



Sensitive Materials in Schools Policy Guidance & Training

Board Approved: September 20, 2022

The purpose of this policy is to specify the process of identifying materials that are disqualified from use at Merit Preparatory Academy based on 53G-10-103 Sensitive Materials in Schools and R277-217-8 Educator Standards and LEA Reporting and Utah Criminal Code 76-10-(1201)(1203)(1227)

An educator, Merit employee, or board member shall take prompt and appropriate action to protect a student from any known condition detrimental to the student's physical health, mental health, safety or learning in accordance with R277-217-3(4), if made aware of material that may be considered sensitive material as defined in §53G-10-103 and R277-217-2(16)(17)(18)(19). "Prompt and appropriate action" for the purposes of this policy means the educator is required to file a sensitive materials complaint.

Additionally this policy constitutes guidance and training required by Utah Code §53G-10-103 pertaining to the use and distribution of said Sensitive Materials in Schools.

Consistent with R277-217-2(16)(17)(18)(19) Educator Standards, **an educator may not:**

1. Knowingly possess, while at school or any school-related activity, any pornographic or indecent material in any form;
2. Use school equipment to intentionally view, create, distribute, or store pornographic or indecent material in any form;
3. Knowingly use, view, create, distribute, or store pornographic or indecent material involving children;
4. Expose students to material the educator knows or should have known to be inappropriate given the age and maturity of the students.

Definitions:

"Sensitive Material" means an instructional material that is pornographic or indecent material as that term is defined in Criminal Code Section 76-10-1235 (UT Code 53G-10-103).

"Indecent Public Displays" means description or depiction of illicit sex or sexual immorality -or- nude or partially denuded figure as defined in UT Code 76-10-1227 (1)(a) and (b).

"Educator" as used in this policy means the same as defined 53F-2-405.

Communication

At the adoption of this policy, **Merit Preparatory Academy will:**

1. Communicate through email on the policies and procedures regarding sensitive materials with teachers, staff, parents and upon hiring of new faculty and at the beginning of each school year.
2. Procure, vet and review materials used at Merit or at school sponsored activities for compliance with §53G-10-103 and 37 R277-217-2(16)(17)(18)(19)
3. Provide a website link to:
 - a. The School Libraries rule (R277-628)
 - b. The policy
 - c. The reference to and text of R277-217-2(16)(17)(18)(19) Educator Standards and LEA Reporting
 - d. The Sensitive Materials Rubric and Sensitive Materials Complaint Form (See Appendix A)

- e. Materials shall be subject to review annually, or as needed per a sensitive materials complaint.

Parents or guardians may:

1. Submit a sensitive materials complaint.
2. Volunteer to serve on a sensitive materials complaint hearing committee.

If a Merit administrator, teacher, employee or board member is made aware of material that may be considered sensitive material (as defined in §53G-10-103 and R277-217-2(16)(17)(18)(19)) that has adversely affected a student's physical health, mental health, safety or learning, the administrator, teacher, employee or board member shall take prompt and appropriate action to protect the student from harm in accordance with R277-217-3(4). For the purposes of this policy, this means the educator is required to file a sensitive materials complaint with Merit as instructed.

Complaints

Any parent or guardian, board member, administrator, faculty member or staff may submit a complaint via the online or written form to the school board for review. Online forms may be found [LINK](#). Paper forms can be printed out from the Merit website or found in the office. All submissions will be kept confidential. A complainant or student involved in a complaint shall not be retaliated against, threatened, intimidated, or otherwise treated adversely for any involvement in a complaint.

Complaint Process

Before making a complaint please ensure that the materials under scrutiny meet the requirements as stated in the Sensitive Materials Rubric as outlined in appendix A.

1. All complaints will receive a case number and be reviewed within 24 hours of receipt of the complaint by the Merit Administration who will perform an initial review to ensure that the material meets the criteria of the Sensitive Materials Rubric.
2. If the Administration determines that the complaint does not meet the criteria of the rubric the Administration shall provide a written response which will be posted with the complaint on the school website.
3. If the material does meet the criteria of the rubric, the Administration will send the material to the Merit School Board who will then set a date for a Sensitive Materials Hearing.
4. If the submitter disagrees with the decision determined at the hearing, they may make an appeal to the [Utah State Board of Education](#).
5. Flagged materials will be withheld from school access until resolution of the hearing has been met, at which time it will be permanently removed or returned.

Hearing Committee

If it is determined that a hearing is warranted, a hearing committee consisting of:

1. Parent, grandparent or guardian volunteers who have students at Merit Academy and are not employees of Merit Preparatory Academy.
2. An odd number of qualifying volunteers of three or more and no greater than 7.

The Hearing Committee will convene with a minimum of 72 hours advance notice during an open, public meeting conducted by the Merit School Board. All Merit Preparatory Academy stakeholders shall be given 24 hours notice via email of the time, date, and location of the hearing.

Hearing

Parents, patrons and educators who attend the hearing shall be given adequate time at the beginning of the hearing to provide examples of how the materials violate [§53G-10-103 and R277-217-2\(16\)\(17\)\(18\)\(19\)](#) (see [Sensitive Materials Rubric](#)) and to comment on the materials which are the subject of the complaint. The public may remain until the conclusion of the hearing to listen to and observe the hearing committee's deliberations

and decision. The submitter is not required nor should be compelled to attend, to identify themselves or to speak at the hearing if he or she desires to remain anonymous.

The hearing committee's decision shall comply with §53G-10-103 and R277-217-2(16)(17)(18)(19) (see Sensitive Materials Rubric). A final decision in compliance with §53G-10-103 and R277-217-2(16)(17)(18)(19) (see Sensitive Materials Rubric) shall be made at the next calendar Board meeting following the hearing. The Merit School Board shall publish a comprehensive list of the removed or retained materials on the Merit Academy website and the date of removal.

Students are not part of the vetting or the complaint process; however, they may bring sensitive materials that they find at school or at a school event (that meet the above mentioned criteria) to the attention of parents, educators, administrators, and other school employees who shall submit a complaint.

Appeals

Appeals can be made via the USBE by providing the following information: (LINK or hypertext)

- A copy of the initial complaint with its assigned case number to the USBE
- Provide a public record from the Merit website including the current status of the complaint
- The title and author of the material
- School of complaint origin
- Location of the origin of the material
- Date complaint was submitted
- Date, time and location of hearing.
- Date of decision and resolution
- Date of appeal to the USBE
- Instructions on how to obtain all documentation relevant to the complaint

Appendix A. Sensitive Materials Rubric and LEA Requirement Flowsheet

SENSITIVE MATERIALS RUBRIC

To be used in conjunction with the Library Model Policy Guidance and Training

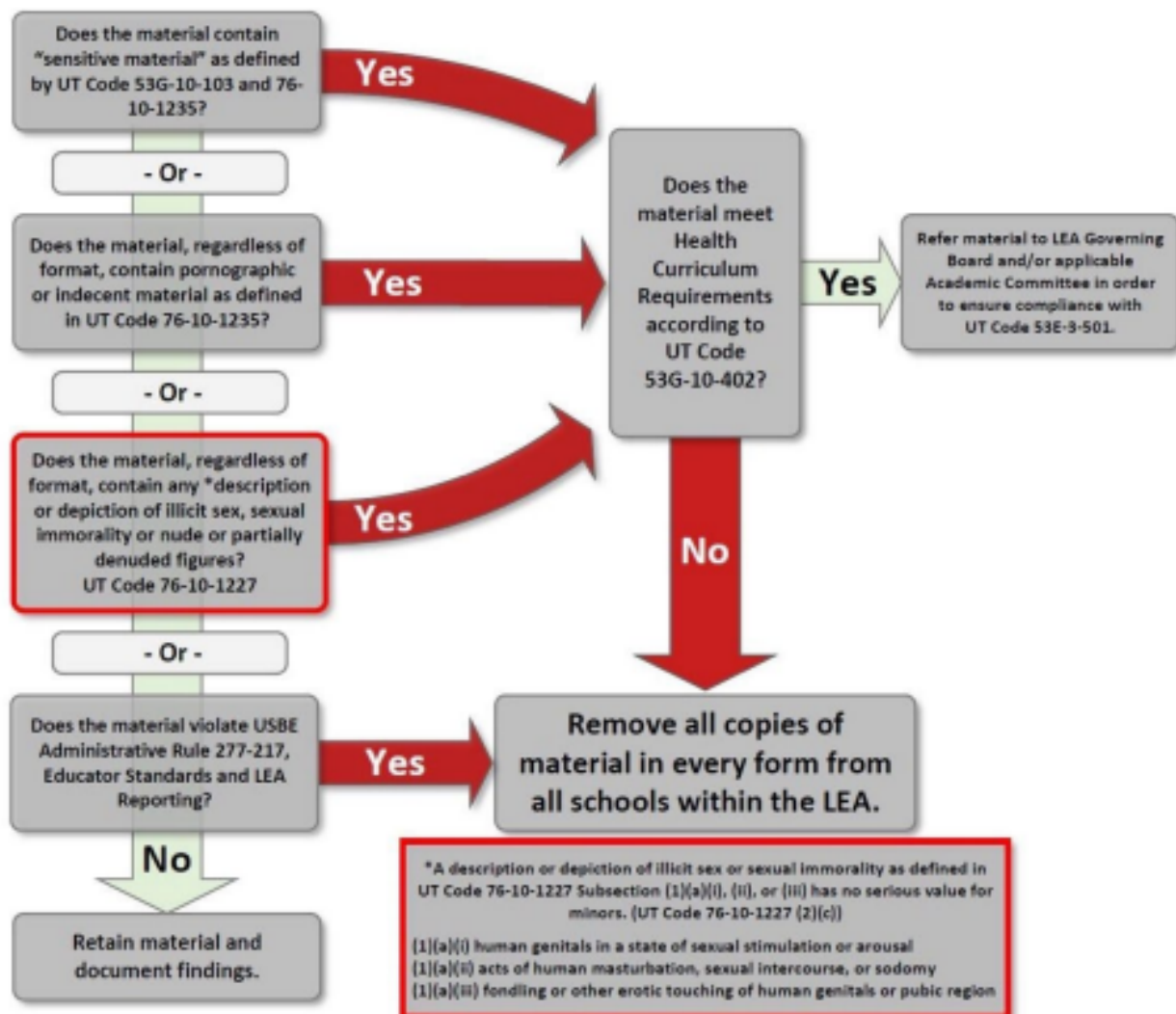
UT CODES 53G-10-103 AND 76-10-1235 PROHIBIT ALL SENSITIVE MATERIAL IN THE SCHOOL SETTING

All materials shall be vetted using the Sensitive Materials Rubric by an employee of the school to ensure compliance with §53G-10-103 and R277-217-2(16)(17)(18)(19).

If Sensitive Material is suspected by any Administrator, Educator, support/volunteer staff, or if a patron submits a complaint in regards to suspected sensitive material, the following procedure shall be followed.

Sensitive Material Determination Process

If the material in question was identified through the complaint process, begin necessary LEA action steps within 24 hours of the reported complaint and proceed with established LEA Requirements Flow Sheet and Assessment.



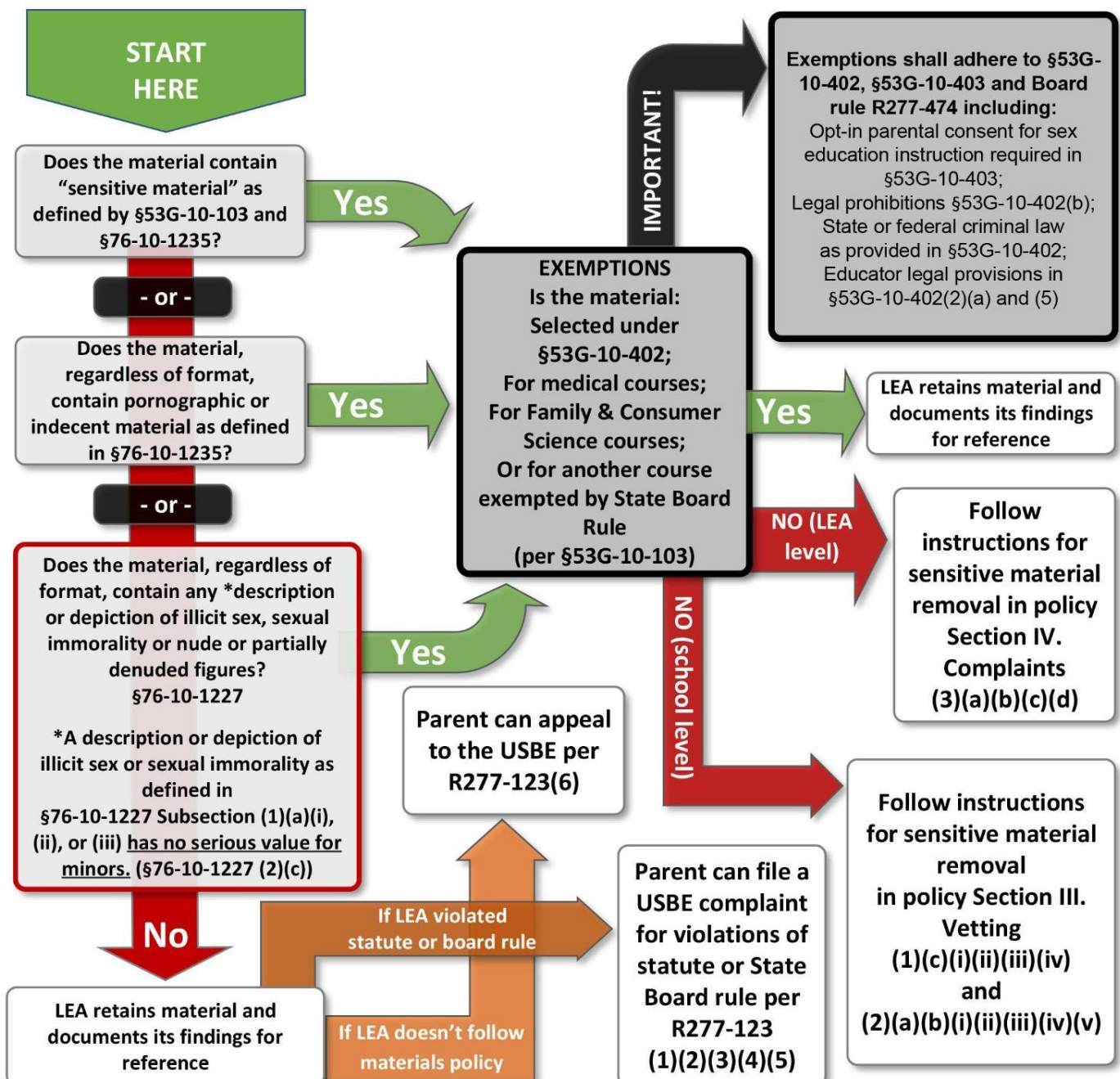
APPENDIX A: SENSITIVE MATERIALS RUBRIC

UT CODES 53G-10-103 AND 76-10-1235 PROHIBIT ALL SENSITIVE MATERIAL IN THE SCHOOL SETTING

All materials in the school setting shall be vetted and reviewed using the Sensitive Materials Rubric to ensure compliance with §53G-10-103 and R277-217-2(16)(17)(18)(19).

The following processes, as applicable, shall be used if Sensitive Material is suspected by any administrator, educator, support/volunteer staff, or if a patron submits a Sensitive Materials complaint.

Determination Process



Sensitive Material Review Process

Vetting Process

Faculty, Educators, Administrators, or Support Staff identify materials that may be sensitive in nature

Withhold access to all available copies of the material until resolution process is completed

Vetting the material in accordance with the Sensitive Materials Rubric

Publish findings of the vetting process on LEA website

Complaint Process

Parent, educator, or other interested party files a complaint

Provide complaint submitter the link to LEA website with all pertinent complaint process information

Forward complaint to LEA administration the same day the complaint is received

Protect confidentiality of the complainant

Assign the complaint a case number

Send report to USBE within 24 hours

Withhold access to all available copies of the material until resolution process is completed

Organizes hearing committee in a timely manner to include parents/guardians or grandparents (not students or minors)

Notify all LEA parents of the time, date, and location of the complaint hearing a minimum of 72 hours in advance

Conduct an open public hearing (no students present)

Patrons and educators shall be given adequate time at the beginning of the hearing to provide examples of how the materials violate the law (see sensitive Materials Rubric), and allow public to remain until the hearing conclusion

Review the material in accordance with the Sensitive Materials Rubric

Publish findings of the assessment on LEA website

Appendix B: Sensitive Materials Rubric – Chart of Definitions and References

[76-10-1201\(10\) Nudity](#)

[76-10-1201\(13\) Sadomasochistic abuse](#)

[76-10-1201\(14\) Sexual Conduct](#)

[76-10-1201\(15\) Sexual Excitement](#)

[76-10-1203 \(1\) Pornographic](#)

[76-10-1227. 1 Indecent public display](#)

[76-10-1227. 1 \(a\) Illicit sex or sexual immorality](#)

*A description or depiction of illicit sex or sexual immorality has no serious value for minors.

[76-10-1227.2\(c\)\(1228\)](#)

[76-10-1227. 1 \(b\) \(1228\) Nude or partially denuded figure](#)

[76-10-1227. 2 \(b\) \(1228\) Serious value](#)

[53G-10-103.\(1\)\(g\)\(i\) Sensitive Material](#)

[R277-217-2 \(16\)\(17\)\(18\)\(19\) Educator Standards and LEA Reporting](#)

[R277-217-3\(4\) Educator Standards and LEA Reporting](#)

Sensitive Materials Rubric – References

[Utah Code 76-10-1201. Criminal Code Definitions.](#)

[Utah Code 76-10-1203. Pornographic Material or performance.](#)

[Utah Code 76-10-1227. Indecent public displays -- Definitions.](#)

[Utah Code 53G-10-103. Sensitive instructional materials](#)

[R277-217-2\(16\)\(17\)\(18\)\(19\). Educator Standards and LEA Reporting](#)

[R277-217-3. Required Conduct for an Educator](#)

Appendix C: Merit Preparatory Academy Sensitive Material Complaint Form

Title of material: _____

Type of material: _____

Author(s): _____

Request initiated by: _____

Telephone: _____

Address: _____

City: _____

Zip: _____

Email: _____

1) Does your child attend this school? Yes No

2) Was this material recommended, assigned, or made available by an educator? If so, who?

3) What concerns you about this material? Please provide examples, page numbers, 300 links, or any other information to help in locating or identifying content of concern.

4) What action are you requesting the committee to consider?

Please attach any images or other corroborating evidence.

Signature: _____

Date: _____