

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.

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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.]~~

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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; ~~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 a parent-related
51 committee regarding a challenged instructional material; or

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

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

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

58 (b) ensure each school within the LEA complies with the LEA's policy and
59 accompanying procedures for the selection and reconsideration of ~~[library]~~

60 instructional materials selected for a school~~['s library]~~ as described in Subsection
61 (1)(a); and

62 (c) ensure the review of subjective instructional materials includes school
63 community parents.

64 (2) The Superintendent shall provide a model policy for use by an LEA in
65 developing an LEA's policy and accompanying procedures described in Subsection (1).

66
67 **R277-628-4. LEA Reporting and Compliance.**

68 (1) For purposes of determining whether a material that was removed by an LEA
69 prior to July 1, 2024 meets the threshold described in Section 53G-10-103(7)(a), an LEA
70 shall report to the Board a removal of the material based on the objective sensitive
71 material determination if the LEA has sufficient information to support the determination

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

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

76 (4) After July 1, 2024, if an LEA determines that a challenged instructional
77 material constitutes objective sensitive material, the LEA, through an appointed
78 designee using the form provided by the superintendent, shall report the determination
79 and rationale to the Superintendent:

80 (a) within 30 school days; or

81 (b) if an appeal is in process, at the conclusion of an appeal that upholds the
82 challenged instructional material as objective sensitive materials.

83 (5) Materials that are removed by an LEA in violation of the sensitive material
84 law shall either be sent by the LEA to the state board library specialist or returned to the
85 publisher.

86

87 **R277-628-5 State Board Compliance and Reporting Requirements**

88 (1) The Superintendent shall:

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

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

93 (i) at least three school districts; or

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

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

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

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

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

106 ~~[(2) If the Board identifies a reported violation of this section, the Board shall~~
107 ~~provide an update to the Education Interim Committee as described in Section 53G-~~
108 ~~40103.]~~

111 **KEY:** ~~[school library]~~ instructional materials, material selection, policy and
112 procedures

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

114 **Authorizing, and Implemented, or Interpreted Law:** Art X Sec 3; 53E-3-
115 501(1)(c)(v); 53E-3-401(4)