



To: Buncombe County Schools Board of Education
Dr. Rob Jackson, Superintendent
Robert Frisby, BCS District Media and Technology Advisory Committee
Dr. Jennifer Reed, BCS Central Curriculum Committee

From: Craig White, Campaign for Southern Equality's Supportive Schools Program
Beck Martens, Youth OUTright WNC Inc.
Karen Bigham, Good Trouble WNC
Alex José Ramirez, Buncombe Public School Strong

Re: Compliance with state and federal curriculum and library laws

Date: February 10, 2026

To the Buncombe County Schools Board of Education, Dr. Jackson, BCS MTAC, and BCS Curriculum Committee:

As you are well aware, public schools are on the front lines of America's political conflicts, particularly in regard to library and instructional materials.

Recent state laws allow for parental review of both library materials and curriculum materials. So far, our review indicates that many – perhaps most – classrooms in Buncombe County Schools are severely overcomplying with curriculum restriction bills like SB49, the so-called "Parents' Bill of Rights," and SB227, or the so-called "Eliminating DEI in Public Education" bill. We argue in this letter that this level of overcompliance actually violates those laws, as well as federal laws and court rulings that protect public schools from political bias.

Because this overcompliance can be found district-wide, we believe it must be addressed at the district level before it can be addressed by individual teachers and administrators. This request includes both the BCS Board of Education, which must ultimately decide on policy questions, and the BCS Media and Technology Advisory Committee and Curriculum Committee, which by BCS policy should recommend a decision to the Board and would likely be responsible for crafting the district's response. **We request that the district address this situation by providing district staff and families with clear instructions that will bring both curriculum and libraries back into compliance with the laws that require public schools to be politically neutral and treat all members of the school community fairly.**

Our assessment

We encourage you, as Board members, to conduct your own review of classroom libraries and curricula in the schools that you represent. Our own research has consistently shown:

- Both library and instructional materials include few or no representations or information about LGBTQ+ people, particularly for younger grades, while heterosexual and cisgender people are overwhelmingly, if not universally, represented.
- Both library and instructional materials represent white or European American characters, authors, perspectives and culture far more often than they represent people of color; and books that specifically address race, racism, racial justice or racial injustice are particularly limited, if not entirely absent.

We believe that this status quo – presenting white, straight and cisgender people as ‘natural,’ ‘normal,’ or ‘superior,’ while censoring or silencing LGBTQ+ people and people of color– reflects the political agenda of the MAGA (Make America Great Again) faction of the Republican Party, and therefore violates both state and federal laws requiring public schools to be politically neutral.

How we got here: Engineering overcompliance

Opposition to racial equity and LGBTQ+ equality are two key planks of the current MAGA-dominated Republican political platform. In the last five years alone, [2,126 anti-LGBTQ bills have been proposed in state legislatures](#), 363 of which were signed into law. In the same time period, more than 200 bills were proposed and at least 20 states have enacted legislation to [prohibit or limit diversity, equity, and inclusion efforts in education](#). Additionally, there have been more than a dozen [executive orders addressing these topics](#) in the last year. All of these bills, laws, and orders, including North Carolina’s SB49 and SB227, were written by MAGA Republicans and approved by Republican majorities.

With few exceptions, teachers are not independently and individually choosing to remove or restrict books about LGBTQ+ people and people of color. Instead, they mistakenly believe that they are required to do so in order to comply with various state laws and federal orders, either implicitly or explicitly by direction of their administration. They specifically reference SB49 and SB227, as well as related executive orders from the Trump administration.

This state of confusion, we believe, is deliberate. It stems from a political strategy called ‘engineering overcompliance,’ based on the principle that people don’t comply with what the law says; they comply with what they *think* the law says.

Under this strategy, the legislative arm of a political party passes a law that is technically neutral, in order to survive legal challenges; vague, to allow for a wide range of interpretations; and threatening, so that teachers and administrators are afraid to risk violating the law. Meanwhile, the media and communications arm of the party uses speeches, sermons, news stories, book bans, complaints, grievances, social media, public comments, and school board protests to promote a widespread public understanding of the law that aligns with their political agenda: how they want the law to be interpreted, rather than what it actually says.

For example, one provision of SB49 prohibits ‘instruction on sexuality, sexual orientation or gender identity’ in K-4 classrooms. This is neutral in the language of the law itself, but in practice, it has resulted in removal of LGBTQ+ authors, characters and content at every grade level. Similarly, SB227 prohibits instruction on ‘divisive concepts’--a term that is technically neutral, but which is generally applied to remove materials by and about people of color,

particularly those that have themes related to racial justice or injustice. (Overcompliance with SB227 is particularly notable, given that [the bill has not yet even been passed into law](#), as the Republicans have tried and failed several times to override the Governor's veto.)

What does the law actually say?

To our knowledge, there are no binding legal rulings that provide a definitive interpretation of SB49 or SB227 in North Carolina. There is, however, [a judicial settlement in *Equality Florida vs DeSantis*](#), which severely curtails overcompliance with Florida's HB1557, known widely as the 'Don't Say Gay' law, upon which NC SB49 is based. There is also a US District Court ruling ([*Nat'l Educ. Ass'n v. United States Dep't of Educ.*, No. 25-CV-091-LM \(D.N.H. Apr. 24, 2025\)](#)) blocking implementation or enforcement of several Trump administration orders, and specifically the 2025 "Dear Colleague" letter, which is cited in SB227 as a justification for this law.

A full accounting of these settlements and rulings is beyond the scope of this letter, but we do want to note certain key points:

- The anti-DEI "Dear Colleague" letter was found to be unconstitutionally vague under the Fifth Amendment, as it failed to define 'DEI', failed to specify prohibited conduct, and would lead to arbitrary enforcement. SB227 shares the same language and the same failings.
- Courts have found that the laws are neutral, and must be applied fairly and neutrally. For example, heterosexual and cisgender people and content must be treated the same as LGBTQ+ people and content, and people of all racial identities must be treated the same, as these laws are implemented and enforced. To do otherwise violates the Fourteenth Amendment principle of equal protection under the law.
- The laws cover "instruction" and "instructional materials." They do not include library materials (unless assigned as part of instruction), responses to student questions, students' voluntarily chosen assignments, or the sharing of personal information by either students or faculty.
- The laws prohibit "instruction" on the proscribed topics, not all mention and discussion of them. In the language of the [Florida settlement](#), "*References to LGBTQ identity do not violate the statute, as they are not 'instruction on' gender identity or sexual orientation any more than a math problem asking students to add bushels of apples is 'instruction on' apple farming.*"

How does the status quo of Buncombe County curriculums and libraries measure up to these state laws?

As noted above, our assessment finds that LGBTQ+ people and people of color are significantly underrepresented, if not entirely absent, from both classroom libraries and curriculum, while white, heterosexual, and cisgender people and perspectives are significantly over-represented.

SB227, should it pass into law, states explicitly that 'divisive concepts' around race are prohibited, and the very first example is the concept that "One race or sex is inherently superior to another race or sex." ([§ 115C-76.205 \(2\)a](#)). Indeed, the concept of white supremacy may be the most divisive racial concept in America, as it lies at the root of all other racial injustices. When the majority of books and instructional materials focus on white people, culture, perspectives, history, literature, and art, while the views and voices of people of color are

restricted, students are being instructed to think of white people as special or superior. This violates the law.

SB49 prohibits “instruction on gender identity, sexual activity, or sexuality.” ([§ 115C-76.55.](#)) When most or all of the books in a classroom feature only cisgender and heterosexual characters and content, students are being instructed that it is natural and normal to be straight and cisgender. Indeed, many BCS classroom libraries and curricula have nothing that shows that any other gender or sexual identities even exist. This constitutes ‘instruction on sexuality and gender identity’ and thus violates the law.

Is it permissible for any classroom curriculum or library to reflect a particular political or religious perspective?

“Free public education, if faithful to the ideal of secular instruction and political neutrality, will not be partisan or enemy of any class, creed, party, or faction. If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion, or force citizens to confess by word or act their faith therein.”

–US Supreme Court, [West Virginia v. Barnette, 319 U.S. 624 \(1943\)](#)

The Supreme Court addressed this question very clearly: Public education must be both secular and politically neutral. Furthermore, we note that the Court clearly states that politicizing the classroom is forbidden, no matter who is doing it – the teacher, principal, superintendent, Board of Education, General Assembly, Congress, or the President himself. If a public school classroom curriculum or library reflects or upholds a MAGA Republican agenda, whatever the reasoning or justification, that is a violation of the Supreme Court ruling in *Barnette*.

Is it permissible for schools to remove or reject library books that may be controversial, or that some parents may object to on religious or political grounds?

“Local school boards may not remove books from school libraries simply because they dislike the ideas contained in those books and seek by their removal to prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion.”

– [Island Trees Sch. Dist. v. Pico, 457 U.S. 853 \(1982\)](#)

Four decades after the *Barnette* ruling, *Pico* applied the same principles to the question of school and classroom libraries. Again, neither the Board of Education nor any administrative committee acting under the authority of the Board may remove or reject library materials on religious or political grounds, nor may the collection of library materials reflect any particular religious or political orthodoxy.

Last year’s provisional U.S. Supreme Court decision in [Mahmoud v. Taylor](#) found that parents have a right to opt their own children out of classroom instruction that violates their religious beliefs (in this case, conservative parents who wanted to opt their children out of books with LGBTQ+ content). The Court’s decision helps establish the fact that anti-LGBTQ+ views and attitudes are rooted in a particular set of religious beliefs, making it easier to demonstrate that

schools are participating in an unlawful form of religious indoctrination when they restrict LGBTQ+ views and voices for all students. The ruling is also clear that parents have the right to shape only their own children's education; they do not have the right to impose those religious beliefs on other teachers, students, or families.

Should the review, approval and rejection of library materials be handled the same as instructional materials?

"While petitioners might rightfully claim absolute discretion in matters of curriculum by reliance upon their duty to inculcate community values in schools, petitioners' reliance upon that duty is misplaced where they attempt to extend their claim of absolute discretion beyond the compulsory environment of the classroom into the school library and the regime of voluntary inquiry that there holds sway."

– [Island Trees Sch. Dist. v. Pico. 457 U.S. 853 \(1982\)](#)

"Petitioners" here refers to the Board of Education and its scope of authority. The U.S. Supreme Court makes a very important distinction between instructional materials and library materials. The Board of Education has broad discretion when it comes to curriculum and instructional materials, which students are *required* to study and learn. The Board explicitly does not have the same authority over the school or classroom library, which are guided by "voluntary inquiry." Controlling library content means that the Board, or its designees, are controlling what students are *allowed* to study and learn. This violates students' First Amendment rights of freedom of speech and freedom of expression.

Can the views and voices of LGBTQ+ people or people of color in the school community be censored, restricted, or restrained?

"In the absence of a specific showing of constitutionally valid reasons to regulate their speech, students are entitled to freedom of expression of their views... [S]chool officials cannot suppress expressions of feelings with which they do not wish to contend...It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate."

– [Tinker v. Des Moines Independent Community School District. 393 U.S. 503 \(1969\)](#)

While this question goes beyond the issue of instructional and library materials, it also stems from overcompliance with SB49 and SB227. Within BCS, an LGBTQ+ teacher has been told "No gay stuff" by their principal; a teacher of color has been told to 'soften' their teaching of historical events; and a number of both staff and students have reported that their pronouns and honorifics are not respected, and that racial and sexual harassment frequently go unaddressed, particularly when transgender and immigrant students are the ones targeted. All of these actions (and inactions) represent an illegal and unconstitutional imposition of a MAGA political agenda upon our public schools.

The path forward: Mirrors and Windows

We do not wish to see any political agenda imposed on any classroom – not Republican, Democrat, Libertarian, Green, or any other party, creed, or faction. We do wish to see American ideals upheld in our public schools: the Constitutional promise of equal protection under the law; the Declaration of Independence truth that all people are created equal; our pledge of allegiance

to one nation with liberty and justice for all; and even the commitment to *E Pluribus Unum* printed on our currency.

How are these ideals applied to classroom curriculum and libraries? We believe that the educational principle of [Mirrors and Windows](#) is the best solution. Every student has the right to see themselves, their family, and their culture reflected in the curriculum or library, as in a mirror; this tells them that they belong and are welcome at school. Every student also has the right to learn about people, families, and cultures different from their own; this prepares them to be responsible members of a multicultural society.

We also find Mirrors and Windows to be an educational framework well-suited for a healthy democracy, because it is constructive rather than restrictive (focused on building a strong collection of learning materials, rather than bans and censorship) and participatory rather than prescriptive (families and educators collaborate in shaping a set of materials that reflects and celebrates everyone, rather than a few people imposing their views on everyone else.)

Buncombe County Schools has previously, and frequently, expressed a commitment to the principle of Mirrors and Windows in the classroom. Although a review of our curriculums and libraries shows that we have strayed far from that ideal, we believe that returning to and upholding that commitment is the best path forward for our students, staff, and families alike.

Next steps

In contrast to the political groups that use vague threats and intimidation to try to shape school policy, we wish to be fully open and transparent about our options and plans, so that the MTAC and the Board may make a fully informed decision. Below we describe our current plans in response to the four most likely Board decisions and actions.

BCS agrees with our analysis and conclusions.

- We ask that the district provide educators and administrators with clear and specific guidance about fairness in the curriculum and the classroom library, and clear and specific instructions for ensuring that every classroom library and curriculum is fair and politically neutral. Once that is done, some of our organizations will turn our attention to other school districts, and some groups will be available to support schools and teachers in building more diverse and inclusive classroom libraries and instructional materials.

BCS disagrees with our analysis and conclusions.

- We ask that you state the district's position on each of the questions above clearly, specifically, and in writing. We will then seek our own legal guidance on whether to appeal the Board's decision to the courts or to the State Board of Education, as provided for by SB49.

BCS maintains the status quo by stalling or delaying any decision or action, or issues guidance that is either optional or too vague for teachers to implement.

- We have written this letter as a request for policy clarification, both as a gesture of respect to the Board and as the option that allows the MTAC and the Board the greatest freedom of action. If the Board's response is too slow, too vague, or too optional to address this urgent situation, we will re-submit this letter as an official grievance so that

the formal grievance procedures and timelines must be followed, including the requirements of §115C-76.60, *Remedies for parental concerns*, in the “Parents’ Bill of Rights.”

BCS seeks clarification from the Department of Public Instruction and NC State Board of Education.

- Under [G.S. § 150B-4](#), the Board may seek a ‘declaratory ruling’ on these questions from the Department of Public Instruction and the NC State Board of Education. We understand that a local school board rarely wants to give up its autonomy, but in this case, where misguided compliance with vaguely written laws is putting the district in legal jeopardy, it might make sense to ask Raleigh to address the problems that Raleigh created. We would then turn our own advocacy focus to the state level as well, seeking a binding, statewide interpretation of these laws and a statewide solution to the problem of engineered overcompliance.

We understand and sympathize with all the challenges facing the Board, from political struggles to funding shortfalls to ongoing hurricane recovery. However, we believe that upholding the Constitutional rights of students, staff and families is of essential importance. Representatives from our organizations are ready to meet with the Board to discuss both concerns and solutions, at your convenience.

In closing, we turn once more to the U.S. Supreme Court:

“Our Nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us, and not merely to the teachers concerned. That freedom is therefore a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom.”

– [Keyishian v. Board of Regents, 385 U.S. 589 \(1967\)](#)

Thank you for your urgent attention to this matter of safeguarding academic freedom, and we look forward to your reply.

Craig White, Supportive Schools Director, Campaign for Southern Equality
Beck Martens, Co-Executive Director, Youth OUTright WNC Inc.
Karen Bigham, Group Leader, Good Trouble WNC
Alex José Ramirez, Co-Coordinator, Public School Strong of Buncombe County