, Line 24 is a prime example. This provision affirms that parents have “the right to expect that each teacher and educator of such child shall work to eliminate coercion that forces teachers and educators to support actions and ideologies that violate individual professional integrity.” The draft is devoid of any definition of what such “coercion” entails. Additionally, “individual professional integrity” is highly subjective and not a legitimate statutory definition. Without context, this language is almost incomprehensible.

It is a critical test of any piece of legislation claiming to be a “bill of rights” to ask two fundamental questions: whose rights is this aiming to protect, and whose rights will this negatively impact? HB 2662 appears to be aimed at protecting a small but loud segment of the population who are afraid their children will be taught about our nation’s history, the need for tolerance and acceptance, and that minority groups may experience the world differently than the majority. But for each child that this legislation allegedly protects, another is harmed.

This bill clearly infringes on the rights of students to receive an education that reflects the realities of our history and the modern world. It infringes on the rights of students to access books and information that are essential for them to become informed and thoughtful citizens. Students have a right to learn the truth, to access information, and to make up their own minds. The ACLU of Kansas strongly opposes this legislation for the reasons stated above, and for reasons that many of our partners dedicated to free speech and truth in education will elucidate today.

Resources

https://www.aclukansas.org/sites/default/files/field_documents/ensuring_educational_equity_final.pdf