



Statement before the Senate Committee on The Judiciary
On: “Book Bans: Examining How Censorship Limits Liberty and Literature.”

Books Aren’t Being “Banned”

But Some Parents Don’t Want Public Employees to Provide
Their Children with Sexually Explicit Material

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Chairman Durbin, Ranking Member Graham, members of the Committee on the Judiciary, thank you for inviting me to testify.

My name is Max Eden, and I am a research fellow at the American Enterprise Institute.

Put succinctly: Books aren't being banned, and it's good that they are.

The media keeps using the word "banned." But that word doesn't mean what you think it means. In common usage, "banned" means "made unavailable." Yet the "most-banned" *Gender Queer* is still available on Amazon. The same, unfortunately, can't be said for Ryan Anderson's *When Harry Became Sally*. Only books on one side of that issue, it seems, actually get banned.

Rather, this conversation focuses on school library availability. If "ban" means "made unavailable," then virtually every book ever published has been banned in school libraries. But that's not even what that word means here. Indeed, a book can be both "banned" and totally available.

The media has accepted the expansive definition of "ban" offered by PEN America. If a book has been taken off the shelves, reviewed, and then put back on the shelves it has – according to PEN – been "banned." If a school adds a parental permission requirement to a book it has – according to PEN – been "banned." If a book is moved to the guidance counselor's office, it has – according to PEN – been "banned." In their report, "Banned in the USA," PEN draws parallels to Nazi Germany.¹

Now, my public-school library didn't carry *Mein Kampf*. Was it banned? I don't know. But I've read a few books on this era since and have missed the part where the Nazi party made schools relocate books to guidance counselors' offices.

To provide a linguistically honest account, the Heritage Foundation's Jay Greene, Madison Marino, and I set out to assess how many of the 2,532 books PEN's 2022 report labeled as banned were actually removed from school libraries.² We did

¹ Jonathan Friedman and Nadine Johnson, "Banned in the USA: Rising School Book Bans Threaten Free Expression and Students' First Amendment Rights," PEN America, April 2022, <https://pen.org/banned-in-the-usa/>.

² Jay Greene, Max Eden, and Madison Marino. "The Book Ban Mirage," Education Freedom Institute, July 20, 2023, <https://www.aei.org/research-products/report/the-book-ban-mirage/>.

this with one simple trick: we checked the card catalogues. As it turns out, nearly three quarters of books that PEN labeled as “banned” were still in school libraries.

Careful analysis also belies the claims that books are being banned because of race or LGBT issues. Whereas PEN America labels the Black Lives Matter inspired *The Hate U Give* as the fifth most banned book, we found it available in every school library in question. And when the Washington Post examined over a thousand review requests made by parents, less than 7 percent mentioned LGBT without also containing the word “sexual.”³ (Although those requests may have contained words like pornographic or obscene.)

That’s what this issue is really about: the provision of sexually explicit material to children by public employees. This is a question of judgement. Few would say it’s unreasonable to keep *Hustler*, with its closeup genital photographs, out of school libraries. And few would insist that *Romeo and Juliet*, with its lyrical allusions to sex, should be removed. Communities must draw the line somewhere between those two points. But where exactly?

Take the previously mentioned *Gender Queer*. That graphic novel famously includes a picture of a strap on dildo blowjob. Is this okay for kids? Some think it is. Some think it isn’t.

You know something weird is going on, though, when parents try to read passages of these books at school board meetings, and the school board cuts them off because they insist that the material is too obscene to be read out loud.

I guess kids could be listening? Great for them to read, but unacceptable to for them to hear? That’s the principle?

It’s kind of gross to say, but we can’t have this discussion without knowing what we’re talking about. We’re talking about explicit passages about fisting, butt plugs, anilingus, “crap-covered condoms,” the spit-or-swallow decision, and rape. I won’t read those verbatim, but here are two tamer quotes:

From the fourth-most banned *All Boys Aren’t Blue*:

³ Hannah Natanson, “Objection to Sexual, LGBTQ Content Propels Spike in Book Challenges,” *The Washington Post*, May 23, 2023, <https://www.washingtonpost.com/education/2023/05/23/lgbtq-book-ban-challengers/>.

“You were fully erect at this point. ... ‘You promise that you not gonna tell anyone?’ I promised. You then grabbed my hand and made me touch it. It was the first time I had ever touched a penis that wasn’t my own. I knew what was happening wasn’t supposed to happen. Cousins weren’t supposed to do these things with cousins.”⁴

From the also fourth-most removed *Lawn Boy*:

“In fourth grade, at a church youth-group meeting, out in the bushes behind the parsonage, I touched Doug Goble’s dick, and he touched mine. In fact, there were even some mouths involved.”⁵

Ten-year-olds performing sodomy. Underage incest. Strap on dildo blowjobs.

Is this okay for kids?

Judging by the fuss made by the media, NGOs, and some Democratic politicians, it seems there is a politically significant contingent that believes that this is all actually very good for kids.

But, personally, I’m not at all troubled by the fact that some moms believe that this is inappropriate, and that some school boards agree. And I find it kind of weird that the United States Senate is troubled enough to call a hearing about all of this.

⁴ George M. Johnson, *All Boys Aren’t Blue*, Farrar, Straus, and Giroux, April 2020. Quote accessed from Pavement Education Project: <https://www.pavementeducationproject.com/about-4-7>.

⁵ Jonathan Evison, *Lawn Boy*, Algonquin Books, April 2018. Quoted accessed from Pavement Education Project: <https://www.pavementeducationproject.com/about-4>.