

TOO CRUEL FOR SCHOOL: HOW PARENTAL RIGHTS
DOCTRINE CAN HELP PROTECT AGAINST BOOK BANS

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INTRODUCTION

In 2024, Utah Parents United, a conservative parental rights group, crowned eight legislators as the year's 'parents' rights "[c]hampions."¹ Sixth on the list of these champions is Utah Representative Ken Ivory, who smiles next to an image of a gold medal sporting his newly-minted designation.² Ken Ivory won his title for sponsoring House Bill 29,³ a bill passed in Utah in March of 2024⁴ which, according to Utah Parents United, "creates a process for the statewide removal of sensitive materials in public schools."⁵

The "sensitive materials" in question? Books.⁶ Modern political rhetoric, especially on the left, blames the removal of sensitive⁷ books from schools largely on parents' rights groups such as Utah Parents United.⁸ Various conservative political action committees (PACs) have also contributed to book removals, often under the guise of protecting a parent's right to decide how their child should be educated.⁹ It seems only natural to assume that parents' rights, both as a political movement and a legal doctrine, is nothing more

1. *2024 Parental Rights Champions*, UTAH PARENTS UNITED, <https://www.utahparents.org/legratings.html> [<https://perma.cc/8QBD-EWL5>].

2. *Id.*

3. *Id.*; see Carmen Nesbitt, *Utah Conservatives Celebrate Public School Book Bans at Capitol, Call on Authors to Repent*, SALT LAKE TRIB. (Sep. 3, 2024, 08:00 ET), <https://www.sltrib.com/news/education/2024/09/03/utah-book-bans-conservatives/> [<https://perma.cc/YUY8-XATW>].

4. *H.B. 29 Sensitive Material Review Amendments*, UTAH STATE LEGISLATURE, <https://le.utah.gov/~2024/bills/static/HB0029.html> [<https://perma.cc/ZEH2-C6SV>] (choose "status" from top panel).

5. UTAH PARENTS UNITED, *supra* note 1.

6. See, e.g., Amy Beth Hanson & Jesse Bedayn, *Utah Bans 13 Books at Schools, Including Popular "A Court of Thorns and Roses" Series, Under New Law*, AP NEWS (Aug. 8, 2024, 17:27 ET), <https://apnews.com/article/utah-school-book-ban-d7345be6a89cfa6cd2cb5ddd25fca700> [<https://perma.cc/FP9C-L5TA>].

7. UTAH PARENTS UNITED, *supra* note 1.

8. See, e.g., Olivia Empson, *Book Bans Use 'Parental Rights' as Cover to Attack Civil Liberties, Democrat Warns*, GUARDIAN (Dec. 21, 2023, 12:00 ET), <https://www.theguardian.com/us-news/2023/dec/21/book-bans-democrat-warning-maxwell-frost> [<https://perma.cc/Q4BE-5LTF>].

9. See, e.g., Elizabeth A. Harris & Alexandra Alter, *A Fast-Growing Network of Conservative Groups Is Fueling a Surge in Book Bans*, N.Y. TIMES (Jan. 10, 2023), <https://www.nytimes.com/2022/12/12/books/book-bans-libraries.html> [<https://perma.cc/FUN3-9PXS>].

than the method by which conservative and right-wing advocacy groups remove books from schools. But dismissing parents' rights doctrine as lost to the side of book removal advocates is a mistake. A thorough reading of parents' rights doctrine could help protect *against* the rising tide of chaotic and wide-reaching book removals in public schools instead of spurring it forward.

Book banning, and especially the removal of books from public schools, has a long and storied history in the United States.¹⁰ The issue has been addressed at two levels: the federal level (in federal courts and at the Supreme Court)¹¹ and the local level (in individual school districts).¹² Historically, book removals have followed a similar story: a school district board votes to remove a book from that district, often based on an individual complaint; someone (usually a disgruntled parent or student) challenges that decision; and the matter is ultimately decided based on First Amendment considerations and *Board of Education v. Pico*, the only Supreme Court decision on book banning until 2025.¹³ Now, though, things are changing. More and more, questions about removing books from schools are being decided at the state level¹⁴—and they should be. In theory, the First Amendment's free speech protections should adequately address censorship issues. But as book-removal attempts increase,¹⁵ it becomes clear that the federal government is

10. See, e.g., Erin Blakemore, *The History of Book Bans—and Their Changing Targets—in the U.S.*, NAT'L GEOGRAPHIC (Sep. 20, 2024), <https://www.nationalgeographic.com/culture/article/history-of-book-bans-in-the-united-states> [<https://perma.cc/A7WY-X82M>].

11. See, e.g., *Sund v. City of Wichita Falls*, 121 F. Supp. 2d 530, 531 (N.D. Tex. 2000); *Bd. of Educ., Island Trees Union Free Sch. Dist. No. 26 v. Pico*, 457 U.S. 853, 855-56 (1982) (plurality opinion).

12. See, e.g., PEN AM., BANNED IN THE USA: STATE LAWS SUPERCHARGE BOOK SUPPRESSION IN SCHOOLS (Apr. 20, 2023), <https://pen.org/report/banned-in-the-usa-state-laws-supercharge-book-suppression-in-schools/> [<https://perma.cc/85K9-FNW2>].

13. See, e.g., *ACLU of Fla., Inc. v. Miami-Dade Cnty. Sch. Bd.*, 557 F.3d 1177, 1183-88 (11th Cir. 2009); *Pico*, 457 U.S. at 858-59, 863.

14. See, e.g., Lisa Peet, *Minnesota Passes Bill Protecting Access to Library Books*, LIBR. J. (June 26, 2024), <https://www.libraryjournal.com/story/minnesota-passes-bill-protecting-access-to-library-books> [<https://perma.cc/L5LR-4Y4G>]; Elizabeth A. Harris, *More States Are Passing Book Banning Rules. Here's What They Say.*, N.Y. TIMES (Aug. 7, 2024), <https://www.nytimes.com/2024/07/29/books/book-banning-south-carolina-tennessee-idaho-utah.html> [<https://perma.cc/NBL4-NET6>].

15. *2024 Book Ban Data*, AM. LIBR. ASS'N, <https://www.ala.org/bbooks/book-ban-data> [<https://perma.cc/BNM4-MTK5>]. PEN America, a nonprofit free speech advocacy organization, found 3,362 book-removal incidents in the 2022-23 school year (33 percent higher than the

ill-equipped to rise to the occasion.¹⁶ Because the federal judiciary has not adequately addressed censorship issues, states should address the recent rise in book removals.

Two states taking matters into their own hands are Utah and Minnesota.¹⁷ In May 2024, Minnesota Governor Tim Walz signed a bill into law (Minnesota Statute section 134.51) prohibiting public libraries, including public school libraries, from “ban[ning], remov[ing], or otherwise restrict[ing] access to a book or other material based solely on its viewpoint or the messages, ideas, or opinions it conveys.”¹⁸ Significantly, this law does not infringe upon Minnesota’s Parental Curriculum Review statute, which allows individual parents to object to the content their children are learning in public schools and devise “alternative instruction” with the help of the school board.¹⁹ At almost the same time—in March 2024—Utah Governor Spencer Cox signed Utah House Bill 29 into law, which mandates that Local Education Agency boards statewide “remove ... instructional material from student access” after that material has been determined to contain “objective sensitive material” by at least three school districts or two school districts and five charter schools.²⁰ Although parents’ rights groups lobbied for Utah’s law,²¹ the law does not protect parents’ rights. In fact, it infringes upon them by allowing as few as three local school boards

previous year). *PEN America Index of School Book Bans—2022-2023*, PEN AM., <https://pen.org/book-bans/2023-banned-book-list/> [<https://perma.cc/8UK8-5VXA>].

16. For a discussion about how *Pico* fails to adequately address a range of censorship issues, see Johany G. Dubon, Note, *Rereading Pico and the Equal Protection Clause*, 92 *FORDHAM L. REV.* 1567, 1570 (2024). *Mahmoud v. Taylor*, the Supreme Court’s most recent case on book banning, similarly fails to adequately protect against censorship issues. See 145 S. Ct. 2332 (2025). This case will be discussed in more detail later in this Note. See *infra* notes 132, 210.

17. See Peet, *supra* note 14; Carmen Nesbitt, *Gov. Cox Signs Bill Making It Easier to Ban Books from Utah Schools Statewide*, SALT LAKE TRIB. (Mar. 19, 2024, at 16:38 ET), <https://www.sltrib.com/news/education/2024/03/18/gov-cox-signs-bill-making-it/> [<https://perma.cc/D62E-JLB7>].

18. MINN. STAT. § 134.51 (2025).

19. *Id.* § 120B.20.

20. UTAH CODE ANN. § 53G-10-103 (LexisNexis 2025).

21. See Madison Markham & Samantha LaFrance, *The State of Book Bans: Utah’s ‘No-Read List’*, PEN AM. (Aug. 22, 2024), <https://pen.org/the-state-of-book-bans-utahs-no-read-list/> [<https://perma.cc/3AEF-GUFU>].

to dictate what educational materials students across Utah—in which there are forty-one total school districts²²—have access to.²³

Minnesota and Utah are extreme examples, on either side of the aisle, of states taking questions about public school book removals into their own hands. On Minnesota’s side, there is a solidified presumption against removing books with case-by-case exceptions for individual families;²⁴ on Utah’s side, there is a presumption in favor of removing a book if less than 10 percent of districts deem it objectionable.²⁵

This Note argues that parents’ rights protections are crucial to protecting against broad censorship in public schools, and that if states want to effectively regulate book removals, they should preemptively adopt laws similar to Minnesota’s section 134.51. Both modern political rhetoric and recent scholarship about book removals frame the issue of censorship in public schools as a squaring-up between parents’ rights advocates and free speech advocates.²⁶ But those skeptical of book removals should not cede parents’ rights arguments to those who support such removals.²⁷

22. *Id.*

23. See Nesbitt, *supra* note 17 (statement of Gretchen Zaitzeff, President, Utah Educ. Libr. Media Ass’n) (“House Bill 29 infringes on parents’ rights to decide which books are best for their own children.”); Katie McKellar, *Utah Governor Signs Bill Making It Easier to Ban Books Statewide*, UTAH NEWS DISPATCH (Mar. 18, 2024, at 19:04 ET), <https://utahnewsdispatch.com/briefs/utah-governor-signs-book-ban-legislature/> [<https://perma.cc/FQ99-DSJG>] (statement of Rep. Carol Spackman Moss) (“With this bill, just a couple of individuals can take away the rights of parents statewide to make choices that best fit their children’s needs.”).

24. See Peet, *supra* note 14; MINN. STAT. § 120B.20 (2025).

25. See Markham & LaFrance, *supra* note 21.

26. See, e.g., Jensen Rehn, *Battlegrounds for Banned Books: The First Amendment and Public School Libraries*, 98 NOTRE DAME L. REV. 1405, 1413 (2023) (arguing that thinking about book removals “as a free speech issue” is the superior approach); see also Empson, *supra* note 8 (describing book removals as being led by “a so-called parental rights movement” using parents’ rights ideals “as cover for a wide-ranging attack on civil rights in America”). The practice of pitting these two ideals—free speech and parents’ rights—against one another disregards the potential of parents’ rights protections, and could be used by opponents of book removals to supplement a First Amendment argument.

27. Book removals are undoubtedly issues of free speech under the First Amendment. See, e.g., Bd. of Educ., *Island Trees Union Free Sch. Dist. No. 26 v. Pico*, 457 U.S. 853, 869-70 (1982) (plurality opinion) (describing the question as one of the reach of the First Amendment in limiting book removals from public school libraries, and listing “the guidance of several precedents” to address the inquiry). But with the advent of new statewide laws, such as Minnesota’s and Utah’s, we can no longer ignore parents’ rights as a part of the book removal equation.

Despite a prevailing view that advancing parents' rights protections will result in broader book removals, a proper reading of parental rights law has the potential to keep books *on* shelves.²⁸

Part I of this Note will provide background information about book removals as a freedom of speech issue, as well as a history of how parents' rights rhetoric is tied to book-removal issues. Part II will address both the history and legal standards of parents' rights protections. Finally, Part III, using Minnesota and Utah as case studies, will apply parents' rights law to current legislation, and will propose that while Utah's approach to book removals fails under the applicable legal standard, Minnesota's succeeds. Ultimately, Part III will argue that to adequately protect parents' rights in education, states should preemptively adopt laws similar to Minnesota's section 134.51. Part III will also address potential challenges to this proposal.

I. BACKGROUND

A. *Freedom of Speech and Book Removals*

The first banned book in the United States—or, at least, on land that would someday become the United States—was written by a lawyer.²⁹ Thomas Morton wrote the *New English Canaan*, which was published in Amsterdam in 1637, about the Indigenous plants, animals, and people of the Massachusetts Bay Colony.³⁰ Puritans living in American colonies outlawed the text because of its ending,

28. For example, most states have enacted or are considering enacting a "Parent's Bill of Rights." See, e.g., NAT'L CTR. FOR STATE LEGISLATURES, NCSL RESEARCH REQUEST: PARENTS' BILL OF RIGHTS (June 26, 2023), https://www.northcarolinahealthnews.org/wp-content/uploads/2023/06/NCSL-RR_ParentBillofRights.pdf [<https://perma.cc/MB72-2BNZ>]. Utah is one of those states. See UTAH CODE ANN. § 80-2a-201 (LexisNexis 2025). Utah's House Bill 29 (now section 53G-10-103, as it has been signed into law) infringes on the parents' rights supposedly enshrined in Utah's "Parent's Bill of Rights." *Id.* § 53G-10-103. Minnesota's section 134.51 does the opposite, by explicitly protecting parents' rights in education.

29. See Colleen Connolly, *How America's First Banned Book Survived and Became an Anti-Authoritarian Icon*, SMITHSONIAN MAG. (Oct. 2, 2023), <https://www.smithsonianmag.com/history/how-americas-first-banned-book-survived-and-became-an-anti-authoritarian-icon-180982971/> [<https://perma.cc/2QC2-TZES>].

30. *Id.*

which contained “a withering critique of the Puritans,” their society, and their treatment of Indigenous Americans.³¹

Once the twentieth century began, school libraries became the primary venues for book removals in the United States.³² Books were removed by “school board[s] and library commission[s]” for various reasons, including for containing “sexual” content—a version of today’s primary reason for book removals: explicit content or obscenity.³³

With the rise of book removals in the twentieth century came three Supreme Court cases: *Tinker v. Des Moines School District*, *Miller v. California*, and *Board of Education, Island Trees Union Free School District No. 26 v. Pico*. Although *Tinker* and *Miller* do not center around book removals from schools,³⁴ they provide an essential background for *Pico*, which does.³⁵ *Tinker* established the significant First Amendment precedent that students and teachers do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.”³⁶ Thirteen years later, in *Pico*, the Court reiterated *Tinker*’s recognition of “the special characteristics of the school environment” in determining students’ First Amendment rights, and added that “the special characteristics of the school *library*” are “especially appropriate for the recognition” of those rights.³⁷

31. *Id.*

32. See Blakemore, *supra* note 10.

33. *Id.*; see *Obscenity, Books, and Libraries*, RIVERSIDE CNTY. L. LIBR. (Aug. 23, 2024), <https://rclawlibrary.org/news/obscenity-books-and-libraries> [https://perma.cc/VZU4-LZUS] (“The American Library Association’s list of the Most Challenged Books of 2023 shows that book challenges often involve the argument that a work contains sexually explicit content.”); see also *Top 10 Most Challenged Books of 2023*, AM. LIBR. ASS’N, <https://www.ala.org/bbooks/frequentlychallengedbooks/top10/archive> [https://perma.cc/3WRW-ZSY2] (showing that each of the top ten challenged books were challenged because they were “claimed to be sexually explicit”).

34. *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 504 (1969); *Miller v. California*, 413 U.S. 15, 16 (1973).

35. *Bd. of Educ., Island Trees Union Free Sch. Dist. No. 26 v. Pico*, 457 U.S. 853, 855-56 (1982) (plurality opinion).

36. *Tinker*, 393 U.S. at 506.

37. *Pico*, 457 U.S. at 868; see PEN AM., BANNED IN THE USA: RISING SCHOOL BOOK BANS THREATEN FREE EXPRESSION AND STUDENTS’ FIRST AMENDMENT RIGHTS (2022), <https://pen.org/report/banned-in-the-usa-rising-bans-threaten-1a/> [https://perma.cc/X3LL-YYRE].

Post-*Tinker*, it became best practice for school boards to consider the First Amendment rights of students when deciding whether to remove a book.³⁸ But how far do those rights extend for children in an educational environment? Should schoolchildren be allowed to access any material they want—including, for instance, pornographic content—at their school library? This is when *Miller*, decided four years after *Tinker*, chimed in.³⁹

First, and most importantly, *Miller* reaffirmed established precedent that obscenity is not protected speech under the First Amendment.⁴⁰ The *Miller* Court went on to hold that while states can regulate obscene materials, that regulation “must be carefully limited.”⁴¹ Under *Miller*, states can only regulate “works which depict or describe sexual conduct.”⁴² Sexual conduct must be “specifically defined” in state law, and an accordant piece of “obscene” material must “be limited to [a work] which, taken as a whole, appeal[s] to the prurient interest in sex, which portray[s] sexual conduct in a patently offensive way, and which, taken as a whole, do[es] not have serious literary, artistic, political, or scientific value.”⁴³

The *Miller* Court established a three-part test to determine whether material crosses into unprotected obscenity consisting of the following considerations: first, whether an “average person” applying modern community standards “would find that the work, taken as a whole, appeals to the prurient interest”; second, whether the work shows or describes sexual conduct which is “specifically defined by the applicable state law” in a “patently offensive” manner; and third, whether the material on its whole “lacks serious literary, artistic, political, or scientific value.”⁴⁴ Notably, the *Miller* Court instructed that potentially obscene materials be evaluated according to “community standards’... not ‘national standards.’”⁴⁵ In other words, the community challenging the potentially offensive

38. See PEN AM., *supra* note 37.

39. *Miller*, 413 U.S. at 16.

40. See *id.* at 36; *Roth v. U.S.*, 54 U.S. 476, 481 (1957).

41. *Miller*, 413 U.S. at 23-24.

42. *Id.* at 24.

43. *Id.*

44. *Id.*

45. *Id.* at 37.

material gets to set the standard for offensiveness.⁴⁶ This standard remains an important piece of modern law in Minnesota and Utah.

Modern legal history addressing book removals in schools truly begins, however, with *Pico*. In *Pico*, three members of the Board of Education of a New York school district “attended a conference sponsored by ... a politically conservative organization of parents concerned about education legislation in the State of New York.”⁴⁷ At this conference, they received a list of “objectionable” books and later discovered that their high school library contained nine of them.⁴⁸ Eventually, the Board removed those nine books from the district’s “elementary and secondary” school libraries and barred their use in school curricula.⁴⁹ Before this decision, the Board had appointed a committee, comprised of the parents and staff of the district’s schools, to read the books in question and to recommend removal action.⁵⁰ The committee only recommended the total removal of two of the books from school libraries.⁵¹ Nevertheless, without explanation, the Board discarded the committee’s recommendation and removed all nine books from the district’s schools.⁵² Students at the district’s high school⁵³ sued, alleging that the Board had removed the books because they “offended their social, political and moral tastes and not because the books, taken as a whole, were lacking in educational value.”⁵⁴

The Court, in a plurality opinion, agreed with the students and ruled that “local school boards may not remove books from school library shelves simply because they dislike the ideas contained in those books.”⁵⁵ Although school boards have the discretionary ability

46. *Id.*

47. Bd. of Educ., Island Trees Union Free Sch. Dist. No. 26 v. *Pico*, 457 U.S. 853, 856 (1982) (plurality opinion).

48. *Id.*

49. *Id.* at 858.

50. *Id.* at 857.

51. *Id.* at 857-58.

52. *Id.* at 858. The books removed were “by authors like Kurt Vonnegut and Langston Hughes that the board deemed ‘anti-American, anti-Christian, anti-Semitic, and just plain filthy.’” Blakemore, *supra* note 10 (quoting *Pico*, 457 U.S. at 853).

53. One respondent was a student at the junior high school. *Pico*, 457 U.S. at 856 (plurality opinion).

54. *Id.* at 858-59.

55. *Id.* at 872.

to determine which books they allow in their public-school libraries, that discretion cannot be “exercised in a ... political manner.”⁵⁶

Pico was the first and last Supreme Court ruling about removing books from schools.⁵⁷ However, it did not settle the issue. *Pico* set a weak precedent, and lower courts have had trouble applying its narrow holding.⁵⁸ Justice Brennan’s plurality opinion pointed out that it is the “official suppression of *ideas*” that is unconstitutional but did not expand on precisely what that phrase means.⁵⁹ Justice Brennan also noted the students’ concession that removing a book due to its “pervasively vulgar” nature would not raise questions of constitutionality, and neither would a decision to remove a book based only on its “educational suitability.”⁶⁰ However, Brennan’s opinion did not define either term, nor did he explain the standard for what it means for school boards to exercise their discretion in a “political manner.”⁶¹

The ambiguity of *Pico*, combined with its lack of a majority opinion, has rendered it, at best, an unhelpful guidepost for lower courts and, at worst, a waste of valuable judicial ink.⁶² One example of *Pico*’s failure to provide a concrete standard is *ACLU of Florida v. Miami-Dade County School Board*, which focused on a parent’s request that a children’s book about Cuba be removed from his child’s school because it contained what he perceived to be factual inaccuracies.⁶³ Unable to apply *Pico* to precisely the sort of situation it was supposed to govern, the U.S. Court of Appeals for the

56. *Id.* at 870.

57. Anthony Aycock, *The Largely Forgotten Book Ban Case That Went Up to the Supreme Court*, WASH. POST (May 20, 2023), <https://www.washingtonpost.com/history/2023/05/20/book-bans-supreme-court-pico/> [<https://perma.cc/KKF2-6U8T>].

58. *Id.*; Rehn, *supra* note 26, at 1409; *see Pico*, 457 U.S. at 880 (Blackmun, J., concurring in part and concurring in the judgment).

59. *See Pico*, 457 U.S. at 871 (plurality opinion).

60. *Id.*

61. *See id.* at 870-71; *see also id.* at 890 (Burger, J., dissenting) (“‘Educational suitability,’ however, is a standardless phrase.... Further, there is no guidance whatsoever as to what constitutes ‘political’ factors.”).

62. *See ACLU of Fla., Inc. v. Miami Dade Cty. Sch. Bd.*, 557 F.3d 1177, 1200 (11th Cir. 2009) (“With five different opinions and no part of any of them gathering five votes from among the nine justices—only one of whom is still on the Court—*Pico* is a non-decision so far as precedent is concerned. It establishes no standard.”).

63. *See id.* at 1182.

Eleventh Circuit was forced to decide the case without meaningful Supreme Court guidance.⁶⁴

Ultimately, the Eleventh Circuit seemed to agree with Justice Brennan that a book lacking “educational suitability” can be constitutionally removed from a school,⁶⁵ holding that “the First Amendment does not forbid a school board from removing a book because it contains factual inaccuracies.”⁶⁶ However, even the decision in *Miami-Dade County School Board* did not establish boundaries for when factual inaccuracies in a book warrant its removal. The court left the door wide open for schools in the Eleventh Circuit to, for example, remove books for political reasons under the guise of having “discovered” factual inaccuracies within them.⁶⁷ How this issue will develop in federal courts is largely unclear; however, it will almost certainly develop without *Pico*’s help.⁶⁸

B. Modern Political Rhetoric Conflating Parents’ Rights with Book Removals

Today, removing books from public schools is a hugely partisan issue, with advocates for removal typically aligning with the Republican Party and opponents typically aligning with the Democratic Party.⁶⁹ A large number of book removals are spurred by parents’ rights groups, such as Utah Parents United, which

64. See *id.* at 1182, 1200; Rehn, *supra* note 26, at 1425.

65. See *Pico*, 457 U.S. at 871 (plurality opinion).

66. See *ACLU of Fla.*, 577 F.3d at 1202.

67. See *id.* at 1234 (Wilson, J., dissenting) (“Although school boards are vested with wide discretion to decide what books occupy its library shelves, I do not believe that the First Amendment permits a school board to ban a book for the purpose of suppressing the viewpoints expressed in the book, when the educational content of the book is otherwise innocuous ... Having read the book [at issue] and independently examined the entire record, I agree ... that the School Board’s claim that [the book] is grossly inaccurate is simply a pretense for viewpoint suppression, rather than the genuine reason for its removal. The record supports the district court’s determination that the book was not removed for a legitimate pedagogical reason.”); Rehn, *supra* note 26, at 1425-26.

68. See Rehn, *supra* note 26, at 1426.

69. See, e.g., Kiara Alfonseca, *How Conservative and Liberal Book Bans Differ amid Rise in Literary Restrictions*, ABC NEWS (Jan. 12, 2023, at 05:08 ET), <https://abcnews.go.com/US/conservative-liberal-book-bans-differ-amid-rise-literary/story?id=96267846> [<https://perma.cc/D8K5-EKBQ>].

lobbied for the passage of Utah's House Bill 29—now Utah Code section 53G-10-10—a law that allows for the uniform removal of books in public schools across the state.⁷⁰ The parents' rights movement and the demand for more liberal curricula have become functional opposites on the political stage. In 2022, for example, the Republican National Committee (RNC) released a memorandum telling Republican campaigns and parties that, to court the independent vote, they should speak about “parental rights and quality education” instead of concerns about Critical Race Theory being taught in schools.⁷¹

Bills restricting certain topics from being taught in schools are often said to promote parents' rights.⁷² Florida's “Don't Say Gay” law, sponsored by Republican representative Joe Harding and signed into law by Republican governor Ron DeSantis,⁷³ which famously prohibits classroom discussion about LGBTQ+ issues and has sparked national debates about sociopolitical issues in classrooms,⁷⁴ is an example of this; the actual name of the law is the Parental Rights in Education Act.⁷⁵ Although the Act is primarily

70. See, e.g., Katie McKellar, *Utah Bill Would Make It Easier to Ban 'Sensitive Materials' in Schools*, UTAH NEWS DISPATCH, (Jan. 23, 2024, at 20:24 ET), <https://utahnewsdispatch.com/2024/01/23/utah-book-bans-sensitive-materials-bill/> [<https://perma.cc/UD95-6RPD>]; UTAH CODE ANN. § 53G-10-103(4)(a), (7)(a) (LexisNexis 2025).

71. Memorandum from RNC Data to Republican Campaigns, Committees, and State Parties (Sep. 13, 2022), https://prod-static.gop.com/media/documents/RNC_Data_Issue_Memo_1663072983.pdf [<https://perma.cc/2NQA-3LR8>]; see also *Educational Intimidation*, PEN AM. (Aug. 23, 2023), <https://pen.org/report/educational-intimidation/> [<https://perma.cc/HQ2H-V3XD>] (discussing the RNC memorandum).

72. PEN AM., *supra* note 71. PEN America calls provisions in bills restricting books or topics from being taught in schools “educational intimidation provision[s], which [they] define as specific and recurring legal mechanisms with the foreseeable effect of chilling expression in educational settings.” *Id.*

73. Anthony Izaguirre, *'Don't Say Gay' Bill Signed by Florida Gov. Ron DeSantis*, AP NEWS (Mar. 28, 2022, at 18:34 ET), <https://apnews.com/article/florida-dont-say-gay-law-signed-56aee61f075a12663f25990c7b31624d> [<https://perma.cc/T52Q-PAXQ>].

74. See, e.g., Kaia Hubbard, *'Don't Say Gay' Debate Makes Inroads Beyond Florida*, U.S. NEWS & WORLD REP. (May 18, 2022), <https://www.usnews.com/news/national-news/articles/2022-05-18/dont-say-gay-debate-makes-inroads-beyond-florida> [<https://perma.cc/6HUV-F9CF>]; Meredith Johnson, *The Dangerous Consequences of Florida's "Don't Say Gay" Bill on LGBTQ+ Youth in Florida*, 23 GEO. J. GENDER & L. ONLINE (2020), <https://www.law.georgetown.edu/gender-journal/wp-content/uploads/sites/20/2022/04/The-Dangerous-Consequences-of-FLs-Bill-on-LGBTQ-Youth-M.-Johnson.pdf> [<https://perma.cc/72BT-ZZNQ>].

75. See H.R. 1557, 2022 Leg., Reg. Sess. (Fla. 2022).

known for its “Don’t Say Gay” provision,⁷⁶ it also requires school board procedures to “reinforce the fundamental right of parents to make decisions regarding the upbringing and control of their children.”⁷⁷ The Act passed the house sixty-nine to forty-seven in a vote split almost exactly along party lines, with only one Democrat voting for and seven Republicans voting against the bill.⁷⁸

This simple idea—that a parent’s right to make decisions about their child’s upbringing is a fundamental one—spurs much of the complex book removal action at the school board and state levels. That action does not just come from parents’ rights groups, though. Instead, parents’ rights groups and larger PACs work hand in hand to promote book removals.⁷⁹ Even without PACs, parents’ rights groups are powerful and have a hand in litigation that promotes book removals. In 2014, for example, the Alliance Defending Freedom, a Christian legal interest group that focuses on, as they put it, “advancing every person’s God-given right to live and speak the truth,” represented a parent in Arizona who wanted pages about contraception and abortion removed from a biology textbook.⁸⁰

76. See, e.g., Johnson, *supra* note 74.

77. Fla. H.R. 1557, 2022 Leg., (Fla. 2022).

78. Vote on the Parental Rights in Education Act, 2022 Leg., Reg. Sess. (Fla. 2022), https://www.flsenate.gov/Session/Bill/2022/1557/Vote/HouseVote_h01557e1564 [<https://perma.cc/ZJC5-DBLG>]; see Kelly Hayes, *We Are in Distress: House Passes LGBTQ Instruction Bill Despite Pleas from Democrats*, FLA. POL. (Feb. 24, 2022), <https://florida-politics.com/archives/500337-we-are-in-distress-house-passes-lgbtq-instruction-bill-despite-pleas-from-democrats/> [<https://perma.cc/WFK3-UDTL>].

79. See, e.g., Libby Stanford, *What the Push for Parents’ Rights Means for Schools*, EDUCATIONWEEK (Feb. 22, 2023), <https://www.edweek.org/leadership/what-the-push-for-parents-rights-means-for-schools/2023/02> [<https://perma.cc/22RV-EQVE>] (“Well known groups like Moms for Liberty and Parents Defending Education have created political action committees to help conservative school board members get elected. They’ve also lobbied for state laws banning books with content about race, gender, and sexuality, and pushed for more oversight of what is being taught in schools.”). Notably, parents’ rights advocates have often gone too far in their promotion of parents’ rights, using fear tactics and sometimes even blatant untruths to bring more people to their cause. See *id.* (“[I]n many cases, parents’ rights advocates have spread misinformation about what’s happening in schools ... such as a hoax that claimed schools were providing litter boxes to students who identify as furies and claims that schools were teaching critical race theory.”).

80. *About Us*, ALL. DEFENDING FREEDOM, <https://adflegal.org/about/> [<https://perma.cc/9ZYV-QN7K>]; Rick Rojas, *In Arizona, a Textbook Fuels a Broader Dispute over Sex Education*, N.Y. TIMES (Nov. 27, 2014), <https://www.nytimes.com/2014/11/28/us/in-arizona-a-textbook-fuels-a-broader-dispute-over-sex-education.html> [<https://perma.cc/PW7L-92BK>]. The mother who wanted the textbook removed from schools particularly mentioned being upset over the fact that the textbook—a biology textbook—spoke about childbirth and abortion but not about

Essentially, the parents' rights movement has become synonymous with conservative-party-spurred book removals in public schools.⁸¹ In the last few years, the rate of book removals has increased drastically.⁸² PEN America, which tracks book removal attempts in schools, estimates that as many as half of the book removal efforts that have occurred since the 2021-22 school year were pushed forward not by individuals but by organizations, many of which include parents' rights in their mission statements.⁸³ Though the organizations pushing for book removals say they do so, at least partially, to protect or advance parents' rights, an astonishingly small percentage of book removals actually begins with members of a school community—including parents—filing formal complaints. In 2022, PEN America compiled a nine-month "Index of School Book Bans" to reflect the rising trend of removals in schools across the United States.⁸⁴ It found that community members had initiated a mere 4 percent of the 1,586 removals they tracked.⁸⁵

This begs the question: Is the modern political rhetoric conflating parents' rights with book removals accurate? Or, in fact, do parents themselves actually have very little to do with book removals? What parents' rights do *parents* care about?⁸⁶

adoption. *Id.* The Alliance Defending Freedom defines parental rights as "natural rights given by God to parents to care for and direct the upbringing of their children," including the right to educate their children "in a manner consistent with their family's beliefs." Kate Anderson, *Parental Rights Are Fundamental Rights*, ALL. DEFENDING FREEDOM (Apr. 7, 2026), <https://adflegal.org/article/what-are-parental-rights/> [<https://perma.cc/XW3P-6VL3>].

81. See Empson, *supra* note 8 ("Far-right pressure has been one of the leading causes of book banning in the US over the last two years. These bans are pushed locally, by parents or parent-led groups, or by politicians through broader state-level laws.").

82. PEN AM., BANNED IN THE USA: THE GROWING MOVEMENT TO CENSOR BOOKS IN SCHOOLS (2022), <https://pen.org/report/banned-usa-growing-movement-to-censor-books-in-schools/> [<https://perma.cc/V5XW-3H36>].

83. *Id.* at 4, 21-22.

84. PEN AM., *supra* note 37, at 2.

85. *Id.* at 16.

86. For more on this discussion, see Jamelle Bouie, Opinion, *What the Republican Push for 'Parents' Rights' Is Really About*, N.Y. TIMES (Mar. 28, 2023), <https://www.nytimes.com/2023/03/28/opinion/parents-rights-republicans-florida.html> [<https://perma.cc/EB7T-2CYD>] ("[W]e never hear about the rights of parents who want schools to offer a wide library of books and materials to their children.... The reality of the 'parents' rights' movement is that it is meant to empower a conservative and reactionary minority of parents to dictate education and curriculums to the rest of the community. It is, in essence, an institutionalization of the heckler's veto, in which a single parent—or any individual, really—can remove hundreds of

II. PARENTS' RIGHTS

A. A History of Parents' Rights

Students may not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate,”⁸⁷ but what about *parents*? The Supreme Court has held that parents have the fundamental right “to make decisions concerning the care, custody, and control of their children.”⁸⁸ This right includes the prerogative to decide some aspects of how their children are educated.⁸⁹

However, appellate courts have routinely held that although parents have the right to decide *where* to send their children to school, “they do not have a fundamental right generally to direct *how* a public school teaches their child.”⁹⁰ Parents enjoy no constitutional right to exempt their students from curricula with which they disagree, although some states—such as Minnesota—have codified that right in state law.⁹¹ Ultimately, states enjoy a certain amount of insurmountable authority when it comes to governance of public education.⁹² Even outside of public schools, states have significant control over educational requirements; but the state’s power over education is strongest in public schools.⁹³

Before the Supreme Court ruled on the subject, parents’ rights to direct their children’s education were dictated by the common law, which generally allowed parents to object to what was being taught

books or shut down lessons on the basis of that one person’s political discomfort. ‘Parents’ rights,’ in other words, is when some parents have the right to dominate all the others.”)

87. *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 506 (1969).

88. *Troxel v. Granville*, 530 U.S. 57, 66 (2000).

89. *See, e.g., Washington v. Glucksberg*, 521 U.S. 702, 720 (1997) (“[T]he ‘liberty’ specially protected by the Due Process Clause includes the right[.]... to direct the education and upbringing of one’s children.” (first citing *Meyer v. Nebraska*, 262 U.S. 390 (1923); and then citing *Pierce v. Soc’y of Sisters*, 268 U.S. 510 (1925))); *see also Meyer v. Nebraska*, 262 U.S. 390, 400 (1923) (“[T]he right of parents to engage [a teacher] so to instruct their children, we think, [is] within the liberty of the [Fourteenth] Amendment.”).

90. *See, e.g., Blau v. Fort Thomas Pub. Sch. Dist.*, 401 F.3d 381, 395 (6th Cir. 2005).

91. MINN. STAT. § 120B.20 (2025).

92. *See VIVIAN HAMILTON, NAT’L EDUC. POL’Y CTR., THE CONFLICT OVER PARENTS’ RIGHTS* 12 (2024).

93. *Id.*; *see Ralph D. Mawdsley, The Changing Face of Parents’ Rights*, 2003 BYU EDUC. & L.J. 165, 191.

to their children.⁹⁴ Common law varied between the states and, after World War I, began to be superseded by state laws focusing on compulsory attendance.⁹⁵

Eventually, though, parents' rights cases made their way to the Supreme Court, starting with *Meyer v. Nebraska*.⁹⁶ Related cases followed.⁹⁷ The *Meyer* court held that the Fourteenth Amendment protected a parent's right to engage teachers to teach their children.⁹⁸ A subsequent case, *Pierce v. Society of Sisters*, held that legislatures could not "unreasonably interfere[] with the liberty of parents and guardians to direct the upbringing and education of children under their control."⁹⁹

As time went on, more "parents' rights in education" cases made their way to the Supreme Court, but none of those cases ruled on a parent's right to determine curricula.¹⁰⁰ Courts of Appeals, on the other hand, have ruled on the question. For example, the First Circuit held that although states do not have the power to "completely foreclos[e] the opportunity of individuals and groups to choose a different path of education," neither do parents have the power to "dictate the curriculum at the public school to which they have chosen to send their children."¹⁰¹

94. *See id.* at 166-67.

95. *Id.* at 168.

96. *Id.*; *Meyer v. Nebraska*, 262 U.S. 390, 400 (1923).

97. *See* Joseph Griffith, *The Long History of Parents' Rights*, LAW & LIBERTY (Nov. 8, 2021), <https://lawliberty.org/the-long-history-of-parents-rights/> [<https://perma.cc/RGY9-D9FE>]. These cases, though, were about ensuring students had access to different educational opportunities rather than about removing educational materials from student access. *See Meyer*, 262 U.S. at 400-01 (holding unconstitutional a statute prohibiting teaching foreign languages to students who had not passed the eighth grade); *Pierce v. Soc'y of Sisters*, 268 U.S. 510, 530, 534-35 (1925) (holding unconstitutional a statute requiring children between the ages of 8 and 16 to attend public school).

98. *Meyer*, 262 U.S. at 400.

99. *Pierce*, 268 U.S. at 534-35. However, this was about the unconstitutionality of a statute mandating that children attend public school, rather than about what students were learning in that public school.

100. *See* Mawdsley, *supra* note 93, at 170-75. Instead, cases focused on issues such as compulsory attendance, teacher certification, and religious exercise in schools. *Id.*

101. *Brown v. Hot, Sexy & Safer Prods.*, 68 F.3d 525, 533 (1st Cir. 1995); *see id.* at 533-34 ("We think it is fundamentally different for the state to say to a parent, 'You can't teach your child German or send him to a parochial school,' than for the parent to say to the state, 'You can't teach my child subjects that are morally offensive to me.' ... If all parents had a fundamental constitutional right to dictate individually what the schools teach their children, the schools would be forced to cater a curriculum for each student whose parents had genuine

Today, state legislatures, rather than federal bodies, work the hardest to strengthen parents' rights in schools.¹⁰² Many states have adopted exemptions for parents who wish not to comply with compulsory attendance in nonpublic schools, for example.¹⁰³ All states recognize homeschooling as a valid educational upbringing.¹⁰⁴ But these parental protections still stop at the construction of public school curricula.¹⁰⁵ It is states—not parents—that have the most power over what children learn in public schools.¹⁰⁶ Utah and Minnesota are no exception to this rule.¹⁰⁷

At the time this Note is being written, a bill—House Bill 5—is sitting in the U.S. Senate, titled the Parents Bill of Rights Act.¹⁰⁸ Among other things, the bill seeks to protect the “right” of parents to obtain a list of all books in their child’s public school library and “inspect” them, and states that “[i]t is the sense of Congress that ... parents have a fundamental right, protected by the U.S. Constitution, to direct the education of their children.”¹⁰⁹ The bill also affirms that government actions that interfere with those parental rights should be subject to strict scrutiny (the most thorough and uncompromising standard of judicial review).¹¹⁰ Although the bill has not yet passed, it indicates that the issue of parents’ rights, especially in schools, has made its way to the national stage. It is largely this burst of fervor for modern parents’ rights protections that informs the current debate about book removals.¹¹¹

moral disagreements with the school’s choice of subject matter. We ... find that the rights of parents as described by *Meyer* and *Pierce* do not encompass a broad-based right to restrict the flow of information in the public schools.”).

102. See Mawdsley, *supra* note 93, at 176.

103. *Id.*

104. *Id.* at 177.

105. *Id.*

106. See *id.*

107. See MINN. STAT. § 120B.021 (2025); UTAH CODE ANN. § 53E-4-204 (LexisNexis 2025).

108. See H.R. 5, 118th Cong. (2023).

109. *Id.*

110. See *id.*

111. See, e.g., Brooke Schultz, *EXPLAINER: The History Behind ‘Parents’ Rights’ in Schools*, APNEWS (Nov. 14, 2022, at 14:16 ET), <https://apnews.com/article/religion-education-gender-identity-0e2ca2cf0ef7d7bc6ef5b125f1ee0969> [<https://perma.cc/UL7D-5ZBZ>].

B. Legal Standards

Courts interpret laws in different ways depending on the object of the law. When laws aimed at fundamental rights under the Fifth and Fourteenth Amendments are challenged, courts use the exacting standard of strict scrutiny to evaluate them.¹¹² The standard contains two steps.¹¹³ First, the court asks whether the challenged law furthers a compelling government interest.¹¹⁴ In other words, the government that enacted the law had to have a good reason for doing so.¹¹⁵ Then, if the law was passed to further a compelling government interest, the court must determine whether the law was narrowly tailored to achieve that interest.¹¹⁶ To be narrowly tailored, a law can be neither overinclusive nor underinclusive, and the possibility of a better, more narrowly tailored statute cannot exist.¹¹⁷ In other words: A law affecting a fundamental right under constitutional amendments has to encompass precisely what it needs to in order to achieve a compelling government interest—no more, no less.¹¹⁸

State courts consistently hold that restrictions on variations of parents' rights are substantive due process infringements under the Fifth and Fourteenth Amendments.¹¹⁹ Both amendments contain due process clauses,¹²⁰ which, in addition to providing "due process of law," include a substantive component: enhanced protection against government infringement into fundamental rights.¹²¹ Only about a quarter of arguments that infringements on parents' rights are substantive due process violations have been

112. Adam Winkler, *Fatal in Theory and Strict in Fact: An Empirical Analysis of Strict Scrutiny in the Federal Courts*, 59 VAND. L. REV. 793, 799, 862-63 (2006).

113. *Id.* at 800.

114. *Id.*

115. *See id.*

116. *Id.*

117. *See Church of Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 546 (1993).

118. *See Winkler, supra* note 112, at 800-01.

119. *See id.* at 864 & n.324. Also, recall that the Parents Bill of Rights Act currently sitting in the Senate asserts that parents' rights in education are fundamental and should be subject to strict scrutiny. *See H.R. 5*, 118th Cong. (2023).

120. U.S. CONST. amend. V; U.S. CONST. amend. XIV.

121. *Troxel v. Granville*, 530 U.S. 57, 65 (2000) (quoting *Washington v. Glucksberg*, 521 U.S. 702, 719-20 (1997)).

accepted by courts.¹²² However, there is a long line of Supreme Court decisions explicitly protecting the rights of parents to make decisions concerning their children's care and education.¹²³

Meyer v. Nebraska and *Pierce v. Society of Sisters* were the first Supreme Court cases to hold that the Due Process Clause protects parents' rights to maintain a certain amount of authority over their children's education.¹²⁴ As time went on, the Court built on *Meyer* and *Pierce*, holding eventually in *Troxel v. Granville*, in the year 2000, that parents have a liberty interest in the fundamental right of "the care, custody, and control of their children" that is protected under the Due Process Clause.¹²⁵

Despite this extensive judicial history protecting parents' rights under the Due Process Clause, courts have not universally applied strict scrutiny to statutes alleged to infringe on parents' rights.¹²⁶ In *Troxel*, in fact, the Supreme Court found a due process protection for parents' rights without turning to any level of scrutiny.¹²⁷ Lower courts, without much Supreme Court guidance about what level of scrutiny to apply to different parents' rights issues, coupled with the reality that "parents' rights" is a Trojan horse of a legal idea (with potentially hundreds of subclasses huddled up inside), are not able to apply a consistent rule to parents' rights cases.¹²⁸ That reality will not change until the Supreme Court hands down a successor to *Pico*—and there is no indication the Court will do so in the near

122. Winkler, *supra* note 112, at 864.

123. *See, e.g., Troxel*, 530 U.S. 65-66 (summarizing extensive precedent protecting parents' rights under the Due Process Clause as fundamental).

124. *Meyer v. Nebraska*, 262 U.S. 390, 399-401, 403 (1923) (holding that the Due Process Clause protects a parent's right to "bring up children," which includes a right to engage a teacher to educate their child, and that the challenged statute infringed on liberties guaranteed by the Fourteenth Amendment in part because it interfered "with the power of parents to control the education of their own [children]"); *Pierce v. Soc'y of Sisters*, 268 U.S. 529, 534, 536 (1925) (affirming the judgement of the lower court that "parents and guardians, as a part of their liberty, might direct the education of children by selecting reputable teachers and places").

125. *Troxel*, 530 U.S. at 65-66. For a list of cases building up to this ruling, see *id.*

126. Margaret Ryznar, *A Curious Parental Right*, 71 SMU L. REV. 127, 128-29 (2018); *see also* Winkler, *supra* note 112, at 815, 863-64 (pointing out the statistical variation of strict scrutiny survival rates among different types of rights).

127. Ryznar, *supra* note 126, at 129.

128. *See id.* at 129-30.

future.¹²⁹ We must, therefore, make do with the Court's existing rulings. As it stands now, under *Troxel*, parents have a due-process-protected interest in the fundamental right of "the care, custody, and control of their children," which merits the assumption that parents' rights cases concerning "the care, custody, and control" of children should be evaluated under a strict scrutiny standard.¹³⁰

The next question is: does education fall within a parent's right to direct the "care, custody, and control" of their children? The Supreme Court has not explicitly held so, but several ancillary Court holdings imply it does.¹³¹ For example, the Court has noted "the fundamental interest of parents, as contrasted with that of the State, to guide the religious future and education of their children" and asserted that the "primary role of the parents in the upbringing of their children is ... established beyond debate as an enduring American tradition."¹³²

The Court has also affirmed that the government cannot "unreasonably interfere[]" with a parents' right to supervise their children's education.¹³³ In accordance with that doctrine, parents have considerable discretion in deciding how to educate their children.¹³⁴ Even cases upholding book removals from schools explicitly acknowledge that parents have both the right and the responsibility to educate their children as they see fit.¹³⁵

If parents have a fundamental due process right to control the care and custody of their children, and if "care and custody" includes education, then individual parents' rights cases involving parental

129. This Note does not purport to suggest how or when the Court should do this—that is beyond the scope of this Note. Additionally, this author does not regard *Mahmoud v. Taylor*, the 2025 Supreme Court case concerning parental opt-out provisions in schools, to be a true successor to *Pico*, as it clarifies none of the ambiguities *Pico* presents. See *Mahmoud v. Taylor*, 145 S. Ct. 2332 (2025).

130. See *Troxel*, 530 U.S. at 65-66.

131. See, e.g., *Wisconsin v. Yoder*, 406 U.S. 205, 232-33 (1972).

132. *Id.* at 232.

133. *Pierce v. Soc'y of Sisters*, 268 U.S. 510, 534-35 (1925).

134. For example, parents can choose private education, instruct their children according to religious doctrine, or homeschool their children. See *Johnson v. Charles City Cmty. Sch. Bd. of Educ.*, 368 N.W.2d 74, 78 (Iowa 1985).

135. See, e.g., *Presidents Council, Dist. 25 v. Cmty. Sch. Bd. No. 25*, 457 F.2d 289, 292 (2d Cir. 1972) (arguing that the removal of a book from a school library does not infringe on students' First Amendment rights because a parent can still obtain the book and give it to their child).

control of their child's education should be subject to strict scrutiny. If cases involving a parent's right to direct their child's education are subject to strict scrutiny, laws affecting that right must be narrowly tailored to achieve a compelling government interest. First Amendment guidance on book removals is vague and uncertain at best—but parental rights laws (so often associated with pro-book-removal rhetoric) might in fact provide a helpful framework for analyzing the constitutionality of book removals. To demonstrate this theory, this Note returns to two states: Minnesota and Utah. Ultimately, these case studies reveal that Minnesota's book removal laws are narrowly tailored under a strict scrutiny standard, and Utah's are not.

III. CASE STUDIES

A. A History of Book Removals in Utah and Minnesota

Book removals in both Minnesota and Utah date back to each state's early history. Books have been removed from libraries in both states for a myriad of reasons. In 1921, for example, one book was removed from public libraries in Alexandria, Minnesota, because the city was allegedly "jealous of" the book's "advertising" another Minnesota town.¹³⁶ Even then, though, Minnesota newspaper columns reflected a general opposition to book removals (though they did happen).¹³⁷ In the modern day, before its most recent law, some Minnesota school districts followed the trend of most American states¹³⁸ by removing books that had been staples of their curricula. In 2018, Duluth Public Schools removed "'To Kill a Mockingbird' and 'The Adventures of Huckleberry Finn' from its

136. *Alexandria Denies Banning of Book*, SAUK CTR. HERALD Sep. 15, 1921 at 1.

137. *See id.* (pointing out that the removal of the book was "a highly secretive affair" and that, during its period of banishment, "the sale of the book [] increas[ed] by leaps and bounds"); *see also Caines Librarians*, BEMIDJI DAILY PIONEER Oct. 8, 1913 at 2 ("One of the grievous errors of many people is to assume that if a book contains scenes of immorality it is an immoral book. That is by no means so.").

138. *See* PEN AM., *supra* note 12 ("Bans occurred in 138 school districts in 32 states [between July 2021 and June 2022]. These districts represent 5,049 schools with a combined enrollment of nearly 4 million students.").

required reading list because of the books” use of “the n-word.”¹³⁹ In 2023, one online petition advocated for the “Immediate Removal of Sexually Explicit Materials” in Bloomington Public Schools.¹⁴⁰ The petition came from a traditional parents’ rights perspective, arguing that the innocence of children must be “preserve[d]” and that parents and community members do not “consent to [their] tax dollars being spent on explicit material being made available in schools.”¹⁴¹ In 2022, a conservative parents’ rights group called the Minnesota Parents Alliance started lobbying against materials containing ideas such as Critical Race Theory and LGBTQ+ messaging and began to train parents to run for local district boards.¹⁴² The Minnesota School Boards Association, in response, noted that “99 percent of people ... serving on school boards” at the time were parents.¹⁴³

The story in Utah is much the same. Even before House Bill 29, Utah Parents United, a parental rights advocacy group and PAC, advocated for the removal of sexually explicit books from school libraries.¹⁴⁴ In 2021, the ACLU of Utah sued the Davis School District for removing *In Our Mothers’ House*, “a children’s book about same-sex parents, from an elementary school library.”¹⁴⁵ Eventually, the school district settled, agreed to return the book to

139. Kristine Phillips, *A School District Drops ‘To Kill a Mockingbird’ and ‘Huckleberry Finn’ Over Use of the N-word*, WASH. POST (Feb. 7, 2018), <https://www.washingtonpost.com/news/education/wp/2018/02/07/a-school-district-drops-to-kill-a-mockingbird-and-huckleberry-finn-over-use-of-the-n-word/> [https://perma.cc/DH6K-P5X3].

140. Kris Seitz, *Petition for Immediate Removal of Sexually Explicit Materials in ISD 271*, PETITIONS.COM, https://www.petitions.com/petition_for_immediate_removal_of_sexually_explicit_books_in_isd_271_schools [https://perma.cc/H6NK-AHHR]; see Elizabeth Shockman, *Book Ban Attempts on the Rise in Minnesota Schools*, MPRNEWS (Oct. 12, 2023, at 04:00 CT), <https://www.mprnews.org/story/2023/10/12/book-ban-attempts-on-the-rise-in-minnesota-schools> [https://perma.cc/W5E5-SPL9].

141. Seitz, *supra* note 140.

142. Elizabeth Shockman, *New Group Launches Effort to Gain ‘Parental Rights’ on MN School Boards*, MPRNEWS (Aug. 4, 2022, at 18:54 CT), <https://www.mprnews.org/story/2022/08/04/new-group-launches-effort-to-gain-parental-rights-on-mn-school-boards> [https://perma.cc/7Z8T-Y4D6].

143. *Id.*

144. See Markham & LaFrance, *supra* note 21.

145. *ACLU of Utah Investigating After Books Removed from Schools*, AP NEWS (Nov. 23, 2021, at 14:14 ET), <https://apnews.com/article/entertainment-arts-and-entertainment-education-utah-salt-lake-city-e5d340beb7f3df8ff5812c34390a6dad> [https://perma.cc/F8V6-NJU5].

libraries, and to “never remove another book based solely on LGBTQ content.”¹⁴⁶ Also in 2021, nine books were pulled from shelves in Canyons School District after a parent emailed school administrators her concerns about their content.¹⁴⁷ The parent copied Utah Parents United on her email.¹⁴⁸ Later, the group released a video encouraging parents and other members of the group to “call their local police departments” when they come across books that are “too explicit” at school libraries.¹⁴⁹

Despite similar histories, new laws in Utah and Minnesota have taken the state of book banning in entirely different directions. This evolving situation illustrates the impact of state laws and why we should pay them careful attention.

B. The State of Law in Minnesota

On May 17, 2024, Minnesota Governor Tim Walz signed a bill into law prohibiting public libraries—including public school libraries—from removing or restricting access to books for purely ideological reasons.¹⁵⁰ The law, called Access to Library Materials and Rights Protected, became effective on August 1, 2024.¹⁵¹ The statute mandates that every public library in Minnesota develop a “materials policy” that “establishes procedures for selection of, challenges to, and reconsideration of library materials.”¹⁵² These procedures, under the statute, must be overseen by either a “licensed library media specialist,” a “professional librarian,” or a person “with a master’s degree in library science or library and information science.”¹⁵³ In other words, in Minnesota, public school library books must be picked and reviewed by experts.

146. *Id.*

147. Courtney Tanner, *How 9 Books Started a Fight Over Censorship and Pornography in This Utah School District*, SALT LAKE TRIBUNE (Nov. 30, 2021, at 21:17 ET), <https://www.sltrib.com/news/education/2021/11/29/how-books-started-fight/> [https://perma.cc/FLW8-CJXC].

148. *Id.*

149. *Id.*

150. Katrina Bailey, *State Law Prohibiting Book Bans Effective August 1*, MINN. DAILY (June 23, 2024), <https://mndaily.com/284490/city/state-law-prohibiting-book-bans-effective-august-1/> [https://perma.cc/S5YW-EDUD].

151. MINN. STAT. § 134.51 (2025); see Bailey, *supra* note 150.

152. MINN. STAT. § 134.51(5).

153. *Id.* § 134.51(5)(c).

This is not to say that any and every book imaginable is available to public school children. Library experts are given discretion in choosing both what books to buy and what books to remove, and the statute makes explicit that they can add or remove books from shelves for “legitimate pedagogical concerns,” such as “the appropriateness of potentially sensitive topics for the library’s intended audience” and “the likelihood of causing a material and substantial disruption of the work and discipline of [a] school.”¹⁵⁴

Library experts are also tasked with handling parental challenges to library content.¹⁵⁵ After reviewing a challenge, library experts must submit a report to the Minnesota Commissioner of Education outlining all the information relevant to the challenge, as well as their decision.¹⁵⁶ This process is not meant merely to humor content challenges, however. After the bill was initially drafted, the Minnesota Library Association (MLA) helped legislators tweak its language to best support libraries.¹⁵⁷ According to an MLA Legislative Committee Cochair, a crucial part of that process was “[i]ncluding language on protecting parents’ rights to challenge content.”¹⁵⁸ As a result, the statute reflects a genuine desire to protect a parent’s right to review what books their child has access to.

Particularly, the Access to Library Materials and Rights Protected statute explicitly preserves parents’ rights under a different Minnesota statute: the Parental Curriculum Review law.¹⁵⁹ Under the Parental Curriculum Review law, school districts are required to implement a procedure whereby a parent can review the educational content being offered to their child, object to it, and arrange with their child’s school “for alternative instruction.”¹⁶⁰ Minnesota’s statute outlining the state’s “[r]equired academic standards” also plainly states that school districts, when creating or improving curricula, must abide by the Parental Curriculum Review law.¹⁶¹

154. *Id.* § 134.51(3)(a)(2).

155. *See id.* § 134.51(5)(a)-(b).

156. *See id.* § 134.51(5)(d).

157. *See Peet, supra* note 14.

158. *Id.*

159. *See* MINN. STAT. §§ 134.51, 120B.20.

160. *See id.* § 120B.20.

161. *Id.* § 120B.021(d).

Under Minnesota law, books cannot be removed from public school libraries based solely on ideology; experts are tasked with stocking the shelves; and parents have the ultimate say over the academic content introduced to their children.

C. The State of Law in Utah

Utah's book-removal laws are practically the opposite of Minnesota's. Utah's Sensitive Instructional Materials law, which became effective just weeks after Minnesota's law on July 1, 2024, outlines a process through which books can be removed from public schools statewide.¹⁶² First, the law explicitly bars what it refers to as "sensitive materials"—which include, under the Act, both "objective" and "subjective" sensitive materials—from being present on public school property.¹⁶³ Both "objective" and "subjective" sensitive materials primarily include materials depicting sex or sexuality in any form.¹⁶⁴ However, the statute contains no clear indication of the difference between "objective" and "subjective" sensitive materials.¹⁶⁵ Both categories include material that is "pornographic or indecent," or "harmful to minors."¹⁶⁶

Utah's new law established a short and easily accessible process for expediting book removals across the state.¹⁶⁷ First, any employee, student, parent, or school board member can challenge the book's inclusion in that school district's library.¹⁶⁸ Then, the school board makes a precursory determination about whether the challenged book includes "sensitive material," and removes the book from every school in the district while it undergoes further review.¹⁶⁹ To review the material, the board uses what the statute calls "objective sensitive material standards."¹⁷⁰ These standards, encompassed in section 76-5C-207 of the Utah Code, describe four

162. See UTAH CODE ANN. § 53G-10-103(2)-(3)(a), (4) (LexisNexis 2025).

163. *Id.* § 53G-10-103(1)(h)(i).

164. See *id.* §§ 53G-10-103(1)(h)(i), 76-5c-101(7)(a), 76-5c-208(1)(a)(iii), (4).

165. See *id.* § 53G-10-103(1)(h)(i).

166. See *id.* §§ 53G-10-103(1)(e)-(h)(iii)(A), 76-5c-208(1)(a)(iii)(A). For more on this, see Markham & LaFrance, *supra* note 21.

167. See § 53G-10-103(4).

168. See *id.* § 53G-10-103(3)(a).

169. See *id.* § 53G-10-103(4)(a).

170. *Id.* § 53G-10-103(4)(b)(i).

specific examples of “sexual immorality,” and end with the caveat that the section of code does not apply to materials that have “serious ... value for minors.”¹⁷¹ The statute describes “serious value” only as “serious literary, artistic, political, or scientific value,” and lays out no particular criteria for determining whether a book does or does not possess enough of that value to save it from being removed from shelves.¹⁷² Even those who support the law acknowledge that the criteria for evaluating whether a book has “value for minors” are subjective, with one Utah Board of Education member calling the broad criterion “problematic” and “absurd.”¹⁷³

For the duration of the board’s review, parents are allowed to consent to their individual child having access to the challenged material.¹⁷⁴ If the board decides that a challenged book contains the requisite sensitive material for it to be removed, the school board is mandated to remove the book from student access, and any previous parental consent is terminated.¹⁷⁵ If three school districts in Utah, (or two districts and five charter schools), deem a particular book to be objectionable, every public school in the state must remove the book from school grounds.¹⁷⁶ School boards must be notified of their obligation to remove a book no later than ten days after it is removed from shelves in three school districts.¹⁷⁷

Utah law contains no measure equivalent to Minnesota’s law allowing parents to object to the education of their individual child.¹⁷⁸ Nor does Utah law allow parents to consent to their child having access to a challenged book after a school board has made a final ruling removing it from school grounds. However, Utah law does declare a parent’s right to direct the education of their child to be fundamental.¹⁷⁹ Title 80 of the Utah Juvenile Code proclaims: “the state recognizes that ... a parent has the right, obligation, responsibility, and authority to raise, manage, train, *educate*,

171. *See id.* §§ 76-5c-207(1)(a), 53G-10-103(4)(b)(i).

172. *See id.* § 76-5c-207(1)(a).

173. *See* Hanson & Bedayn, *supra* note 6.

174. *See* UTAH CODE ANN. § 53G-10-103(4)(c)(ii).

175. *See id.*

176. *See id.* § 53G-10-103(7)(a)-(b).

177. *See id.* § 53G-10-103(7)(c)(ii).

178. *See* MINN. STAT. § 120B.20 (2025).

179. UTAH CODE ANN. § 80-2a-201(1)(d)(i).

provide and care for, and reasonably discipline the parent's child; *and the state's role is secondary and supportive to the primary role of a parent.*"¹⁸⁰

Utah's recent law does not live up to this ideal. Yes, parents are able to challenge books, but Utah's law takes away more power from parents than it gives.¹⁸¹ To begin with, even if parents want their child to read a challenged book, and give explicit consent to their child having access to a book, that ability to consent is taken away the moment a school board finds that the book contains sensitive material.¹⁸² The real disenfranchisement of parents, though, happens when three school districts in Utah all decide that a book is objectionable. When a few parents in three (out of forty-one) school districts in the state of Utah successfully challenge a book, it gets removed from shelves in school districts across the state.¹⁸³

In other words: it takes only 7.3 percent of Utah's school districts to remove a book from shelves statewide. Additionally, the size of the school district banning the book has no bearing on the calculation. If the boards of the Daggett School District,¹⁸⁴ the Piute County School District,¹⁸⁵ and the Tintic School District¹⁸⁶—which, combined, teach a total of 786 students—removed the same book, the

180. *See id.* § 80-2a-201(1)(d) (emphasis added). The same statute states: "It is the public policy of this state that ... a parent retains the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of the parent's child." *Id.* § 80-2a-201(1)(e)(i).

181. *See generally* PEN AM., *supra* note 71 (detailing statewide efforts to allow parents to intervene in educational standards).

182. *See* UTAH CODE ANN. § 53G-10-103(4)(c)(iii).

183. *See id.*; Hanson & Bedayn, *supra* note 6.

184. *Daggett District Directory Information (2024-2025 School Year)*, NAT'L CTR. FOR EDUC. STAT., https://nces.ed.gov/ccd/districtsearch/district_detail.asp?Search=2&ID2=4900180 [<https://perma.cc/9PUT-D8U8>].

185. *Piute District Directory Information (2024-2025 School Year)*, NAT'L CTR. FOR EDUC. STAT., https://nces.ed.gov/ccd/districtsearch/district_detail.asp?Search=1&details=1&InstName=piute&DistrictType=1&DistrictType=2&DistrictType=3&DistrictType=4&DistrictType=5&DistrictType=6&DistrictType=7&DistrictType=8&DistrictType=9&NumOfStudentsRange=more&NumOfSchoolsRange=more&ID2=4900780 [<https://perma.cc/8JKS-WKBH>].

186. *Tintic District Directory Information (2024-2025 School Year)*, NAT'L CTR. FOR EDUC. STAT., https://nces.ed.gov/ccd/districtsearch/district_detail.asp?Search=1&details=1&InstName=tintic&State=49&DistrictType=1&DistrictType=2&DistrictType=3&DistrictType=4&DistrictType=5&DistrictType=6&DistrictType=7&DistrictType=8&DistrictType=9&NumOfStudentsRange=more&NumOfSchoolsRange=more&ID2=4901020 [<https://perma.cc/RFD6-PX5M>].

remaining 691,906 public school students in the state of Utah¹⁸⁷ would lose access to it. All it takes is for one parent in each of those districts to lodge a complaint, and a few school board members—who govern less than half of 1 percent¹⁸⁸ of the state’s students—can dictate the educational material available to every other student in the state, with no exception for parental consent.¹⁸⁹

Once a school district declares that a book contains sensitive material, public school libraries in that district must get rid of every copy.¹⁹⁰ They cannot sell the books; they must be thrown away.¹⁹¹ Once three districts trigger a statewide ban of a book, every public school in the state must do the same.¹⁹²

In August 2024, thirteen books, each evaluated by three Utah school districts and held to contain sensitive materials, were removed from public schools statewide.¹⁹³ Utah’s largest two school districts, both in politically conservative areas, pioneered the historic statewide bans, and a list of thirteen books was banned in all forty-one school districts in Utah by a whopping six districts, stripping parents across the state of their right to direct the education of their own children.¹⁹⁴

D. Utah’s System Fails Under Strict Scrutiny While Minnesota’s System Survives

Utah’s constitution states: “The Legislature shall make laws for the establishment and maintenance of a system of public schools, which shall be open to all the children of the State and be *free from sectarian control*.”¹⁹⁵ But if a few people with an agenda can dictate

187. *Digest State Dashboard: Utah*, NAT’L CTR. FOR EDUC. STAT., <https://nces.ed.gov/programs/digest-dashboard/state/utah#publicschools> [<https://perma.cc/C25R-9HW7>].

188. Seven hundred eighty-six public school students out of a total of 691,906 in the state of Utah is approximately 0.11 percent of students. *See supra* notes 187-90.

189. *See* UTAH CODE ANN. § 53G-10-103(7)(a)-(c).

190. *See id.*

191. *See* Hanson & Bedayn, *supra* note 6.

192. *See* UTAH CODE ANN. § 53G-10-103(7)(a)-(c).

193. *See* Hanson & Bedayn, *supra* note 6.

194. *See id.*; Ashtyn Asay, *State Board of Education Bans 13 Books from All Utah Public Schools*, TOWNLIFT (Aug. 7, 2024, at 09:04 ET), <https://townlift.com/2024/08/state-board-of-education-bans-13-books-from-all-utah-public-schools/> [<https://perma.cc/G44D-GBJ9>].

195. UTAH CONST. art. III, pt. IV (emphasis added).

what books schools across the state offer, Utah is not living up to its constitutional mandate. Although it was a right-leaning parents' rights group that created the PAC that lobbied for the Sensitive Instructional Materials Act, the Act poses a danger to parents across the state regardless of their political or religious affiliation.¹⁹⁶ After an earlier version of the current Utah "sensitive materials" legislation was handed down in 2022, someone in Utah's Davis School District challenged one particularly sexually explicit book: the Bible.¹⁹⁷ The request to review the Bible noted that the book "has no serious value for minors" under the Utah Code because of its pornographic nature.¹⁹⁸ The review board for the Davis School District agreed, and removed the book from elementary and middle school student access.¹⁹⁹

Public outcry later caused the Davis School Board to rescind their decision, deciding (based on no particular criteria) that "[t]he magnitude of the value of the Bible as a literary work outweighs any violence or profanity which may be contained in the book."²⁰⁰ But under Utah's new law, if two other school districts had agreed with Davis's initial determination, the Davis School Board's revocation would not have mattered, and Bibles would have had to be trashed in public elementary and middle school libraries across the state.

Utah's law allows a small number of parents to dictate the education of children across the state, without a mechanism for individual exemptions. Minnesota's law establishes a statewide

196. See UTAH PARENTS UNITED, *supra* note 1.

197. See *Utah District Bans Bible in Elementary and Middle Schools After Complaint Calls It "Sex-Ridden"*, CBS NEWS (June 5, 2023, at 09:26 ET), <https://www.cbsnews.com/news/bible-ban-utah-school-district-elementary-middle-complaint-sex-book/> [<https://perma.cc/F2NY-28J9>]; Debra W. Haffner, *Sexuality and Scripture: What Else Does the Bible Have to Say?*, REFLECTIONS, Spring 2006, <https://reflections.yale.edu/article/sex-and-church/sexuality-and-scripture-what-else-does-bible-have-say> [<https://perma.cc/69TA-MVGT>] ("[There are] more than thirty-five sexually themed stories in the book of Genesis alone.").

198. Kade Garner, *Davis School District Explains Bible Ban, Lawmaker Calls for Review of All Utah School Materials*, ABC4 (June 2, 2023, at 21:33 ET), <https://www.abc4.com/news/local-news/davis-school-district-explains-bible-ban-lawmaker-calls-for-review-of-all-utah-school-materials/> [<https://perma.cc/YX37-HD2T>].

199. *Id.*

200. Sam Metz, *Utah School District Returns the Bible to Shelves After Appeals and Outcry*, AP NEWS (June 20, 2023, at 20:46 ET), <https://apnews.com/article/utah-davis-schools-bible-ban-reversed-54cdd932d2493eb4b73064f17c640db0> [<https://perma.cc/D672-U4XX>].

standard and allows parents to exempt their individual children from engaging curricula with which they disagree. In other words: Minnesota's law is narrowly tailored to support the fundamental right of every parent to direct the education of their own child. Utah's is not. Although Utah's laws, as well as parents' rights groups in Utah such as Utah Parents United, outwardly support a parent's right to direct their child's education, the Sensitive Instructional Materials statute has the opposite effect, stripping away the rights of thousands of Utah parents to consent to their child's access to a book.²⁰¹

Proponents of Utah's law might argue that under the Sensitive Instructional Materials statute, there is a mechanism through which parents can appeal a school board ruling to remove a book.²⁰² This is a good point, but that appeal mechanism does not extend to a situation in which three school board bans trigger statewide removal. The statute contains no procedure through which parents in a school district which did *not* decide that a book contained sensitive material can appeal that book's removal from their schools after a statewide ban. Although there is a process by which a statewide ban can be reversed, it has nothing to do with parents.²⁰³ Instead, it requires that the state board vote to reverse the statewide removal requirement as it applies to each individual removed book.²⁰⁴ The statute does not clarify how many votes will overturn the requirement.²⁰⁵

As we turn to state solutions for the issue of book removals, we must recognize that in addition to being a First Amendment issue, book removals in public schools are also distinctly a parents' rights issue. If parents' rights groups believe, as the Supreme Court does, that parents have a fundamental right to direct the "care, custody, and control" of their children, and that that includes the fundamental right to direct the education of their children, then state laws affecting that fundamental right should be subject to strict

201. UTAH CODE ANN. § 53G-10-103(7)(a)-(c) (LexisNexis 2025); see *Parents Rights in the State of Utah*, UTAH PARENTS UNITED, <https://www.utahparentsunited.org/know-the-law.html> [<https://perma.cc/F35Y-RVWC>].

202. UTAH CODE ANN. § 53G-10-103(5)(a).

203. See *id.* § 53G-10-103(7)(d).

204. *Id.*

205. See *id.*

scrutiny.²⁰⁶ Laws that are not narrowly tailored, such as Utah’s, ought to be struck down and replaced with laws similar to Minnesota’s.

To avoid becoming subject to laws such as Utah’s, and to protect the rights of their parents, other states should preemptively adopt laws similar to Minnesota’s: a prohibition against ideologically based book removals, with a clear mechanism through which parents can exempt their children from reading or being taught any material they think is inappropriate for their individual child.²⁰⁷

CONCLUSION

Most book challenges are never reported, and more and more of these challenges come from national advocacy groups rather than from individual people.²⁰⁸ Right now, we are witnessing a world in which well-funded political action committees prey on the ideologies of parents’ rights advocates to remove books from schools. When groups such as Moms for Liberty²⁰⁹ or Utah Parents United lobby for book removals in the name of protecting parents’ rights, it is easy to assume that parents’ rights doctrine is aligned with the modern political right. But that assumption cedes an entire body of law—law acknowledging a parent’s fundamental right to decide what is best for their child—to those more focused on regulating

206. See *Troxel v. Granville*, 530 U.S. 57, 66 (2000); UTAH PARENTS UNITED, *supra* note 201.

207. In June of 2025, the Supreme Court issued its first ruling about book removals in schools since *Pico*, holding that a Maryland school board’s decision *not* to allow parents to opt their children out of curricula containing “LGBTQ+-inclusive” books violated parents’ First Amendment rights to religious exercise. See *Mahmoud v. Taylor*, 145 S. Ct. 2332, 2341-42 (2025). This decision, while seemingly in line with this Note’s proposition, stretches the definition of “offensive” material beyond the rational by categorizing “LGBTQ+-inclusive” materials as “religiously offensive.” See *id.* at 2381 (Thomas, J., concurring). Though this Note proposes that states *should* adopt parental opt-out provisions, states should do so only after adopting provisions prohibiting the removal of books purely for ideological purposes. Though *Mahmoud* protects parental opt-out provisions, it also hints at the potential for the Court to determine that LGBTQ+-inclusive books are within the category of “offensive” material that states can constitutionally regulate. The *Mahmoud* Court cracked open a door that should remain tightly shut, and political wind aimed at expanding the class of speech not subject to First Amendment protection could blow that door wide open.

208. See Connor Goodwin, *The Banned Books You Haven’t Heard About*, THE ATL. (Sep. 20, 2022), <https://www.theatlantic.com/books/archive/2022/09/banned-books-increased-sales/671479/> [https://perma.cc/EX9Z-L8KU].

209. See *id.*

ideology than protecting parents. Allowing laws similar to Utah's, through which a small group of people are empowered to direct the education of not just their own children, but of the children of hundreds of thousands of parents across the state,²¹⁰ does not protect parents' rights. In fact, it undermines them.

Because so many conservative political groups that push for book challenges do so in the name of protecting parents' rights,²¹¹ book bans are inherently a parents' rights issue. If those rights are fundamental, as Supreme Court precedent has indicated, and if those rights include a parent's prerogative to direct their child's education, then laws impacting that right must be narrowly tailored;²¹² Utah's new law allowing three districts to trigger a statewide ban simply is not. The law is overinclusive: A compelling government interest in ensuring students are not exposed to inappropriate material could be achieved without enabling a blanket prohibition of a book statewide.

Because the issue of book removals in public schools has been inadequately addressed by the Supreme Court, we must turn to state solutions. However, we must take care that those state solutions do not trample over parents' rights in the name of protecting them. To avoid laws similar to Utah's, states should adopt laws like Minnesota's—a broad, *Pico*-esque rule prohibiting book removals based solely on ideology, with a perfectly narrowly tailored exception that individual parents can employ for the needs of their individual child.

The rate of book removals in public schools is at the highest level in recorded history.²¹³ Never has a parent's right to decide what they want their child reading in school been in more peril. That right must be preemptively protected. State legislators should act now by adopting laws similar to Minnesota's before laws similar to Utah's spread, stripping parents everywhere of the ability to suggest that

210. *See supra* Part III.C.

211. *See id.*

212. *See supra* note 133 and accompanying text.

213. *PEN America Index of School Book Bans—2022-2023*, PEN AM., <https://pen.org/book-bans/2023-banned-book-list/> [<https://perma.cc/FZ6A-AAAY>].

their child pick up their favorite book—be it a Judy Blume novel²¹⁴ or the Bible—at their school.

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214. *Forever*, by Judy Blume, was one of the thirteen books banned statewide in Utah in August of 2024. Asay, *supra* note 194.

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