# UEN Comments to State Board of Education

# on Implementation of SF 496 and

# other 2023 Session Laws August 3, 2023

The 2023 Legislative Session enacted an unprecedented amount of education law. Schools are working hard to comply. Effective July 1, new laws are yet to be interpreted through your process, leaving schools in limbo.

This rulemaking has high stakes for students. Students find their passions, interests, joy of reading, how they relate to others, empathy, reason, knowledge of the world and even themselves in books and classrooms. If the State Board and Department do not provide clarity to assuage the fears of school staff, some students may not have this opportunity.

Iowa’s DE has historically provided guidance indicating expectations. There are indications that the Executive Branch wants to respect local control, also known as Home Rule, per Iowa Code [274.3](https://www.legis.iowa.gov/docs/code/274.3.pdf). This Code requires you to liberally construe the laws affecting schools to effectuate the purposes of local control.

This is a change for schools heavily directed by the State during the COVID pandemic. Until school leaders know local authority will be respected, they are concerned that the State is just waiting for them to make a mistake. They are turning to legal counsel, turning the focus to managing risk rather than focusing on students.

Here are some specifics to consider as we work collectively to implement new laws:

1. Quickly define the DE’s investigation process concerning compliance with “age-appropriate” curriculum and library books. Include a chance for local districts to remedy complaints before consequences are applied. Once rulemaking and penalty processes are defined, respect the time it takes to transparently implement local board policies giving community members time to weigh in before the heavy hand of state investigations intervenes.
2. Respect reasonable local board policies. For example, from the [*DMR*](https://www.desmoinesregister.com/story/news/education/2023/07/09/iowa-schools-still-waiting-for-guidance-on-new-ban-on-books-with-sex-department-of-education-lgbtq/70357682007/) *7.9.2023 “…*lawmakers who helped pass the bill, like Sen. Education Committee Chair Ken Rozenboom, R-Oskaloosa, say removing school books with sex acts is “*just not difficult*.” “*Let's not drag Shakespeare and the Bible into this discussion, because we all know that's not what we're dealing with*,” Rozenboom said. “*These are books — and the list is out there — that the schools know. … Books that have very explicit, sometimes perverse, pornographic descriptions.*” Local school boards should be encouraged to define “age-appropriate” to exclude explicit, sometimes perverse, pornographic descriptions or depictions of a sex act per IC 702.17, to remove some of the gray area and corresponding policy paralysis.
3. New Chapter 279.80 prohibits any program, curriculum, test, survey, questionnaire, promotion, or instruction relating to gender identity or sexual orientation to students in K-6. This must be reasonably and consistently applied. “Sexual orientation”, defined in Code 216.2, means “actual or perceived heterosexuality, homosexuality, or bisexuality.” If a book is excluded because it has a family with two moms, two dads, or even two male penguins, then every book with a mom and dad must also be excluded. Since that action would be absurd, a reasonable interpretation of this definition means curriculum and books should not be used to persuade students to change their gender identity or to encourage any of the sexual orientation iterations, and obviously, should not include any sexual acts.

We appreciate the opportunity for public comment and remain ready to help the State Board and staff as you set procedures and consider rules to implement these new laws.

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