

R277. Education, Administration.

R277-628. Sensitive Materials.

R277-628-1. Authority, Purpose, and Oversight Category.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-501(1)(c)(v), which requires the Board to establish rules and minimum standards for public schools including instructional materials; and

(c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to:

(a) provide the minimum standards for an LEA's instructional materials policies and accompanying procedures for instructional material selection and reconsideration;

(b) provide a process for statewide removal of objective sensitive materials; and

(c) provide a process for compliance and reporting.

(3) This rule is categorized as Category 4 as described in Rule R277-111.

R277-628-2. Definitions.

(1) "Instructional material" means the same as defined in Subsection 53G-10-103(1).

(2) "Objective sensitive materials" means the same as the term is defined in Subsection 53G-10-103(1).

(3) "School community parent" is a parent who has a student currently attending the school, or will have a student enrolled in the school within one year, where the challenged instructional material is being reviewed in accordance with Subsection 53G-10-103(4).

(4) "School setting" means the same as the term is defined in Subsection 53G-10-103(1).

(5) "Sensitive materials" means an instructional material that constitutes objective sensitive material or subjective sensitive material.

(6) "Subjective sensitive materials" means the same as the term is defined in Subsection 53G-10-103(1).

R277-628-3. Policy and Accompanying Procedures for School Instructional Material Selection and Reconsideration.

- (1) On or before September 1, 2024 each LEA shall:
- (a) establish a policy and accompanying procedures for the selection and reconsideration of instructional materials selected for a school that:
 - (i) is consistent with current state law, including Sections 53G-10-103, 53G-4-402 and 53G-5-404;
 - (ii) does not prevent an LEA from:
 - (A) revisiting a previous decision;
 - (B) reviewing a recommendation of LEA personnel or an LEA committee made up of school community parents regarding a challenged instructional material; or
 - (C) reconsidering a challenged instructional material if the LEA governing board receives additional information regarding the material;
 - (iii) prioritizes protecting children from the harmful effects of illicit pornography over other considerations in evaluating instructional materials;
 - (iv) designates two or more LEA employees responsible for making the initial objective sensitive material determination as described in Subsection 53G-10-103(4);
 - (v) provides a process for designating three or more members including at least one parent and may include the designees from the initial review, for the Objective Sensitive materials review using the objective sensitive material standards;
 - (vi) clarifies that those responsible for procurement of the materials or the individual who brought the challenge may not serve on the review committee; and
 - (vii) outlines a process for disposing of removed materials that requires:
 - (A) the physical removal of the material;
 - (B) communicating with vendors and publishers regarding the decision; and
 - (C) that sensitive materials removed from student access shall be legally disposed of and may not be sold or distributed;

(b) ensure each school within the LEA complies with the LEA's policy and accompanying procedures for the selection and reconsideration of instructional materials selected for a school as described in Subsection (1)(a);

(c) ensure the review of subjective instructional materials includes school community parents;

(d) shall provide an online platform for library materials consistent with Section 53G-4-402, and

(e) If an LEA requires an employee of the LEA to participate on a sensitive materials review committee requiring engagement outside of contract hours, the LEA shall compensate the employee for the employee's time participating on the committee.

(2) The Superintendent may provide a guidance document for use by an LEA in developing an LEA's policy and accompanying procedures described in Subsection (1).

R277-628-4. LEA Reporting and Compliance.

(1) For challenges before July 1, 2024 an LEA shall report to the Board a removal of the material based on the final objective sensitive material determination, of which the LEA has sufficient information to support the determination of whether the material previously removed meets the objective sensitive material criteria.

(2) An LEA shall do an initial review as described in Subsection 53G-10-103(4) and Subsection R277-628-3(1)(a)(iv) for any materials removed prior to July 1, 2024.

(3) After July 1, 2024, the LEA, through an appointed designee using the form provided by the Superintendent, shall report all challenges, final determinations, and rationale to the Superintendent:

(a) within 30 school days; or

(b) if an appeal is in process, at the conclusion of the appeal.

R277-628-5. State Board Compliance and Reporting Requirements.

(1) The Superintendent shall:

(a) compile LEA determinations for objective sensitive materials submitted before July 1, 2024;

(b) communicate to LEAs by August 5, 2024 objective sensitive materials meeting the statewide removal threshold of:

(i) at least three school districts; or

(ii) at least two school districts and five charter schools;

(c) after August 5, 2024, notify LEA's appointed designee and the Board within 10 school days after the statewide removal threshold has been met.

(d) compile an annual report as described in Subsection 53G-10-103(8)(c) of any sensitive materials challenges at the LEA and state level.

(2) Following the notification of an objective sensitive material statewide removal, a state board member may, within 30 days of notification, request that the material be placed on an agenda in full board meeting for a vote of the Board to overturn the application of the requirement according to the agenda process as outlined in Board by-laws.

(3) An individual described in Subsection 53G-10-103(3)(a) may report a violation of Section 53G-10-103 or this Rule R277-628 to the Board in accordance with the process described in Rule R277-123.

KEY: instructional materials, material selection, policy and procedures

Date of Last Change: August 7, 2024

Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53E-3-501(1)(c)(v); 53E-3-401(4)