



STATE OF SOUTH CAROLINA
DEPARTMENT OF EDUCATION

Uniform Procedure for Selection or Reconsideration of Instructional Materials
Executive Summary (Final)

Across the State—and nation—parents, educators, administrators, and communities are grappling with questions and concerns about the selection and use of age-appropriate, educationally suitable materials for K-12 students in public schools. In South Carolina, the vast majority of educators seek to make responsible choices, use common sense, and be responsive to parent and community stakeholder concerns. Increasingly, however, disagreements have arisen regarding the appropriateness and suitability of various materials.

At present, those discussions and decisions are not governed by any consistent definitions, clear standards, or statewide uniform process. Rather, under the current patchwork of district policies and practices, stakeholders are afforded an uneven opportunity to have their concerns addressed in a uniform, transparent manner. This has created concern and frustration for parents and has created fear, uncertainty, and distraction from the paramount academic mission of South Carolina schools for educators.

To address this challenge, South Carolina has established a clear, transparent, and uniform process that provides certainty for local educators, respects the legitimate prerogatives of parents, and protects students from materials that are not age or developmentally appropriate.

[This new regulation](#) establishes consistent definitions and a two-prong threshold test for local educators and boards to determine if materials available to students in public schools are (1) age and developmentally appropriate and (2) educationally suitable and aligned with the purpose of South Carolina's instructional program. It furthermore creates a uniform process for local school boards to review and hold public hearings on complaints raised within its district and establishes an appellate process to the State Board of Education (SBE). The State Board of Education's authority to promulgate this regulation is established in SC Code 59-5-60¹ and SC Code 60-9-30².

¹ SECTION 59-5-60. General powers of Board.

The State Board of Education shall have the power to:

- (1) Adopt policies, rules and regulations not inconsistent with the laws of the State for its own government and for the government of the free public schools. (...)
- (7) Prescribe and enforce the use of textbooks and other instructional materials for the various subjects taught or used in conjunction within the free public schools of the State, both high schools and elementary schools in accordance with the courses of study as prepared and promulgated by the Board.

² SECTION 60-9-30. Duties of State Board of Education.

The State Board of Education shall select and publish a list of library books and also a list of supplementary readers and shall make all necessary rules and regulations concerning the use and care of libraries.

Key Provisions

1. Establishes and defines a two-prong threshold test for material, requiring it be deemed both:

- **Age and developmentally appropriate.** No material may include descriptions or visual depictions of “sexual conduct,” [as defined in longstanding South Carolina law](#).³
- **Educationally suitable and aligned with the purpose of South Carolina’s instructional program.** State law and regulation establish a clear purpose for South Carolina’s educational system: the provision of a rigorous, standards-based instructional program focused on high academic achievement and resulting in graduates who have the world-class knowledge, skills, and life and career characteristics to be college and career ready.⁴ South Carolina’s public education system must leverage finite resources, space, and time to procure materials that are educationally suitable and closely tailored to achieve this lofty goal for every student.

2. Sets forth a requirement for local districts to review potential new material prior to it being made available to students.

3. Sets forth additional criteria to guide districts in decisions of materials to retain and purchase including academic or educational rigor; educational significance; validity, accuracy, objectivity, currency, and appropriateness; and literary or educational merit, or quality.

4. Establishes a uniform process for local school boards to adjudicate contested materials.

- Allows parents or legal guardians to file a complaint with the local district for removal of material that fails to meet the above requirements.
- Sets forth a timeline within which the local board must hold a public hearing on the complaint and issue a ruling.
- Provides that local school boards may keep, remove, or restrict the item to require parental consent.

5. Creates an appellate process to the State Board of Education.

- Allows complainant, upon exhausting the local school board hearing process, to appeal the decision of the local school board to the State Board of Education (SBE).
- Sets forth a timeline within which the SBE must hold a public hearing on the appeal.
- Provides that the SBE may keep, remove, or restrict the item to require parental consent.

³ See [SC Code 16-15-305\(C\)\(1\)](#).

⁴ The General Assembly has established the Profile of the South Carolina Graduate as the standard by which student achievement is to be measured in this state, emphasizing the need for rigorous standards in language arts and math to achieve college and career readiness (SC Code 59-1-50). They have further directed that high expectations for all students are essential to improved academic achievement (SC Code 59-18-100). The State Board has also adopted academic achievement standards for K-5 (R.43-231), 6-8 (R.43-232), and 9-12 (R.43-234).

- Establishes that SBE decisions about specific materials will be conclusive and binding on all districts in South Carolina.

Key Adopted Revisions

The regulation went through two extensive public comment periods from the September 22, 2023, publication of the initial drafting notice in the State Register to 2nd reading before the State Board of Education on February 13, 2024. During this time, members of the SBE, along with the State Superintendent and Department of Education staff, received testimony and engaged in listening and robust conversation with parents, educators, and concerned citizens across the state.

As a result of this open and participatory process, members of the State Board requested that the following adjustments be made to enhance understanding around certain provisions and practical enforceability to accomplish the dual goal of creating certainty for educators and respecting parental concerns. These changes were adopted and the regulation was unanimously passed by the SBE.

- 1. Eliminates reference to FCC provisions to simplify and clarify the definition of age and developmentally appropriate.** By narrowing the definition of “sexual conduct” to that found in SC Code 16-15-305(C)(1), boards may avoid possible confusion around subjective terminology used in the federal regulations.
- 2. Limits complaints to those brought by parents or legal guardians of students in a district who have made a good faith effort to address their concerns with school or district staff prior to bringing a complaint.** This modification addresses concerns expressed by educators about the challenge of sifting through potential mountains of information requests or complaints from parties with no direct connection to a school.
- 3. Clarifies that the State Department of Education will create a standard complaint form for statewide use to bring uniformity and simplicity to the process.** The proposed regulation will require someone submitting a complaint to use this standard form.
- 4. Clarifies that districts retain the freedom to determine how or if they retrospectively review existing materials for compliance.** This addresses the practical concern of districts with extensive existing collections while in no way limiting the right of parents or legal guardians to challenge materials in an existing collection.
- 5. Provides that local boards may suspend an appeal if an appeal of the same material is pending before the State Board of Education, pending the SBE’s decision.** This will prevent unnecessary duplication of effort and save local boards time.
- 6. Extends the period for a local board to consider a complaint from 60 to 90 days and clarifies that a board may appoint a subcommittee of members of the same to review complaints and make recommendations to the full board.** This addresses practical implementation and time constraints raised by members of local boards, as well as allowing space for established local processes that do not conflict with provisions of this regulation.

Frequently Asked Questions

1. Does this regulation equate to “book banning” or “censorship?”

No. A book ban is when the government seeks to prevent *you* from buying, selling, owning, or reading a book. This regulation doesn’t do that. Students are still free to buy, own, and read any book that they or their parents choose, and there’s no penalty to discourage them from doing so. Rather, this regulation deals with *government* employees acting in their *government* roles to select and buy materials using *government* funds that will be owned by the *government*, kept in *government* buildings, and used by *government* officials to administer a government program. This regulation says nothing about what children or parents can buy and read on their own time and dime.

2. Does this regulation infringe on “academic/intellectual freedom” of K-12 educators?

No. While academic freedom exists as a legal concept in higher education, it does not apply in the context of K-12 education and minor children.⁵ Rather, this regulation establishes permissible guardrails around government “speech,” as delivered within a public institution by public employees. Case law is clear: the State has the right to remove obscene materials from public school libraries and classrooms.

3. Does this regulation improperly override “local control”?

No. State law provides the State Board of Education explicit and unambiguous authority over this issue. Furthermore, it is carefully crafted to clarify that the primary responsibility for adjudicating contested materials within a district resides with the locally elected board. In fact, it clarifies that each district school board is and remains responsible to manage the ongoing selection and continued use of all instructional materials and any other materials made available in its schools, whether adopted and purchased through a district instructional materials program, or otherwise purchased, donated to the school, or made available to students through other means.

4. Does this regulation overburden educators?

No. This regulation creates a straightforward, streamlined process for reviewing contested materials. Once fully implemented, it will lessen anxiety, uncertainty, and conflict as districts comply with a clear, uniform standard.

5. Does this regulation change the implementation of South Carolina’s laws regarding sex education, sexual abuse reporting, or online safety?

No. This regulation does not impact South Carolina’s Comprehensive Health Education Act (which includes existing safeguards regarding parental notification and consent), Erin’s Law, Gavin’s Law, or any other law relating to educating children about how to identify and report sexual abuse.

6. Does this regulation risk viewpoint discrimination?

No. The regulation clearly, expressly, and repeatedly states that decisions to retain or remove a book cannot be made based on the decision-maker’s disagreement with or opposition to the *viewpoints* expressed in the book. Rather, it provides objective criteria on which to evaluate materials.

⁵ See *Boring v. Buncombe County Board of Education*, 136F.3d 364 (4th Cir. 1998).