

Amendment to SB 33-FN

1 Amend the bill by replacing all after the enacting clause with the following:

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3 1 Short Title. This act shall be known as the "Right To Challenge Act."

4 2 New Subdivision; Prohibition of Materials Harmful to Minors in Schools. Amend RSA 189 by
5 inserting after section 74 the following new subdivision:

6 Prohibition of Materials Harmful to Minors in Schools

7 189:74-a Prohibition of Materials Harmful to Minors in Schools.

8 I. For purposes of this section:

9 (a) "Material" means any printed matter, visual presentation, web-based content, live
10 performance, or sound recording, including but not limited to books, magazines, motion picture films
11 or videos, pamphlets, phonographic records, pictures, drawings, photographs, figures, statues, plays,
12 dances, or other representations that are provided by the school district or by school employees,
13 volunteers, guests, or speakers.

14 (b) "Nudity" means the showing of the human male or female genitals, pubic area, or
15 buttocks with less than a fully opaque covering; or the showing of the female breast with less than a
16 full opaque covering of any portion thereof below the top of the nipple; or the depiction of covered
17 male genitals in a discernibly turgid state. A mother's breastfeeding of her baby shall not under any
18 circumstance constitute nudity, irrespective of whether or not the nipple is covered during or
19 incidental to feeding.

20 (c) "Sexual conduct" shall mean actual or simulated sexual intercourse, deviate sexual
21 intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual or simulated lewd
22 exhibition of the genitals; actual physical contact with a person's clothed or unclothed genitals, pubic
23 area, buttock, or, if such person is female, breast with the intent to arouse or gratify the sexual
24 desire of either party; or any act or conduct which constitutes sexual assault or simulates that sexual
25 assault is being or will be committed. A mother's breastfeeding of her baby shall not under any
26 circumstance constitute sexual conduct.

27 (d) "Sadomasochistic abuse" means flagellation or torture by or upon a person or animal,
28 or the condition of being fettered, bound, or otherwise physically restrained, for the purpose of
29 deriving sexual satisfaction, or satisfaction brought about as a result of sadistic violence, from
30 inflicting harm on another or receiving such harm oneself.

31 (e) "Sexual excitement" means the condition of the human male or female genitals when
32 in a state of sexual stimulation or arousal.

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1 (f) Material is harmful to minors when:

2 (1) Taken as a whole, it predominantly appeals to the prurient, shameful, or morbid
3 interest of minors;

4 (2) The material depicts or describes nudity, sexual conduct, sexual excitement, or
5 sadomasochistic abuse in a manner that is patently offensive to prevailing standards in the adult
6 community with respect to what is suitable for minors;

7 (3) The material lacks serious literary, scientific, medical, artistic, or political value
8 to minors; and

9 (4) The material is inappropriate to the age of the minors to whom it is being made
10 available or presented.

11 II. No later than September 1, 2026, each local school board shall adopt a policy describing
12 the materials that are not authorized to be used by, circulated to, and/or accessed by, students in the
13 local school district. The policy shall be posted on the district website.

14 III. No later than September 1, 2026, each local school board shall adopt a procedure to be
15 used to address complaints submitted by parents or guardians alleging that material that is harmful
16 to minors, age-inappropriate, or otherwise offensive or inappropriate for use in the child's school.
17 The policy shall be posted on the district website. At a minimum, the complaint resolution process
18 shall provide that:

19 (a) Complaints be submitted in writing to the principal of the school where the student
20 is enrolled, contain a reasonably detailed description of the material that is alleged to be harmful to
21 minors, and propose an action to be taken by the school district relative to the material.

22 (b) The school principal or designee take reasonable steps to investigate the allegations
23 in the complaint, including, but not limited to, reviewing the material complained of, meeting with
24 the parent or guardian who submitted the complaint in person, or communicating with the parent or
25 guardian by email or telephone, within 10 school days of receipt of the complaint.

26 (c) The school principal or designee determine whether the material that is the subject of
27 the complaint is harmful to minors, age-inappropriate, or otherwise offensive or inappropriate for
28 use in the child's school or for use in the context in which the material is being used.

29 (d) The school principal or designee, within 15 school days of receipt of the complaint,
30 determine whether student access to, or use of, the material that is the subject of the complaint will
31 remain in place without change, be removed, be restricted, be modified, or have other action taken
32 with respect to the material.

33 (e) The school principal or designee, within 5 calendar days of making the determination
34 required in subparagraph (d), provide a written response to the complainant explaining his or her
35 decision, which includes:

36 (1) Whether the material has been determined to be harmful to minors, age-
37 inappropriate, or otherwise offensive or inappropriate for use in the child's school;

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1 (2) A description of why the principal or designee reached his or her conclusions; and

2 (3) An explanation of the value the principal or designee finds the material provides.

3 (f) The complainant may appeal the determination of the principal or designee to the
4 school board within 20 calendar days of receipt of the determination of the principal or designee, or
5 at the next regularly scheduled meeting of the school board, whichever comes first.

6 (g) The local school board shall permit the parent or guardian to be heard as part of the
7 agenda at a regularly scheduled board meeting.

8 (h) Within 15 calendar days of the meeting at which the appeal is heard, the local school
9 board issue a written decision that:

10 (1) Is signed by all school board members voting in the majority to affirm, reverse or
11 modify the decision of the principal;

12 (2) Contains a certification signed by each school board member affirming that
13 before voting on the matter, the school board member has personally familiarized himself or herself
14 with the with the material in question; and

15 (3) Describes the reason or reasons for the school board's decision with reference to:

16 (A) Whether the material has been determined to be harmful to minors, age-
17 inappropriate, or otherwise offensive or inappropriate for use in the child's school;

18 (B) A description of why the school board reached its conclusions; and

19 (C) An explanation of the value the school board finds the material provides.

20 IV. All decisions of the principal or designee and the school board, and any communications
21 relating thereto, shall be considered public records pursuant to RSA 91-A.

22 3 Justifiable and Non-Commercial Private Dissemination. Amend RSA 650:4, I to read as
23 follows:

24 I. Institutions or persons having scientific, *higher* educational, governmental or other
25 similar justification for possessing obscene material; or

26 4 Effective Date. This act shall take effect upon its passage.