STATE OF NEW YORK

7766

2023-2024 Regular Sessions

IN SENATE

November 22, 2023

Introduced by Sens. MURRAY, BORRELLO, PALUMBO, RHOADS -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the education law and the public officers law, in relation to establishing the "public school instructional materials review and transparency act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act shall be known and may be cited as the "public school instructional materials review and transparency act".

§ 2. The education law is amended by adding a new article 15-D to read as follows:

ARTICLE 15-D

PUBLIC SCHOOL INSTRUCTIONAL MATERIALS REVIEW AND TRANSPARENCY ACT

Section 731. Definitions.
732. Informal complaint.
733. Formal complaint.
734. Accessible public database.

§ 731. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Instructional material" means textbooks, workbooks, library volumes, audio-visual recordings, and any other instructional, curriculum, literary, resource, or support material.

2. "Challenged material" means any instructional material for which an informal or formal complaint by a parent or guardian of a student who attends a school district has been made.

3. "Informal complaint" means a process whereby a parent or guardian of a student who attends a school district requests of a teacher, school principal, or other school official, whether in writing or verbally, that an instructional material in use within the school district be reviewed by the teacher, school principal, or other school official for

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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appropriateness in the school setting and subsequently be discontinued or restricted in use by age or grade level, or be made subject to use by parental permission.

4. "Formal complaint" means a written complaint by a parent or guardian of a student who attends a school district, to a school superintendent requesting that the school district review a challenged material in use within such school district for appropriateness in the school setting and subsequently discontinued or restricted in use by age or grade level, or be made subject to use by parental permission.

5. "Review committee" means a temporary or standing review committee for each school district, whose members shall be appointed by the superintendent or school board of each such school district for the purpose of reviewing formal complaints. Members of such committee shall include but not be limited to stakeholders of such school district, as deemed appropriate by the school board or superintendent. A list of such members shall be posted on the website of such school district and be made available to the public upon request.

§ 732. Informal complaint. Initial complaints regarding challenged material may be brought as an informal complaint by parents or guardians of students attending a school district to a teacher, department chair, principal of a school, assistant superintendent of a school district, or other school administrative personnel. Such informal complaint about a challenged material may be resolved by mutual agreement of the complainant and the school personnel to whom such complainant brought the matter. If such resolution is not reached to the complainant's satisfaction, the complainant may file a formal complaint.

§ 733. Formal complaint. 1. When a parent or guardian of a student attending a school district submits a formal complaint to a superintendent of such school district, the superintendent shall refer such formal complaint to a review committee within five business days. Such review committee shall make a formal recommendation to keep, remove, or restrict access to the instructional material that is the subject of such formal complaint to the school board of that school district within thirty business days. Such school board will vote to approve or deny such recommendation at the next regularly scheduled meeting of such board and will allow for public comment regarding such recommendation at such meeting.

2. Formal complaints shall:

(a) be in writing or electronic mail form;

(b) specify the complaint as being a formal complaint about instructional material;

(c) provide a source citation for the challenged material;

(d) request that the challenged material be reviewed for appropriateness; and

(e) specify why the complainant believes the content of such challenged material to be inappropriate or violative of school policy.

3. Each school district shall establish a policy that lays out a process by which formal complaints shall be made, including the form in which such complaints shall be submitted.

4. (a) Upon receipt of a formal complaint pursuant to this section, the superintendent of a school district shall:

(i) refer the formal complaint to a review committee for the purpose of reviewing the formal complaint and making recommendation to the board of education for that school district;

(ii) provide, during the initial fifteen business days of the review committee's receipt of the formal complaint, the review committee with

records of any correspondence regarding the challenged material that the school district has received from any residents of such school district during such fifteen business day period or within the prior calendar year;

(iii) notify the public by posting information on its website that the review committee will commence review of a challenged material and that the public may submit public comments within fifteen business days for such review committee to accept and examine. Such notification shall: include the source citation for the challenged material; inform the district residents that the review committee will accept written comments for review for the initial fifteen business days of the review process pursuant to subparagraph (ii) of this paragraph; and specify that the review committee will make a recommendation to the school board to keep, remove, or restrict access to the instructional material that is the subject of such formal complaint no later than thirty business days after the commencement of the review process, provided, however, that if such review process is completed less than seventy-two hours before the next regularly scheduled meeting of the board of education for that school district, such recommendation shall be taken up at the next succeeding regularly scheduled meeting of such board;

(iv) notify the complainant that the review committee will be making a recommendation to keep, remove, or restrict access to the challenged material that is the subject of a formal complaint to the board of education of that school district at an open meeting of such board, and that such complainant shall have the opportunity to give public comment at such meeting, at least seventy-two hours in advance of such meeting;

(v) notify the public that the review committee will be making a recommendation to keep, remove, or restrict access to the challenged material that is the subject of a formal complaint to the board of education of that school district at an open meeting of such board, and that the public shall have the opportunity to give public comment at such meeting, at least seventy-two hours in advance of such meeting. Such notice shall include the source citation information of such challenged material; and

(vi) make available the source citation of such instructional material and the formal complaint, with identifying information of the complainant redacted, by posting on a regularly and routinely updated website maintained by such board to the extent practicable at least seventy-two hours prior to the meeting of the board of education for that school district during which such complaint shall be the subject of discussion.

(b) (i) Upon receipt of a formal complaint, a review committee shall:

(A) perform a thorough review of the formal complaint and challenged material in a timely manner, provided, however, that such review shall be completed no later than thirty business days after the receipt of such formal complaint, unless an extension is requested pursuant to subparagraph (ii) of this paragraph; and

(B) accept and review, during the first fifteen business days of the review process, any correspondence regarding the challenged material that the school district has received from any residents of such school district during such fifteen business day period or within the prior calendar year.

(ii) An extension of ten additional business days to the thirty business day review period may be requested by the review committee in the event that there is an abundance of comments regarding the challenged material received within the first fifteen business days of the review process.

(c) Upon completion of a review process, a review committee shall:

(i) notify the school superintendent and board of education of that school district that the review committee has made a decision and will be making a recommendation to keep, remove, or restrict access to the challenged material that is the subject of a formal complaint to such board at the next regularly scheduled meeting of such board, provided, however, that if such review process is completed less than seventy-two hours before the next regularly scheduled meeting of the board of education for that school district, such recommendation shall be taken up at the next succeeding regularly scheduled meeting of such board;

(ii) make a recommendation to such board to keep, remove, or restrict access, by age or grade level, or by requiring parental permission, to the challenged material that is the subject of a formal complaint at the next regularly scheduled meeting of such board.

(d) Upon receipt of a recommendation from a review committee to keep, remove, or restrict access to the challenged material that is the subject of a formal complaint, a board of education for a school district shall vote to keep, remove, or restrict access to such challenged material at a regularly scheduled meeting of such board, and allow time for public comment by school district residents or parents or guardians of students attending that school district regarding such challenged material at such meeting immediately prior to such vote. Each member of the public authorized to make public comments shall be allowed up to three minutes to speak at the meeting of the board prior to such vote.

§ 734. Accessible public database. Each school district shall maintain an accessible public database pursuant to subdivision nine of section seven hundred one of this title. Such public database shall be maintained regularly and updated upon the acquisition of any new instructional materials and discontinuation of use of any instructional material by the school district. Such public database also shall be searchable by source citation data.

§ 3. Section 1501-b of the education law is amended by adding a new subdivision 5 to read as follows:

5. The board of education of any school district is authorized and empowered to approve or deny a recommendation by a review committee, as defined by subdivision five of section seven hundred thirty-one of this chapter, to keep, remove or restrict access to a challenged material, as defined by subdivision two of section seven hundred thirty-one of this chapter. When such recommendation is scheduled to be the subject of discussion and subsequent action by a board of education during an open meeting, such board shall make available the source citation of such challenged materials by posting such information on a regularly and routinely updated website maintained by such board to the extent practicable at least seventy-two hours prior to such meeting.

§ 4. Section 701 of the education law is amended by adding a new subdivision 9 to read as follows:

9. In the several cities and school districts of the state, board of education, trustees or such body or officer as perform the functions of such boards, shall maintain an online database listing the source citations of all instructional materials, designated pursuant to subdivision one of this section, that are in use in such school district for teaching and support of learning by students in the schools under their charge. Such database shall be made accessible to parents and guardians of students attending such school district. Such public database shall be maintained regularly and updated upon the acquisition of any new

instructional materials and discontinuation of use of any instructional material by the school district. Such public database also shall be searchable by source citation data.

§ 5. Subdivision (e) of section 103 of the public officers law, as amended by chapter 481 of the laws of 2021, is amended to read as follows:

(e) 1. Agency records available to the public pursuant to article six of this chapter, as well as any proposed resolution, law, rule, regulation, policy or any amendment thereto, that is scheduled to be the subject of discussion by a public body during an open meeting shall be made available, upon request therefor, to the extent practicable at least twenty-four hours prior to the meeting during which the records will be discussed. Copies of such records may be made available for a reasonable fee, determined in the same manner as provided therefor in article six of this chapter. If the agency in which a public body functions maintains a regularly and routinely updated website and utilizes a high speed internet connection, such records shall be posted on the website to the extent practicable at least twenty-four hours prior to the meeting. An agency may, but shall not be required to, expend additional moneys to implement the provisions of this subdivision.

2. If a vote to approve or deny a recommendation by a review committee, as defined in subdivision five of section seven hundred thirty-one of the education law, to keep, remove, or restrict access to an instructional material, as defined by subdivision one of section seven hundred thirty-one of the education law, that is the subject of a formal complaint, as defined by subdivision four of section seven hundred thirty-one of the education law, is scheduled to be the subject of discussion by a board of education during an open meeting, the source citation of such instructional material and the formal complaint, with identifying information of the complainant redacted, shall be made available by posting on a regularly and routinely updated website maintained by such board to the extent practicable at least seventy-two hours prior to the meeting during which such vote shall take place.

§ 6. Section 751 of the education law is amended by adding a new subdivision 5 to read as follows:

5. The commissioner, in addition to the annual apportionment of public monies pursuant to other articles of this chapter, shall apportion each school district an amount equal to the cost of the creation and/or maintenance of an online instructional materials database required pursuant to subdivision nine of section seven hundred one of this chapter.

§ 7. This act shall take effect immediately.