

SB 33-FN - AS AMENDED BY THE HOUSE

7Jan2026... 3079h

2025 SESSION

25-0212

11/08

SENATE BILL

***33-FN***

AN ACT

relative to the regulation of public school materials.

SPONSORS:

Sen. Avard, Dist 12; Sen. Lang, Dist 2; Sen. Gannon, Dist 23; Sen. McGough, Dist 11; Sen. Murphy, Dist 16; Sen. Pearl, Dist 17; Rep. Kofalt, Hills. 32; Rep. Pauer, Hills. 36; Rep. Sirois, Hills. 32; Rep. Cordelli, Carr. 7

COMMITTEE:

Education

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ANALYSIS

This bill requires local school districts to adopt and publicly post policies describing materials authorized for use by students in the district and outlining procedures to address complaints alleging that material is harmful or age-inappropriate for use in the district's schools.

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Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struckthrough.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Five*

AN ACT relative to the regulation of public school materials.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

- 1       1 Short Title. This act shall be known as the "Right To Challenge Act."
- 2       2 New Subdivision; Prohibition of Materials Harmful to Minors in Schools. Amend RSA 189 by
- 3 inserting after section 74 the following new subdivision:
- 4                               Prohibition of Materials Harmful to Minors in Schools
- 5       189:74-a Prohibition of Materials Harmful to Minors in Schools.
- 6       I. For purposes of this section:
- 7               (a) "Material" means any printed matter, visual presentation, web-based content, live
- 8 performance, or sound recording, including but not limited to books, magazines, motion picture films
- 9 or videos, pamphlets, phonographic records, pictures, drawings, photographs, figures, statues, plays,
- 10 dances, or other representations that are provided by the school district or by school employees,
- 11 volunteers, guests, or speakers.
- 12               (b) "Nudity" means the showing of the human male or female genitals, pubic area, or
- 13 buttocks with less than a fully opaque covering; or the showing of the female breast with less than a
- 14 full opaque covering of any portion thereof below the top of the nipple; or the depiction of covered
- 15 male genitals in a discernibly turgid state. A mother's breastfeeding of her baby shall not under any
- 16 circumstance constitute nudity, irrespective of whether or not the nipple is covered during or
- 17 incidental to feeding.
- 18               (c) "Sexual conduct" shall mean actual or simulated sexual intercourse, deviate sexual
- 19 intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual or simulated lewd
- 20 exhibition of the genitals; actual physical contact with a person's clothed or unclothed genitals, pubic
- 21 area, buttock, or, if such person is female, breast with the intent to arouse or gratify the sexual
- 22 desire of either party; or any act or conduct which constitutes sexual assault or simulates that sexual
- 23 assault is being or will be committed. A mother's breastfeeding of her baby shall not under any
- 24 circumstance constitute sexual conduct.
- 25               (d) "Sadomasochistic abuse" means flagellation or torture by or upon a person or animal,
- 26 or the condition of being fettered, bound, or otherwise physically restrained, for the purpose of
- 27 deriving sexual satisfaction, or satisfaction brought about as a result of sadistic violence, from
- 28 inflicting harm on another or receiving such harm oneself.
- 29               (e) "Sexual excitement" means the condition of the human male or female genitals when
- 30 in a state of sexual stimulation or arousal.
- 31               (f) Material is harmful to minors when:

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

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

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

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

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

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

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

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

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

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

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

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

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

SB 33-FN - AS AMENDED BY THE HOUSE

- Page 3 -

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

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

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

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

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

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

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

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

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

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

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

21 3 Justifiable and Non-Commercial Private Dissemination. Amend RSA 650:4, I to read as  
22 follows:

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

25 4 Effective Date. This act shall take effect upon its passage.

**SB 33-FN- FISCAL NOTE**  
AS AMENDED BY THE HOUSE (AMENDMENT #2025-3079h)

AN ACT relative to the regulation of public school materials.

**FISCAL IMPACT:**

| <b>Estimated Political Subdivision Impact</b> |                |                |                |                |
|---|----------------|----------------|----------------|----------------|
|   | <b>FY 2026</b> | <b>FY 2027</b> | <b>FY 2028</b> | <b>FY 2029</b> |
| <b>Local Revenue</b>                          | \$0            | \$0            | \$0            | \$0            |
| <b>Local Expenditures</b>                     | \$0            | Indeterminable |                |                |

**METHODOLOGY:**

This bill requires school districts to prohibit materials deemed harmful or age-inappropriate for minors, establish formal policies and procedures for parents to challenge such materials, and make all related decisions and records publicly accessible. Costs to school districts to comply with this bill, if any, are indeterminable and would vary by district.

**AGENCIES CONTACTED:**

Department of Education