

Disclaimer and Notice: Potential Legal Considerations for Curriculum Review Addressing Gender Diversity, Sexual Orientation, and Race-Related Topics

APA is delighted to have created for K-12 public and private school teachers curriculum materials that address a broad variety of current issues germane to psychological science, including gender diversity, sexual orientation, and race-related topics. Given the rapidly evolving legal landscape, teachers must understand their obligations under federal law, state statutes, local policies, and recent court decisions. **Teachers are responsible for understanding and staying current with legal developments that may affect their curriculum decisions and seeking appropriate consultation when uncertain about legal requirements.**

Some Relevant Laws for You to Know

Recent Supreme Court Precedent: While schools retain authority over curriculum, they must now consider individual parental religious objections on a case-by-case basis.

In [*Mahmoud v. Taylor* \(June 2025\)](#), the Supreme Court ruled that schools may be required to provide opt-out accommodations when parents assert sincere religious objections to curriculum materials, particularly those addressing LGBTQ topics. The Court held that mandatory exposure to such materials can burden parents' First Amendment rights when the materials conflict with their religious beliefs.

Federal Executive Guidance

On January 29, 2025, Executive Order 14190, Ending Radical Indoctrination in K-12 Schooling was issued to eliminate in education federal funding for “illegal and discriminatory treatment . . . including based on gender ideology and discriminatory equity ideology” and to promote parental choice. Over 100 lawsuits have been filed against the executive orders and over 50 restraining orders have been issued to stop enforcement of the executive action.

Additionally, the current federal administration has eliminated Diversity, Equity and Inclusion initiatives throughout the federal government, including the U.S. Department of Education, to the extent that federal agency still exists.

State Law Variations

The legal landscape varies dramatically by state:

- **Inclusive States:** Some states have laws explicitly requiring LGBTQ inclusion in curricular standards
- **Restrictive States:** Close to 20 states have enacted LGBTQ-specific school censorship laws
- **"Don't Say LGBTQ" Laws:** A dozen states explicitly prohibit discussions of LGBTQ people or issues throughout all school curricula
- **Parental Notification Requirements:** A few states require advance parental notification and opt-out/opt-in procedures for LGBTQ-related curricula

Some Considerations for K-12 Teachers

Step 1: Know Your Jurisdiction

Before or while reviewing APA curriculum materials, teachers must:

1. **Identify applicable state laws** in your jurisdiction regarding curriculum restrictions
2. **Review your school district's specific policies** on these topics
3. **Understand your state's parental notification requirements**, if any
4. **Determine if your state has "Don't Say LGBTQ" or similar censorship laws**

Step 2: Assess the Legal Requirements Applicable to APA's Curriculum (and Materials)

When reviewing curriculum materials, evaluate:

1. **Content Alignment:** Does APA's curriculum comply with your state's specific restrictions or requirements?
2. **Age Appropriateness:** Does the material meet any age-specific limitations in your state law?
3. **Parental Rights:** Will the material trigger mandatory parental notification or opt-out requirements?
4. **Religious Accommodation:** Could the material reasonably be subject to religious objections under *Mahmoud v. Taylor*?

Step 3: Document Your Review

Maintain written records of:

- Materials reviewed and their sources

- Legal requirements considered
- Consultation with administrators, legal counsel and, if applicable, union leaders
- Any accommodations planned for parental objections

When to Seek Additional Consultation

Mandatory Consultation Situations

Teachers **must** consult with school administration and/or legal counsel when:

1. **State law is unclear** about whether specific content is permitted
2. **Materials may conflict** with explicit state curriculum restrictions
3. **Parental objections are raised** that may trigger constitutional accommodations
4. **District policies are ambiguous** regarding the specific content

Union Consultation

Teachers who are union members **should consult with their union representatives** when:

1. **Considering incorporation** of potentially controversial materials into classroom instruction
2. **Facing administrative pressure** to modify curriculum decisions
3. **Receiving parental complaints** that could lead to disciplinary action
4. **Uncertain about legal protections** for their curriculum choices
5. **Needing support** in navigating conflicts between educational goals and legal restrictions

Union representatives may provide:

- Legal guidance specific to your collective bargaining agreement
- Support in communications with administration
- Access to legal resources and representation
- Advocacy for academic freedom protections

Best Practices for Implementation

Proactive Measures

1. **Stay Informed:** Regularly review updates to school district policies, state laws, and court decisions affecting curriculum
2. **Collaborate Early:** Engage with administrators, curriculum coordinators, and union representatives before implementing new materials
3. **Plan Accommodations:** Work with your school administration to develop alternative activities for students whose parents exercise opt-out rights
4. **Professional Development:** Participate in training on legal requirements and best practices related to curriculum

Communication Strategies

1. **Transparent Communication:** Clearly communicate educational objectives to parents and administrators
2. **Document Educational Rationale:** Maintain clear records of why specific materials serve legitimate educational purposes
3. **Respect Diverse Viewpoints:** Acknowledge that families may have different perspectives while maintaining educational integrity

Risk Mitigation

High-Risk Indicators

Exercise additional caution when materials:

- Directly address topics subject to state censorship laws
- Could reasonably trigger religious objections under current Supreme Court precedent
- Lack clear alignment with established curriculum standards
- Have generated controversy in similar districts

Protective Measures

1. **Seek Pre-Approval:** Obtain written administrative approval for potentially sensitive materials
2. **Provide Advance Notice:** Give parents appropriate notice even when not legally required

3. **Offer Alternatives:** Develop educationally equivalent alternatives for opt-out situations
4. **Maintain Professional Standards:** Ensure all materials meet established educational criteria

Resources and Support

Legal Resources

- State Department of Education guidance
- School district legal counsel
- Professional education associations
- Union legal departments

Professional Support

- Curriculum coordinators
- Department heads
- Union representatives
- Professional development coordinators

NOTICE: APA is not providing legal advice, but general legal information. The provision of this material does not create a lawyer-client relationship between the consumer and APA's lawyers. A teacher seeking specific legal guidance should consult with a lawyer familiar with education law who is licensed to practice in your state.