

1 **R277. Education, Administration.**

2 **R277-628. ~~[School Libraries]~~ Sensitive Materials.**

3 **R277-628-1. Authority, ~~and Purpose,~~ and Oversight Category.**

4 (1) This rule is authorized by:

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

7 (b) Subsection [53E-3-501\(1\)\(c\)\(v\)](#), which requires the Board to establish rules  
8 and minimum standards for public schools including ~~[school libraries]~~ [instructional](#)  
9 [materials](#); and

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

12 (2) The purpose of this rule is to:

13 (a) provide the minimum standards for an LEA's ~~[library]~~ [instructional materials](#)  
14 policies and accompanying procedures for ~~[library]~~ [instructional](#) material selection and  
15 reconsideration ~~to prioritize protecting children from the harmful effects of illicit~~  
16 ~~pornography over other considerations in evaluating instructional materials;~~

17 [\(b\) provide a process for statewide removal of objective sensitive materials; and](#)

18 [\(c\) provide a process for compliance and reporting.](#)

19 (3) This Rule R277-628 is categorized as Category 3 as described in Rule  
20 [R277111](#).

21

22 **R277-628-2. Definitions.**

23 (1) "~~[Library]~~ [Instructional](#) material" means ~~[any digital, including audio or visual~~  
24 ~~media, or physical text contained within a school library's collection]~~ [the same as](#)  
25 [defined in 53G-10-103\(1\).](#)

26 (2) "Objective sensitive materials" means the same as the term is defined in [53G-](#)  
27 [10-103\(1\).](#)

28 (3) “School community parent” is a parent who has a student currently attending  
29 the school where the challenged instructional material is being reviewed in accordance  
30 with Subsection 53G-10-103(4).

31 (4) “School setting” means the same as the term is defined in Subsection 53G-  
32 10-103(1).

33 (5) “Sensitive Materials” means an instructional material that constitutes objective  
34 sensitive material or subjective sensitive material.

35 (6) “Subjective sensitive materials” means the same as the term is defined in  
36 Subsection 53G-10-103(1)

37 ~~[(2) “School library” means the location, both physical and virtual, where library~~  
38 ~~materials are housed and administered by professional staff hired to oversee the~~  
39 ~~selection, maintenance, and access to school library materials.]~~

40

41 **R277-628-3. Policy and Accompanying Procedures for School **[Library]****  
42 **Instructional Material Selection and Reconsideration.**

43 (1) On or before September 1, 2022 2024 each LEA shall:

44 (a) establish a policy and accompanying procedures for the selection and  
45 reconsideration of ~~[library]~~ instructional materials selected for a school~~['s library]~~ that is;

46 (i) is consistent with current state ~~[and federal]~~ law, including Section 53G-10-  
47 103, 53G-4-402 and 53G-5-404; ~~and includes~~

48 (ii) does not prevent an LEA from:

49 (A) revisiting a previous decision;

50 (B) reviewing a recommendation of LEA personnel or an LEA committee  
51 made up of school community parents regarding a challenged instructional material;  
52 or

53 (C) reconsidering a challenged instructional material if the LEA governing  
54 board receives additional information regarding the material;

55 (iii) prioritizes protecting children from the harmful effects of illicit pornography  
56 over other considerations in evaluating instructional materials; and

57 ~~[(ii)]~~(iv) designates two or more LEA employees responsible for making the  
58 initial objective sensitive material determination as described in 53G-10-103(4); ~~and~~

59 (v) provides a process for designating three or more members including one  
60 parent and may include the designees from the initial review, for the Objective  
61 Sensitive materials review using the objective sensitive material standards, and

62 (vi) develop a policy related to conflict of interest in association with  
63 membership on a review committee – ex. Those responsible for procurement or the  
64 individual who brought the challenge

65 (v) outlines a process for disposing of removed materials that consider:

66 \_\_\_\_\_ (A) the physical removal of the material, and

67 \_\_\_\_\_ (B) communicating with vendors and publishers regarding the decision.

68 (C) sensitive materials removed from student access may not be sold or  
69 distributed to a minor.

70 (b) ensure each school within the LEA complies with the LEA's policy and  
71 accompanying procedures for the selection and reconsideration of ~~[library]~~  
72 instructional materials selected for a school~~['s library]~~ as described in Subsection  
73 (1)(a); and

74 (c) ensure the review of subjective instructional materials includes school  
75 community parents.

76 (d) shall provide an online platform for library materials consistent with 53G-4-  
77 402.

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

81

## 82 **R277-628-4. LEA Reporting and Compliance.**

83 (1) For challenges prior to July 1, 2024 an LEA shall report to the Board a  
84 removal of the material based on the final objective sensitive material determination, of

85 which the LEA has sufficient information to support the determination of whether the  
86 material previously removed meets the objective sensitive material criteria.

87 (2) Notwithstanding Subsection (1), an LEA need not reevaluate determinations  
88 made prior to July 1, 2024

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

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

94 (a) within 30 school days; or

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

96

### 97 **R277-628-5 State Board Compliance and Reporting Requirements**

98 (1) The Superintendent shall:

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

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

103 (i) at least three school districts; or

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

105 (c) after August 5, 2024, notify LEA's appointed designee and the Board within  
106 10 school days after the statewide removal threshold has been met.

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

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

114 ~~[(4)]~~ (3) An individual described in Subsection [53G-10-103](#)(3)(a) may report a  
115 violation of Section [53G-10-103](#) or this Rule R277-628 to the Board in accordance with  
116 the process described in Rule [R277-123](#).

117 ~~[(2) If the Board identifies a reported violation of this section, the Board shall  
118 provide an update to the Education Interim Committee as described in Section 53G-  
119 40103.]~~

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121

122 **KEY:** ~~[school library]~~ [instructional materials](#), material selection, policy and  
123 procedures

124 **Date of Last Change:** June 2, 2022

125 **Authorizing, and Implemented, or Interpreted Law:** [Art X Sec 3](#); [53E-3-](#)  
126 [501\(1\)\(c\)\(v\)](#); [53E-3-401\(4\)](#)