



# Sensitive Materials: Pending Items

PENDING ITEMS FOR POTENTIAL COMMITTEE CONSIDERATION | October 11, 2023

A committee member could make a motion to recommend favorably with the addition of specific directions to further modify the draft without requiring an additional committee vote in November. This document provides a non-exhaustive menu of options for such a motion.

## Board Votes (Rep. Ivory)

### Issues

- Should the LEA governing board vote on every challenge?
  - Current draft:
    - Board votes are required to under the subjective standard
    - Boards take appeals on LEA decisions under the objective standard
- Should the LEA governing board vote on retention decisions or just removal decisions?
  - Current draft:
    - Board votes are required for subjective standard *removals*
    - Board appeals are for objective standard decisions to retain or remove

### Potential Motions

- Motion to favorably recommend the committee bill with further direction to:
  1. modify the draft to ensure that the LEA governing board resolves every challenge with a vote, regardless of the bright line or subjective standard **AND/OR**
  2. modify the draft to ensure that the [subjective] (depending on #1) vote requirement applies to decisions to retain materials, not just removals

## Threshold for Statewide Removal (Rep. Ivory)

### Issue

- Should the threshold include a mixture of school districts and charter schools?
  - Current draft: Statewide removal after “bright line” removals in 4 districts OR 9 charters

### Potential Motion

- Motion to favorably recommend the committee bill with further direction to:
  - modify the draft to add a threshold for statewide removal of objective sensitive material if [7? 8?] charter schools AND [2? 3?] school districts remove the same material.

## LEA governing board meetings (Rep. Ivory)

### Issue

- Can LEAs prohibit the reading or showing of material by parents in a public board meeting that the LEA makes available to students in a school setting because of its content?
  - Current draft: NA

### Potential Motion

- Motion to favorably recommend the committee bill with further direction to:
  1. add a prohibition on LEA governing boards restricting, in a public board meeting, the reading or display of any material to which the LEA provides student access in a school setting **OR**
  2. add a requirement for an LEA to remove any material from student access in a school setting if the LEA restricts the reading or display of the material in a public board meeting.



## Overall Structure (Mike)

### Issue

- Should the structure be simplified?
  - Current draft:
    - LEA makes an initial bright line determination if the challenge is under the bright line standard, but challenges are not required to identify the specific standard.
    - Conceptually, there are two tracks (objective “bright line” and subjective), but practically, the LEA should make the initial plausibility determination, the LEA should then engage in the full objective review, and if the material survives, the LEA and parents should go through the full subjective review.

### Potential Motions

- Motion to favorably recommend the committee bill with further direction to:
  - clarify the review process as follows:
    - After the LEA makes an initial determination that the material plausibly contains sensitive material and removes the material from student access as described in the draft, the LEA should complete a review under the objective “bright line” standard.
    - If the challenged material does not fail under the objective “bright line” standard, the LEA and parents should complete a review under the subjective standard, with a board vote as described in the draft.