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Pen American Center, Inc. v. Escambia County School District

United States Court of Appeals, Eleventh Circuit - October 19, 2026 - F.4th - 2026 WL 3120773

Parents, authors, free speech group, and publisher brought action against school board, alleging that board's removal of library books violated First Amendment.

After plaintiffs served board members with notices of depositions and subpoenas, the United States District Court for the Northern District of Florida, denied board members' motions to quash subpoenas and for protective orders based on legislative privilege. Board members appealed.

The Court of Appeals held that board members' votes to remove specific books from schools were administrative acts, not legislative acts subject to legislative privilege.

School board members' votes to remove specific books from schools were administrative acts, not legislative acts subject to legislative privilege, and thus were not protected from discovery in parents', authors', publisher's, and free speech group's action challenging board's removal of books under First Amendment; members' book removal votes did not involve normal legislative process of proposing, formulating, and passing legislation, they did not make new policies or amend existing policies, and although board's adoption of policies governing removal of books was legislative, application of those policies was the mere administrative application of policies to specific facts.

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