



Committee Bill Summary: Sensitive Material Review Amendments

Prepared for Education Interim Committee | October 11, 2023

Sensitive Material Review Amendments

The Education Interim Committee opened this bill file on June 14, 2023, to address curriculum transparency and sensitive materials in public education.

Sensitive Materials Definition

This bill would clarify the definition of sensitive materials to include materials that meet one of the following (with some exceptions outlined in statute):

- Objective sensitive materials: Pornographic or indecent materials that violate the “bright line.” (See: [§ 76-10-1235](#); [§ 79-10-1227\(1\)\(a\)\(i\), \(ii\), or \(iii\)](#)).
- Subjective sensitive materials: Material deemed pornographic or indecent under any of four standards outlined in statute. These materials do not violate the “bright line” but, when taken as a whole, are deemed to have no serious literary, artistic, political, or scientific value. (See: [§ 76-10-1235](#); [§ 76-10-1201](#); [§ 76-10-1203](#); [§ 79-10-1227\(1\)\(a\)\(iv\)](#))

Sensitive Materials Review

Review Request

Individuals connected to an LEA may request a sensitive materials review:

- Students
- Parent of student in LEA boundaries
- Elected officials who represent the LEA
- Employees

An individual who initiates three reviews that do not result in the removal of material are barred from additional challenges from the remainder of the school year.

Review Process

LEAs conduct an initial review following a request. If the LEA determines the materials are plausibly sensitive materials, the materials must be removed from student access pending a deeper review. LEAs may develop their own additional policy standards for the review process.

- Objective sensitive materials:
 - LEAs conduct further review with no statutory mandate to include parents.
 - Materials must remain out of student access.
- Subjective sensitive materials:
 - LEAs conduct further review, including parents in the process.
 - Students may access materials with parent permission.
 - An LEA may only remove materials if the LEA’s governing board affirmatively votes to do so in a public meeting and states their rationale.

LEAs must report to the state board on all sensitive materials allegations the LEA receives and the LEA’s final determinations on these allegations.



Materials Previously Removed

If, before the bill's effective date, an LEA has removed materials under the subjective sensitive materials standards, the LEA governing board must vote to do the following at the board's next meeting: (1) reinstate the materials, or (2) ratify their removal and state the board's rationale for removal.

LEA Governing Board Policies and Appeals Process

- Individuals may appeal LEA decisions on objective sensitive materials to the LEA governing board.
- An LEA's policies cannot prevent the LEA from:
 - Revisiting a prior decision.
 - Reviewing a recommendation on an instructional material.
 - Reconsidering instructional materials after receiving additional information.

Statewide Prohibitions on Some Objective Sensitive Materials

If more than four school districts or nine charter schools remove materials as objective sensitive materials, every LEA in the state must remove the materials.

State Board of Education

- The state board collects information from LEAs about findings from challenges to instructional materials and outcomes of the review process.
- If more than four school districts or nine charter schools remove materials as objective sensitive materials, notify LEAs statewide about the requirement that all LEAs remove the materials from student access.



Sensitive Materials Review Request

Specific individuals connected to an LEA may submit a request to initiate a sensitive materials review.



Initial Review

Initial review by LEA administration and staff.

If plausible claim found, immediately remove materials from student access and conduct a full review; process varies depending on claim of objective or subjective sensitive materials.



Subjective Sensitive Materials

Conduct a full review of the materials and include parents in the process.

While materials are under review, students may access with parent permission.



LEA governing board must vote affirmatively in a public meeting before material can be removed from student access.

Report findings to USBE



Objective Sensitive Materials

Conduct a full review of the materials; no requirement to include parents.

Materials must remain out of student access.



Report findings to USBE