



LIBRARY POLICY

References:

53G-10-103

53G-10-205

R277-217

R277-628

R277-123

UTAH CODE 76-10-1235, 76-10-1201, 76-10-1203, and 76-10-122

PURPOSE

The Merit Preparatory Academy school library supports and enhances student learning. Merit values libraries, media centers, and library staff who select, maintain, and preserve rich repositories of balanced, relevant, age appropriate, and varied educational sources for students. This policy specifies the process for identifying materials to be included or disqualified from use in libraries and schools based on Section 53G-10-103, Sensitive Instructional Materials, state and federal law, Board Rule R277-217, Educator Standards and LEA Reporting, or based on age appropriate content.

DEFINITIONS

- I. Sensitive Materials: an instructional material that constitutes objective sensitive material or subjective sensitive material.
 - A. Objective Sensitive Materials: an instructional material that constitutes pornographic or indecent materials, as that term is defined in Section [76-10-1235](#), under the non-discretionary standards described in Subsection [76-10-1227\(1\)\(a\)\(i\)](#), (ii), or (iii).
 - B. Subjective Sensitive Materials: an instructional material that constitutes pornographic or indecent material, as that term is defined in Section [76-10-1235](#), under the following factor-balancing standards:
 1. material that is harmful to minors under Section [76-10-1201](#);
 2. material that is pornographic under Section [76-10-1203](#); or
 3. material that includes certain fondling or other erotic touching under Subsection [76-10-1227\(1\)\(a\)\(iv\)](#).
- II. Retained: the determination to maintain access in a school setting to the challenged material for all students;
- III. Restricted: the determination to restrict access in a school setting to the challenged material for certain students;
- IV. Removed: the determination to prohibit access in a school setting to the challenged material for all students;

POLICY

I. Selection of Materials for Library Collection

- A. The Merit library professional, other designated Merit staff, and/or approved volunteer(s) will initially select all library materials under the direction of the Merit Board, including gifts and donations, consistent with this policy using the following criteria:
 - a. seek recommendations and work collaboratively with parents, patrons, and others in the school community during the selection process;
 - b. create a collection that reflects a diversity of ideas; and
 - c. create a collection that adheres to the law.
- B. Electronic databases and other web-based searches and content will be filtered through Merit's state-required internet filter.
- C. Gifts and donations will be reviewed following selection criteria established by Merit administration and will be accepted or rejected using the same criteria; and
- D. The responsibility for final material selection rests with trained library personnel, under direction of the governing board of Merit using the following criteria:
 - a. overall purpose and educational significance;
 - b. legality;
 - c. age and developmental appropriateness;
 - d. timeliness and/or permanence;
 - e. readability and accessibility for intended audience
 - f. artistic quality and literary style;
 - g. reputation and significance of author, producer, and/or publisher;
 - h. variety of format with efforts to incorporate emerging technologies; and
 - i. quality and value commensurate with cost and/or need.
- E. A record of reviewed materials will be maintained by Merit, including:
 - a. the name of the school;
 - b. the title and author of the material;
 - c. all available formats of the material (digital/hard copy/etc.);
 - d. the intended use of the material;
 - e. the date the material was reviewed; and
 - f. the employee's name and title that reviewed the material.

II. Library Collection Maintenance

- A. Library materials will be maintained consistent with the criteria listed in section II.D, state and federal laws, including Utah Code Ann. Section 53G-10-103, and represent varying viewpoints.
- B. The school librarian or designated specialist(s) will inventory the school library collection and equipment each school year.
 - a. The inventory may be used to determine losses and remove damaged or worn materials to be considered for replacement.

- b. The inventory may also be used to deselect and remove materials that are inconsistent with the law, or that are no longer relevant to the curriculum or of interest to students.
- c. Identify gaps or deficits in the library's collection.

III. Library Materials Review Process

- A. Merit will ensure approval of a least-restrictive, transparent process for a library materials review request to be made in physical or electronic formats.
- B. A library materials review request of a material may only be made by:
 - a. A parent of a student that attends the school;
 - b. A student who attends the school;
 - c. An employee of the school;
 - d. A member of the Board
- C. If challenges become unduly burdensome, Merit may limit the number of challenges an individual may make in the course of a school year.
- D. A library materials review may be based upon the concern that the material is a sensitive material as defined in Section 53G-10-103, or upon concerns with age-appropriateness of content.
- E. The identity of the requestor will be protected and kept confidential from all individuals outside of the review process outlined in this policy, to the extent possible.
- F. Merit will provide access to a Library Materials Review Request Form (See Materials Review Form) to the requestor.
- G. The requestor must provide all information requested on the form including the requestor's complaint or objection to the library material.
- H. The material that is subject to a review request will have restricted access by maintaining the material behind the circulation desk or requiring an access code for digital materials until the processes described in this policy are completed. Access is limited to students with prior parent/guardian permission only. A list of restricted materials shall be made available to the public.
- I. The material's access level will be consistent within Merit until a final determination is made regarding the material.
- J. Upon receipt of a request for review, the school administrator or designee will acknowledge the receipt of the request, create a case number for the review, and convene a Review Committee within a reasonable time according to the procedure outlined below:
 - a. A Review Committee will include an odd number of individuals; specifically, not less than 5, and no more than 9 members.
 - b. Members of the committee may include:
 - i. a facilitator chosen by Merit's administration;
 - ii. at least one administrator or designee;
 - iii. a licensed teacher at the school who is currently teaching English language arts or subject relevant to the challenged material;
 - iv. a licensed teacher-librarian or school librarian; and

- v. parents of current students at the school that number at least one more than the LEA employees on the Committee including parents reflective of the school community as required in Subsection 53G-10-103(3).
 - c. The requestor cannot serve on the review committee
- K. The Review Committee will determine the amount of time needed for an adequate review of a material to make a thorough and thoughtful decision and inform the requestor of the determined timeline with a preference for 30 school days where possible and no longer than 60 school days.
- L. The Review Committee may request that Merit's Board determine the maximum amount of time allowed for review and determination.
- M. Members of the Review Committee will receive materials to complete the review process, including the following:
 - a. access to the complete work that includes the material being challenged;
 - b. a copy of the Materials Review Request form;
 - c. a copy of this policy;
 - d. relevant information about the title compiled and shared by the library staff, including reason for initial approval of the material; and
 - e. recorded public comment as described below in Subsection O.
- N. Prior to a decision of the Review Committee, Merit Preparatory Academy will provide an opportunity for public comment regarding the material at a governing board meeting.
 - a. The school will provide notice to parents about the opportunity to give public comment and include the name of the material that is the subject of the materials review at least 48 hours prior to the scheduled meeting for public comment.
 - b. The Board will include notice of the opportunity for public review in its published agenda at least 24 hours prior to the board meeting.
- O. The Board will record all public comment, including written comment received, and make it a matter of its official public record.
- P. A staff member will make those comments available to the Review Committee within 48 hours of the public comment meeting.
- Q. The Review Committee will schedule meetings as determined by the Review Committee and maintain minutes of each meeting.
- R. The notes from each meeting will be retained by Merit in conducting the review along with all relevant documentation and the final determination.
- S. The Review Committee will determine whether the material constitutes sensitive material consistent with Section 53G-10-103, this policy, and the guidance letter provided by the Attorney General's Office dated June 1, 2022.
- T. In deciding whether the material constitutes sensitive material, the Committee must:
 - a. consider *all* elements of the definitions of pornographic or indecent materials as defined in Utah Code Sections 76-10-1235, 76-10-1201, 76-10-1203, and 76-10-1227; and
 - b. whether the material is age appropriate due to vulgarity or violence.

- U. In deciding whether the material is age appropriate due to vulgarity, violence, or content, the Committee must consider the material taken as a whole and consider whether it has serious literary, artistic, political, or scientific value for minors, which may include the following objective criteria:
 - a. reliable, expert reviews of the material or other objective sources;
 - b. committee members' experience and background; and
 - c. community standards.
- V. In deciding whether the material taken as a whole has serious literary, artistic political, or scientific value as described in Subsection U., the Committee should consider that:
 - a. serious value does not mean any value; and
 - b. greater protections should exist concerning content for a library in an elementary or middle school setting.
- W. The Review Committee will make a final determination to retain, restrict or remove the reviewed material.
- X. The decision of the Review Committee will be determined by majority vote.
- Y. A material may not be reviewed again for three school years following the Review Committee's determination.
- Z. The final determination of the Review Committee will be communicated to the requestor and appropriate employees within 5 school days of the decision being made. Merit will maintain a list of all materials that receive a "removed" determination.

IV. Appeals Process

- A. The original requestor or another individual, who was not on the Review Committee, may appeal the determination of the Review Committee in writing to the Merit Director within 15 business days of receipt of the Review Committee's final determination using an Appeal Request Form (See Appeal Request Form).
- B. If an appeal is filed with the Merit Director, the local governing authority will act as the Appeals Committee.
 - a. The local governing authority (Appeal Committee) may add parent or school administrator member(s) who did not participate in the initial Review Committee, only as necessary to have an odd number of members.
- C. If there is not an appeal of the Review Committee's recommendation, the Review Committee's recommendation is the final determination for the challenged material.
- D. The Appeals Committee will determine the amount of time needed for an adequate review, not longer than 60 school days and a preference for 30 school days, of a material required to make a thorough and thoughtful decision and inform the requestor of the determined timeline.
- E. Members of the Appeals Committee will receive materials to complete the review process, including the following:
 - a. a copy of the material;
 - b. a copy of the Materials Review Request form;
 - c. all meeting minutes;

- d. the Review Committee's final recommendation and rationale for the decision;
 - e. any other documents considered part of the administrative record related to the Review Committee's proceedings including all recorded public comments as described in Subsection V.O. above.
- F. The Appeals Committee will schedule meetings as needed, as determined by the Appeals Committee and maintain minutes of each meeting.
 - G. The notes from each meeting will be retained by Merit along with all relevant documentation and the final determination by the Appeals Committee.
 - H. The Appeals Committee may make a final determination to retain, restrict, or remove the reviewed material.
 - I. The decision of the Appeals Committee will be determined by majority vote.
 - J. A material may not be reviewed again for three school years if the Appeals Committee votes to uphold a Review Committee's determination.
 - K. The final determination of the Appeals Committee will be communicated to the requestor and appropriate employees within 10 days of the determination.
 - L. Merit will maintain a list of the determinations by the Appeals Committee and make the list available to the public.

VI. Final Procedural Review

- A. The original requestor may petition the USBE for a procedural review of the Appeals Committee's decision.
 - a. The USBE will review the petition and determine if a procedural review is warranted, to determine whether the LEA correctly followed its library materials review policy referred to in Rule R277-628.
 - b. That determination may include the USBE's decision to have the appeal considered initially by a USBE Committee or a panel of USBE members.
 - c. If the USBE determines in USBE's procedural review that the LEA did not correctly follow its materials review policy, it will return the appeal to the LEA with direction to repeat its review process in compliance with its library materials review policy referred to in Rule R277-628.
- B. The USBE will make a final written appeal decision no more than 60 school days after the USBE's determination that the appeal satisfies the criteria for USBE review.
- C. This USBE review decision is final.

VIII. Communication

- A. An easily accessible webpage on the public website for Merit will be updated and available prior to the beginning of each school year to inform teachers, staff, students, and parents of the following:
 - a. Materials Review Request Form;
 - b. Appeal Request Form;

- c. Application to serve on a materials Review Committee;
 - d. Merit Preparatory Academy Library Policy; and
 - e. A list of all materials that are restricted while under Review or have received a Review Committee or Appeals Committee determination.
- B. If made aware of material that may be considered sensitive material as defined in Section 53G-10-103, Merit will inform relevant parties regarding appropriate actions to take pursuant to this policy.

All employees of Merit must adhere to this policy and are subject to Merit's employee conduct policies for any personal violation.

Approved: 10-10-24

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