

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.]~~

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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 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) outlines a process for disposing of removed materials that consider:
60 (A) the physical removal of the material, and
61 (B) communicating with vendors and publishers regarding the decision.

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

66 (c) ensure the review of subjective instructional materials includes school
67 community parents.

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

70

71 **R277-628-4. LEA Reporting and Compliance.**

72 (1) For challenges prior to July 1, 2024 an LEA shall report to the Board a
73 removal of the material based on the objective sensitive material determination, of which
74 the LEA has sufficient information to support the determination of whether a removed
75 material meets the threshold described in Section 53G-10-103(7)(a).

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

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

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

83 (a) within 30 school days; or

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

85

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

87 (1) The Superintendent shall:

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

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

92 (i) at least three school districts; or

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

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

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

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

103 ~~[(1)]~~ (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.]~~

109

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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)**