

(As proposed)

Library Materials - IJL

1. Objectives

The District seeks to provide library materials that would be of the greatest support to its educational objectives for the minor students in the District. The District's libraries exist to facilitate research and learning by furnishing materials that are of requisite quality, suitable for educational goals, worthwhile for the limited amount of time available to students, and most appropriate for minor students. The District's libraries do not exist to provide universal coverage but instead to provide materials aimed at its pedagogical goals and for the interest, information, and enlightenment of minor children, not adults. The school library is not a public forum, nor is the goal to encourage views from private speakers/authors.

This policy provides criteria for the selection, removal, and replacement of library materials, focused on maximizing transparency with parents and community members while meeting student needs to provide supplemental enrichment in their learning with appropriate materials. Through the provision of these library materials, the District recognizes that parents hold an essential role in the education of their children and have the right to guide what their children read.

2. Definitions

Library materials - All materials, including print and digital materials, whether held in a formal school library, an online platform, or in a classroom, that are made available through the school library system for independent use by students and faculty outside of the District's core educational program. Textbooks that are assigned to students in a class that is part of the District's core educational program and other supplemental instructional materials that are similarly assigned are not library materials.

Sexual acts – Sexual intercourse, masturbation, sadism, masochism, bestiality, fellatio, cunnilingus, or any touching of the sexual or other intimate parts.

Intimate parts — Human genitals, pubic areas, the human female breast below a point immediately above the top of the areola, or the covered male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple or areola only are covered.

Nude intimate parts — Intimate parts that are uncovered or less than opaquely covered.

Implied nudity – Depictions that imply a person is not wearing clothing to cover their intimate parts, particularly where intimate parts are strategically covered or not shown but where such depictions draw the viewers' attention to the person's intimate parts.

Implied sex act – Depictions or written descriptions in which a sex act itself is not explicitly shown or described, but is visually depicted or described in writing as a future occurrence, as occurring, or as having occurred in the past.

Parent – The legal parent or guardian of a student.

3. Responsibility for Selection

The legal responsibility and authority for the selection and purchase of library materials is vested in the School Committee, who may delegate such authority to the Superintendent, Principal, or other designee.¹

4. Acquisition Process

Recommendation Stage: Recommendations for new material and reorders of existing material shall be made by the District-level library supervisor or similar administrator designated by the Superintendent. Such recommendations may be based on their own expertise or based on recommendations from administrators, teachers, other District personnel, parents, and community members. Gifts and donations of library materials must go through the same process and materials must align with the same selection criteria as purchased materials.

The District-level library supervisor or Superintendent's designee shall give a list of all recommendations to the Superintendent.

After the Superintendent or designee's initial approval, the recommended list shall be provided to the School Committee and posted in a publicly accessible location on the District's website for 30 days prior to the superintendent's final approval. The purpose of this 30-day period is to allow parents, guardians, employees, and members of the community to submit written comments on the recommended list. After 30 days, the superintendent shall make a final recommendation list for a majority vote by the School Committee. The Superintendent shall also provide the Committee with all public comments that the District received regarding the recommended list. The Committee may accept or reject the list in whole or in part. An accepted list shall then be processed for order.

Individual Board Member Review. If any School Committee member desires further information on a title or author during the time between initial recommendation and final recommendation by the superintendent, he/she may contact the Superintendent who shall then contact the District-level library supervisor to obtain copies of the material or professional reviews of the library material in question.

School Committee Action. Library materials recommended by the Superintendent/designee shall be adopted through a majority vote of the School Committee at any regular meeting.

The school committee may also adopt materials not recommended by the Superintendent/designee by a majority vote.

5. Avoiding Inappropriate Material

The District recognizes that there exists a vast array of materials with rich educational content. It is the District's objective to choose those materials that provide such rich educational content that is age-appropriate for students in the District over material that may provide similar content but with elements that are inappropriate or unnecessary for minors in a school setting.

Sexualized content is generally inappropriate and/or unnecessary for minors in school. Certain sexual content may even subject the District to liability under state or federal obscenity laws.ⁱⁱ However, a school need not show that sexualized content is obscene to show that it is not appropriate or educationally suitable for minor students.ⁱⁱⁱ Parents/guardians have a wide range of options outside of the District's library system to introduce their child to sexual content they deem age-appropriate for their child. As such, the Superintendent, District-level library supervisor, and any other designated District employee will prioritize inclusion of quality materials suitable for educational goals and worthwhile for the limited amount of time available to students that do not contain sexualized content.

Elementary School Libraries

No materials in elementary libraries shall contain:

1. Visual or visually implied depictions of sexual acts or simulations of such acts,
2. Explicit written descriptions of sexual acts or nude intimate parts,
3. Implied sex acts or written descriptions of nude intimate parts, except for the purposes of teaching students to avoid and report molestation, or
4. Visual depictions of nude intimate parts or implied nudity.

Middle School Libraries

No materials in middle school libraries shall contain:

1. Visual or visually implied depictions of sexual acts or simulations of such acts,
2. Explicit written descriptions of sexual acts or nude intimate parts, or
3. Visual depictions of nude intimate parts - not including diagrams for educating about anatomy for science and health instruction, breastfeeding, or classical works of art.

In selecting library materials for middle school students, the Superintendent, District-level library supervisor, or other designee shall seek to prioritize the selection of materials that

do not contain other sexualized content, even though permitted, such as non-explicit written description of sexual acts or implied nudity.

High School Libraries

No materials in High school libraries shall contain:

1. Visual or visually implied depictions of sexual acts or simulations of such acts.
2. Explicit written descriptions of sexual acts or nude intimate parts.

In selecting library materials for high school students, the Superintendent, District-level library supervisor, or other designee shall seek to prioritize the selection of materials which do not contain other sexualized content, even though permitted, such as visual depictions of nude intimate parts.

Prioritization Process: Options Required

When seeking approval for any library materials containing permitted sexualized content, such as visual depictions of nudity that would be available to high school students or, in the case of middle school students, materials that contain an implied written description of sexual acts or implied nudity, the librarian involved in the collection development process must notify the District-level library supervisor or Superintendent's designee that such sexualized content is present in the material and offer potential alternative options from which to choose, which cover similar pedagogical purposes for the resource but which do not contain the aforementioned sexualized content.

District libraries must also comply with the Children's Internet Protection Act (CIPA) as specified in 47 U.S.C. §254(h)(5), including technology protection measures, and all state and federal laws relating to the prohibition on pornographic and other harmful materials for minors.

The District shall also contract with third party providers of electronic materials who will provide resources to students in compliance with this policy. The District shall not enter into any such contract without obtaining written assurance from the third party provider that it will comply with this policy. Should a third party provider fail to comply with this policy, the contract with that provider shall be terminated at the earliest opportunity.

6. Criteria for Selection

The District-level library supervisor or designated administrator shall work cooperatively with library staff, faculty, and the administration to select material consistent with this policy.

Each item selected shall:

1. Support and enrich the curriculum and/or students' personal interests and learning;

2. Be appropriate for the subject area and for the age, intellectual development, and ability level of the students for whom the materials are selected; and
3. For non-fiction resources, incorporate accurate and authentic factual content.

Prior to any material being selected for recommendation by the District-level library supervisor to the School Committee, the potential library material shall have been reviewed by the District-level library supervisor or individual(s) designated by that supervisor.

Review sites can be used to assist in the review, but such review site's conclusion as to the age-appropriateness of the material shall not be deemed conclusive.

The District also ensures that individual teachers in the district review all education materials for simplistic and demeaning generalizations, lacking intellectual merit, on the basis of race, color sex, gender identity, religion, national origin, and sexual orientation. Appropriate activities, discussions and/or supplementary materials are used to provide balance and context for any such stereotypes depicted in such materials.^{iv}

7. Optimizing Library Resources

The process of weeding is a key part of assessing the District library collection. It helps keep the collection relevant, accurate, and useful, and it facilitates more effective use of space in the library. District libraries shall accomplish a thorough weeding at least once every fifth year, with the first weeding cycle to commence within thirty (30) days of the adoption of this policy. Criteria for weeding of materials includes poor physical condition, outdated content, lack of accuracy, lack of circulation, and better alternatives. Lost, damaged, or worn books are not automatically replaced. The decision to replace materials is based on availability and continued relevance; also considered are the availability of duplicates, the number of other books on the same subject, the availability of more recent or better material, more appropriate material, and the continued demand for the book in question. All materials are selected to provide a balanced collection. A wide range of recognized classics should be maintained in each library.

8. Challenge Procedures

A parent of a District student or any District resident may formally challenge library material on the basis of appropriateness. The school receiving a complaint about the appropriateness of a library material shall try to resolve the matter informally through a telephone conference or meeting between the complainant and the school librarian, designated campus administrator, or District-level library supervisor. The conference may also include other necessary staff members as deemed appropriate by District-level library personnel.

If the complainant wishes to file a formal request for reconsideration, a copy of this policy shall be provided to the complainant by the District-level library supervisor or appropriate administrator with instructions to submit the information requested below.

1. All formal concerns regarding library materials shall be submitted to the District-level library supervisor or designated administrator, and shall state: 1) the complainant's name and contact information, 2) the name/author of the library resource, 3) cite page numbers and specific information in the material to support the objections, 4) offer suggestions as to replacements that are of equal or better merit and which convey the same or similar educational purpose that may have led to the objected material being included in the library in the first place, 5) and state whether the complainant is requesting a reevaluation of the material's inclusion or is simply making a request that the material not be assigned to or checked out by the complainant's child.

The District-level library supervisor or designee shall provide a form for the purpose of making formal requests for reconsideration. However, complainants need not use this form to file a valid request.

2. The District-level library supervisor or Superintendent/designee shall review the complaint and the challenged material and determine whether it conforms to the principles of selection set out in this policy. The complainant shall have the right to meet with the District-level library supervisor or Superintendent/designee in person or via phone or video conference to discuss their concerns with the challenged material. A decision shall be made within thirty (30) District business days of the receipt of the complaint.

The major criterion for the final decision on challenged library material is the appropriateness of the resource for its intended educational use and intended audience of minor students. The plurality opinion in *Bd. of Educ. v. Pico* uses the standard that no challenged instructional resource shall be removed because of the ideas expressed therein.^v Removal of materials may be based upon the lack of educational suitability of the library material, lack of appropriateness for minors such as sexualized content, or for pervasive profanity or vulgarity.^{vi} It need not rise to the levels of obscene material or material which would violate criminal laws in order to warrant replacing the material with better options.

When a decision has been reached, the appropriate District-level administrator shall notify the complainant. The decision shall be in written form, dated, and provided to the complainant within ten (10) District business days of the decision. All other appropriate staff members will be informed of the reconsideration and the outcome.

Specific library material that has withstood the formal challenge process and remains in the library will not be reconsidered within one year of final determination, and any material removed will not be eligible for consideration to be added again for at least five years and without meeting the criteria for selection outlined in this policy. The District shall verify previous decisions prior to convening a reconsideration committee.

Appeal of Decision. The complainant may appeal the decision of the District-level library supervisor or Superintendent/designee to the School Committee by submitting a notice of appeal to the Chair of the School Committee via email or in writing. The Committee shall review the original complaint and the challenged material and shall meet with the complainant to hear his or her concerns about the challenged material. The Committee shall decide on the appeal by roll call vote within thirty (30) District business days of receiving the notice of appeal and shall notify the complainant within ten (10) District business days of the decision. This decision shall be final.

9. Opportunity for Parental Review

In recognizing that parents hold an essential role in the education of their children and have the right to guide what their children read, each library shall maintain a printed list of materials onsite and on the school library website that shows what has been selected as well as what is slated for acquisition. Audio-visual materials are to be made available to parents for in-person review, upon request, on the same basis as printed materials are made available. Parents have the right to review student school records, including but not limited to books checked out by their child.

10. Other Parental Considerations

In school libraries, students are afforded the opportunity to self-select texts as part of literacy development. While librarians are trained in selecting materials in accordance with Board policy and the outlined selection criteria and may provide guidance to students in selecting texts, the ultimate determination of appropriateness for a minor lies with the parent or guardian. School librarians, or designated campus administrators, are to encourage parents to share any considerations regarding their students' book selections. Parents may contact the campus librarian directly and/or complete an online form for library book or content opt-out decisions. School librarians will honor and accommodate individual requests by parents, which may include restricting specific titles or books.

11. Enforcement

A District employee who fails to follow this policy may be subject to discipline, up to and including termination from employment, consistent with all applicable contracts. The Superintendent shall inform the School Committee of any incidents of District employees failing to follow this policy.

Legal References:

ⁱ M.G.L. c. 71, § 49A.

ⁱⁱ *See, e.g.*, 18 U.S.C. §§ 1466A; 1470; M.G.L. c. 272 § 29B.

ⁱⁱⁱ *See, e.g., Griswold v. Driscoll*, 616 F.3d 53, 57 n. 4 (1st Cir. 2010) (affirming that school boards may reject or remove books from school libraries based on criteria of “educational suitability, good taste, relevance, and appropriateness to age and grade level”); *C.K.-W v. Wentzville R-IV Sch. Dist.*, 2022 U.S. Dist. LEXIS 139554 (E.D. Mo.) (holding that school had legitimate interest in removing vulgar and sexually explicit books from library as age-inappropriate and educationally unsuitable and rejecting allegations of “book banning”).

^{iv} 603 CMR 26.05.

^v 457 U.S. 853, 871 (1982).

^{vi} *See id.*; *see also ACLU of Fla., Inc. v. Miami-Dade County Sch. Bd.*, 557 F.3d 1177, 1200 (11th Cir. 2009) (holding that school could remove library books for “legitimate pedagogical reasons such as concerns about the accuracy of the book”); *Wentzville*, 2022 U.S. Dist. LEXIS 139554.