

Policy 8250 Sensitive Materials

I. PURPOSE AND PHILOSOPHY

Weber School District values the protection of its students from material that is harmful to the psychological and social development of minors. Pornographic and indecent material have been found to be harmful to minors and have no place in the school setting. As an educational institution, the school board encourages learning in all forms, but firmly believes that pornographic and indecent material ("sensitive material") is counter to the goals and purposes of education in general, and especially for minors. Weber School District supports every effort to address pornographic and indecent material in the school setting through this policy.

II. POLICY

It is the policy of Weber School District to ensure students are not exposed to sensitive material as defined in state law, namely, pornographic or indecent material. The District prohibits sensitive material in the school setting, which includes a classroom, in a school library, or on school property. Sensitive materials will not be part of teacher-selected learning material, library/media center materials, or any other assembly, presentation, or guest lecture, or event. Weber School District will follow the established procedures to remove sensitive material from schools while protecting students' First Amendment rights. Teachers are to exercise caution and awareness when selecting learning materials for instructional purposes and any Weber School District employee responsible for selecting learning materials for school is expected to comply with this policy and state and federal law.

III. DEFINITIONS

A. "Sensitive Materials" means material that constitutes objective sensitive material or subjective sensitive material. pornographic or indecent material as defined in U.C.A. §§76-10-1235, 76-10-1201, 76-10-1203, and 76-10-1227.

1. "Objective sensitive material" means any learning material that constitutes pornographic or indecent material, as the term defined in Utah Code Section 76-10-1235, under the non-discretionary standards described in Utah Code Subsection 76-10-1227(1)(a)(i), (ii), or (iii).
2. "Subjective sensitive material" means learning material that constitutes pornographic or indecent material, as the term defined in UCA 76-10-1235, under the following factor-balancing standards:
 - i. material that is harmful to minors under UCA 76-10-1201;

- ii. material that is pornographic under UCA 76-10-1203; or
 - iii. material that includes certain fondling or other erotic touching under subsection 76-10-1227(1)(a)(iv).
- 3. "Sensitive material" does not include an instructional material:
 - i. selected for the Human Sexuality curriculum;
 - ii. for 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 student and gives the parent's consent by enrolling the student;
 - iii. for medical courses;
 - iv. for family and consumer science courses;
 - v. for another course the Utah State Board of Education ("USBE") exempts in USBE rule.
- B. "Learning materials" means any learning material or resource used to deliver or support a student's learning in any school setting, including textbooks, reading materials, videos, digital materials, websites, and other online applications and live presentations.
- C. "Instructional Material" means learning material that the Weber School District Board of Education adopts and approves for use within the Weber School District. Instructional Materials are the resources used by educators to promote student learning and may include digital and/or print resources.
- D. "School setting" means in a classroom, in a school library, on school property, and including the following activities that an organization or individual or organization outside of a public school conducts, if Weber School District sponsors or requires the activity:
 - i. an assembly;
 - ii. a guest lecture;
 - iii. a live presentation; or
 - iv. an event.
- E. "Sensitive Materials Review Committee" means the committee designated by the Weber School District Board of Education to review and make recommendations regarding sensitive materials reviews. The Sensitive Materials Committee is comprised of the following individuals:
 - 1. The Director of Digital Teaching and Learning

2. The Director of Curriculum
3. The District's legal counsel
4. The Director of Educational Access and Student Support
5. Director of Compliance
6. Parents reflective of the members of the school community

F. "Sensitive Materials Review" means a review of learning materials that have been challenged as being sensitive material and for which an individual has initiated a request for review of the material to determine whether the material constitutes sensitive material and therefore, subject to removal from Weber School District learning materials.

G. "Unsuccessful challenge" means an allegation that a given instructional material constitutes sensitive material that the LEA concludes to be erroneous, either on direct review or on appeal to the LEA governing board, resulting in the retention of the given instructional material.

H. "Executive Subcommittee of the Sensitive Materials Review Committee" means the Director of Digital Teaching and Learning and the District's legal counsel.

IV. PROHIBITIONS

A. Sensitive materials are prohibited in the school setting.

B. Weber School District employees may not:

1. adopt, use, distribute, provide a student access to, or maintain in the school setting, sensitive materials; or
2. permit a speaker or presenter in the school setting to display or distribute sensitive materials.

C. If a learning material constitutes objective sensitive material:

1. Weber School District is not required to engage in a review under a subjective sensitive material standard; and
2. the outcome of a subjective sensitive material evaluation has no bearing on the non-discretionary objective sensitive material conclusion.

V. SENSITIVE MATERIALS REVIEW PROCESS

A. The following process will be followed to initiate a sensitive materials review:

1. A student or employee of Weber School District, a parent of a child enrolled in Weber School District, or a member of Weber School District Board may initiate a sensitive materials review by submitting a Sensitive Review Challenge.

2. After an individual makes three unsuccessful challenges during a given academic year, the individual may not trigger a sensitive material review under this section during the remainder of the given academic year.
- B. When a Request for Sensitive Material Review Challenge (“Request”) is submitted to an administrator, the administrator shall forward the Request to the Executive Subcommittee of the Sensitive Materials Review Committee (“Executive Subcommittee”).
- C. The Executive Subcommittee will engage in a review of the challenged material as follows:
1. The Executive Subcommittee will first review the Sensitive Material Review Request to determine if the allegation presents a plausible claim that the challenged material constitutes sensitive material.
 2. If the Executive Subcommittee determines that the allegation does present a plausible claim, the Executive Subcommittee will work with the Director of Curriculum and with administrators to immediately remove the challenged material from any school setting that provides student access to the challenged material until the Sensitive Materials Review Committee's full review of the challenged material under this section.
 3. If the Executive Subcommittee determines that the challenge presents a plausible claim, then the Executive Subcommittee will apply the objective sensitive material standard to determine whether the challenged material constitutes objective sensitive material.
 4. If the determination by the Executive Subcommittee is that the material constitutes objective sensitive material, the Executive Subcommittee will work with the Director of Curriculum and administrators to ensure that the material is removed from Weber School District property and is inaccessible in any school setting.
 5. If the determination by the Executive Subcommittee is that the challenged material does NOT constitute objective sensitive material, then the Executive Subcommittee will refer the material for a full review by the Sensitive Materials Review Committee.
- D. Once the Executive Subcommittee has completed an initial review of the challenged material, the Sensitive Materials Review Committee will be convened for a full review of the challenged material as subjective sensitive material.

1. The parent representatives on the Sensitive Material Review Committee will be comprised of:
 - a) one parent from the school's community council;
 - b) one parent from the school's PTA/PTO; and
 - c) two parents selected at random from a list of parents of students enrolled in the district. If a parent declines to participate on the reconsideration committee, another parent will be selected randomly.

2. The Sensitive Materials Review Committee will:
 - a) review the challenged work in its entirety and convene within 30 days of receiving the challenge;
 - b) analyze the challenged material under the definition of "pornographic or indecent material as that term is defined in §76-10-1235, and its internal references to material that is harmful to minors under §76-10-1201; material that is pornographic under §76-10-1203; and material that includes certain fondling or other erotic touching under §76-10-1227(1)(a)(iv);
 - c) determine whether the material, taken as a whole, has serious literary, artistic, political, or scientific value; and
 - d) consider first Amendment implications of removing the challenged material from the school setting.

3. Students may only access material being reviewed by the full Sensitive Materials Review Committee with parent permission.

4. The Sensitive Materials Review Committee will issue a written determination regarding whether the material constitutes subjective sensitive material and the rationale for that determination.

5. If the Sensitive Materials Review Committee determines that the challenged material is subjective sensitive material, the Director of Curriculum and building administrators will ensure that the material is inaccessible to students in any school setting. If the Sensitive Materials Review Committee determines that the challenged material is NOT subjective sensitive material, the material will be retained.

6. The Executive Subcommittee will notify the Utah State School Board of the challenge and the district's final determination.

E. Appeals

1. An individual may appeal the district's decision regarding a sensitive material review, regardless of whether the district removed or retained the challenged instructional material, to the

Weber School District Board of Education by submitting a written request to the Board within 5 business days of receipt of the final written determination by the Sensitive Materials Review Committee.

2. The Board may designate an Appeal Committee to review the appeal and prepare a recommended course of action for the Board.
3. The Appeal Committee, if designated by the Board, will review the material within 30 business days and present their recommendation to the Board in a study session, an open public board meeting.
4. The recommendation will include:
 - a) rationale and
 - b) determination on each component of the statute and any additional policy standards the board uses to reach the board's conclusions.
5. The Board shall vote during the general public board meeting to adopt the recommendation or not to adopt the recommendation and rationale of the Appeal Committee.

VI. SENSITIVE MATERIALS MISCELLANEOUS PROVISIONS

- A. Nothing in this policy prevents the Board from:
 1. revisiting a previous decision;
 2. reviewing a recommendation from the Sensitive Materials Review Committee or Executive Subcommittee even absent an appeal
 3. reconsidering challenged material if the Board receives additional information regarding the material.
- B. The Board shall direct removal of material from the school setting, even absence a challenge in Weber School District, if:
 1. at least three school districts or at least two school districts and five charter schools make a determination that the material is objective sensitive material and
 2. the Utah State Board of Education has communicated to Weber School District that all LEAs are to remove the material from student access.