

E.K. v. Department of Defense Education Activity (DoDEA)

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Since 2021, there has been a sharp rise in book censorship across the United States, with 2,452 unique titles challenged in 2024.¹ PEN America identified the top subjects of these challenged books as sexual violence, LGBTQ+ and BIPOC narratives, and race and racism,² Following the introduction of three executive orders restricting discussions of gender identity and racial discrimination in federal schools,³ the American Civil Liberties Union (ACLU) filed a suit on behalf of Department of Defense (DoD) personnel (military and civilian) whose children attend DoDEA schools to keep books on these subjects available to students. Book bans can affect decision-making in the publishing industry, making them wary of accepting books on certain topics or books by marginalized authors. Educational publishers are particularly vulnerable in these cases, as they rely on their books being in schools and libraries.

Key Players

Department of Defense Education Activity (DoDEA): A federal school system that provides and directs K-12 education for children of active duty military members and DoD civilian families. These schools are not limited to the United States, but also operate in eleven foreign countries as well as Guam and Puerto Rico.

1. American Library Association, "Censorship by the Numbers," n.d.
2. PEN America, "Banned in the USA: Narrating the Crisis - PEN America," September 20, 2024.
3. Executive Orders No. 14168, 14185, 14190.

American Civil Liberties Union (ACLU): A nonprofit organization dedicated to upholding civil rights in the United States since 1920. The ACLU provides legal assistance in civil rights cases and advocates for its core values, including LGBTQ+ rights, reproductive rights, and racial justice, among others.

Unnamed minors and their parents: Twelve students (anonymous as minors) attending DoDEA schools and their parents. They have raised concerns about censorship in their schools. “E.K.,” who is in the name of the case, is one of these students.

Case background

This case comes at a time when moral panic is increasingly influencing legislation. Discussions of gender, sexuality and racial injustice have been prominent in our recent social and political discourse. Disagreements on whether children should be educated on these subjects are a large part of the conversation.

In January 2025, President Trump signed three executive orders banning materials exploring gender identity and racial discrimination in federally funded K-12 schools. These materials include, but are not limited to, mentions of slavery, the civil rights movement, the treatment of Native Americans, and the existence of transgender and gender non-conforming people.⁴

As a result, schools within the DoDEA system have been instructed to “quarantine” 233 books, change curricula, and cancel events to prevent students from engaging with subjects deemed inappropriate.⁵ Schools that continue to teach these topics risk losing government funding. The books were initially removed from school and library shelves without the list being available for parents, but the judge in this case ordered the books to be returned (at the request of the ACLU) while the trial is ongoing.

Legal Analysis

On behalf of a group of military families and their children from five DoDEA schools, the ACLU is suing the DoDEA under the assertion that this activity violates the First Amendment right to receive information, prevents students from pursuing their own research, and causes irreparable harm to students.

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4. Smith and Smith, “Books Mentioning Slavery, Civil Rights Removed from Shelves at Fort Campbell Schools - ClarksvilleNow.Com.”
 5. “Military Families Seek Preliminary Injunction Against Censorship in Department of Defense Schools | American Civil Liberties Union,” May 7, 2025.

They argue this censorship is not based on evidence of pedagogical harm but rather on discrimination, the suppression of different viewpoints, and the president's personal dislike of the subject matter.

The DoDEA is arguing for the dismissal of the case on several grounds. They claim that issues like this must be settled with public authorities like school boards rather than federal judges. They also argue that the chain of command flows from the elected school board to the Secretary of Defense, who answers to the president. Therefore, the president is representative of the school board and can establish policies as he sees fit.

Furthermore, the DoDEA claims that the ACLU cannot prove that the quarantines are the result of bias rather than “pedagogical concern.” In terms of returning the books to shelves, they allege that the books were taken away in the previous school year—long enough that their removal could not possibly be causing “irreparable harm” to students. Finally, they assert that “gender ideology” and “discriminatory or divisive content” (i.e., content about racial privilege and oppression) are reasonable grounds to question a book's value and factual accuracy.⁶

The case is ongoing and, at the time of writing, the ACLU is fighting the DoDEA's motions to have the complaint dismissed. The outcome of this case could set the precedent for all federally funded schools and the rights of military families attending DoDEA schools.

Ethical Analysis

This case is one of many conversations currently happening around book censorship in the United States. Various groups dedicate themselves to removing content on racial discrimination, unflattering American history, and gender exploration from schools and libraries. Considering this new wave of censorship, publishers and authors must reckon with the potential effects.

While well-established authors like Angie Thomas (*The Hate U Give*) or John Green (*Looking for Alaska*) may see defiant boosts in sales after their books are banned, lesser-known authors, especially queer and BIPOC authors, aren't as fortunate. Book banning can have a domino effect: libraries and schools may avoid certain titles and authors out of fear of controversy or losing funding, publishers begin to see these titles as risky in terms of profit, and authors feel

6. “Defendants’ Memorandum of Law in Support of Their Motion to Dismiss | E.K. V. Department of Defense Education Activity E.D. Va. | Civil Rights Litigation Clearinghouse.”

discouraged from writing on these subjects. Some authors, especially children's and educational authors, rely heavily on school and library events and will lose a major source of income if their books are banned.

The industry must weigh potential risks against pressing ethical questions. For publishers, this means asking ourselves what precedent we set by turning away marginalized voices. Are there ways we can support these authors without relying on schools or libraries? What do consumers expect of us in this regard? For educators, it is a question of their responsibility to nurture learning. Where is the line between books that are inappropriate and books that inform on difficult subjects? What do educators lose when they can no longer work with certain authors and books?

The answers to these questions have their own effects. As an example, boycotts against retailers like Target have exemplified some of the ways consumers have responded to DEI rollbacks. If publishers choose not to fight book bans, they risk losing integrity with the public and potentially alienating authors. However, if the publisher goes the other way and doubles down on fighting bans, could the opposition be equally damaging?

We may not have the answers to these questions, but publishers will need to consider the potential backlash and reaffirm their willingness to stand with their stated values.

Author's Position

This case is just one of many in the war over book banning. Whether or not the motives behind book bans and challenges are valid, the message is clear: more bans are happening, and works about marginalized people are being specifically targeted. A PEN America study recorded 10,046 instances of bans in public schools across the U.S. between 2023 and 2024, with 1,091 of those books being banned in two or more school districts. Of the 1,091 books, 44% prominently featured BIPOC characters and people, and 39% prominently featured LGBTQ+ characters and people.⁷

The ACLU's argument in this case sums it up perfectly: by banning books, we deprive students of the ability to form educated opinions and think critically. Aside from being highly damaging for children and ethically unacceptable, book banning is inherently antithetical to the success of authors and the publishing industry. Acquiescing to bans emboldens the groups that lobby for them and furthers their momentum to ban more titles. Publishers do not have to stand

7. PEN America, "Banned in the USA: Beyond the Shelves - PEN America," November 1, 2024, <https://pen.org/report/beyond-the-shelves/>.

by and let it happen.

While larger publishers such as the “Big Five” have taken steps to affirm their support for diversity and helped with several state-level lawsuits against censorship, smaller publishers do not have the resources to take similar risks.

As professionals in the industry and as human beings, we have an ethical obligation to protect knowledge and allow all voices to be heard. More court cases like this will come, but as we wait for rulings, there are some steps we can consider now:

- ✦ Training editorial teams to avoid preemptive censoring out of fear of controversy.
- ✦ Planning and providing support for children’s and young adult authors if their books get banned.
- ✦ Strategize with marketing that leans into reading banned books as an act of defiance in the fight for free speech.
- ✦ Seek support from organizations dedicated to fighting book bans, like the National Coalition Against Censorship, the American Library Association, the ACLU, and PEN America.

Regardless of the eventual ruling in E.K. v. Department of Defense Education Activity (DoDEA), the fight will continue for as long as we are willing to hold the line.

Works Cited

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