



LIBRARIES

Orange City, Iowa

Why is the idea of shelving library books by categories and subcategories, rather than alphabetically by author's name, so controversial? Hint: One of the categories is LGBTQ—lesbian, gay, bisexual, transgender, with Q for queer or questioning.

In Orange City, Iowa, the Public Library voted to experiment with changing the way it classifies books, after more than 300 people signed a petition to either ban, label, or group together books related to homosexual or transgender content, because LGBTQ themes are supposedly counter to community values. In turn, many others expressed objections, saying such segregation is a form of censorship that infringes on library patrons' First Amendment rights.

One side is concerned that treating LGBTQ titles the same as other library materials would amount to endorsing the gay lifestyle—or, as one speaker put it in his remarks at an Orange City Public Library's Board of Trustees meeting in March, “indoctrinating” young readers into “transgender normalization.” The other side says the library should serve all members of the community and let people learn about all viewpoints, without any segregation that would imply that individuals who identify with the LGBTQ community are outliers and deviants.

Out of the 64,000 books in the library's collection, 168 have been identified as featuring LGBTQ content. Among such books that have been challenged at the Orange City library are *Two Boys Kissing* by David Levithan, *Morris Micklewhite and the Tangerine Dress* by Christine Baldacchino, and *This Day in June* by Gayle E. Pittman.

The proposed grouping system would follow the Book Industry Standards and Communications (BISAC) subject headings outlined by the Book Industry Study Group. BISAC is designed for classifying books in bookstores. As commercial entities, bookstores don't have all of the same First Amendment concerns as public libraries.

One of the BISAC categories is “Young Adult Fiction.” Within that YA fiction category are 221 subcategories. They range from “YAF001000 - Action & Adventure / General” and “YAF001010 - Action & Adventure / Pirates” to “YAF070000 - Zombies,” and include subcategory “YAF031000 - LBGT.” There is no YAF subcategory that starts with Q.

While the library trustees accepted the idea (at least as an experiment) of separating books by category, they rejected the idea of banning LGBTQ books. At their March meeting, challenges to two such books were presented, and the trustees voted to keep both of them on the shelf. (See page 62.) Reported in: *Sioux City Journal*, March 21; *Daily Iowan*, March 27; BISG.org, undated (accessed May 22).

Kansas City, Missouri

When does exercising First Amendment rights to free speech and freedom of the press cross the line into disruptive behavior that might justify forcibly removing a patron from a public event at a city library?

Jeremy Rothe-Kushel, an activist and documentary filmmaker who lives in Lawrence, Kansas, is suing Kansas City police officials and others who were involved in having him forcibly removed from a public lecture at the Kansas City Public Library's Plaza branch nearly two years ago. He charges that they deprived him of his constitutional rights.

Rothe-Kushel was physically restrained and escorted from the event on May 9, 2016. It was the inaugural Truman and Israel Lecture, established by the Jewish Community Foundation of Greater Kansas City. The lecturer was American diplomat Dennis Ross.

Police said Rothe-Kushel was being disruptive by talking over Ross and trying to ask a second question while other audience members were waiting to ask questions. Rothe-Kushel said he was merely exercising his First Amendment rights.

After the library's director of programming and marketing, Steven Woolfolk, sought to intervene and prevent Rothe-Kushel's arrest, he too was arrested.

Woolfolk was later charged with obstruction, interfering with an arrest and assaulting a police officer. After a day-long trial last September, a Kansas City Municipal Court judge acquitted Woolfolk of all three charges.

The incident at the library sparked outrage among civil libertarians and drew fierce condemnation from the library's executive director, R. Crosby Kemper III, who said that off-duty police officers had overreacted when they arrested the two men.

Officials of the Jewish Community Foundation released a statement calling the publicity surrounding the incident “unfortunate.” The statement said, “The Foundation will continue to prioritize safety and to insist on civility in discourse and respect for others at all events in which it takes a leadership role.”

Reached after the lawsuit was filed, Rothe-Kushel said, “Our personally held rights to peaceably assemble, speak freely and to record and publish our understandings are the foundation of our nation's traditions of self-governance and rule of law. We



must vigorously practice, preserve, protect and defend them.”

The lawsuit, which was filed in federal court in Kansas City, seeks actual and punitive damages for alleged violations of Rothe-Kushel’s First and Fourth Amendment rights; conspiracy to violate his civil rights; battery; false arrest, and other counts. The suit names 14 defendants, including officials of the Jewish Community Foundation of Greater Kansas City and the Truman Library Institute, which co-sponsored the event; the off-duty policemen involved in the incident; Kansas City Chief of Police Richard C. Smith; and members of the Kansas City Board of Police Commissioners, including Kansas City Mayor Sly James. The police chief and the board of police commissioners are being sued for their alleged failure to properly train and supervise their officers.

Ross, a special envoy to the Middle East who served in three different presidential administrations, had concluded a lecture on “Truman and Israel” and was taking questions from the audience when Rothe-Kushel stepped up to the microphone. The library auditorium, which seats 550 people, was packed and more than 100 other people were watching via closed circuit TV on the main floor of the library.

Rothe-Kushel, who is described in the lawsuit as a “Jewish-Mexican-American,” asked Ross a long, rambling question referencing what he said was a history of state-sponsored terrorism by Israel and the United States.

He concluded: “When are we going to stand up and be ethical Jews and Americans?”

Ross responded by paraphrasing a quote attributed to sociologist and former US Senator Daniel Patrick Moynihan that everyone is entitled to

their own opinion but not their own facts.

At that point, the man in charge of security for the event, Blair Howell Hawkins, began to physically remove Rothe-Kushel from the microphone, according to the lawsuit. At the time, Hawkins was director of security for the Jewish Federation of Greater Kansas City, which had hired him following the April 13, 2014, shootings that left three people dead at the Jewish Community Center and Village Shalom in Overland Park, Kansas.

Rothe-Kushel’s lawsuit says the library’s staff understood there was “an elevated level of concern” after the shootings, “and so they agreed to allow the off-duty police officers to be there for the event.”

The library had stipulated beforehand that no one could be removed simply for asking a question “perceived to be unpopular or disliked,” and that library staff would be consulted first if officers thought someone needed to be removed, according to the lawsuit.

Arthur Benson, one of Rothe-Kushel’s attorneys, said “The suppression of lawful speech at the library is what happens when people and organizations let their irrational fears of criticism dictate their unconstitutional conduct.”

The 2016 incident drew widespread media coverage, including in Israel. Reported in: *Kansas City (Missouri) Star*, April 26.

Temple, Texas

When a library highlights LGBT material in a display for “LGBT Book Month,” is that an endorsement of that lifestyle, or merely informational to let patrons know more about what is included in the library’s collection? What is a good policy to help a library to decide what to highlight in its displays?

The Temple Public Library adopted a new media display policy on April 16 after ten months of heated discussion of such questions. The board voted 7–0 to approve the policy that resulted from controversy surrounding last summer’s LGBT-themed displays.

“I hope this is going to relieve [residents’] concerns and maybe they’ll feel comforted that there are some guidelines,” Library Director Leigh Gardner said, following the board’s quarterly meeting. “I hope the fact that we’ve made a policy shows we are being sensitive to the comments we have received.”

The issue began last June when the library posted two displays highlighting LGBT-themed material as part of the American Library Association’s LGBT Book Month.

A bulletin board was decorated with rainbows and a flyer titled “Be inspired: Celebrate pride month.” A table near the children’s desk included lists of LGBT-themed books that were divided into different age groups, with some books displayed on the table.

City Manager Brynn Myers said no one complained to City Hall about the displays while they were up. However, the controversy began to simmer two months later when a local group, Concerned Christian Citizens, took to Facebook to criticize the displays. In a post on August 5, the group said the library crossed a line “by taking a position on a moral issue.”

The divisiveness gained steam at the library board’s October meeting, when a handful of residents on both sides of the issue spoke out. It then boiled over in January during a two-and-a-half hour public comment section that saw more than forty residents passionately share their opinions.

On April 16, a dozen residents spoke before the board adopted the new policy, which is intended to



“guide librarians and to inform the public about the principles upon which display themes and materials are chosen.”

The policy states that library displays are used to highlight materials and educate the public on a range of topics. It lists criteria that will be considered when selecting displays, guidelines for displays, and a new approval process.

Content should “represent the wide variety of viewpoints offered in collections” and displays should not “promote a specific religion, political party or cause.” Displays must be approved by the library director. The policy also allows residents to request material be reconsidered if they deem it to be inappropriate.

“If a citizen has a concern about a library display and they want it reconsidered, they would submit that in writing and the library director would put together a committee to review that and respond to the person,” Myers said. “I think that’s healthy for a display that may be controversial in nature to have a committee reviewing it instead of just my opinion or your opinion.”

Critics of the LGBT displays argued that they didn’t present both sides of the issue, but Myers said the new policy should create balance.

“It really depends on what the topic of the display might be in terms of what librarians may choose to pull in, but the guideline is intended to encourage them to not focus on one aspect of the conversation, but multiple viewpoints,” Myers said.

Myers said she never saw last year’s display, so she didn’t know if it would fit under the new guidelines. Gardner, however, said the displays likely would not have been accepted under the new policy.

Residents will have to wait until June to see if an LGBT-themed

display manifests under the new policy.

Gardner claimed last year’s display was purely informational. “We weren’t doing a display that was promoting anything. We were just letting people know about our resources,” Gardner said.

Local pastor Brandon Hall disagreed. “My impression was that it was an endorsement of the LGBT community and lifestyle, especially given the time it was put out coinciding with Gay Pride Month,” Hall said.

He also believes the new policy is somewhat ambiguous. “Although this is better, I don’t think it’s specific enough for anybody,” Hall said. “I think it’s too vague for there to be any real understanding or guidelines on what displays should be going forward.”

Resident Tracy McLoud, who has been outspoken in favor of the displays, also thought the new policy was vague. “There is some language in there that can be open to interpretation based on someone’s views, but overall, I’m pleased with it,” McLoud said.

She is concerned about the guideline that states “displays should not promote a specific religion, political party or cause.”

“Depending on your viewpoint and what you think is a cause or not is one of the things I think could be confusing,” McLoud said.

The new policy went into effect immediately. Reported in: *Temple Daily Telegram*, April 16.

SCHOOLS Thousand Oaks, California

Is it good to have a warning that certain books contain “mature” content, so parents and educators will be careful about handing those texts to children? Or is an official list of “mature” titles a form of censorship?

(For a specific example of how such a policy, intended only to modify the reading assignments of individual students, may have actually forced a book to be removed from the curriculum for all students, see page 25.)

The California Department of Education (CDE) had created such a warning for some books on its state-wide “Recommended Literature List.” Then, in November 2017, the Conejo Valley Unified School District in Thousand Oaks used the state’s warning and list of titles to create a local “opt-out” policy that required teachers to notify parents if a book with mature content was being used in the curriculum, and to notify parents of their right to request an alternative assignment.

In March 2018, the state removed the “mature” annotation from its recommended reading list. Whether this was because some state officials were unhappy with how the Conejo Valley schools were using the warning, or for some other reason, the effect was to take the teeth out of the opt-out policy.

On May 15, the Conejo Valley school board found a way to revive its opt-out policy, with the “mature content” notice again attached to the syllabus that is sent to parents. After a contentious five-hour meeting, the board voted 3-2 to give parents a warning based on the older version of the state’s reading list: “Core literature titles selected for use by teachers or students that are identified as ‘published for an adult readership and thus contains mature content’ by the October 2017 California Department of Education Recommended Literature List (posted on October 2017 but since modified) shall have an asterisk placed by the book.”

Back in October 2017, some titles on the state’s list were flagged with this statement: “This book was



published for an adult readership and thus contains mature content. Before handing the text to a child, educators and parents should read the book and know the child.” Books that carried that disclaimer included *I Know Why the Caged Bird Sings* by Maya Angelou, *The Handmaid’s Tale* by Margaret Atwood, *The Bluest Eye* by Toni Morrison, *The Catcher in the Rye* by J. D. Salinger, and *The Color Purple* by Alice Walker.

The first version of Conejo Valley district’s “mature” literature policy for core curriculum subjects was born out of a debate dating back to the spring of 2017, when Sherman Alexie’s *The Absolutely True Diary of a Part-time Indian* was suggested as a title for ninth-grade English students.

Afterwards, emails between employees of the California Department of Education showed there was concern among CDE staff that the Conejo Valley Unified board was utilizing the “caveats” on book titles in a way they weren’t entirely comfortable with. The emails were obtained by Conejo Valley Board President John Andersen in a public records request, and later obtained by the *Ventura County Star*.

A spokesperson for the California department told the *Star* that the removal of the annotation language from the recommended reading list online was the result of a periodical review process, and the list “was not changed in response to the way they were being used at Conejo Valley Unified.”

Part of one email from one CDE employee to another employee read, “I am concerned about us making a judgment on the maturity of literature. What could be considered to have mature themes could vary wildly based on the audience.”

The email continued, “Instead of having the caveat at all, I think

that we might be better off having a blanket proclamation on the landing page of the database that teachers and parents should read the book before offering it to the child. Regardless of the book, I think this is best practice. Adults shouldn’t let a subjective caveat on the List make a decision for them as to whether a book is appropriate for a child.”

Earlier in that same email, the employee provided the backstory of what had been happening in the Conejo Valley Unified School District and the concerns that had been raised by community members reaching out to the California Department of Education.

Conejo Valley’s Andersen addressed the content of that public records request during the May board meeting: “The literature choices and the presentation of information is a local board responsibility and not the responsibility of the CDE,” a sentiment that was reflected in the emails, Andersen said. “I did appreciate that encouragement that I saw throughout many of their emails.”

Conejo Valley Board member Betsy Connolly, who voted against the opt-out policy, said during the meeting in May, “It’s foolish to be referencing an old document whose makers have identified it as a poor-quality product.”

The debate has been continuing in Thousand Oaks—not just at school board meetings—for months. During the period after the CDE had eliminated its “mature content” designation but before Conejo Valley re-established its opt-out policy, Mary Anne Van Zuyle, a GIS mapping specialist for the City of Thousand Oaks public works department and announced candidate for the 2018 Conejo Valley school board race, said the annotation was at the core of the school district’s policy. California’s

removal of the “mature” annotation, she said, had taken the teeth out of the district’s controversial regulation.

On her blog, she said it was important for the district likewise to remove the asterisks, which she termed a “seal of disapproval,” from individual board-approved titles on the curriculum list. Van Zuyle, who is a parent of a high school student in the district, said it was reasonable to provide CDE annotations (which include a short description and background information about a book) to parents directly on a syllabus, but she objected to using CDE language as criteria for an asterisk.

“This was always a subversion by our school board of the recommended reading list’s original purpose,” she said. “The CDE has reacted to this use of its list by removing the language referred to in our new literature opt-out policy.”

Board member Sandee Everett, who wrote Conejo Valley’s revised board policy, said in an email after the May meeting, “The opinion of three board members has always been that parents and students should be provided information on the most graphic and potentially disturbing books in order to make informed decisions for their child, and the other two board members have consistently disagreed.”

Other changes proposed by Everett included the addition of an optional survey for those who utilize the alternative assignment process. Another change was adding a “purpose” section to the policy and adding the word “decency” to an existing sentence so it now reads, “The Board also desires to have a language arts program where all core literature titles align to the state standards, community standards of decency, and the sensitivity of protected classes.”



Everett said the policy had been “discussed and revised” over the course of “many months” and looked over by attorneys, the teachers union, and administrators. “We are informing parents and students on the syllabus of their right to ask for an alternative assignment and providing them with the transparent information they need to make decisions for their children and to be more actively involved in their children’s education,” Everett added. Reported in: *Ventura County Star*, November 15, May 16; *Thousand Oaks Acorn*, March 8.

Wyoming, Delaware

Should schools censor the comments on their school’s Facebook page when students post comments that disagree with school board policies?

Administrators at Caesar Rodney School District in the town of Wyoming, Delaware, have edited the district’s Facebook page to remove comments dissenting from the district’s position on student protests. In response to national student efforts to organize school walkouts advocating for gun control in the wake of the shooting in Parkland, Florida, Caesar Rodney officials discouraged students from participating, calling the planned protest “disruptive.” Students and alumni took to Facebook to express their views on the protests and the district’s position. The district removed comments in support of the walkout, while retaining those that agreed with the district’s view.

Superintendent of the district Dr. Kevin Fitzgerald has separately praised active student engagement as demonstrating that students have taken the lessons of their classrooms to heart.

The National Coalition Against Censorship has written to Dr. Fitzgerald and the Caesar Rodney School Board urging them to take this praise to heart and seek to encourage student

speech rather than stifle it. In addition, the NCAC expressed concern that Caesar Rodney’s social media policy is so vague that incidents like this one are likely to be repeated. “We encourage them to develop a more robust social media posting policy, to avoid viewpoint censorship and to use social media to foster an open dialogue about the district’s position on student protests. We have offered our support in developing this new policy,” the NCAC statement said. Reported in: cblbf.org, March 1.

Shawnee Mission, Kansas

How much public outcry is needed after school administrators stifle students’ free speech before school leaders apologize?

The Shawnee Mission School District apologized on April 27, in the midst of complaints that various school administrators infringed on students’ freedom of speech during a national school walkout to protest gun violence April 20.

Issues arose at Shawnee Mission North High School and Hocker Grove Middle School, which both serve the Shawnee area.

At a school board meeting three days after the protest, Shawnee Mission North junior Grace Altenhofen provided details of the alleged censorship, describing how school board administrators took over what was supposed to be a student-led walkout, even going as far as making a script of what was allowed to be said during it.

After the administration-approved walkout occurred, the student journalist told the board the walkout continued in front of the school because a group of students wanted an opportunity to speak their minds without having the filter of the administration.

During the unapproved walkout, student photographers were taking pictures of the event for the school’s

yearbook and newspaper when an associate principal confiscated their cameras, saying he wasn’t going to allow them to cover the event because he didn’t approve of the subject matter, Altenhofen recounted.

She then cited a portion of the 1992 Kansas Student Publications Act where it states, “Material shall not be suppressed solely because it involves political or controversial subject matter.”

The associate principal’s action of removing the cameras from the student journalists, because he disapproved of the subject matter, is a direct violation of the rights of student journalists in the state of Kansas, she pointed out.

“If an associate principal at our high school can break a law and get away with it, what kind of example does this set for us?” asked Altenhofen, a staff member of the SM North student newspaper, before thunderous applause and cheers erupted from the audience.

In response, Interim Superintendent Kenny Southwick told her he was going to take personal responsibility for what occurred.

“I will personally apologize for anything that was done to try and censor students,” he said. “I will be working very closely with administration to find out where the problem areas were and I hope we have an opportunity to learn from this situation.”

On April 27, the district sent a letter to parents and students stating, “As a district, we apologize and commit to do right by our students. We value your voices and we value the lessons we can learn from your voices.”

The letter said Southwick is committed to talking with students, parents, and administrators to review what happened and figure out how to



make sure such problems don't happen again.

"Most of the student-led walkouts were successful events that served as an important lesson for our students and communities," it stated. "With those successful lessons, came less successful lessons—lessons from which our staff and administration must learn from to be better prepared for the future."

According to the Associated Press, the American Civil Liberties Union of Kansas said it has received numerous complaints and was investigating the incidents. Reported in: *Shanwnee Dispatch*, April 29.

Linden, Michigan

Is it appropriate for schools to rely on the movie rating system of the Motion Picture Association of America—a private organization's system which has no legal standing—to determine what is shown to students? The question was not raised when parents used MPAA's term "R-rated" as they asked for—and got—the school board in Linden, Michigan, to implement a stricter policy about giving permission for teachers to show graphic scenes from movies and teach books that mention sex or rape.

Approximately six months after several Linden parents raised the issue of being unaware of their children watching R-rated movies and reading books with graphic material in class, Linden Superintendent Russ Ciesielski presented his solution at the March 21 Board of Education meeting.

Numerous parents spoke at the meeting, upset because certain books and films contain sex, nudity, rape, and other graphic material.

During the meeting, Sheila Kern, a Linden parent, said, "We have numerous materials with themes of rape, molestation, promiscuous sex. . . . It's not fair for parents to have their kids

[who opt out of such reading assignments] singled out again and again just because the nature of the material is inconsistent with values at home."

Jannette Ropeta said it can be damaging for students who have been raped or molested to watch the material if they didn't opt out.

Another parent, Sarah Tottingham, said people need to respect the parent's choice to decide what is appropriate and what is not. She said it's not appropriate when students are only given the option of reading books like *A Clockwork Orange* and *A Brave New World*, books with passages that address rape or sex. She said it's not the teacher's main job to tell students about the world and what to expect.

Dan Schneider, literature teacher, told the board that those two books are options in group projects. Students have a list of books to choose from, and if they choose those books, he sends home a permission slip for parents to sign.

English teacher Bethany George said implementing more choices would be hard. "It would be very difficult to have a class of 30 people reading three different books," she said.

She said when teaching "one of the books that's been objected to, *A Lesson Before Dying*, I start out with 'what does it mean to feel worth and be worthy?'"

George said on the topic of rape, she teaches by using the book *Speak*, which is about a girl who is raped, but there is no rape scene. The book focuses on trauma. "We had a student speak last week about how that has helped her," she said.

George said she would love to be positive, but there are many bad things in the world and it's important to talk about those, too. "I wish all

kids had involved parents but unfortunately we don't," she said.

At an earlier meeting on March 7, George told the board that at the beginning of each course, she gives students a packet explaining the literary works they will be reading. Additionally, a summer reading packet is always sent home with information about the books. Alternative options are always offered if a student has an issue with a certain book, she said. Over her 18 years of teaching, she's had 10 requests for alternatives.

Multiple students spoke in favor of George and Schneider at the March 7 meeting.

Ciesielski admitted the high school has not been following policy for about three years when it comes to approving films and books taught in class.

"We have not followed our own process. We realize that," he said. Policy will be followed, including board approval. On January 26, the board enacted a new district-wide policy, and aims to implement a new curriculum adoption process for the 2018–2019 school year.

"The first proposed policy change was the exclusion of any nudity or sexually explicit activity in movie clips" he said.

G-rated movies can be shown, parent permission is needed with PG and PG-13 movies, and teachers can no longer show NC-17 or R-rated movies. "Currently, there is a district-wide moratorium on showing R-rated movies," he said. Students can opt out of watching any movie for religious reasons.

From previous meetings, Ciesielski identified issues brought forth from the concerned parents. The first issue is that parents said they weren't aware of the course material before students were reading the books. Ciesielski said all course material, including required



reading and what movies they will watch, will be posted on the LHS website with disclosure statements, and the syllabi will require a parent signature.

Parents were concerned that certain books were mandatory reading regardless of content, and parents said that no equal choices were offered. Other concerns were singling out students if they object to course material and that a one-size-fits-all policy does not address a diverse population.

Ciesielski said they have policy guidelines in place, specifically administrative guidelines 2240B, alternative learning activities for opt-out students that addresses this. He said they would do better to follow policy.

Ciesielski asked parents to be patient as the changes are implemented.

Kern said a lot of their issues were addressed in Ciesielski's presentations, but they are "words on paper." Policy hasn't been consistently followed for 13 years, she said, adding that only 15 items have been approved by the board in those 13 years, when there are 91 courses at the high school with multiple literature texts.

"Where's the accountability?" she said.

Kern said the moratorium of R-rated movies was in place, but learned through a Freedom of Information Act request that two R-rated movies were approved after the moratorium was put in place on January 26. Reported in: *Tri-County Times*, March 23.

Austin, Texas

What's in a name? Mexican-Americans finally got official approval to have a Mexican-American Studies course added to the statewide high school curriculum in Texas—but the State Board of Education gave it a

new name that may indicate a lack of respect for the concept.

The State Board of Education voted on April 11 to take steps to approve Texas Essential Knowledge and Skills (TEKS) standards for an ethnic studies course focused on Americans of Mexican descent, and to use a course originated by the Houston Independent School District as the basis for the standards.

This action will lead to the development of the first state standards for a high school level ethnic studies course in Texas.

The specific standards will be presented for a preliminary vote at the board's next meeting in June, with final approval expected in September. The course would then be available for use in Texas classrooms in the 2019–2020 school year.

But in a move that sparked a fresh backlash, the board voted to change the program's name to "Ethnic Studies: An Overview of Americans of Mexican Descent," after one member objected to using hyphenated terms to describe people. "I find hyphenated Americanism to be divisive," said member David Bradley, a conservative Republican from Beaumont who proposed the name change.

Member Lawrence Allen, Jr., a Houston Democrat, said he opposed stripping the course of its original name. "So many people can't embrace just the concept of just 'America' by itself because it seems to be that America is exclusively for whites," said Allen, who is African-American.

The board approved the name change on a 10–4 vote, with four of five Democrats opposed. The board then voted 14–1 for proposed standards to create an elective modeled after a Mexican-American Studies course taught in Houston. Allen was the lone vote against.

The Latino population is booming in Texas, with more than half the state's 5.4 million school-age children coming from Mexican or Latino backgrounds. However, the State Board of Education opted four years ago not to establish official TEKS standards for a Mexican-American Studies course, leading teachers and researchers to build a road map for the class from scratch.

"Texas has a sad and tortured past of having to be here at venues like this at every critical juncture to argue for facts, to argue for history, to argue for inclusion, and to argue for the value and the beauty of diversity," State Representative Celia Israel, an Austin Democrat who belongs to the Mexican-American Legislative Caucus, told a crowd of people gathered to rally for the standards before the board meeting.

Instead of approving the elective in 2014, the board—known for strong political divisions—asked for Mexican-American Studies textbook proposals. That request later led to a controversy over an error-ridden text that referred to Mexican-Americans as lazy. The board rejected the only two book proposals publishers submitted.

Some Texas school districts and charters are already teaching a Mexican-American Studies course, using an approved course submitted by the Houston Independent School District. This course will be the starting point for the state standards, with only the course title changed by the State Board of Education.

The board also instructed Texas Education Agency staff to bring to the board for consideration any future comprehensive ethnic studies courses in Native-American Studies, Latino Studies, African-American Studies or Asian-Pacific Islander Studies that have been approved through the commissioner of education's innovative



course process. Reported in: *Houston Chronicle*, April 11; *San Antonio Express-News*, April 12; *State Board of Education News*, April 13.

Olympia, Washington

When do student journalists' First Amendment rights outweigh school administrators' need to control published content that might affect the learning environment? In the state of Washington, new legislation has tipped the scales back more in the journalists' favor.

After decades of advocacy by student journalists against censorship of school-sponsored media, the Washington legislature passed and the governor signed the New Voices Act. The measure, sponsored by Senator Joe Fain, Republican from Auburn, eliminates before-publication review by school administrators of student publications or broadcasts.

The New Voices Act was the fourth attempt this past decade to respond to a 1988 US Supreme Court ruling. In *Hazelwood School District v. Kuhlmeier*, the justices ruled that school-sponsored expression, including school newspapers, doesn't occur in a traditional public forum and therefore may be regulated.

School administrators argued they need to control content as a learning experience for student journalists. "But free speech is clearly the dominant issue in this case. High schools and colleges need student newspapers that tell truth to power, even when that truth is uncomfortable," wrote the editors of the *Seattle Times*, in an editorial celebrating the new law.

Students testified in legislative hearings that school rules requiring administrative approval of student publications can lead students to avoid some of the tough topics they really want to tackle, such as politics and sexuality.

The new Washington law does not exempt the work of these young journalists from libel and broadcast-decency rules, and they are prohibited from inciting violence. It also protects districts and school officials from legal action based on student reporting.

Most student journalists still will be working with the guidance of newspaper advisers, and those journalism teachers will also be protected against reassignment or firing when school officials are unhappy with student reporting.

Similar laws have passed in 13 other states, working to put the responsibility for student journalism back in the hands of the students. The Student Press Law Center commemorated the thirtieth anniversary of the *Hazelwood* decision with a state-by-state campaign to change the law. Reported in: *Seattle Times*, March 25; *The Oregonian*, May 1, May 2.

Oconomowoc, Wisconsin

Is it possible to teach about racism without mentioning "white privilege"?

The Oconomowoc Area School District is limiting discussions about social privilege, after a Martin Luther King Day exercise that touched on the subject of white privilege set off a firestorm in that predominantly white community.

Oconomowoc Superintendent Roger Rindo said he was directed by board members during a closed-door, executive session shortly after the January 15 assembly not to allow future activities around the topic of privilege except in classrooms where it is related to a specific course and teachers can provide appropriate context.

The Oconomowoc controversy erupted in January after a breakout session in which students were invited to fill out and discuss a

"privilege aptitude test." Created by the National Civil Rights Museum, the test is designed to illustrate the ways in which some groups enjoy advantages that others do not.

While some of the questions focused on race—for example, "When I go to a store, people believe I am trustworthy and I will not steal something"—others touched on privileges related to gender, physical ability, and more.

The idea that skin color carries an advantage touched a nerve among some students and parents in the district, where almost 90 percent of the students are white. Several parents complained, fueled by conservative talk radio. Parents who supported the discussion also weighed in.

"Schools are a microcosm of their communities. And we had parents in our community who felt like the concept of privilege went a little far, particularly for some of our younger students," said Superintendent Rindo. "It doesn't mean we can't teach children about diversity with the other 900 ways we can approach it."

But Rindo quashed a proposal by a student club that focuses on equality to follow up with a "privilege walk"—similar to the exercises that have gone viral on social media—saying in an email that the district has to be "prudent and mindful of the context in which we live and work."

Oconomowoc parent Amanda Hart started an online petition calling on the district to maintain programming like the student-led Martin Luther King Day assembly. Her petition attracted almost 1,000 signatures.

"I don't know how you can have a discussion about race without also discussing (privilege) to give our students a complete picture," said Hart, a lesbian mother of three, including two biracial foster children. "Even if you don't agree with the concept of white



privilege,” she said, “it’s part of helping students become critical thinkers.” Reported in: *Milwaukee Journal Sentinel*, March 10.

COLLEGES AND UNIVERSITIES Fresno, California

How much does tenure protect the academic freedom of a professor whose controversial comments lead critics to demand the professor be fired?

“Just because you’re a tenured professor doesn’t mean you can do or say whatever you wish,” said the president of California State University at Fresno, adding, “All options are on the table” in dealing with a professor whose tweets about Barbara Bush set off a firestorm of controversy in April.

Free-speech advocates swooped in to criticize the president, Joseph I. Castro, for his switch in tone in his responses to a Twitter tirade by professor Randa Jarrar. Jarrar’s tweets gleefully celebrated the death at age 92 of the former first lady, whom Jarrar called “an amazing racist” who helped raise a “war criminal.”

At first, Castro had suggested his hands were tied because the English professor was speaking as a private citizen and her statements, while offensive, reflected her personal views. She was, after all, on leave from the university this semester and tweeting from her personal account.

The backlash against Fresno State was swift and brutal as thousands of emails, phone calls, and tweets began flooding into Castro’s office. Many people were deeply offended by Jarrar’s tweets. They complained that the president was being too soft on Jarrar and demanded action.

In an interview later that week, Castro said his initial statement, which came while the professor’s hours-long Twitter rant was just

beginning, was meant to offer condolences to the Bush family and to make it clear that Jarrar’s views didn’t reflect the university’s. As the evening went on, the actions of the professor, an author and essayist who teaches creative writing, became more troubling, the president said.

Jarrar taunted her critics on Twitter, saying that because she had tenure, she would never be fired. She mentioned her salary, her employer, and Castro by name. That, some suggest, could open the door a crack to making the case that she was tweeting as a professor, not just as a private citizen.

Then there’s the matter of the suicide hotline. “There are a lot of things the professor said and did on that evening, including putting out a phone number she presented as hers but was actually a hotline at ASU,” Castro said.

The phone number went to an after-hours crisis and suicide help line at Arizona State University, officials confirmed. Tying up such a line and preventing students in crisis from reaching counselors should, in itself, be grounds for punishment, some said.

But others argue just as vehemently that punishing someone for what they say on social media undercuts the purpose of tenure.

Among those who came to Jarrar’s defense was Steven G. Salaita, whose case became a cause célèbre for academic freedom after the University of Illinois at Urbana-Champaign rescinded a job offer to him in 2014 because of incendiary tweets he posted about Israel. Salaita said Fresno State was “encouraging the mob” to attack a “brilliant writer” when it should be defending Jarrar.

Castro said the university is reviewing the matter carefully and fairly in the context of the collective-bargaining agreement it

has with the faculty. That document outlines procedures that should be followed for any disciplinary action, including a reprimand, suspension, or dismissal.

Castro said it is too early to speculate on how, or even whether, Jarrar might be sanctioned.

Meanwhile, the controversy is providing colleges nationwide with a test case in how far a faculty member can go on social media and still remain employed.

An official with the American Association of University Professors said the association’s standards do recognize some limits on faculty members’ freedom of speech.

“Academic freedom does protect a faculty member’s speech in his or her capacity as a citizen,” Gregory F. Scholtz, director of AAUP’s department of academic freedom, tenure, and governance, wrote in an email. “However, that does not mean that faculty members can never be dismissed for extramural speech.” If that speech “clearly demonstrates” their professional unfitness—a situation the association says is uncommon—they can be dismissed.

Henry Reichman, a professor emeritus of history at California State University-East Bay, chairs the AAUP’s committee on academic freedom and tenure.

“There is little doubt in my mind that the professor’s tweets, while arguably ill-considered and quite foolish, are protected speech,” he wrote in an email to *The Chronicle of Higher Education*. “They were made in her capacity as a citizen and as such constitute what the AAUP calls extramural expression.” Such statements, he said, “constitute grounds for discipline only if they clearly demonstrate a lack of fitness for one’s position.”

Because she is protected by both tenure and a collective-bargaining



agreement, Jarrar enjoys significant due-process protections, Reichman said. He called Castro's statement that "all options" are on the table "both inaccurate and irresponsible."

Reichman added, "While it is true that tenure does not permit faculty members to say or do whatever they want, it does clearly protect the specific statements that this faculty member made, however much the administration or anyone else, myself included, may find them offensive."

Castro's revised statement saying an investigation was underway prompted a coalition of free-speech advocates, including the Foundation for Individual Rights in Education and the American Civil Liberties Union of Northern California, to write a letter to the president, calling that action unfounded.

Opening such a probe "after previously acknowledging her right to freedom of expression, is plainly aimed at quelling anger over Jarrar's expression generated by social media," the letter states. "But the university's response is antithetical to a core value of our democracy: the right to express views on issues central to our national conversation in ways that might be provocative or disagreeable."

In a later statement that reflected the pull Castro is receiving from both sides, he stressed that he is a "fervent supporter" of academic freedom and that Fresno State is striving to honor it in a way that also promotes constructive dialogue. "I recognize that in the exercise of free speech rights, individuals may present personal opinions in a provocative manner," he wrote, "and I also value the First Amendment rights of individuals, even when others may find the speech unpleasant and inappropriate." Reported in: *Chronicle of Higher Education*, April 19.

PRISONS

Washington, DC; Coleman, Florida; Albany, New York

Is it censorship if a prison policy doesn't necessarily limit what books prisoners may receive, just where the books may come from?

US prison officials have rescinded a controversial new policy that would have made it harder and more expensive for federal inmates to receive books by banning direct delivery from publishers, book clubs, and bookstores. The Bureau of Prisons policy would have imposed a seven-step process with a 30 percent price markup, and would have allowed purchases only through a private vendor, according to a copy of a memo released by a Florida prison warden.

After the move prompted concern from inmates' families and prison reform advocates, the agency said on May 3 that the proposed restrictions had been part of efforts to curb contraband from entering the 122 federal prisons. The memos have been rescinded and are under review "to ensure we strike the right balance between maintaining the safety and security of our institutions and inmate access to correspondence and reading materials," the prisons bureau said in an email.

The decision to cancel the restrictions followed a grilling by Democratic lawmakers of the bureau's director, Mark Inch, during a House of Representatives Judiciary subcommittee hearing in April.

Asked about the Florida prison memo, Inch said he was not aware of the policy but that inmates still had access to books in prison libraries. "I will certainly communicate if there's a misperception that we are withholding educational and recreational books of any form, because that is certainly not the case," he said.

Under a 2011 policy, the roughly 183,000 federal prisoners can receive books from a publisher, book club, or bookstore. Inmates at minimum-security prisons can also get paperback books from any source, including family and friends.

At Florida's Coleman prison, the restrictions were to have taken effect on May 14 and would have mandated that prisoners file an electronic request including the 13-digit International Standard Book Number, according to the March 29 memo by the warden.

The memo was made available to Reuters by Families Against Mandatory Minimums, a Washington advocacy group.

The Bureau of Prisons did not respond to a query about how many prisons had already adopted the books policy, identify the private vendor, or explain the reason for the price markup.

In January, New York state prison officials began sharply limiting the books and packages that could be mailed to state prisoners. Governor Andrew Cuomo canceled the policy after an outcry from inmates' families and prison reform advocates. Reported in: Reuters, May 4.

Jackson, Mississippi

Should prisoners be barred from receiving secular books when religious books are allowed? A lawsuit is challenging a Mississippi policy that may violate prisoners' right to read and the separation of church and state.

After months of unsuccessfully attempting to send books to people in Mississippi prisons, the Mississippi Center for Justice has filed suit in federal court against the Mississippi Department of Corrections. Big House Books, a Mississippi-based nonprofit that sends free books to the incarcerated, and Charles Owens and



Jess Green, two men serving time at the South Mississippi Correctional Institute, filed the lawsuit in the US District Court for the Southern District of Mississippi.

The lawsuit alleges the prison only allows inmates to receive books if they “have been purchased or if the books are religious,” excluding “novels, history books, GED preparation handbooks or any other secular books.”

By doing so, MDOC is violating the “First and Fourth Amendment to the United States Constitution,” the lawsuit claims. “Religious books certainly are important inside a prison, but so are secular books,” Beth Orlandy, MCJ advocacy director, said in a release. “With this lawsuit, we seek simply to restore the prior practice at the prison so that prisoners can receive books in the mail whether paid or free, whether religious or secular.”

The prison began returning packages of books sent to individual inmates by Big House Books in 2017. Prison officials reportedly told Big House Books they could send religious books instead.

The *Jackson Clarion Ledger* reported on the issue in December 2017. MDOC spokeswoman Grace Fisher said then that prisons preferred if Big House Books sent books to the facility instead of individual inmates. Inmates could then check the books out from the library. Fisher was not immediately available for comment after the lawsuit was filed. Reported in: *Jackson Clarion Ledger*, April 30.

FREEDOM OF THE PRESS United States

How often did government officials and others attack press freedoms during 2017? The Reporters Committee for Freedom of the Press reported a “rising tide of hostility to the press” in its annual review of

incidents uncovered by its “U.S. Press Freedom Tracker.”

In its *Press Freedoms in the United States 2017* report, the Reporters Committee counted 122 “press freedom incidents,” with nearly half at protests (58 cases out of a total of 122).

Police arrested journalists at least thirty-four times, and 85 percent of those arrests occurred at protests, where police often arrested people en masse, including bystanders and journalists. Ninety percent of these arrests at protests occurred in one of three places: at the Inauguration Day protest in Washington, DC; at the Standing Rock Indian Reservation in North Dakota, where there were protests against an oil pipeline, or in St. Louis, Missouri, where a police shooting sparked protests. Reflecting broader trends in the industry, most of the journalists arrested were freelancers, while only a handful of them came from established news organizations.

The rising tide of hostility toward the press coincided with 45 physical attacks on journalists. Most prominently, Montana congressional candidate Greg Gianforte “body slammed” a reporter who tried to interview him but was nevertheless elected the next day, and an Alaska state senator slapped a reporter in the state capitol building. The majority of the assaults on journalists this year (nearly 70 percent) occurred at protests. Of those, police officers were implicated in nearly 30 percent of the assaults (the majority of which occurred in St. Louis), with protesters responsible for the remainder.

Protestors have become more likely to attack journalists than in the past, because protesters no longer rely on journalists to spread their message and, at the same time, fear that law enforcement will use the media’s video footage against them.

According to the Reporters Committee, “These assaults demonstrate the need for training law enforcement on how to protect journalists and for training journalists on how they can reduce their risk of harm.”

There were at least 15 cases where law enforcement seized and in some cases even searched a journalist’s equipment, such as cellphones and cameras. Eighty percent of these cases occurred when journalists were arrested while covering protests. Such searches also frequently overlapped with border stops of journalists, which is consistent with the government’s reportedly fast-growing practice of searching travelers’ electronic devices at the US border without a warrant. The tracker recorded five such border stops.

The news media also faced an unprecedented number of verbal attacks from public officials in 2017, including at the highest levels of government. President Donald J. Trump responded to critical coverage of his administration by repeatedly calling the news media the “enemy of the people,” “truly dishonest people,” and “fake news.”

Trump also encouraged direct government interference with the press, repeatedly calling for changes to libel laws, suggesting the Federal Communications Commission should challenge the broadcast licenses of TV news networks whose coverage he disliked, urging the Senate Intelligence Committee to investigate these networks, calling for news organizations to fire reporters, and reportedly urging the FBI to jail reporters for publishing classified information.

The Trump Justice Department has thus far only brought charges in one case involving unauthorized disclosures, that of Reality Winner, who allegedly gave *The Intercept* a top-secret document detailing Russian



hacking attempts on election software vendors in the United States. Given that the Justice Department is reportedly investigating 27 “leak” cases as of November 2017, there may be more prosecutions in the future. Reported in: *Press Freedoms in the United States 2017*, March 2018.

PUBLIC SPEECH Starkville, Mississippi

Should an application for a gay pride parade be treated differently from any other application?

Leaders of a Mississippi college town originally denied a permit for a gay pride parade scheduled for March 24, in a 4–3 vote in February. Then a community group called Starkville Pride and two parade organizers filed a federal lawsuit, saying the city had denied their constitutional rights to free expression and equal protection. They asked a judge to overrule the city and immediately grant a parade permit.

March 2, before the judge ruled, Alderwoman Sandra Sistrunk moved to put the issue back before the city board. At a meeting on March 6, she said it was important to not treat the application for the city’s first gay pride parade differently from any other application. “I think we’re in a position where we can make a more measured and reasoned vote tonight,” Sistrunk said. “This has been a bit of a growing pain for the city of Starkville.”

An alderman who previously had opposed the parade abstained, saying the city needed to move past the dispute. Then Starkville Mayor Lynn Spruill broke a 3–3 tie to allow the parade to go forward.

Roberta Kaplan, lawyer for Starkville Pride and the parade organizers, said “What happened at tonight’s meeting was a victory not only for our clients and for their equal

dignity under the law, but also for the core principle that in this country, we do not restrict a person’s ability to speak based on whether or not we agree with what they have to say.”

Mayor Spruill, who doesn’t normally vote on the board, had supported the parade, saying the rejection didn’t reflect Starkville’s diversity and welcoming attitude. She got the chance to cast the deciding vote after Alderman David Little said he maintained his “principled position” but would abstain. “I believe the city of Starkville’s interests are better served in moving forward beyond this and pressing forward on other positive matters facing our community,” Little said.

The aldermen who voted against the parade again did not explain their reasoning. Alderman Ben Carver, who earlier had told a local newspaper that his constituents had supported his original vote, said on March 6 that he had received “numerous, numerous” threats over his earlier “no” vote.

The city’s first-ever gay pride parade was proposed as part of a larger set of events, organized by two Mississippi State University students. They said they wanted to hold a parade in downtown Starkville to show the presence of LGBT people as part of the larger community. Thanks to the university, Starkville is more cosmopolitan and diverse than many Mississippi towns.

Starkville has a recent history of public contention over lesbian, gay, bisexual and transgender issues. In 2015, aldermen repealed a resolution that made Starkville the first city in Mississippi to denounce discrimination based on sexual orientation. The same day, aldermen also repealed a city health insurance policy that allowed employees to insure same-sex partners. Gay marriage was legalized

later that year nationwide by the US Supreme Court.

“The decision not to allow a pride parade in Starkville doesn’t make me any less gay, and it doesn’t quiet my voice, and it isn’t going to make me want to move,” Starkville resident Megan O’Nan, had said before the revote. “But it tells a very special part of this community that we don’t matter.”

Opponents, though, asked aldermen to uphold their original decision. Tim Cummings said he wasn’t bigoted, but said his study of anatomy as a veterinarian taught him that same-sex relationships are unnatural. “Who’s really doing the bullying? Have you really touched base with the constituents in your district versus the outsiders or the ‘loud and proud?’” he asked. Reported in: Associated Press, March 7.

INTERNET Phoenix, Arizona; Washington, DC

When a new law blocks explicitly sexual “help wanted” ads, and websites with such ads are shut down, is this a good thing that helps stop sex trafficking and protects victims who are forced into prostitution? Or is it unconstitutional censorship that will have the unintended consequence of endangering sex workers by eliminating their ability to safely screen clients online and pushing them into riskier street-based prostitution?

On April 11, President Donald Trump signed a law that combined two bills: the Stop Enabling Sex Traffickers Act (SESTA) and the Allow States and Victims to Fight Online Sex Trafficking Act (known as FOSTA). It will give prosecutors stronger tools to go after sites charged with facilitating sex trafficking, and will suspend liability protections for internet companies for the content on



their sites. The law will also let state law enforcement officials pursue sites that knowingly host sex trafficking content, and will allow victims to sue such sites for damages.

Even before the new bills became law, federal authorities had targeted such websites. On April 6, federal authorities seized Backpage.com and unsealed an indictment charging several of its top officials with facilitating prostitution and with revealing details about victims, including minors as young as 14. The indictment also charged top Backpage officials with money laundering, and said the site had earned more than \$500 million in prostitution-related revenue since it began in 2004.

Backpage was a website with ads that gave graphic descriptions of women of different ages and racial backgrounds. The federal grand jury in Phoenix charged that many Backpage ads depicted children who were victims of sex trafficking.

Another website that used to carry sexually explicit personal ads, Craigslist, removed its personal ads section shortly after the final vote that sent SESTA-FOSTA to the president's desk.

Most of the initial discussion revolving around the Backpage indictment and the passage of SESTA-FOSTA argued about whether the governmental actions would increase or decrease the number of victims of the sex trade.

Yet some commentators also pointed to First Amendment issues.

"It's already an unmitigated disaster for free speech in America," according to "Bad Password," a weekly column on engadget.com that covers information security, hacking and attacks on privacy. "Bad Password" said "there's no mistaking that FOSTA-SESTA violates the First Amendment," and quoted the Technology and

Marketing Law Blog conclusion that "this statute implicates constitutionally protected speech."

"Bad Password" added, "It's unconstitutional, but the damage is already being done." Even before FOSTA-SESTA became law, "online companies, always dangerously prudish with their algorithms, or hypocritical with their free speech rhetoric, appear to be in a rush to proverbially herd sex workers (and all us people who talk about sex for a living) out of the airlock into places where no one can hear us scream."

According to "Bad Password," within hours after Congress passed FOSTA-SESTA, everything from the mere discussion of sex work to client screening and safe advertising networks began getting "systematically erased" from the internet. "Bad Password" claimed that "thousands—if not hundreds of thousands—of women, LGBTQ people, gay men, immigrants, and a significant number of people of color lost their income, and were pushed out of safe online spaces and toward street corners. Also disappearing were many victims of sex trafficking that law enforcement might have been able to find on the open internet."

Yet supporters fully expect FOSTA-SESTA to help victims of sex trafficking.

The bill passed Congress with near unanimous bipartisan support. Representative Ann Wagner, Republican of Missouri, who sponsored the bill in the House, said "This isn't just about Backpage. There are hundreds of others in this space, this online marketplace. To see the impact . . . in terms of going after these cesspools of crime, is absolutely amazing."

The National Center for Missing and Exploited Children has said that Backpage was behind nearly three-quarters of all the public reports

it received on child trafficking.

Anti-trafficking groups, which have pushed for action against such sites, welcomed the news of the federal seizure and indictment.

But the momentum to crack down on trafficking has also renewed concerns from advocates about the safety of sex workers.

After Backpage was seized, the Women's March group said that the result was "an absolute crisis" for sex workers seeking safe communication with clients. "Women's March stands in solidarity with the sex workers' rights movement," a spokeswoman for the organization explained. "We believe a world is possible in which no one is trafficked or enslaved, and in which sex workers are not criminalized and ostracized by the state and our movements."

Jessica Raven, who leads the Washington-based Collective Action for Safe Spaces, said that Backpage had been "essential" in helping sex workers do their jobs safely.

"Shutting down websites like Craigslist and Backpage pushes sex workers and sex trafficking victims into street-based sex work where they're at greater risk of violence," said Ms. Raven, who said she had survived homelessness and engaged in sex work to survive as a teenager.

Sex workers have already begun figuring out other ways to do business in the days since Backpage was taken down, said Kate D'Adamato, an advocate for sex workers. "This is a moment of incredible insecurity and people are just trying to figure out how to survive," she said.

But advocates for child sex-trafficking victims pushed back against the idea that sites like Backpage could act as a third-party safeguard for users. Carol Robles-Román, the former chief executive and president of Legal Momentum,



has documented more than three dozen news reports of people who were murdered after being listed on Backpage.

Last year, Legal Momentum filed suit in Florida on behalf of a client who said she had been raped when she was in her twenties after being listed against her will on Backpage. “It was not safe for her,” said Ms. Robles-Román, who is now a legal adviser for anti-trafficking litigation and policy with the group. “To suggest that this is a safe vehicle is wrong.”

Several prominent social conservative leaders also supported the legislation, including Penny Nance, the president of Concerned Women for America, an organization of conservative Christian women with half a million members nationwide.

“The President is standing up to Silicon Valley and with victims of abuse,” Ms. Nance said. “Evangelical women see this as ‘caring for the least of these’ and strongly supported this legislation to the point that we were able to thwart efforts by big money media to sink the bill.”

In a personal tale of the impact FOSTA-SESTA could have, Laura LeMoon, a guest writer for *Huffpost Personal*, describes herself as knowing both sides—first as a victim who was forced into prostitution, then as a sex worker who voluntarily sold sexual services online. She wrote,

If you want to help me as a trafficking survivor, then government-backed paternalism is not the way to go about it. The ramifications of these policies are quite serious. I’m already seeing an increase in street-based sex work because people have nowhere to go but to the streets to find clients.

I started in the sex industry by force, working for a boyfriend-turned pimp in upper Manhattan and the Bronx. I was locked in rooms and left

to be gang raped on a regular basis. Street-based sex work is no joke. It can be extremely dangerous but also extremely necessary for many people’s survival.

I went on from forced prostitution to choosing to do sex work. That’s what people don’t understand: Choice is a trajectory. Choice is always constrained; it’s just a matter of how constrained. Doing sex work by—and for—myself was a righteous and liberating experience.

I advertised on Backpage, where I could screen clients over the phone or via email without ever having to be around them. I didn’t have to worry about getting beat up for turning down a date. Instead, I could say “NO” with confidence that I would not be hurt. You can’t tell me that isn’t empowerment. I got to do sex work on my own terms. I got to rewrite a very traumatic experience and turn it into a story where I am a strong, empowered person with full agency over my body.

Some local groups are mobilizing to push back against the law. D’Amato is organizing a group to lobby elected officials in Washington on June 1.

Very few people on Capitol Hill, D’Amato said, discuss the rights of sex workers. “We are trying to demystify the process for those who are trying to engage,” she said. “There’s not a district in the country that does not have people trading sex.” Reported in: *New York Times*, March 21, April 11; [engadget.com](#), March 30; [huffingtonpost.com](#), April 15.

SOCIAL MEDIA Menlo Park, California

How does Facebook decide what communication is acceptable and which messages to remove?

Now that the social network has grown to 2 billion users, it is opening

up about its decision-making over which posts it decides to take down—and why. On April 24 the company for the first time published its “Community Standards”—27 pages of guidelines it gives to its workforce of thousands of human censors. The document encompasses dozens of topics including hate speech, violent imagery, misrepresentation, terrorist propaganda, and disinformation. Facebook also said it would offer users the opportunity to appeal Facebook’s decisions.

The move adds a new degree of transparency to a process that users, the public, and advocates have criticized as arbitrary and opaque. The newly released guidelines offer suggestions on various topics, including how to determine the difference between humor, sarcasm, and hate speech. They explain that images of female nipples are generally prohibited, but exceptions are made for images that promote breastfeeding or address breast cancer.

“We want people to know our standards, and we want to give people clarity,” Monika Bickert, Facebook’s head of global policy management, said in an interview. She added that she hoped publishing the guidelines would spark dialogue. “We are trying to strike the line between safety and giving people the ability to really express themselves.”

The company’s censors, called content moderators, have been chastised by civil rights groups for mistakenly removing posts by minorities who had shared stories of being the victims of racial slurs. Moderators have struggled to tell the difference between someone posting a slur as an attack and someone using the slur to tell the story of their own victimization.

In another instance, moderators removed an iconic Vietnam War photo of a child fleeing a napalm



attack, claiming the girl's nudity violated its policies. (The photo was restored after protests from news organizations.) Moderators have deleted posts from activists and journalists in Myanmar and in disputed areas such as the Palestinian territories and Kashmir, and have banned the pro-Trump activists Diamond and Silk as "unsafe to the community."

The release of the guidelines is part of a wave of transparency that Facebook hopes will quell its many critics. It has also published political ads and streamlined its privacy controls after coming under fire for its lax approach to protecting consumer data.

The company is being investigated by the Federal Trade Commission over the misuse of its data by Cambridge Analytics, a consultancy linked to President Trump. Facebook Chief Executive Mark Zuckerberg recently testified before Congress about the issue. Bickert said discussions about sharing the guidelines started last fall and were not related to the Cambridge Analytics controversy.

Facebook's content policies, which began in earnest in 2005, addressed nudity and Holocaust denial in the early years. They have ballooned from a single page in 2008 to 27 pages today.

As Facebook has come to reach nearly a third of the world's population, Bickert's team has expanded significantly, and it is expected to grow even more in the coming year. A far-flung team of 7,500 reviewers, in places such as Austin, Texas; Dublin, Ireland; and the Philippines assesses posts 24 hours a day, seven days a week, in more than 40 languages. Moderators are sometimes temporary contract workers without much cultural familiarity with the content they are judging, and they make complex decisions in applying Facebook's rules.

Bickert's content review team also employs high-level experts including a human rights lawyer, a rape counselor, a counter-terrorism expert from West Point, and a researcher with a doctorate who has expertise in European extremist organizations.

Activists and users have been particularly frustrated by the absence of an appeals process when their posts are taken down. (Facebook users are allowed to appeal the shutdown of an entire account, but not of individual posts.) People have likened this predicament to being put into "Facebook jail" without being given a reason they were locked up.

People whose posts are taken down receive a generic message that says that they have violated Facebook's community standards. After the April 24 announcement, people will be told whether their posts violated guidelines on nudity, hate speech, and graphic violence. A Facebook executive said the teams were working on building more tools. "We do want to provide more details and information for why content has been removed," said Ellen Silver, Facebook's vice president of community operations. "We have more work to do there and we are committed to making those improvements."

Facebook's content moderation is still very much driven by humans, but the company also uses technology to assist in its work. It uses software to identify duplicate reports, a time-saving technique for reviewers that helps them avoid reviewing the same piece of content over and over because it was flagged by many people at once. Software also can identify the language of a post and some of the themes, helping the post get to the reviewer with the most expertise.

Bickert and Silver acknowledged that Facebook will continue to make errors in judgment. "The scale that

we operate at," said Silver, "even if we're at 99 percent accuracy, that's still a lot of mistakes." Reported in: *Washington Post*, April 24.

GOVERNMENT SPEECH Washington, DC

Why did a federal government website that provides information on women's health stop providing information about health issues affecting lesbian and bisexual women?

Multiple LGBT health resources were removed from WomensHealth.gov, a popular website maintained by the US Department of Health and Human Service's Office on Women's Health. Two new reports find that a webpage devoted to lesbian and bisexual health was removed between September and October 2017. Links to LGBT topics and other references were also removed during that time. The removals were tracked by the Sunlight Foundation's Web Integrity Project in reports shared with Politico.

HHS said the pages and links, some of which were first posted in 2012, were taken down as part of a routine update. "The outdated lesbian and bisexual health pages were removed and the health content was integrated into the relevant health topics pages across the website," an HHS spokesperson said.

However, the Sunlight Foundation determined that existing health topic pages do not appear to have been updated with new material, and the now-missing lesbian and bisexual health content was not integrated elsewhere. For instance, HHS removed a page that raises multiple LGBT-specific questions—such as "What are important health issues that lesbians and bisexual women should discuss with their health care professionals?"—that are not explicitly addressed elsewhere across the



website. “Bisexual and lesbian health” was also removed from the website’s listing of more than 100 different health care topics, which still includes other population-specific topics like “breastfeeding information for African-American communities.”

A lesbian and bisexual health fact sheet also was removed from its web address. Sunlight Foundation researchers say the fact sheet was quietly moved to a different location in the website’s archives and “placed on an island.” No links currently direct to it.

The office’s Twitter account, @womenshealth, which has nearly 1 million followers, also has not mentioned LGBT health issues since a post on November 11, 2016.

The Sunlight Foundation’s Andrew Bergman, who helped lead the study, said that the group has identified similar removals on other HHS webpages, but the changes at the women’s health website stand out. “We’ve seen nothing this targeted at one HHS site,” Bergman said. “The removal of lesbian and bisexual health materials in particular, without advance notice and in a targeted way, raise concerns that they’ve targeted information for vulnerable populations.”

HHS has faced questions about its broader approach to LGBT health. Politico in February reported on how the agency has taken steps to dismantle LGBT health initiatives, stripped LGBT-friendly language from documents, and reassigned the senior adviser dedicated to LGBT health.

WomensHealth.gov is among the health department’s most viewed websites. The website received about 700,000 visits over the past month, ahead of sites like Medicaid.gov and FoodSafety.gov.

The website is managed by Hager Sharp, a communications firm, which has been under contract since 2012.

But HHS, not the outside communications firm, determines the content. Hager Sharp referred questions to HHS.

The women’s health office also saw a personnel shake-up late last year. Suzanne Haynes, who had been a senior science adviser at HHS and the former president of the Lesbian Health Fund, oversaw the office’s LGBT health research. Haynes, who retired from HHS in December, declined comment. Reported in: Politico.com, March 21.

PRIVACY Washington, DC

Is any new US regulation of Facebook—or other companies that collect people’s personal data electronically—likely anytime soon, after Facebook CEO Mark Zuckerberg answered questions in Congress about his company’s mishandling of user privacy?

In one of the first bipartisan attempts at lawmaking following revelations about how Cambridge Analytics acquired data on millions of Facebook users, and Zuckerberg’s testimony that Facebook even collects data on non-users, Senators Amy Klobuchar (a Democrat from Minnesota) and John Kennedy (a Republican from Louisiana) proposed legislation to protect the privacy of users’ online data. Though a bill has not been drafted yet, the pair said on April 12 in a joint statement that their legislation would address seven key points:

- Give consumers the right to opt out and keep their information private by disabling data tracking and collection.
- Give users greater access to and control over their data.
- Require terms of service agreements to be written in “plain language.”
- Ensure users can see what

information about them has already been collected and shared.

- Mandate that users be notified of a breach of their information within 72 hours.
- Offer remedies for users when a breach occurs.
- Require online platforms to have a privacy program in place.

Yet analysis by the *New York Times* suggests that the current zest for new privacy laws is likely to stall as lawmakers wrestle with the technical complexities and constitutional vexations sure to emerge with any legislation to control content on the internet.

Senator John Cornyn of Texas, the No. 2 Republican in the Senate, said “I think there are a number of different ideas, but I don’t think anything has coalesced in terms of a consensus.”

Representative Frank Pallone Jr. of New Jersey, the ranking Democrat on the House committee responsible for internet regulation, warned voters not to expect much. “I hate to be such a pessimist, but I don’t believe the Republicans will end up doing anything,” he said. “I just don’t have any faith in their willingness to regulate to protect privacy in the context of Facebook.”

Beyond the typical political gridlock that has stymied action in Congress, technology and the companies that sell access to it are particularly protected. The Facebook hearings revealed a vast knowledge gap between Silicon Valley and the nation’s capital. Inaction does not reflect a lack of will so much as a failure of expertise.

“It’s the first time I’ve seen an issue where everybody seemed to be on the same sheet of music,” said Senator Lindsey Graham, Republican of South Carolina. If Congress does not follow through with new rules for



internet companies, “we’ll look like a bunch of idiots,” Graham added.

Avoiding that dunce cap will be difficult. Lawmakers will confront Silicon Valley’s powerful new lobbying establishment. Facebook, Google, Amazon, and Apple now hold the biggest corporate lobbying budgets in Washington and spent a combined \$49.7 million in 2017 on direct lobbying (which does not include their outside lobbying trade groups), up 24 percent from the previous year. They have hired top privacy experts into their lobbying troops to defeat privacy and other internet laws.

Facebook has said it would embrace some regulation, with Zuckerberg saying that rules for internet companies were “inevitable.” But he also indicated that it would have to be the “right” regulations, and he was not willing to commit on the spot to several ideas posed by lawmakers.

Nevertheless, the creation of any regulations in coming months is doubtful. Most lawmakers said in the hearings that they were concerned about privacy, and about foreign interference on social media during the 2016 election. But several Republicans also expressed anxiety over regulations that could slow the growth of Silicon Valley, a beacon for the American economy.

Senator Richard Blumenthal, Democrat of Connecticut, said another factor may delay legislation. “The question is timing,” according to Blumenthal, who pointed to the difficult midterm elections in November and the desire by many legislators to do as little as possible until then. “This session, everybody says, is over as far as serious legislating is concerned.”

Beyond the short term, the hearings may have laid the foundation for broader privacy regulations in coming years, analysts said. The most likely action to follow Zuckerberg’s grilling is the passage of a bill that requires financial disclosures of political advertising on social media, a law similar to broadcast television and radio political ad disclosures.

Narrow regulatory ideas could gain momentum to prevent online location tracking, strengthen privacy protections for children and teens, and require stronger disclosures for data breaches. But the government’s light hand on Silicon Valley will continue for some time even as the European Union prepares to enact comprehensive privacy rules that limit data collection and push companies to ask permission before sharing information about users.

Another obstacle to action is a disagreement on regulatory priorities.

For example, Senator Graham identified a grab bag of problems that he wanted addressed with Facebook, most of which are not being addressed by any current legislative proposals. He mentioned terrorism content, Facebook’s “monopoly,” and political bias as issues to regulate. Meanwhile, other lawmakers brought up data breaches, foreign interference, and censorship of internet personalities with pro-Trump or other political viewpoints.

The lack of technological knowledge was glaring. Senators and representatives are mostly lawyers or former business people, and many are just getting acquainted with social media, artificial intelligence, autonomous self-driving cars, drones, and other technologies that they are charged to oversee.

Brianna Wu, a former software designer who is running for the 8th House district in Massachusetts, watched Mr. Zuckerberg’s hearings and was struck by the basic lack of knowledge members had in how Facebook works. “Most people can understand why guns are a threat,” she said. “With technology, people don’t understand fundamentally what the threat is. That is a threat to democracy.” Reported in: *New York Times*, April 12; *The Verge*, April 12.