



LEGISLATIVE
RESEARCH &
GENERAL COUNSEL

Curriculum Transparency, Parent Access, and Sensitive Materials

(Sections 53G-4-402, 53G-5-306, 53G-10-103, and 2023 bills)

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§§ 53G-4-402(24) and 53G-5-306(14) 2021 SB 148 Public Education Modifications (Grover/Robertson)

Transparency

§§ 53G-4-402(24) and
53G-5-306(14)



Local governing boards must:

- make curriculum readily accessible and available for a parent to view
- annually notify parents of how to access the curriculum
- include on the LEA's website information about how to access the curriculum

2023 SB 55 Public School Instructional Material Requirements (Fillmore/Ballard) - passed

- Distinguishes “instructional material” (material the local board adopts and approves) and “supplemental material” (educator-selected material that the local board hasn’t considered and concluded)
- Requires local process involving educators and parents for review and recommendation of publicly available instructional material for board approval after two public meetings with opportunity for comment.
- Requires local supplemental materials policy, including any required process or permission before classroom use
- Requires a provision in LEAs’ contracts for online or digital materials to give notice of any change to the content



2023 HB 344 Local Policies for Course Content Transparency (Teuscher)

– failed House (Yeas 26 Nays 46 N/V 3)

2023 Transparency and Access Legislation



LEAs create course content transparency policies

- How are educators required to give notice to parents and students of course content?
 - Syllabus? Are updates required?
 - Any notice requirements or approval processes for unapproved materials, an assembly, or guest presenter?
 - Are students and parents entitled to access course content from previous years before class registration?
- How do parents access course content that is not available on the learning management system?

2023 HB 82 School Assembly Notice Requirements (Ballard/Johnson)

– not considered on Senate floor

- 3 days' advance notice for any assembly relating to bullying, physical abuse, mental health, substance abuse, suicide prevention, or dropout prevention
- 3rd Sub added:
 - educational equity (defined by USBE to mean "acknowledging that all students are capable of learning and distributing resources to provide equal opportunities based upon the needs of each individual student")
 - exception for exigent circumstances for assemblies in response to emergencies
- 3rd Sub removed requirement for LEAs to provide resources related to the assembly topic for parental use outside the school



2023 HB 465 (1st Sub.) Public School Library Transparency Amendments (Welton/Grover)

– passed after 1st Sub. focused on online platform

Public School Library Transparency



- LEAs must provide an online platform allowing parents to see the title, author, and description of any material the parent's child borrows, including a history
- Split implementation deadline:
 - 8/1/24 for districts and charters with 1,000 or more enrolled students
 - 8/1/26 for districts and charters with fewer than 1,000 enrolled student



"Sensitive materials are prohibited in the school setting."

Utah Code

§ 53G-10-103



"Sensitive material" is any material that fits any of three criminal code definitions of "pornographic or indecent material" (§76-10-1235)

Defined as harmful to minors in §76-10-1201

- A quality when nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, *taken as a whole* :
- ❑ Appeals to minors' prurient interest in sex
- AND**
- ❑ Is patently offensive to prevailing adult community standards of what is suitable for minors
- AND**
- ❑ Has no serious literary, artistic, political, or scientific value

Described as pornographic in §76-10-1203

- Any material or performance that:
- ❑ *Taken as a whole*, appeals to prurient interest in sex (to an average person, using contemporary community standards)
- AND**
- ❑ Is patently offensive in description or depiction of nudity, sexual conduct, sexual excitement, sadomasochistic abuse, or excretion
- AND**
- ❑ Taken as a whole, has no serious literary, artistic, political, or scientific value

Described in §76-10-1227

- Description or depiction of:
- ❑ Human genitals in a state of sexual stimulation or arousal
- OR**
- ❑ Acts of human masturbation, sexual intercourse, or sodomy
- OR**
- ❑ Fondling or other erotic touching of human genitals or pubic region
- OR**
- ❑ Fondling or other erotic touching of the human buttock or female breast that, *when taken as a whole*, has no serious literary, artistic, political, or scientific value for minors, considering ages of all minors who could be exposed to the material



These three constitute an objective '**bright line rule**' with no subjectivity or discretion.

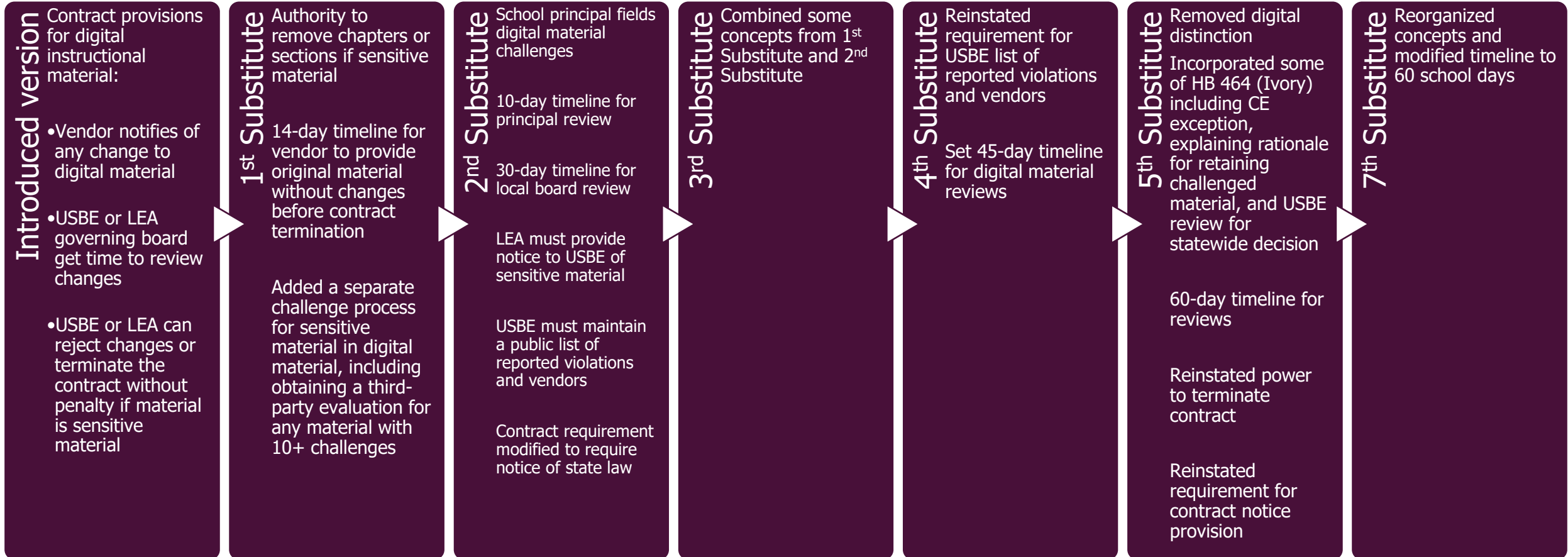
Each of the other standards allows subjectivity.



2023 HB 138 Digital School Curriculum Requirements / Digital Instructional Material Requirements / Sensitive Material Requirements (Ballard/Fillmore)

– no vote on Senate 2nd reading calendar

**2023 Sensitive
Materials
Legislation**



2023 HB 465 (1st Sub.) Public School Library Transparency Amendments (Welton/Grover)

– passed after 1st Sub. focused on online platform

- Required an online library platform (passed in the 1st Sub.)
- Required initial determination for reasonable cause, triggering immediate removal until full review is complete
- 60-day timeline to complete full review
- Required parental notification if a student accessed a challenged material

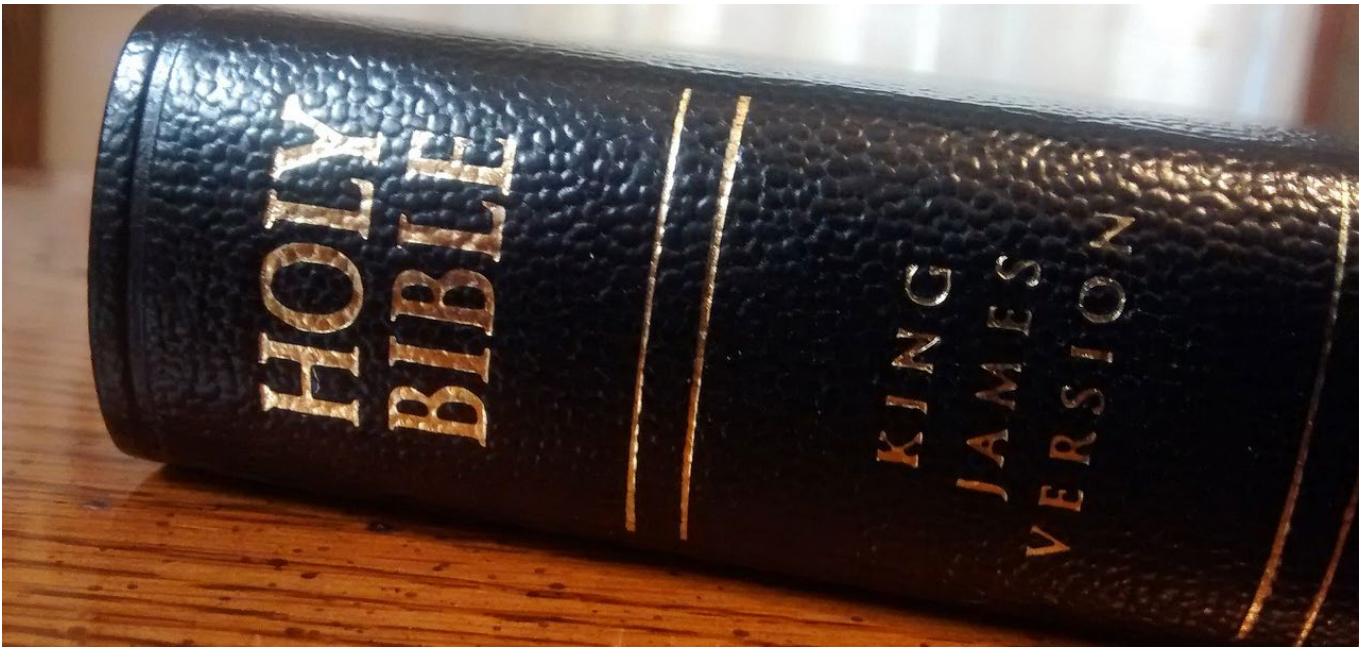
**2023 Sensitive
Material
Legislation**



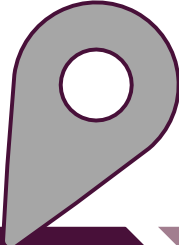
2023 HB 464 School Materials Amendments (Ivory) – circled on House floor

- Required immediate removal of challenged material (introduced bill) or if challenge was based on the 'bright line rule' (1st Sub) from student access
- Required a written public determination explaining the LEA's reasoning and rationale if retaining a challenged material
- Required an LEA referral of substantiated sensitive material to USBE for review for a statewide determination
- Required notification to the challenger regarding the outcome
- Clarified the parental involvement requirement to be for challenges other than 'bright line rule' challenges
- USBE review of referred challenges (75-day timeline) to notify all LEAs to remove the sensitive material or provide a written public explanation for retaining the material
- Set limit of three challenges for a given individual per material per school year
- Required USBE to develop an age-appropriateness rating system, including at least language, criminal activity, self-harm, drug use, suicidal ideation, and sexual content, including sexuality and gender identity
- Required LEAs to ensure parental notice and consent before allowing student access to material outside of age-level rating standard
- Judicial review with damages, court costs and attorney fees, and per-violation fines of \$500 into the Crime Victim Reparations Fund





Davis School District & the KJV Bible



• Filed 12/11/2022

- Per DSD policy, 3 educators and 4 volunteering parents selected through lottery

- KJV Bible does not violate state statute
- KJV Bible is retained only in high school based on DSD policy on age appropriateness for vulgarity or violence

• Filed 5/31/2023

- 3 local school board members
- Recommendation to the full local school board to uphold or reverse initial determination

- Elected board members will vote to uphold or reverse the Sensitive Material Review Committee determination



Questions from the committee?



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