

<p><b>DESCRIPTOR TERM:</b></p> <p><b>Instructional Program</b></p>	<p><b>Millard District Policy</b>  <b>File Code: 5180</b></p> <p><b>Approved: 09-08-22</b></p>
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## **Evaluation and Selection of Instructional Materials**

### **A. Definitions—**

The following definitions apply in this policy:

1. “Instructional material” means information, regardless of format, which is used either (a) as or in place of textbooks to deliver instruction to students within the state curriculum framework or (b) to support a student’s learning in the school setting. It may include reading materials, handouts, videos, digital materials, websites, online applications, and live presentations.

[\*Utah Code § 53G-10-103\(1\)\(a\) \(2022\)\*](#)

2. “School setting” means on school property (including but not limited to classrooms or a school library) or (regardless of location) an activity sponsored by the District or a school but which is conducted by an organization which is not part of the District. Such activities can include but are not limited to an assembly, a guest lecture, a live presentation, or another event.

[\*Utah Code § 53G-10-103\(1\)\(f\) \(2022\)\*](#)

3. “Sensitive material” means instructional material that is pornographic or indecent (as defined in this policy) but excludes instructional materials selected (a) following the procedures outlined in Policy 5170, (b) for medical courses, (c) for family and consumer sciences courses, or (d) for other courses identified by State Board of Education Rule.

[\*Utah Code § 53G-10-103\(1\)\(g\) \(2022\)\*](#)

4. “Pornographic or indecent” means material that meets any of the following:
  - a. Any description or representation, in whatsoever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse which, taken as a whole, appeals to the prurient interest in sex of minors, is patently offensive to the prevailing standards in the adult community as a whole with respect to what is suitable material for minors, and taken as a whole does not have serious value for minors (which includes only serious literary, artistic, political, or scientific value for minors);
  - b. A material or performance which the average person, applying contemporary community standards, finds that, taken as a whole,

appeals to prurient interest in sex, is patently offensive in the description of nudity, sexual conduct, sexual excitement, sadomasochistic abuse, or excretion, and does not have serious literary, artistic, political, or scientific value;

- c. A description or depiction of: human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse, or sodomy; fondling or other erotic touching of human genitals or pubic region; or fondling or other erotic touching of the human buttock or female breast; or
- d. A description or depiction of a nude or partially denuded figure, which means human male genitals in a discernibly turgid state (even if completely or opaquely covered) or less than completely and opaquely covered human genitals, pubic region, buttock, or female breast below a point immediately above the top of the areola, where the material containing the nudity, taken as a whole, does not have serious literary, artistic, political, or scientific value for minors, taking into consideration the ages of all minors who could be exposed to the material.

[Utah Code § 53G-10-103\(1\)\(g\)\(i\) \(2022\)](#)

[Utah Code § 76-10-1235\(1\)\(a\) \(2007\)](#)

[Utah Code § 76-10-1201\(5\) \(2013\)](#)

[Utah Code § 76-10-1203 \(1977\)](#)

[Utah Code § 76-10-1227 \(2007\)](#)

- 5. “Nudity” means the showing of the human male or female genitals, pubic area, or buttocks, with less than an opaque covering, or the showing of the female breast with less than an opaque covering, or any portion of the female breast below the top of the areola; or the depiction of covered male genitals in a discernibly turgid state.

[Utah Code § 76-10-1201\(10\) \(2013\)](#)

- 6. “Sexual conduct” means acts of masturbation, sexual intercourse, or any touching of a person’s clothed or unclothed genitals, pubic area, buttocks, or, if the person is a female, breast, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent or actual sexual stimulation or gratification.

[Utah Code § 76-10-1201\(14\) \(2013\)](#)

- 7. “Sexual excitement” means a condition of the human male or female genitals when in a state of sexual stimulation or arousal, or the sensual experiences of humans engaging in or witnessing sexual conduct or activity.

[Utah Code § 76-10-1201\(15\) \(2013\)](#)

8. “Sadomasochistic abuse” means flagellation or torture by or upon a person who is nude or clad in undergarments, a mask, or in a revealing or bizarre costume or the condition of being fettered, bound, or otherwise physically restrained on the part of a person clothed in this way.

[Utah Code § 76-10-1201\(13\) \(2013\)](#)

9. “Appeals to the prurient interest” means erotic in some significant way to the average person and having the capacity to provoke sexual responses over and beyond those that would be characterized as normal.
10. “Age appropriate” means generally suitable for students of the same age or level of social, emotional, and cognitive development when taking into consideration the ages of all minors who could be exposed to the material.
11. “Instructional materials review committee” means a committee formed at the District or school level, as determined by the Superintendent, appointed as needed and consisting of an administrator or administrators, educators, and at least two parents. An administrator member of the committee shall serve as the committee chair. Parents appointed to an instructional materials review committee shall be reflective of the members of the relevant school community.

[Utah Code § 53G-10-103\(3\) \(2022\)](#)

## **B. Adoption of instructional materials—**

1. Except for adoption of instructional materials within the scope of Policy 5170, the Superintendent or Superintendent’s designee shall determine what instructional materials are approved for use in the District or in a particular school in the District, taking into consideration recommendations and requests from District and school administrators and educators. The Superintendent or Superintendent’s designee may also solicit recommendations regarding approval of instructional materials to an instructional materials review committee formed for the District as a whole, or for all the schools at a particular level of instruction (elementary, middle school or junior high, or high school), or for a specific school.
2. Instructional materials which have been designated by the State Board of Education as within any of that Board’s “Recommended” categories are approved for use in the District subject to considerations of economy and uniformity in materials within the District or schools. Instructional materials which have been designated by the State Board of Education as “Reviewed, but not recommended” may not be used in the District.
3. Any instructional materials which have not been designated by the State Board of Education as within any of that Board’s “Recommended” categories and have not been designated as “Reviewed, but not recommended” may be approved by the Superintendent for use in the District upon a determination that the materials are appropriate to teach the Utah core requirements. The Superintendent or Superintendent’s

designee may refer the evaluation of these instructional materials to an instructional materials review committee. In evaluating the materials, the Superintendent, designee, or review committee may consider whether the instructional materials:

- a. are consistent with the Utah core requirements;
- b. are mapped and aligned to the Utah core and state assessments (if planned for use as primary instructional materials);
- c. are high-quality, research-based, and proven to be effective in supporting student learning;
- d. provide an objective and balanced viewpoint on issues;
- e. include enrichment and extension possibilities;
- f. are appropriate to varying levels of learning;
- g. are accurate and factual;
- h. are arranged chronologically or systematically, or both;
- i. reflect the pluralistic character and culture of the American people and provide accurate representation of diverse ethnic groups;
- j. are free from sexual, ethnic, age, gender, or disability bias and stereotyping; and
- k. are of acceptable technical quality.

[Utah Code § 53E-4-403\(4\) \(2022\)](#)

[Utah Admin. Rules R277-469-3\(2\) \(January 9, 2018\)](#)

[Utah Admin. Rules R277-469-6\(1\) \(January 9, 2018\)](#)

[Utah Admin. Rules R277-469-7\(1\) \(January 9, 2018\)](#)

4. Instructional materials cannot be approved for use in the District or used in District schools if the materials contain any pornographic or indecent material as defined in this policy.
5. Prior to purchasing primary instructional materials, the District shall require the proposed vendor to provide a detailed core curriculum alignment relating to the materials. Contracts with publishers for purchase of instructional materials shall include National Instructional Materials Accessibility Standard contract language.

[Utah Admin. Rules R277-469-7\(2\), \(3\) \(January 9, 2018\)](#)

### **C. Review of District-approved instructional materials—**

1. Requests for review of District-approved instructional materials are limited as follows:
  - a. Personal interest requirement. The following may request review of District-approved instructional materials:

- i. A student currently enrolled in and attending a District school;
    - ii. A parent or guardian of a student currently enrolled in and attending a District school;
    - iii. A District employee;
    - iv. A member of the Board of Education; or
    - v. A current resident of the District.
  - b. Limits on frequency
  - c. Each individual is limited to three requests to review instructional materials per school year.
  - d. Any item which has been subject to review, reviewed under this policy, and retained may not be subject to another request for review for at least three years.
2. Preconditions to request for review
- a. Any adult who wishes to file a request for review must first read or review the instructional material as a whole before filing the request (students are not to be required, requested, or encouraged to complete reading or reviewing instructional material in which they have discovered content they believe is sensitive material).
3. If the requirements and conditions for review are met, an individual who desires review must complete the Request for Review of Instructional Materials form and provide it to the Superintendent or Superintendent's designee. The Superintendent or designee shall make an initial determination whether the form has been fully completed and the requirements for requesting review have been met. If so, the Superintendent or designee shall establish a District instructional materials review committee to conduct the review.

In conducting a requested review, the primary purpose of the District instructional materials review committee shall be to determine whether the item contains pornographic or indecent material. However, the committee may also evaluate whether the instructional materials are age-appropriate and whether the prior approval of the materials should be reconsidered in light of all appropriate factors. The committee's determinations shall be made by majority vote of the members of the committee. Prior to engaging in any discussions with other committee members or participating in any decision making, each committee member shall read the item in its entirety (for written items) or review the item as a whole (for non-written items).

After the chair of the District instructional materials review committee has confirmed that all members of the committee have reviewed the item in question, the chair shall schedule such meetings as are necessary for the committee to discuss the item and make its determinations.

In determining whether the item contains pornographic or indecent material, the committee shall determine whether the material meets any of the four tests for pornographic or indecent material set out in the definition above.

If the committee determines that the item contains pornographic or indecent material, then the item shall be designated as no longer approved for use in the District and removed from District schools. If the committee determines that the item does not contain pornographic or indecent material, then the committee may, but is not required to, proceed to other considerations as set out in the following paragraphs.

[Utah Code § 53G-10-103\(2\) \(2022\)](#)

The committee may elect to evaluate whether the item should be removed from all use or restricted in use based on considerations of age appropriate use. In this evaluation, the committee shall use the definition of “age appropriate” set forth above in light of the prevailing standards in the adult community with regard to what is appropriate for children of that age.

The committee may also elect to reconsider the prior District approval of the item. In doing so, the committee shall consider the factors set forth above for initial approval of instructional materials.

After the committee has made its determinations, it shall prepare a written report which explains its findings and the grounds for its findings. A copy of the report shall be provided to the person who requested the review.

After the committee issues its report, the chair of the committee shall report the results of the review to the Utah State Board of Education using the reporting tool provided by the State Board at [this website](#).

[Utah Code § 53G-10-103\(4\)\(b\)\(iii\) \(2022\)](#)

The determination of the District instructional materials review committee is final and may not be further appealed.

**Request for Review of Instructional Materials**

1. Requester: \_\_\_\_\_ School: \_\_\_\_\_  
Address: \_\_\_\_\_ City: \_\_\_\_\_ Zip: \_\_\_\_\_  
Email: \_\_\_\_\_ Phone: \_\_\_\_\_
  2. Qualifying personal interest category or categories: \_\_\_\_\_
  3. Brief statement explaining the request: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  4. Type of material: ☐ Book (Print) ☐ E-Book (Digital) ☐ Audio Book ☐ Movie  
☐ Magazine ☐ Other Audio Recording ☐ Digital Resource ☐ Game ☐ Newspaper  
☐ Other
  5. Title: \_\_\_\_\_
  6. Author or Producer: \_\_\_\_\_
  7. Are you a student? ☐ Yes ☐ No (If yes, do not finish reviewing the material)
  8. Have you read or reviewed the entire material? ☐ Yes ☐ No (Not required of students)
  9. Pornographic or indecent material can be found at the following location or locations (page, chapter, link, timestamp, etc.) \_\_\_\_\_
  10. Other reasons (age appropriateness, other) that the item should be removed from use or restricted in use: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 

I declare under criminal penalty under the law of Utah that the foregoing is true and correct.

Signed on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at \_\_\_\_\_  
(Day) (Month) (Year) (City or other location and state/country)

Printed Name \_\_\_\_\_

Signature \_\_\_\_\_