

Provo City School District
Policy Series 4000: Curriculum, Instruction, Assessment



4022 P1

Review of Instructional Material for Sensitive Material

The Provo City School District is committed to providing instructional materials that are free of pornographic or indecent content, and prioritizing protecting children from the harmful effects of illicit pornography over other considerations in evaluating instructional material. Sensitive materials, as defined in this procedure, are prohibited in the school setting. District schools may not adopt, use, distribute, provide a student access to, or maintain in the school setting, sensitive materials; or permit a speaker or presenter in the school setting to display or distribute sensitive materials. This procedure defines terms, outlines who may trigger a formal sensitive materials review, and establishes a required process for the review and evaluation of sensitive materials allegations.

Definitions

Age appropriate: generally suitable for students of the same age or level of social, emotional, and cognitive development when taking into consideration the ages of all minors who could be exposed to the material.

Instructional material: learning material, regardless of format, used as or in place of textbooks to deliver curriculum within the state curriculum framework for courses of study by students; or to support a student's learning in any school setting; includes reading materials, handouts, videos, digital materials, websites, online applications, and live presentations, and does not mean exclusively library materials. Instructional material is learning material which is approved by the Board of Education for use in District schools, and does not include learning material used in a concurrent enrollment, advanced placement, or international baccalaureate program or class or another class with required instructional material that is not subject to selection by the Board of Education.

Instructional Material Review Committee: a committee formed at the district level, appointed as needed by the Directors of Teaching and Learning or the Superintendent's designee, and consisting of an administrator or administrators, educators, and at least two (2) parents. An administrator member of the committee shall serve as the committee chair. Parents appointed to an instructional material review committee shall be reflective of the members of the relevant school community and shall have a student who attends a district school. The instructional material review committee may not include an individual responsible for the procurement of the material being reviewed, and may not include an individual who requested the review.

Objective sensitive material: an instructional material that constitutes pornographic or indecent material, as that term is defined in Utah State Law, Section [76-10-1235](#), under the non-discretionary standards described in Subsection [76-10-1227\(1\)\(a\)\(i\), \(ii\), or \(iii\)](#), which includes any description of depiction of:

- human genitals in a state of sexual stimulation or arousal; or
- acts of human masturbation, sexual intercourse, or sodomy; or
- fondling or other erotic touching of human genitals or pubic region.

School setting: in a classroom; in a school library; or on school property. School setting includes the following activities that an organization or individual or organization outside a school conducts, if a public school or the district sponsors or requires the activity:

- an assembly;
- a guest lecture;
- a live presentation; or
- an event.

Sensitive material: an instructional material that constitutes objective sensitive material or subjective sensitive material. Sensitive material does not include:

- an instructional material that follows state Health Curriculum requirements;
- a concurrent enrollment course that contains sensitive material and for which a parent receives notice from the course provider of the material before enrollment of the parent's child and gives the parent's consent by enrolling the parent's child;
- for medical courses;
- family and consumer science courses; or
- another course exempted by the Utah State Board Rule.

Subjective sensitive material: an instructional material that constitutes pornographic or indecent material, as that term is defined in Utah State Law, Section [76-10-1235](#), under factor-balancing standards of material that is harmful to minors under Section [76-10-1201](#); material that is pornographic under Section [76-10-1203](#); or material that includes certain fondling or other erotic touching under Subsection [76-10-1227\(1\)\(a\)\(iv\)](#). Subjective sensitive material means instructional material that meets any of the following three-part test:

- Any description or representation, in whatsoever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse which, taken as a whole, appeals to the prurient interest in sex of minors, is patently offensive to the prevailing standards in the adult community as a whole with respect to what is suitable material for minors, and taken as a whole does not have serious value for minors (which includes only serious literary, artistic, political, or scientific value for minors);
- A material or performance which the average person, applying contemporary community standards, finds that, taken as a whole, appeals to prurient interest in sex, is patently offensive in the description of nudity, sexual conduct, sexual excitement, sadomasochistic abuse, or excretion, and does not have serious literary, artistic, political, or scientific value; or
- A description or depiction of fondling or other erotic touching of the human buttock or female breast, where the material as a whole does not have serious value for minors.

Requirements to Initiate a Review

The following individuals may initiate a sensitive material review:

- an employee of the district;
- a student who is enrolled in the district;
- a parent of a child who is enrolled in and attending a district school; or
- a current member of the district Board of Education.

After an individual has made three unsuccessful challenges (an instructional material is determined not to be sensitive material) in a given school year, the individual may not request sensitive material review for the remainder of that school year.

Procedures for Conducting a Review (See Sensitive Materials Flow Chart)

When an individual eligible to initiate a review believes an instructional material meets the definition of a “sensitive material,” they will contact the school’s principal or the District Director of Teaching and Learning to complete a [Review of Sensitive Materials Form](#). The completed form will be provided to the Directors of Teaching and Learning.

1. The Directors of Teaching and Learning shall make an initial determination whether the allegation presents a plausible claim that the challenged instructional material constitutes sensitive material, including whether the allegation includes excerpts and other evidence to support the allegation; and
 - a. If it is determined that the allegation presents a plausible claim that the challenged instructional material constitutes sensitive material, the Directors of Teaching and Learning will immediately initiate the removal of the challenged material from any school setting until the District completes the full review of the challenged material under this section.
2. If the initial review substantiates a plausible claim, the Directors of Teaching and Learning shall initiate a full review of the allegations and the challenged instructional material using the **objective sensitive material** standards. The Directors shall:
 - a. Designate an Objective Sensitive Material Review Team of three (3) members, including one parent, designate a team chairperson, and train team members on the current legal requirement for objective sensitive materials. The individuals designated may not include anyone responsible for procurement of the materials or the individual who requested the review;
 - b. Give the review team excerpts and other evidence to support the allegation submitted during the initial review; and
 - c. Allow the team to determine by majority vote of the review team members if the instructional material constitutes **objective sensitive material**.
3. If the Objective Sensitive Material Review Team determines that it is **objective sensitive material**, the Directors of Teaching and Learning shall ensure that the material is inaccessible to students in any school setting by following the response and removal guidelines included in these procedures.
4. Only if the Objective Sensitive Material Review Team makes a determination that the challenged instructional material does not constitute objective sensitive material, the Directors of Teaching and Learning shall establish a District Instructional Material Review Committee to review the material to determine whether it constitutes **subjective sensitive material**. During review by the Instructional Material Review Committee, the Directors of Teaching and Learning shall ensure that access to the challenged material shall be allowed to any student whose parent gives consent for the student to access the challenged material. Under the direction of an appointed district administrator as committee chairperson, the committee shall:

- a. Prior to engaging in any discussions with other committee members or participating in any decision-making, train team members on the current legal requirement for subjective sensitive materials and allow each committee member to read the item in its entirety (for written items) or review the item as a whole (for non-written items);
 - b. After the chairperson of the District Instructional Material Review Committee has confirmed that all members of the committee have reviewed the item in question, schedule such meetings as are necessary for the committee to discuss the item and make its determinations;
 - c. Meet together and review material and determine by majority vote of the committee members whether the instructional material constitutes **subjective sensitive material**, according to any of the three tests set out in the definition above; and
 - d. In making a determination, prioritize protecting children from the harmful effects of illicit pornography over other considerations.
5. If the District Instructional Material Committee makes a determination that the challenged instructional material constitutes **subjective sensitive material**, the Directors of Teaching and Learning shall ensure that the material is inaccessible to students in any school setting by following the response and removal guidelines included in these procedures.
6. If the committee determines that the item does not constitute subjective sensitive material, then under advisement of the superintendent or designee, the committee may proceed to other considerations:
- a. The committee may elect to evaluate whether the item should be removed from all use or restricted in use based on considerations of age-appropriate use.
 - i. In this evaluation, the committee shall use the definition of “age appropriate” in the above definition, in light of the prevailing standards in the adult community with regard to what is appropriate for children of that age.
 - b. The committee may also elect to reconsider the prior District approval of the item. In doing so, the committee shall consider the factors for initial approval of instructional material:
 - i. is consistent with the Utah core requirements;
 - ii. is mapped and aligned to the Utah core and state assessments (if planned for use as primary instructional materials);
 - iii. is high-quality, research-based, and proven to be effective in supporting student learning;
 - iv. provides an objective and balanced viewpoint on issues;
 - v. includes enrichment and extension possibilities;
 - vi. is appropriate to varying levels of learning;
 - vii. is accurate and factual;
 - viii. is arranged chronologically or systematically, or both;
 - ix. meets the requirements of Utah Code § 53E-2-204.1;
 - x. is not prohibited discriminatory practice as described in Utah Code § 53B-1-118;

- x. is consistent with the principles of individual freedom as defined in Utah Code § 53G-10-206; and
 - xii. is of acceptable technical quality.
- 7. After the Objective Sensitive Material Review Team or the District Instructional Material Committee has made its determinations, the designated team/committee chair shall prepare a written report which explains its findings and the grounds for its findings. A copy of the report shall be provided to the Directors of Teaching and Learning, and to the person who requested the review.
- 8. If the Objective Sensitive Material Review Team or the District Instructional Material Committee makes a determination that the challenged instructional material constitutes sensitive material, or upon notification to remove the sensitive instructional material as determined by the State School Board (see criteria below), the Directors of Teaching and Learning shall:
 - a. Report the determination of sensitive material to the Utah State Board of Education within thirty (30) days of completing the review, or conclusion of any appeal of the determination;
 - b. Communicate with vendors and publishers regarding the decision;
 - c. Confirm that a report of the outcome has been delivered to the submitter of the sensitive materials review request; and
 - d. Direct School Principals and the District Library Media Specialist to conduct a review of all circulation inventory and/or library collection software, and all instructional materials in school settings (classrooms, bookshelves, online collections, etc.) of the identified sensitive materials. Principal designated school personnel shall:
 - i. terminate any parent/guardian consent option for access to the material;
 - ii. In the case where materials have been distributed or check out, contact student's parents/guardians to request immediate return of the materials to the school;
 - iii. ensure that the material is removed and inaccessible to students in any school setting:
 - 1. For materials purchased using educator personal funds, administrators shall direct the owner to immediately remove the materials from the school setting and student access;
 - 2. In the case of materials purchased with school or district funds, follow the Surplus of District Property procedures (6215 P1).
 - a. Label novels, textbooks, or other printed material as "Sensitive Materials - Discard," and deliver or send by District Courier to the District Surplus Warehouse to be disposed/destroyed following the surplus of district property procedures; and
 - b. Sensitive materials shall not be offered for purchase or distributed to other entities;
 - iv. Remove identified electronic/digital material from the circulation inventory and/or library and school collection software;

- v. Report back with 10 (ten) school days to the Directors of Teaching and Learning of the completed review and removal of the identified sensitive materials; and
- vi. Assist students in selecting appropriate instructional materials for assignments prior to the onset of an assignment.
 1. Students are allowed to have books in their possession that they have purchased for personal use or borrowed from a public library, however, sensitive materials that have been removed from school settings would not be appropriate for school or class assignments.

Notification of Restricted Instructional Materials by State School Board

Regardless of whether sensitive material determinations occur in public schools in the same academic year; or a sensitive material determination occurred before July 1, 2024, the State Board will notify the District when:

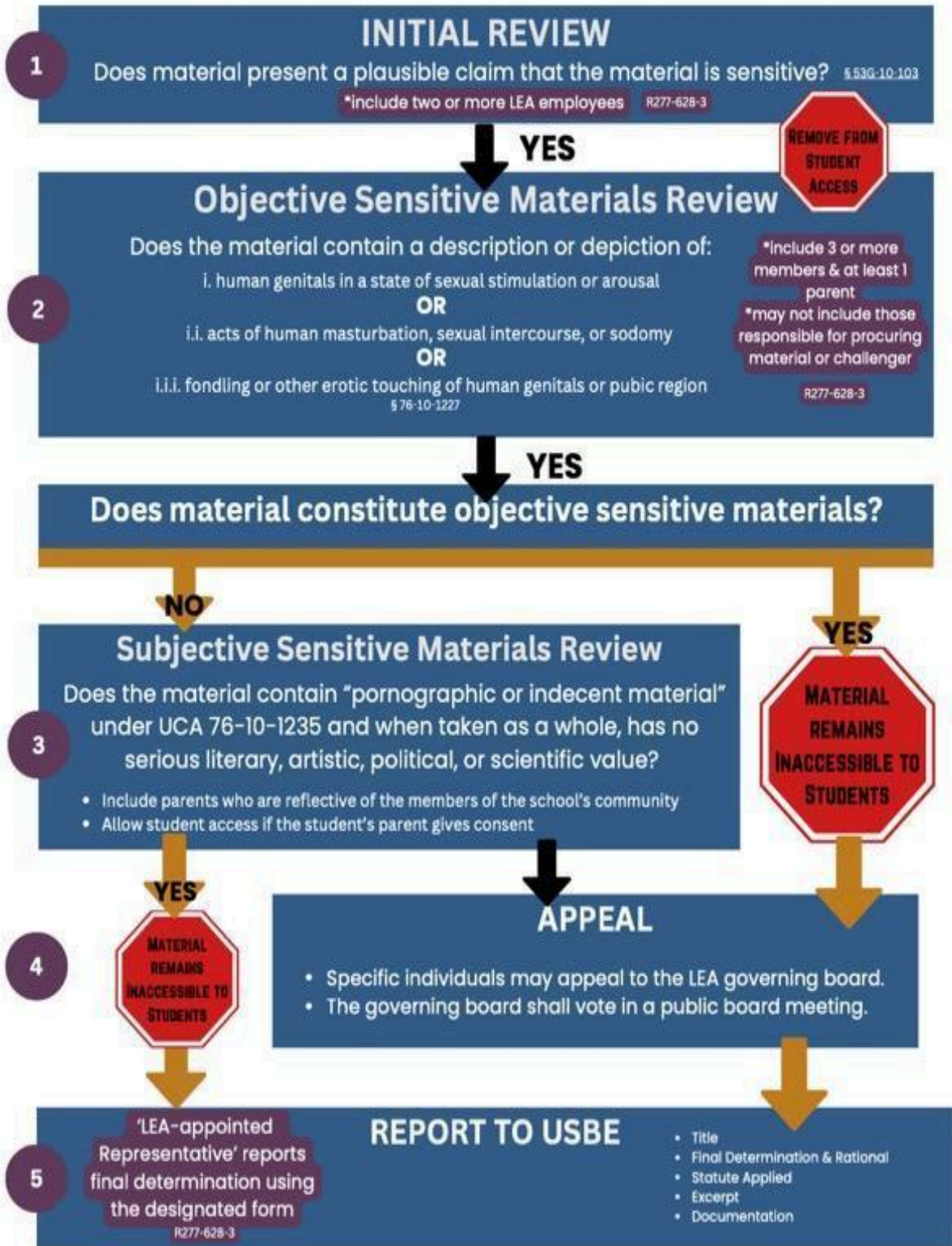
- The state threshold for removal of sensitive instructional materials has been met at least three school districts, or
- At least two school districts and five charter schools within the state make a determination that a given instructional material constitutes objective sensitive material.

Upon notification to remove the relevant instructional material, the district shall remove or disallow the instructional material from student access within ten (10) school days, following the guidelines outlined in these procedures.

If the State School Board decides to review the removal of a given material and votes to overturn the application of the statewide removal requirement, the statewide removal requirement no longer applies, the district may choose to return the given material to student access. This overturning or reversal does not affect the findings of the district regarding removal of the given material within the district's schools.



SENSITIVE MATERIALS FLOW CHART



Appeals of Sensitive Material Determination

Any individual who is eligible to request a review for sensitive material may appeal a determination to the Board of Education. An appeal can be made regarding an objective sensitive material determination or a subjective sensitive material and can be made whether the decision was to remove or retain the material. The appeal shall:

- be in writing;
- be submitted to the Board of Education within 30 days of the determination; and
- explain why the individual believes the determination was incorrect.

In considering the appeal, the Board of Education may make use of whatever information it finds appropriate, including the committee report. The Board of Education's decision on the appeal shall be made by vote in a public meeting. In making the decision, the Board of Education shall clearly identify the rationale for its decision and the determination on each component of the standards used in deciding the appeal (including the statutory standards and any additional policy standards the Board of Education may use).

The district shall report the results of the appeal to the Utah State Board of Education using the reporting tool provided by the State Board promptly following conclusion of the appeal.

District Policy Limitations

The Board of Education may not enact rules or policies that prevent the Board from:

- revisiting a previous decision;
- reviewing a recommendation of District personnel or a parent-related committee regarding a challenged instructional material; or
- reconsidering a challenged instructional material if the District Board of Education receives additional information regarding the material.

Compensation for Additional Time

If a District employee participating in a sensitive materials review is required to do so outside of contract hours, the district shall compensate the employee for the additional time spent participating in the review.