

## **13.16 SENSITIVE MATERIALS POLICY**

### **Evaluation and Revision of Approved Curriculum and Instructional Materials**

The Board of Vanguard Academy has the responsibility to provide high quality, viable and appropriate curriculum and instructional materials that address the needs of all students. The board recognizes its responsibility to evaluate, develop and update approved curriculum and instructional materials on a continuing basis and in accordance with policies and procedures, and in alignment with state laws and State Board of Education regulations.

Instructional material means a material, regardless of format, used as or in place of textbooks to deliver curriculum within the state curriculum framework for courses of study by students; or to support a student's learning in any school setting. Instructional material includes reading materials, handouts, videos, digital materials, websites, online applications, and live presentations.

The Director will establish procedures for curriculum and instructional materials review that provide for involvement of community representatives and staff members at appropriate times. Procedures will also provide for the annual review of selected areas on a cyclical basis and for implementing necessary changes that come from the curriculum study, as well as guidelines for reviews of allegations of inappropriate or sensitive materials.

Instructional materials may be removed from collections at any time that they no longer meet the criteria for initial selection. Ordinary procedures for withdrawal of materials are outlined in these procedures. In general:

- At the time of adoption by the Board, curriculum and instructional materials will be added to the "Approved for Use" list, and will regularly review on a cyclical rotation these approved curriculum and instructional materials.
- Members of the community, including students, parents of enrolled students, employees, and elected members of the Board are invited to review any instructional materials in current use or proposed for purchase.
- When an approved curriculum or an instructional material is challenged, the Curriculum Department will initiate a timely review of the complaint.
- Instructional materials identified as obsolete, ineffective, or sensitive based on criteria outlined in these procedures will be removed from school collections by the Curriculum Director.
- When newly adopted basic materials have been purchased for the school, and thus superseding those materials which had been previously adopted, the former adoptions will be removed from the "Approved for Use" list.

- Materials that have been removed from the "Approved for Use" list should be regarded as surplus property and disposed of by the appropriate administrator using the approved vendor in accordance with school and state procedures.

**Legal References:**

<b>Utah Code 53E-4-202</b>	<b>Core Standards for Utah Public Schools</b>
<b>Utah Code 53G-10-103</b>	<b>Sensitive instructional materials</b>
<b>Utah Codes 76-10-201, et.seq.</b>	<b>Legal definition of pornography or indecent material</b>
<b>USBE Admin Rule R277-123-1</b>	<b>Rule for process for public reporting of violations</b>
<b>USBE Admin Rule R277-628-1</b>	<b>Rule for management of school libraries</b>

## Review of Instructional Material for Sensitive Material

Vanguard Academy is committed to providing instructional materials that are free of pornographic or indecent content, and prioritizing protecting children from the harmful effects of illicit pornography over other considerations in evaluating instructional material. Sensitive materials, as defined in this procedure, are prohibited in the school setting. This procedure defines terms, outlines who may trigger a formal sensitive materials review, and establishes a required process for the review and evaluation of sensitive materials allegations.

### Definitions

**Instructional material:** a material, regardless of format, used as or in place of textbooks to deliver curriculum within the state curriculum framework for courses of study by students; or to support a student's learning in any school setting. Instructional material includes reading materials, handouts, videos, digital materials, websites, online applications, and live presentations, and does not mean exclusively library materials.

**Objective sensitive material:** an instructional material that constitutes pornographic or indecent material, as that term is defined in Utah State Law, Section [76-10-1235](#), under the nondiscretionary standards described in Subsection [76-10-1227\(1\)\(a\)\(i\), \(ii\), or \(iii\)](#).

**School setting:** in a classroom; in a school library; or on school property. School setting includes the following activities that an organization or individual or organization outside a school conducts, if a public school sponsors or requires the activity:

- an assembly;
- a guest lecture;
- a live presentation; or
- an event.

**Sensitive material:** an instructional material that constitutes objective sensitive material or subjective sensitive material. Sensitive material does not include:

- an instructional material that follows state Health Curriculum requirements;
- a 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 parent's child and gives the parent's consent by enrolling the parent's child;
- for medical courses;
- family and consumer science courses; or
- another course the state board exempts in state board rule.

**Subjective sensitive material:** an instructional material that constitutes pornographic or indecent material, as that term is defined in Utah State Law, Section [76-10-1235](#), under the following factor-balancing standards:

- material that is harmful to minors under Section [76-10-1201](#);
- material that is pornographic under Section [76-10-1203](#); or
- material that includes certain fondling or other erotic touching under Subsection [76-101227\(1\)\(a\)\(iv\)](#).

### **Requirements and Procedures**

Teachers may not adopt, use, distribute, provide a student access to, or maintain in the school setting, sensitive materials; or permit a speaker or presenter in the school setting to display or distribute sensitive materials.

If an individual eligible to initiate a review believes an instructional material meets the definition of a “sensitive material,” they will contact the school’s director or curriculum director to complete a **Review of Sensitive Materials Form**. The completed form will be provided to the Director of Teaching and Learning.

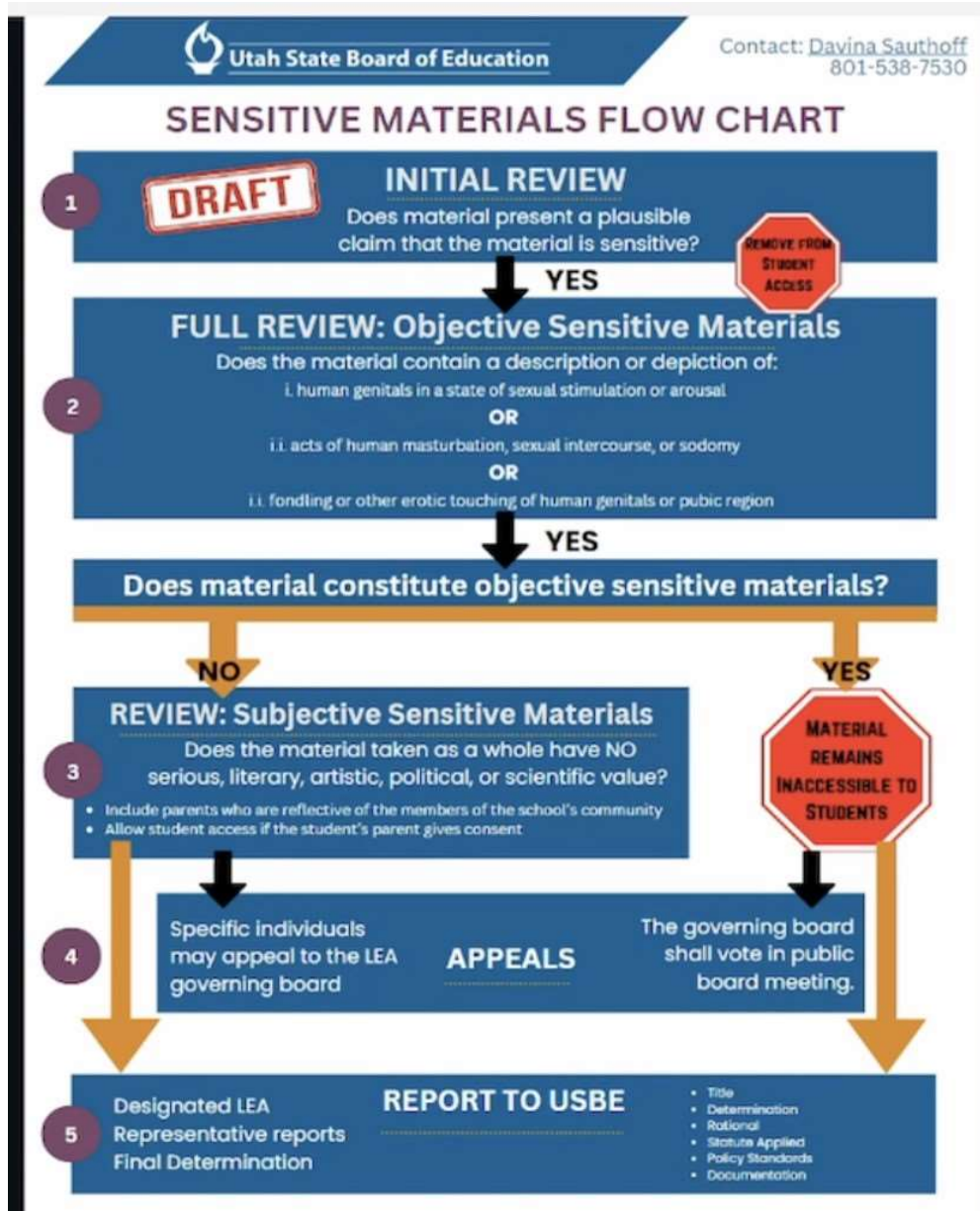
The following individuals may initiate a sensitive material review:

- an employee of the school;
- a student who is enrolled in the school;
- a parent of a child who is enrolled in the school; or
- a current member of the Board

Upon receipt of an allegation from an individual qualified to initiate a review (see Sensitive Materials Flow Chart), the Curriculum Director shall:

1. Make an initial determination whether the allegation presents a plausible claim that the challenged instructional material constitutes sensitive material, including whether the allegation includes excerpts and other evidence to support the allegation; and
  - a. If the LEA determines that the allegation presents a plausible claim that the challenged instructional material constitutes sensitive material, immediately remove the challenged material from any school setting that provides student access to the challenged material until the LEA completes the full review of the challenged material under this section;
2. Engage in a review of the allegations and the challenged instructional material using the objective sensitive material standards; and
  - a. If the LEA makes a determination that the challenged instructional material constitutes objective sensitive material, ensure that the material remains inaccessible to students in any school setting;

- b. If an instructional material constitutes objective sensitive material, the LEA is not required to engage in a review under a subjective sensitive material standard; and the outcome of a subjective sensitive material evaluation has no bearing on the non-discretionary objective sensitive material conclusion.
  3. Only if the LEA makes a determination that the challenged instructional material does not constitute objective sensitive material:
    - a. Review the allegations and the challenged instructional material under the subjective sensitive material standards, ensuring that the review includes parents who are reflective of the members of the school's community when determining if an instructional material is subjective sensitive material;
    - b. Allow student access to the challenged instructional material during the school's subjective sensitive material review if the student's parent gives consent regarding the specific challenged instructional material; and
    - c. If the LEA makes a determination that the challenged instructional material constitutes subjective sensitive material, ensure that the material is inaccessible to students in any school setting, including the termination of the parent consent option; and
  4. Communicate to the State Board the allegation and the LEA's final determination regarding the allegation and the challenged instructional material.



### Review Limitations and Appeals

After an individual makes three (3) 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.

An individual eligible to initiate a sensitive material review may appeal a school's decision regarding a sensitive material review, regardless of whether the LEA removed or retained the challenged instructional material, to the Board.

The Board shall vote in a public board meeting to decide the outcome of a sensitive material review appeal, clearly identifying the board's rationale for the decision; and the board's determination on each component of the statutory and any additional policy standards the board uses to reach the board's conclusions.

The Board may not enact rules or policies that prevent the Board from:

- revisiting a previous decision;
- reviewing a recommendation of school personnel or a parent-related committee regarding a challenged instructional material; or
- reconsidering a challenged instructional material if the Board receives additional information regarding the material.

#### **Notification by State School Board**

Regardless of whether sensitive material determinations occur in public schools in the same academic year; or a sensitive material determination occurred before July 1, 2024, the Utah State

Board of Education (USBE) will notify the school when

- The state threshold for removal of sensitive instructional materials has been met at least three school districts, or
- At least two school districts and five charter schools within the state make a determination that a given instructional material constitutes objective sensitive material.

Upon notification from USBE to remove the relevant instructional material, the school shall remove or disallow the instructional material from student access within five (5) school days

If the State School Board decides to review the removal of a given material and votes to overturn the application of the statewide removal requirement, the statewide removal requirement no longer applies, the school may choose to return the given material to student access. This overturning or reversal does not affect the findings of the school regarding removal of the given material within the school.