

**SENSITIVE MATERIAL REVIEW AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ken Ivory**

Senate Sponsor: Todd D. Weiler

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**LONG TITLE**

~~H→ [Committee Note:~~

~~———— The Education Interim Committee recommended this bill.~~

~~———— Legislative Vote: 10 voting for 4 voting against 6 absent] ←H~~

**General Description:**

This bill amends provisions regarding the evaluation of instructional material to identify and remove pornographic or indecent material.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires the prioritization of protecting children from illicit pornography over other considerations in evaluating instructional material;
- ▶ specifies individuals who may trigger a formal sensitive material review;
- ▶ establishes certain required processes for the evaluation and review of sensitive material allegations, including distinct requirements for objective sensitive material and subjective sensitive material;
- ▶ requires the removal of certain instructional material statewide if a certain threshold of local education agencies determine that the instructional material constitutes objective sensitive material;
- ▶ provides indemnification for claims arising from sensitive materials requirements;
- ▶ requires the Office of the Legislative Auditor General to audit school district



- 59 (i) a district school;
- 60 (ii) a charter school; or
- 61 (iii) the Utah Schools for the Deaf and the Blind.

62 ~~[(f)]~~ (g) (i) "School setting" means, for a public school:

- 63 (A) in a classroom;
- 64 (B) in a school library; or
- 65 (C) on school property.

66 (ii) "School setting" includes the following activities that an organization or individual  
67 or organization outside of a public school conducts, if a public school or an LEA sponsors or  
68 requires the activity:

- 69 (A) an assembly;
- 70 (B) a guest lecture;
- 71 (C) a live presentation; or
- 72 (D) an event.

73 ~~[(g)]~~ (h) (i) "Sensitive material" means an instructional material that ~~[is pornographic~~  
74 ~~or indecent material as that term is defined in Section 76-10-1235]~~ constitutes objective  
75 sensitive material or subjective sensitive material.

76 (ii) "Sensitive material" does not include an instructional material:

- 77 (A) that an LEA selects under Section 53G-10-402;

77a **H→ (B) for a concurrent enrollment course that contains sensitive material and for which a**  
77b **parent receives notice from the course provider of the material before enrolling and gives the**  
77c **parent's consent by enrolling; ←H**

- 78 **H→** ~~[(B)]~~ (C) **←H** for medical courses;
- 79 **H→** ~~[(C)]~~ (D) **←H** for family and consumer science courses; or
- 80 **H→** ~~[(D)]~~ (E) **←H** for another course the state board exempts in state board rule.

81 (iii) "Subjective sensitive material" means an instructional material that constitutes  
82 pornographic or indecent material, as that term is defined in Section 76-10-1235, under the  
83 following factor-balancing standards:

- 84 (A) material that is harmful to minors under Section 76-10-1201;
- 85 (B) material that is pornographic under Section 76-10-1203; or
- 86 (C) material that includes certain fondling or other erotic touching under Subsection  
87 76-10-1227(1)(a)(iv).

88 (2) (a) Sensitive materials are prohibited in the school setting.

89 (b) A public school or an LEA may not:

121 whether the allegation includes excerpts and other evidence to support the allegation; and

122 (ii) if the LEA determines that the allegation presents a plausible claim that the  
 123 challenged instructional material constitutes sensitive material under Subsection (4)(a)(i),  
 124 immediately remove the challenged material from any school setting that provides student  
 125 access to the challenged material until the LEA completes the LEA's full review of the  
 126 challenged material under this section;

127 (b) (i) engage in a review of the allegations and the challenged instructional material  
 128 using the objective sensitive material standards; and

129 (ii) if the LEA makes a determination that the challenged instructional material  
 130 constitutes objective sensitive material, ensure that the material remains inaccessible to  
 131 students in any school setting;

132 (c) only if the LEA makes a determination that the challenged instructional material  
 133 does not constitute objective sensitive material ~~Ĥ~~→ [review] ←~~Ĥ~~ :

134 (i) review the allegations and the challenged instructional material under the subjective  
 135 material standards, ensuring that the review includes parents who are reflective of the members  
 136 of the school's community when determining if an instructional material is subjective sensitive  
 137 material[-];

138 (ii) allow student access to the challenged instructional material during the LEA's  
 139 subjective sensitive material review if the student's parent gives consent regarding the specific  
 140 challenged instructional material; and

141 (iii) if the LEA makes a determination that the challenged instructional material  
 142 constitutes ~~Ĥ~~→ [objective] subjective ←~~Ĥ~~ sensitive material, ensure that the material is  
 142a inaccessible to students in

143 any school setting, including the termination of the parent consent option described in  
 144 Subsection (4)(c)(ii); and

145 (d) communicate to the state board the allegation and the LEA's final determination  
 146 regarding the allegation and the challenged instructional material.

147 (5) (a) An individual described in Subsection (3)(a) may appeal an LEA's decision  
 148 regarding a sensitive material review, regardless of whether the LEA removed or retained the  
 149 challenged instructional material, to the LEA governing board.

150 (b) An LEA governing board shall vote in a public board meeting to decide the  
 151 outcome of a sensitive material review appeal, clearly identifying: