

DUCHESNE COUNTY SCHOOL DISTRICT LIBRARY MATERIALS POLICY

I. **Library Policy**

- A. Duchesne County School District libraries support and enhance student learning. DCSD values libraries, media centers, and library staff who select, maintain, and preserve rich repositories of balanced, relevant, age appropriate, and varied educational sources for students.
- B. Responsibility for the reading, listening and viewing of library media materials and accessing internet resources by children rests with parents/guardians, the library media specialist and school staff members. The parents/guardians are invited to consult with the library media specialist to find materials they feel are appropriate for their children. Legal guardians may request a record of their student's checkout history from library personnel.
- C. This policy specifies the process for identifying materials to be included or disqualified from use in libraries and schools based on Section 53G-10-103, *Sensitive Instructional Materials*, state and federal law, Board Rule R277-217, *Educator Standards and LEA Reporting*, or based on age appropriate content.

II. **Selection of Materials for Library Collection**

- A. The responsibility for final material selection rests with library personnel under direction of the governing board of DCSD using the following criteria:
 - 1. Overall purpose and educational significance;
 - 2. Legality; and consistency with section IV.E of this policy;
 - 3. Age and developmental appropriateness;
 - 4. Timeliness and/or permanence;
 - 5. Readability and accessibility for intended audience;
 - 6. Artistic quality and literary style;
 - 7. Reputation and significance of author, producer, and/or publisher;
 - 8. Variety of format with efforts to incorporate emerging technologies;
 - 9. Quality and value commensurate with cost and/or need;
- B. Electronic databases and other web-based searches and content will be filtered through the DCSD state-required internet filter. This policy does not cover outside material, companies, databases, etc that are not managed by DCSD.
- C. Gifts and donations will be reviewed following selection criteria and will be accepted or rejected using the same criteria.

III. **Library Collection Maintenance**

- A. Library materials will be maintained consistent with the criteria listed in II.A.2, state and federal laws, including Utah Code Ann. Section 53G-10-103.
- B. The school librarian or designated specialist will inventory the school library collection and equipment regularly.
 - 1. The inventory may be used to determine losses and remove damaged or worn materials to be considered for replacement.
 - 2. The inventory may also be used to deselect and remove materials that are inconsistent with the law, inconsistent with the criteria in II.A.2, or that are no longer relevant to the curriculum or of interest to students. Materials deselected due to their inconsistency with the law, will be communicated to all similar grade level schools in the district.

3. Identify gaps or deficits in the library's collection.

IV. Library Materials Review Process

- A. DCSD will ensure that each school within the district approves a least-restrictive, transparent process for a library materials review request to be made in physical or electronic formats.
- B. Requests for review may be discontinued if the request is due to a sensitive materials infraction claim and the school librarian or designated specialist determines the claim is founded based on section IV.E of this policy. The librarian will then deselect and remove the material as outlined in section III.B.2
- C. A library materials review request of a material may only be made by:
 1. a legal guardian of a student that attends the school;
 2. a student who attends the school; or
 3. an employee of the school.
- C. The requestor must have read the book or viewed the material before the review can go to the review committee.
- D. If challenges become unduly burdensome the district may limit the number of challenges an individual may make in the course of a school year.
- E. HB 374 (Section 53G-10-103) references three applicable definitions of "pornographic or indecent material." HB 374 creates a new legislative approach to identify "sensitive materials" in a school setting under Utah statute. Under HB 374, pornographic or indecent material means any material defined as harmful to minors in Section 76-10-1201, described as pornographic in Section 76-10-1203, or described in Section 76-10-1227. Under HB 374, if a school library book meets the definition of **any** of these three standards (1a, b, and c below) then the book should be removed from a school library. A library materials review may be based upon the concern that (1) the material is a sensitive material as defined in Section 53G-10-103, or (2) upon concerns with age-appropriateness of content.
 1. Concerns that the material is a sensitive material as defined in Section 53G-10-103
 - a) Utah Code Ann.§ 76-10-1201: "**Harmful to minors**" means that quality of any description or representation, in whatsoever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse when it:
 - (i) taken as a whole, appeals to the prurient interest in sex of minors; (ii) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; **and** (iii) taken as a whole, does not have serious value for minors.
 - b) Utah Code Ann.§ 76-10-1203: Any material or performance is **pornographic** if: (i) The average person, applying contemporary community standards, finds that, taken as a whole, it appeals to prurient interest in sex; (ii) It is patently offensive in the description or depiction of nudity, sexual conduct, sexual excitement, sadomasochistic abuse, or excretion; **and** (iii) Taken as a whole it does not have serious literary, artistic, political or scientific value.
 - c) Utah Code Ann.§ 76-10-1227: "**Description or depiction of illicit sex or sexual immorality**" means:
 - (1) (a)(i) human genitals in a state of sexual stimulation or arousal; (ii) acts of human masturbation, sexual intercourse, or sodomy; (iii) fondling or other erotic touching of human genitals or pubic region; **or** (iv) fondling or other erotic touching of the human buttock or female breast...

(2) (a) Subject to Subsection 2(c), this section and Section 76-10-1228 do not apply to any material which, when taken as a whole, has serious value for minors. (b) As used in Subsection (2)(a), "serious value" means having serious literary, artistic, political, or scientific value for minors, taking into consideration the ages of all minors who could be exposed to the material. (c) A description or depiction of illicit sex or sexual immorality as defined in Subsection (1)(a)(i), (ii), or (iii) has no serious value for minors. The review committee may consider assessing the materials "as a whole" when analyzing materials under UCA 76-10-1227. (as noted in Attorney General's June 2022 letter)

2. Concerns with age-appropriateness of content.

- F. The identity of the requestor will be protected and kept confidential from all individuals outside of the review process outlined in this policy, to the extent possible. Anonymous requests will not be considered.
- G. The district will ensure each school provides access to a Library Materials Review Request Form (See Appendix A).
- H. The requestor must provide all information requested on the form including the requestor's complaint or objection to the library material.
- I. The material that is subject to a review request due to a sensitive materials infraction claim will have restricted access by maintaining the material behind the circulation desk or requiring an access code for digital materials until the processes described in this policy are completed. Access is limited to students with prior legal guardian permission only.
- J. The material that is subject to a review request due to an age-appropriateness infraction claim will remain wholly accessible during the review process.
- K. The material's access level will be consistent in all schools within the district until a final determination is made regarding the material.
- L. Upon receipt of a request for review, the school administrator or designee will acknowledge the receipt of the request and review the request with the school librarian or designated specialist. If the request is found to fall within section IV.B of this policy, the request will be discontinued and section III.B.2 protocol will be followed. If the request is not found to fall within section IV.B of this policy, then the school administrator or designee will, create a case number for the review, and convene a Review Committee within a reasonable time according to the procedure outlined below:
 - 1. A Review Committee will include seven voting members and one facilitator who does not vote.
 - 2. Members of the committee will include:
 - a) a facilitator chosen by district administration (who does not vote);
 - b) one administrator or designee chosen by district administration;
 - c) one licensed teacher who is currently teaching English language arts or a subject relevant to the challenged material chosen by district administration;
 - d) one licensed teacher-librarian or school librarian chosen by district administration; and
 - e) Four legal guardians of current students from a variety of schools in the district who are current members of their school community council. Priority will be given to those who are the chair of their school community council.

- M. The Review Committee will determine the amount of time needed for an adequate review of a material to make a thorough and thoughtful decision and inform the requestor of the determined timeline with a preference for 30 school days where possible and no longer than 60 school days.
- N. The Review Committee may request that the DCSD board determine the maximum amount of time allowed for review and determination.
- O. Members of the Review Committee will receive materials to complete the review process, including the following:
1. access to the complete work that includes the material being challenged;
 2. a copy of the Materials Review Request form;
 3. a copy of this policy
 4. relevant information about the title compiled and shared by the library staff, including reason for initial approval of the material; and
 5. recorded public comment as described below in Subsection R.
- P. Prior to a decision of the Review Committee the district will provide an opportunity for public comment regarding the material at a governing board meeting.
- Q. The district will provide notice to the community about the opportunity to provide public comment and include the name of the material that is the subject of the materials review at least 48 hours prior to the scheduled meeting for public comment.
- R. The district will record all public comments, including written comments received, and make those comments available to the Review Committee within 48 hours of the public comment meeting.
- S. The Review Committee will schedule meetings as determined by the Review Committee and maintain minutes of each meeting.
- T. The notes from each meeting will be retained by the district and the school conducting the review along with all relevant documentation and the final determination.
- U. The Review Committee will determine whether the material constitutes sensitive material consistent with Section 53G-10-103, this policy, and the guidance letter provided by the Attorney General's Office dated June 1, 2022 and/or determine if the material is age-appropriate.
- V. In deciding whether the material constitutes sensitive material, the Committee must consider *all* elements of the definitions of pornographic or indecent materials as defined in section IV.E and Utah Code Sections 76-10-1235, 76-10-1201, 76-10-1203, and 76-10-1227. If a school library book meets the definition of **any** of these standards then the book should be removed from a school library.
1. Utah Code Ann. § 76-10-1201: "**Harmful to minors**" means that quality of any description or representation, in whatsoever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse when it:
 - (i) taken as a whole, appeals to the prurient interest in sex of minors; (ii) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and (iii) taken as a whole, does not have serious value for minors.
 2. Utah Code Ann. § 76-10-1203: Any material or performance is **pornographic** if: (i) The average person, applying contemporary community standards, finds that, taken as a whole, it appeals to prurient interest in sex; (ii) It is patently offensive in the description or depiction of nudity, sexual conduct, sexual excitement, sadomasochistic abuse, or excretion; and (iii) Taken as a whole it does not have serious literary, artistic, political or scientific value.
 3. Utah Code Ann. § 76-10-1227: "**Description or depiction of illicit sex or sexual immorality**" means:

- a) (i) human genitals in a state of sexual stimulation or arousal; (ii) acts of human masturbation, sexual intercourse, or sodomy; (iii) fondling or other erotic touching of human genitals or pubic region; or (iv) fondling or other erotic touching of the human buttock or female breast...

b) (i) Subject to Subsection 2(c), this section and Section 76-10-1228 do not apply to any material which, when taken as a whole, has serious value for minors. (ii) As used in Subsection (2)(a), "serious value" means having serious literary, artistic, political, or scientific value for minors, taking into consideration the ages of all minors who could be exposed to the material. (iii) A description or depiction of illicit sex or sexual immorality as defined in Subsection (1)(a)(i), (ii), or (iii) has no serious value for minors. The review committee may consider assessing the materials "as a whole" when analyzing materials under UCA 76-10-1227. (as noted in Attorney General's June 2022 letter)

- W. In deciding whether the material is age appropriate due to vulgarity, violence, or content, the Committee must consider the material taken as a whole and consider whether it has serious literary, artistic, political, or scientific value for minors, which may include the following objective criteria:
 - 1. reliable, expert reviews of the material or other objective sources;
 - 2. committee members' experience and background; and
 - 3. community standards.
- X. In deciding whether the material taken as a whole has serious literary, artistic political, or scientific value as described in Subsection W., the Committee should consider that:
 - 1. serious value does not mean *any value*; and
 - 2. greater protections should exist concerning content for a library in an elementary or middle school setting.
- Y. The Review Committee will make a final determination of a reviewed material by determining one of the following:
 - 1. **Retained**: the determination to maintain access in a school setting to the challenged material for all students.
 - 2. **Restricted**: the determination to restrict access in a school setting to the challenged material for certain students as determined by the Review Committee.
 - 3. **Removed**: the determination to prohibit access in a school setting to the challenged material for all students.
- Z. The decision of the Review Committee will be determined by majority vote. Specifically, at least four members of the committee must vote for the same choice (retained, restricted, removed).
- AA. The Review Committee will include in their final determination a recommendation as to which, if any, schools in DCSD may retain or restrict the book depending on the ages the school typically serves.
- BB. A material may not be reviewed again for three school years following the Review Committee's determination.
- CC. The final determination of the Review Committee will be communicated to the requestor and appropriate employees within 5 school days of the decision being made.
- DD. The district will maintain a list of all materials that receive a "removed" determination and make the list available to similar-age schools within the district.
- EE. Decisions of all challenged books will be communicated to similar-age schools within the district whether retained, restricted, or removed.

V. Appeals Process

- A. The original requestor or another individual who was not on the Review Committee may appeal the determination of the Review Committee in writing to the school principal or district superintendent within 15 business days of receipt of the Review Committee's final determination using an Appeal Request Form (See Appendix B).
- B. If an appeal is filed, the school board will act as the Appeals Committee.
 - 1. The school board (Appeal Committee) may add legal guardians or school administrator member(s) who did not participate in the initial Review Committee, only as necessary to have an odd number of members.
- C. If there is not an appeal of the Review Committee's recommendation, the Review Committee's recommendation is the final determination for the challenged material.
- D. The Appeals Committee will determine the amount of time needed for an adequate review, not longer than 60 school days and a preference for 30 school days, of a material required to make a thorough and thoughtful decision.
- E. Members of the Appeals Committee will receive materials to complete the review process, including the following:
 - 1. a copy of the material;
 - 2. a copy of the Materials Review Request form;
 - 3. all meeting minutes;
 - 4. the Review Committee's final recommendation;
 - 5. any other documents considered part of the administrative record related to the Review Committee's proceedings including all recorded public comments as described in Subsection IV.O. above.
- F. The Appeals Committee will schedule meetings as needed, as determined by the Appeals Committee and maintain minutes of each meeting.
- G. The notes from each meeting will be retained by the district, along with all relevant documentation and the final determination by the Appeals Committee.
- H. The Appeals Committee may make a final determination of a reviewed material as follows:
 - 1. **Retained:** the determination to maintain access in a school setting to the challenged material for all students;
 - 2. **Restricted:** the determination to restrict access in a school setting to the challenged material for certain students;
 - 3. **Removed:** the determination to prohibit access in a school setting to the challenged material for all students.
- I. The decision of the Appeals Committee will be determined by majority vote. Specifically, the majority of members of the committee must vote for the same choice (retained, restricted, removed). A primary vote may be needed to narrow it down to two options, followed by a final vote to determine a majority.
- J. The Appeals Committee will include in their final determination a recommendation as to which, if any, schools in DCSD may retain or restrict the book depending on the ages the school typically serves.
- K. A book/material may not be reviewed again for three school years if the Appeals Committee votes to uphold a Review Committee's determination.
- L. The final determination of the Appeals Committee will be communicated to the requestor and appropriate employees within 10 days of the determination.

- M. The district will maintain a list of the determinations by Appeals Committee and make the list available to all schools within the district or by public request.

VI. **Final Procedural Review (*Not Legally Binding until USBE amends R277-123*)**

- A. The requestor in V.A., may petition the USBE for a procedural review of the Appeals Committee's decision.
- B. The USBE will review the petition and determine if a procedural review is warranted, to determine whether the LEA correctly followed its library materials review policy referred to in Rule R277-628.
- C. That determination may include the USBE's decision to have the appeal considered initially by a USBE Committee or a panel of USBE members.
- D. If the USBE determines in USBE's procedural review that the LEA did not correctly follow its materials review policy, it will return the appeal to the LEA with direction to repeat its review process in compliance with its library materials review policy referred to in Rule R277-628.
- E. The USBE will make a final written appeal decision no more than 60 school days after the USBE's determination that the appeal satisfies the criteria for USBE review.
- F. This USBE review decision is final.

VII. **Communication**

- A. An easily accessible webpage on the public website for the district will be updated and available prior to the beginning of each school year to inform teachers, staff, students, and parents/legal guardians of the following:
 - 1. A Materials Review Request Form (See Appendix A);
 - 2. An Appeal Request Form (See Appendix B);
 - 3. This Library Policy.

LIBRARY MATERIALS REVIEW REQUEST FORM - DUCHESNE COUNTY SCHOOL DISTRICT

Title of the book/material:

Author:

Name of person requesting the review:

Telephone:

Address:

City:

Zip:

Email:

1) Name of the school where the book/material is housed:

2) What is your affiliation with the school?

3) Are you asking the committee to remove the book/material?

4) Have you personally read (or viewed) the entire book (or media)?

5) What concerns you about this book/material? *(Please provide examples, page numbers, links, or any other information to help in locating or identifying content of concern. Please attach additional pages as needed and any images or other corroborating evidence.)*

Signature: _____ Date: _____

** Please deliver this form to the school principal or the district office.*

To be completed by School Administration

1. Has this request been resolved as per section IV.L of the DCSD Library Materials Policy or does it need to move to a Review Committee?
2. Is the Requestor above making the request due to:
 - a) A claim of a sensitive materials infringement or
 - b) A claim of an age-appropriateness infringement

What brings you to this conclusion?

School Administrator's Signature: _____ **Date:** _____

APPEAL REQUEST FORM - DUCHESNE COUNTY SCHOOL DISTRICT

To appeal the decision of a previous library materials review

Title of the book/material:

Author:

Name of person appealing the previous decision:

Telephone:

Address:

City:

Zip:

Email:

1) Name of the school where the book/material is housed:

2) What is your affiliation with the school?

3) Please provide a written statement setting forth your rationale to appeal the School Committee's decision regarding the book/material (attach additional pages as needed).

Signature: _____ Date: _____

** Please deliver this form to the school principal or the district office.*