

STATE OF SOUTH CAROLINA
BEFORE THE SOUTH CAROLINA STATE BOARD OF EDUCATION

INSTRUCTIONAL MATERIAL
REVIEW COMMITTEE

REPORT AND RECOMMENDATION

IN RE: LUCKY BY ALICE SEBOLD

This is a matter in which Instructional Material is being addressed by the Instructional Material Review Committee (“IMRC”) of the S.C. State Board of Education (“State Board”) pursuant to S.C. Code Reg. 43-170. The hearing of this matter occurred via Microsoft Teams on March 13th, 2025 at 1:00 PM.

Title of Instructional Material:
Author:

Lucky
Alice Sebold

BACKGROUND AND PROCEDURAL HISTORY

The “Subject Material” listed above is reviewed by the IMRC pursuant to its authority to review materials that have been appealed from a local district board. In this case, Complainant filed the South Carolina Instructional Materials Uniform Parent Complaint Form (Exhibit A) with the Beaufort School District Board of Education on January 17th, 2025. The Chairman of the Beaufort Board requested that the State Board of Education take these materials up for consideration, pursuant to Regulation 43-170 VI.C., as the Beaufort Board had previously reviewed this material in 2023, prior to the enactment of Regulation 43-170. As further described below, this Regulation authorizes the State Board to take certain actions related to Instructional Material. The Complainant requested that the State Board remove the Subject Material entirely from South Carolina’s public schools.

The Department notified the public of this matter via posting hearing information and the hearing agenda on its website on March 6, 2025. Consistent with governing requirements, the public was invited to sign up in advance of the hearing in order to provide comment regarding the Subject Material. The Hearing was conducted in accordance with Procedures for Review of Instructional Material, State Board Rule of Governance IFC, last revised October 1, 2024, and the South Carolina Administrative Procedures Act, S. C. Code Section 1-23-310 et. seq. The State Board’s Rule of Governance was designed and adopted to provide a full and fair process for Instructional Material reviews under Reg. 43-170.

Based on a review of all public comments (in person and written), the Subject Material, all documentation provided by the Complainant and interested parties, the IMRC makes the following findings of fact and conclusions of law.

APPEARANCES

Report and Recommendation
Lucky

Complainant providing testimony in favor of removing the Subject Material:

Elizabeth “Ivie” Szalai

On Behalf of South Carolina Department of Education:

Robert D. Cathcart, III, Esq., Policy and Legal Advisor

FINDINGS OF FACT

1. The Subject Material was challenged by the Complainant in the Beaufort County School District on January 17th, 2025.
2. Beaufort County School District Officials informed Complainant that the Board had previously considered the Subject Material and returned the material to its shelves. The Chairman of the Beaufort County School District Board of Education requested the State Board of Education to review the material without the Beaufort Board reviewing the Subject Material under the Regulation.
3. The Subject Material is available to students in the Beaufort County School District.
4. The Subject Material contains the content listed and described in Exhibit A¹.

APPLICABLE LAW

1. Regulation 43-170 authorizes the State Board to take certain actions related to Instructional Material. The State Board can (1) remove the Subject Material entirely, (2) discontinue use of the Subject Material for any grade level or age group for which such use is inappropriate or unsuitable, (3) limit the Subject Material’s availability to a student where the school district has received the consent of the student’s parent, or (4) permit the continued use of the Subject Material for all grade levels or age groups.
2. Regulation 43-170 defines “Instructional Material(s)”:

“Instructional Material(s)” means materials used in a South Carolina K-12 public school classroom, made available in a public school library/media center, or included on a public school’s reading list, whether adopted and/or purchased from the state-adopted instructional materials list, adopted and/or purchased through a district instructional materials program, or otherwise purchased, donated to the school, or made available to students through other means, including but not limited to digital platforms. See S.C. Code Ann. Section 59–19–10. The term “Instructional Materials” as used herein includes any collection of books or materials purchased, acquired, or kept on public school grounds by any teacher or other public-school employee and made available to students, regardless of how or by whom such materials are acquired or purchased. S.C. Code Reg. 43-170(I)(A).

3. Regulation 43-170 defines “Age and Developmentally Appropriate”:

“Age and Developmentally Appropriate” means topics, messages, materials, and teaching methods suitable to particular ages or age groups of children and adolescents, based on developing cognitive, emotional, and behavioral capacity typical for the age or age group.

¹ Exhibit A contains excerpts which are representative of questionable or violative material contained in the Subject Material. The IMRC’s review, report, and recommendation is not limited to the excerpts listed on Exhibit A.

Report and Recommendation
Lucky

Instructional Material is not “Age and Developmentally Appropriate” for any age or age group of children if it includes descriptions or visual depictions of “sexual conduct,” as that term is defined by Section 16–15–305(C)(1).

4. Regulation 43-170 authorizes the State Board to establish “a committee comprised of at least five of the State Board’s members... [and to] conduct a public meeting” consistent with the Regulation’s requirements. Reg. 43-170(IV)(E). Furthermore, it requires the committee to “provide a report and recommendation to the full State Board to be considered and either adopted or rejected by the State Board at its next regularly scheduled meeting.” *Id.*

RECOMMENDATION

The State Board has established that, when Instructional Material “present[s] plainly before the reader express, detailed... descriptions of ‘sexual conduct’ as specifically defined in S.C. Code Ann. § 16-15-305 (C)(1)(b), (d), and (e),” it is a clear violation of Regulation 43-170 and the Subject Material must be removed entirely from all public school in South Carolina. *See* SBE Final Order and Opinion No. 2024-0001 (In re: Damsel by Elena Arnold) at page 3. Having carefully considered all public comments (in person and written), the Subject Material and/or excerpts in question from the Subject Material, all documentation provided by the Department, and all comments made by those appearing before the IMRC, we unanimously find that the Subject Material includes descriptions of “sexual conduct” as that term is defined by S.C. Code § 16-15-305(C)(1).

While the IMRC’s review of the Subject Material is not limited to Exhibit A, the excerpts contained therein establish a clear violation of the regulation. Therefore, the Subject Material is not Age and Developmentally Appropriate as defined by S.C. Code Reg. 43-170 and must be removed entirely from all public schools in South Carolina.

The IMRC recommends that, considering all the circumstances *Lucky* by Alice Sebold be removed entirely from all public schools in South Carolina, beginning on the date of the signing of any Final Order issued by the South Carolina State Board of Education.

/s/Dr. Christian T. Hanley, Jr.

Christian T. Hanley, Jr.

Chairman

Instructional Material Review Committee

January 25, 2025



South Carolina Instructional Materials Uniform Parent Complaint Form

Your Name: Elizabeth Szalai

Title & Author of Contested Material (one per form): _____

Lucky by Alice Sebold

School Where Contested Material is Located: Battery Creek High School/Hilton Head Island High School

Location of Contested Material (library, classroom, etc.): Library

Contested Material is (select one): ☒ Printed ☐ Audio/Visual ☐ Online Resource

☐ Other (please describe): _____

I request that this Contested Material be (choose one of the following):

- ☒ Removed from all schools/facilities in this District.
- ☐ Restricted to the following grade levels in this District: _____
- ☐ Restricted to a student whose parent/legal guardian provides consent and is enrolled in the following grade levels in this District: _____

Describe Your Reason for Contesting This Material (attach additional pages as needed):

This book contains explicit sexual activities in violation of Regulation 43-170 specifically with fondling of breast, fingering/fisting, oral sex, and vaginal sex-all forced/rape.
Please refer to specific passages below with associated page numbers.

January 4/5

I, Elizabeth Szalai (insert your name), hereby certify that:

- I am a parent or legal guardian of a student who attends a school within this District.
- I have read, watched, or otherwise reviewed the material I am contesting.
- I have made a good faith effort to address my concerns with School or District staff.
- I have not filed more than five (5) instructional material complaints (including this complaint) in this calendar month.
- I believe that this Contested Material is not suitable for use, availability, and/or unrestricted access in this District, pursuant to the requirements and definitions in Regulation 43-170, which are summarized on the following instruction page.

Signature: _____

Date: 1/17/25

This form is produced by the South Carolina Department of Education in compliance with Regulation 43-170 and may not be altered by any other party. It is effective beginning August 1, 2024 until further notice.

Lucky
by Alice Sebold

Available in the following schools:

Battery Creek High School
Hilton Head Island High School

Summary of Concerns:

This book contains excerpts involving sexual assault/battery and sexual activities.

Page 5

(Violates the regulation with fondling of breast, fingering/fisting, oral sex, and vaginal sex-all forced/rape.)

My lips were cut. I bit down on them when he grabbed me from behind and covered my mouth. He said these words: "I'll kill you if you scream." I remained motionless. "Do you understand? If you scream you're dead." I nodded my head. My arms were pinned to my sides by his right arm wrapped around me and my mouth was covered with his left.

He released his hand from my mouth.

I screamed. Quickly. Abruptly.

The struggle began.

He covered my mouth again. He kned me in the back of my legs so that I would fall down. "You don't get it, bitch. I'll kill you. I've got a knife. I'll kill you." He released his grip on my mouth again and I fell, screaming, on the brick path. He straddled me and kicked me in the side. I made sounds, they were nothing, they were soft footfalls. They urged him on, they made him righteous. I scrambled on the path. I was wearing soft-soled moccasins with which I tried to land kicks.

Everything missed or merely grazed him...

Somehow, I don't remember how, I made it back to my feet. I remember biting him, pushing him, I don't know what. Then I began to run. Like a giant who is all powerful, he reached out and grabbed the end of my long brown hair. He yanked it hard and brought me down onto my knees in front of him. That was my first missed escape, the hair, the woman's long hair.

"You asked for it now," he said, and I began to beg.

He reached around to his back pocket to draw out a knife. I struggled still, my hair coming out painfully from my skull as I did my best to rip myself free of his grip. I lunged forward and grabbed his left leg with both arms, throwing him off balance and making him stagger. I would not know it until the police found it later in the grass, a few feet away from my broken glasses, but with that move, the knife fell from his hands and was lost.

Then it was fists.

Maybe he was angry at the loss of his weapon or at my disobedience. Whatever the reason, this marked the end of the preliminaries. I was on the ground on my stomach. He sat on my back. He pounded my skull into the brick. He cursed me. He turned me around and sat on my chest. I was babbling. I was begging. Here is where he wrapped his hands around my neck and began to squeeze. For a second, I lost consciousness. When I came to, I knew I was staring up into the eyes of the man who would kill me.

...He stood up and began dragging me over the grass by my hair. I twisted and half crawled, trying to keep up with him. Dimly, I had seen the dark entrance of the amphitheater tunnel from the path.

...As he dragged me, as I scrambled against the grass, I caught sight of that fence and became utterly convinced that if he brought me beyond this point, I would not survive.

For a moment, as he dragged me across the ground, I clung feebly to the bottom of that iron fence, before a rough pull yanked me clean.

..."Stand up," he said.

I did.

I was shivering uncontrollably. It was cold out and the cold combined with the fear, with the exhaustion, made me shake from head to toe.

He dumped my purse and bag of books in the corner of the sealed-off tunnel.

"Take off your clothes."

"I have eight dollars in my back pocket," I said. "My mother has credit cards. My sister does too."

"I don't want your money," he said, and laughed.

I looked at him. Into his eyes now, as if he was a human being, as if I could speak to him.

"Please don't rape me," I said.

"Take off your clothes."

"I'm a virgin," I said.

He didn't believe me. Repeated his command. "Take off your clothes."

My hands were shaking and I couldn't control them. He pulled me forward by my belt until my body was up against his, which was up against the tunnel's back wall.

"Kiss me," he said.

And he drew my head forward and our lips met. My lips were pursed tightly together. He tugged harder on my belt, my body pressing further against his. He grabbed my hair in his fist and balled it up. He drew my head back and looked at me. I began to cry, to plead.

"Please don't," I said. "Please."

"Shut up."

He kissed me again and this time, he inserted his tongue in my mouth. By pleading, I had left myself open to this. Again he pulled my head back roughly.

"Kiss back," he said.

And I did.

When he was satisfied, he stopped and tried to work the latch on my belt. It was a belt with a strange buckle and couldn't figure it out. To have him let go of me, for him to leave me alone, I said, "Let me. I'll do it."

He watched me.

When I was done, he unzipped the jeans he wore.

"Now take off your shirt."

I had a cardigan sweater on. I took that off. He reached over to help unbutton my shirt. He fumbled.

"I'll do it," I said again.

I unbuttoned the oxford-cloth shirt and, like the cardigan, I peeled it back from my body. It was like shedding feathers. Or wings.

"Now the bra."

I did.

He reached out and grabbed them- my breasts- in his two hands. He plied them and squeezed them, manipulating them right down to my ribs. Twisting. I hope that to say this hurt isn't necessary here.

"Please don't do this, please," I said.

"Nice white titties," he said. And the words made me give them up, lobbing off each part of my body as he claimed ownership- the mouth, the tongue, my breasts.

"I'm cold," I said.

"Lay down."

"On the ground?" I asked, stupidly, hopelessly.

...I sat first, kind of stumbled into a seated position. He took the end of my pants and tugged. As I tried to hide my nakedness- at least I had my underpants on- he looked down at my body.

"you're the worst bitch I ever done this to," he said.

..."I'm a foster child," I said. "I don't even know who my parents are. Please don't do this. I'm a virgin," I said.

"Lie down."

I did. Shaking, I crawled over and lay face up against the cold ground. He pulled my underpants off me roughly and bundled them into his hand. He threw them away from me and into a corner where I lost sight of them.

I watched him as he unzipped his pants and let them fall around his ankles.

He lay down on top of me and started humping.

...He worked away on me, reaching down to work with his penis.

I stared right into his eyes. I was too afraid not to.

He called me bitch. He told me I was dry.

"I'm sorry," I said- I never stopped apologizing. "I'm a virgin," I said.

"Stop looking at me," he said. "Shut your eyes. Stop shaking."

"I can't."

"Stop it or you'll be sorry."

I did. My focus became acute. I stared harder than ever at him. He began to knead his fist against the opening of my vagina. Inserted his fingers into it, three or four at a time. Something tore. I began to bleed there. I was wet now.

It made him excited. He was intrigued. As he worked his whole fist up into my vagina and pumped it, I went into my brain.

"Stop staring at me," he said.

"I'm sorry," I said. "You're strong," I tried.

He liked this. He started humping me again, wildly. The base of my spine was crushed into the ground. Glass cut me on my back and behind.

He kneeled back. "Raise your legs," he said.

"Spread them."

I did. My legs were like plastic Barbie's, page, inflexible. But he wasn't satisfied. He put a hand on each calf and pressed them out farther than I could hold.

"Keep them there," he said.

He tried again. He worked his fist. He grabbed my breasts. He twisted the nipples with his fingers, lapped at them with his tongue.

Tears came out of the corners of my eyes and rolled down either cheek. I was leaving now, but then I heard sounds. Out on the path. People, a group of laughing boys and girls, passing by.

...I looked at him; he did not hear them. This was it. I made an abrupt scream and, as soon as I did, he shoved his hand in my mouth. Simultaneously I heard the laughter again. This time it was directed toward the tunnel, toward us. Yells and taunts. Good-time noises.

We lay there, his hand locked my mouth and pressing down hard into my throat, until the group of well-wishers left.

...He ordered me to stand up. Told me I could put on my panties.

I thought it was over. I was trembling but I thought he'd had enough. Blood was everywhere and so I thought he'd done what he'd come for.

"Give me a blow job," he said. He was standing now. I was on the ground, trying to search among the filth for my clothes.

He kicked me and I curled into a ball.

"I want a blow job." He held his dick in his hand.

"I don't know how," I said.

"What do you mean you don't know how?"

"I've never done it before," I said. "I'm a virgin."

"Put it in your mouth."

I kneeled before him. "Can I put my bra back on?" I wanted my clothes. I saw his thighs before me, the way they belled out from the knee, the thick muscles and

small black hairs, and his flaccid dick.

He grabbed my head. "Put it in your mouth and suck," he said.

"Like a straw?" I said.

"Yeah, like a straw."

I took it in my hand. It was small. Hot, clammy. It throbbed involuntarily at my touch. He shoved my head forward and I put it in. It touched my tongue. The taste like dirty rubber or burnt hair. I sucked in hard.

"Not like that," he said and brought my head away. "Don't you know how to suck a dick?"

"No, I told you," I said. "I've never done this before."

"Bitch," he said. His penis still limp, he held it with two fingers and peed on me. Just a little bit. Acrid, wet, on my nose and lips. The smell of him- the fruity, heady, nauseating smell- clung to my skin.

"Get back on the ground," he said, "and do what I say."

And I did. When he told me to close my eyes I told him I had lost my glasses, couldn't even really see him. "Talk to me," he said. "I believe you, you're a virgin. I'm your first." As he worked against me, trying for more and more friction, I told him he was strong, that he was powerful, that he was a good man. He got hard enough and plunged himself inside me. He ordered me to and I wrapped my legs around his back and he drove me into the ground. It looked and watched and cataloged the details of it all. His face, his purpose, how best I could help him. I heard more party-goers on the path, but I was far away now. He made noises and rammed it in. Rammed it and rammed it and those on the path, those so far away, living the world where I had lived, could not be reached by me now.

"Nail her, all right!" someone yelled toward the tunnel.

They passed. I was staring straight into his eyes. With him.

"You're so strong, you're such a man, thank you, thank you, I wanted this."

And then it was over. He came and slumped into me. I lay under him. My heart beating wildly...

...Then I heard his breathing. Light and regular. He was snoring. I thought: Escape.

I shifted under him and he woke.

He looked at me, did not know who I was. Then his remorse began.

Page 18

(Violates Regulation with mention of ejaculate.)

They took pubic clippings and pubic combings and samples of blood and semen and vaginal discharge.

..."Alice," Dr. Husa said, "we are going to let you urinate now but then I will have to take stitches inside."

Page 27

(Violates Regulation with description that depicts oral sex.)

I had not eaten anything since the night before- since the raisins at Ken Child's house- and I could not look at the bagels or doughnuts without feeling what- the rapist's penis- had last been in my mouth.

Page 31

(Violates Regulation by description of how to give a blow job.)

At approx 12:05 AM while walking on the path past the bathhouse and near the amphitheater I heard someone walking behind me. I started to walk faster and was suddenly overtaken from behind and grabbed around the mouth. This man said "be quiet I'm not going to hurt you, if you do what I say." He loosened up his grip on my mouth and I screamed. He then threw me on the ground and yanks my hair and said "don't ask any questions, I could kill you right now." We were both on the ground and he threatened me with a knife I never saw. He then began to struggle with me and told me to walk over to the area of the amphitheater. While walking I fell down and he became angry, grabbed my hair and pulled me into the amphitheater. He proceeded to undress me until I was left with my bra and panties. I took off my bra and panties, he told me to lie down which I did. He took off his pants and proceeded to have intercourse with me. After he was done he got up and asked me to give him a "blow job." I said that I didn't know what it meant and he said "just suck on it." He then took my head and forced my mouth on his penis. After he was done he told me to lie down on the ground and again had intercourse with me. He fell asleep on me for a short time. He got up and helped me dress and took \$9.00 from my back pocket. I was then allowed to leave and went back to Marion Dorm where I notified the University police.

Page 55

(Violates the Regulation with referral to a woman having sex with multiple men at one time known as a train.)

A girl had been gang-raped at a fraternity that year.

...In the elevator of my sister's dormitory was a crude ballpoint drawing of her with her legs spread open. A group of male figures were waiting in line beside her. The caption read, "Marcie pull a train."

Page 60

(Violates the Regulation with descriptors of oral sex)

(At first, I had difficulty with solid food. Initially my mouth was sore from the sodomy and, after this, having food in my mouth reminded me too much of the rapist's penis as it lay against my tongue.)

Page 80

(Violates the Regulation with description of fondling breast.)

...seeing it played out onstage, with Aldonza chased by a group of men, fondled and abused, her breasts grabbed like lobes of meat.

...I was not a whore...

Page 119

(Violates the Regulation with mention of forced oral sex and intercourse.)

"First he brought me up to his face with his hands around my neck and kissed me a couple of times and then said to take my clothes off. He tried to take my clothes off first. He couldn't get my belt undone. He told me to do it and I did."

..."You were bleeding?"

"Yes."

"From falling down?"

"From falling down and him hitting me and smashing my face."

"Prior to the act of sexual intercourse you described, he struck you?"

"Umm-hmm."

"Where did he strike you?"

"In the face. I couldn't breathe for a while. He kept his hands around my neck, he scratched my face. Also, he just generally punched me around when I was on the ground and he was sitting on me to keep me from going anywhere."

"All right," Ryan said, "and after this you mentioned he was having some difficulty having an erection for some period of time, is that right?"

..."He was able to have an erection. I didn't really know if he had or not- I'm not familiar with that. But, then, before he came into me and had intercourse, he stopped once and made me get on my knees and he was standing up and he told me to give him a blow job."

..."After he did come in me, he got me up off the ground and started dressing and found some of my clothes and gave them to me and I put those on, and he said,

"You're going to have a baby, bitch- what are you going to do about it?"

Page 157

(Violates Regulation with mention of coming and gagging from oral sex.)

Somehow I lay under him as he fucked me. He fucked me hard. It was what I later heard girls call "athletic sex." I held on. When he came, he came loudly and snorted and bellowed.

...In the early morning he wanted to have sex again. But first, after kissing me, he pushed me down near his penis. Once there, I didn't know what to do.

"Haven't you ever done this before?" he asked,

I tried but gagged.

"Come up here," he said, releasing me. We kissed some more and, concerned

with a look he saw in my eye, he grabbed me by my hair and pulled my head away from his. "Look," he said. "Don't do that. Don't fall in love with me."

Page 171

(Violates Regulation with mention of hand in vagina.)

No father wanted to hear the story of how a stranger shoved his whole hand up his daughter's vagina.

Page 174

(Violates Regulation with mention of fondling/kissing breast and hands in vagina.)

"...Then he made me lie down on the ground and he took his pants off and left his sweatshirt on, and he started fondling my breasts and kissing them and doing things like that, and he was very interested in the fact that I was a virgin. He kept asking me about it. So he used his hands in my vagina..."