

Instructional materials with sexually explicit content

A. Purpose

To establish clear procedures for schools to:

1. identify all instructional materials with sexually explicit content;
2. ensure parental notification of any instructional materials with sexually explicit content;
3. permit parents to review all instructional materials with sexually explicit content; and
4. ensure alternative instructional materials, that do not include sexually explicit content, are provided in a non-punitive manner for any student whose parent so requests.

B. Definitions

1. “Sexually explicit content” has the same meaning as set forth in Code of Virginia Section 2.2-2827, as amended which is: a) any description of or b) any picture, photograph, drawing, motion picture film, digital image or similar visual representation depicting sexual bestiality, a lewd exhibition of nudity, as nudity is defined in Section 18.2-390, sexual excitement, sexual conduct or sadomasochistic abuse, as also defined in Section 18.2-390, coprophilia, urophilia, or fetishism.
2. “Parent” or “parents” has the same meaning as set forth in Code of Virginia Section 22.1-1, as amended, which is “parent” or “parents” as “any parent, guardian, legal custodian, or other person having control or charge of a child.”
3. “Instructional material” and “instructional materials” mean any content used by one or more students for an educational purpose, regardless of: a) its format, whether printed, representational, audiovisual, electronic, or digital (such as materials, social media content, and software applications accessible through the internet); or b) the time, place and manner in which the content is used. Library materials are considered instructional materials when used: a) for completion of an assignment; or b) as part of an academic or extracurricular educational program. This includes any School Division, school, and/or classroom purchased or created assessments. However, the phrases “instructional material” and

“instructional materials” do not include standardized national or state assessments, such ACT, SAT, NAEP, and AP or SOL exams.

C. Identification of Instructional Materials with Sexually Explicit Content

1. Leadership at each school shall establish a process for identifying instructional materials with sexually explicit content.
2. Prior to the start of the academic year, schools shall identify the specific instructional materials that include sexually explicit content which may be used during the upcoming school year. When determining whether instructional materials contain sexually explicit content, teachers, principals, and School Division staff should consider student age and maturity, and whether a parent might reasonably consider the instructional content harmful to their child.

D. Notice to Parents

1. At least thirty (30) days prior to the use of any instructional materials with sexually explicit content, principals shall provide written notice to parents that:
 - a. specifically identifies the instructional materials with sexually explicit content
 - b. informs parents of their right to review such instructional materials, and
 - c. informs parents of their right to have their child use, in a non-punitive manner, alternative, instructional materials that do not include sexually explicit content.
2. Such notice should be provided in writing to parents by U.S. mail, e-mail, and/or in person at a parent-teacher meeting.

E. Parental Right to Review of Instructional Materials with Sexually Explicit Content and Right to Alternative Instructional Materials

1. Principals shall maintain a current list of instructional materials with sexually explicit content by grade and subject on the school’s public website.
2. Principals shall provide online access for parental review of instructional materials that include sexually explicit content, unless not technically feasible or prohibited by copyright protection. Schools shall also have available at the school for parent review all instructional materials that include sexually explicit content.
3. Schools shall defer to parents to determine whether the use of sexually explicit content in instructional materials, if any, is appropriate for their child.

4. Upon a parent's request, schools shall provide, in a manner that is not punitive, alternative instructional materials for the student that do not include sexually explicit content.

5. Parents may change their decision with respect to the use of alternative instructional materials by providing notice to the school.

Legal References:

Code of Virginia § 22.1-16.8, as amended. Instructional material; sexually explicit content; parental notification.

Code of Virginia § 2.2-2827, as amended. Restrictions on state employee access to information infrastructure.

Code of Virginia §18.2-390, as amended. Definitions.

Virginia Board of Education Regulation 8VAC20-720-160, as amended. Instructional material.

Virginia Department of Education Model Policies Concerning Instructional Materials with Sexually Explicit Content (8/4/2022), as amended.

Protection of Pupil Rights Amendments, 20 U.S.C. §1232(H), 34 C.F.R. Parent 98, as amended.

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