

To whom it may concern,

It was my intention to deliver oral testimony in opposition to HB0282 but it is not an option in the drop down menu. I will make every effort on my own platform to ensure my dissent on this matter is publicly available.

HB0282 is redundant and ought to be scrapped altogether. While I myself am in agreement that sexually explicit materials are not appropriate in schools, I will not validate or entertain the suggestion that such materials are present therein.

In the bill's summary sexually explicit materials is defined as materials *that contain graphic or obscene depictions of sexual activity that are not age-appropriate or used as part of the approved instructional materials for instruction on family life and human sexuality as part of a certain program; etc.*

To start, *graphic or obscene* is a subjective standard that is not universally applicable. It cannot be consistently enforced or measured. *Age-appropriate* is a determination made by a professional within the education system. To reassign this determination to the law would be to undermine educators.

While it is helpful to include a definition of sexually explicit materials in the bill's wording, this definition is redundant as there is **already a definition of obscenity** established by the U.S. Supreme Court in 1973 in the case *Miller v. California*. *The Miller Test* established criteria to determine if a work is obscene and therefore not protected under the first amendment, and thus may be banned by the government.

Works that fail The Miller Test and therefore may be legally censored:

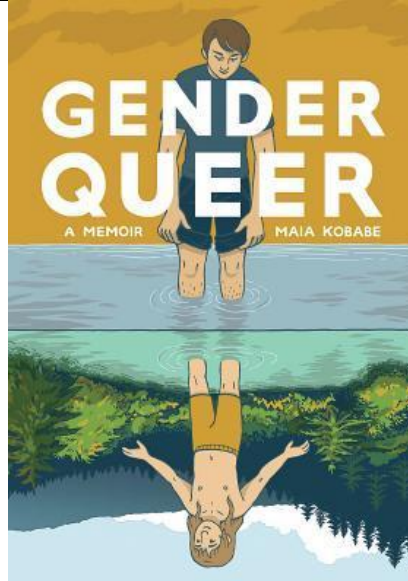
- **Appeal to prurient interest:** The work is meant for the purpose of sexual gratification or satisfaction.
- **Depict plainly offensive conduct:** The work depicts or describes sex or sexual conduct in a way that is offensive.
- **Lack other value:** The work lacks serious literary, artistic, political, or scientific value other than its appeal to prurient interest.

Let's play *Is it Porn?*

I will show some examples of contenders hoping to be porn. Then, the content will be evaluated by the classic Miller Test, and the new but promising Mangione Test. Let's see just how each work measures up *and how extreme of a change* it would be to adjust this decades-old standard. To fail The Miller Test a work must meet all three criteria, so the same rule will be applied to The Mangione Test.

Is it Porn?

Contender #1 *Genderqueer* by Maia Kobabe (book)



Miller Verdict: NOT PORN 😊		Mangione Verdict: PORN!!!	
N	Appeals to prurient interest Genderqueer is not meant to arouse the reader.	Y	Contains graphic or obscene depictions of sexual activity* There are depictions of sexual situations in the book.
Y	Depicts plainly offensive conduct There are depictions of sexual situations a person may find offensive.	Y	Is not age-appropriate* The book itself indicates it is intended for ages 16 and up. Since high school students may be young as 13, gotta be safe!
N	Lacks other value The value outside of the sexual content is a narrative memoir of the author.	Y	Not used as part of the approved instructional materials for instruction on family life and human sexuality This book is not used in any curriculum.

Contender #2 *50 Shades of Gray* (The Movie)




Miller Verdict: Probably porn...		Mangione Verdict: NOT PORN!!! :D	
Y	Appeals to prurient interest You the viewer, are meant to be aroused by 50 shades.	N	Contains graphic or obscene depictions of sexual activity* There are ZERO depictions of sexual activity in the 50 Shades movie. ZERO! There are some strong implications thereof, but Nino's criteria specify depictions of sexual activity. And there is simply none of that in the movie. By this standard, it does not need to be banned from schools!
Y	Depicts plainly offensive conduct Yeah duh.	Y	Is not age-appropriate* The movie is not suitable for individuals under the age of 18.
Y*	Lacks other value While it is argued there is a plot, it is equally valid that the appeal to prurient interest supersedes it.	Y	Not used as part of the approved instructional materials for instruction on family life and human sexuality 50 Shades is not should never be used for this oh my god...

Contender #3 *David* by Michaelangelo



Miller Verdict: Def not porn 😊		Mangione Verdict: PORN PORN PORN!!	
N	Appeals to prurient interest Nah. He is just standing there.	Y	Contains graphic or obscene depictions of sexual activity* My god. That is a pee-pee if I have ever seen a pee-pee. Incredible detail wow. And having a pee-pee out in public is a sexual activity soooo...
N	Depicts plainly offensive conduct He is just standing there....	Y	Is not age-appropriate* Nudity is NOT APPROPRIATE for kids!
N	Lacks other value The value other than the sexual content is that it is from the Bible Story, David and Goliath.	Y	Not used as part of the approved instructional materials for instruction on family life and human sexuality This is definitely part of the <u>art</u> curriculum so... no.

Contender #4 A Disrobed Barbie Doll

	
Miller Verdict: No of course not	Mangione Verdict: This doll is PORN!!
N Appeals to prurient interest How could it??	Y Contains graphic or obscene depictions of sexual activity* Those are GRAPHIC BOOBIES.
N Depicts plainly offensive conduct No, it definitely came with clothes.	Y Is not age-appropriate* BOOBIES are NOT age appropriate!
N Lacks other value It's a doll. That IS the value.	Y Not used as part of the approved instructional materials for instruction on family life and human sexuality Doubt it.

Maybe you've concluded some of my judgement's using my own application of Mangione's definitions to be unfair or biased, and you'd be correct. They are so subjective that that is how easy it is to justify something absurd, using his criteria as the guideline. The Miller test is concise and objective. There is no need to reinvent the wheel. Scrap this bill, and leave evaluating books to the librarians.

Thank you for your consideration,

Alexa Sciuto