

Fifth Circuit Court of Appeals Affirms That Texas Book Rating System is Unconstitutional

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Fifth Circuit Finds Texas Book Rating Requirements Unconstitutional in Victory for Coalition of Booksellers, Authors, and Publishers

The Fifth Circuit Court of Appeals declared unconstitutional the Texas “[READER ACT](#)”. A three judge panel issued the ruling earlier this year, affirming a [preliminary injunction](#) granted by U.S. District Judge Alan D. Albright, and in April the full Court denied a request for en banc rehearing. The full ruling can be found [here](#). *Book People, Inc. v. Wong*, No. 23-50668, 2024 WL 175946 (5th Cir. Jan. 17, 2024).

Background

In 2023, the Texas Legislature enacted an unprecedented law requiring independent bookstores, national chain bookstores, large online book retailers, book publishers and other vendors to review and rate millions of books and other library materials – literally every book they had every sold to public schools that were still in “active use” -- as “sexually explicit,” “sexually relevant,” or “no rating,” and to do so according to vague labels dictated by the state without any process for judicial review. Books rated “sexually explicit” would be removed from public school libraries and banned from being sold to schools. Books rated “sexually relevant” would require parental consent for students to access them outside of the library. All ratings would be posted on the Texas Education Agency (“TEA”) website and would be reviewed by TEA to determine if they needed to be “corrected.” If a bookseller refused to initially rate or correct a rating, it would be prohibited from doing business with Texas public schools.

On the eve of its effective date, Judge Albright enjoined the rating system under the law, holding that it violated the First Amendment because it compels speech, is unconstitutionally vague, and is an impermissible prior restraint. *Book People, Inc. v. Wong*, No. 1:23-CV-00858-ADA, 2023 WL 6060045 (W.D. Tex. Sept. 18, 2023) (enjoining proposed Tex. Educ. Code §§ 33.021, 35.001-002, 35.0021, 35.003-008).

[Read the full article here.](#)