

R277-469 received final approval by the Utah State Board of Education on August 3, 2023. R277-469 will be published in the September 1, 2023, Utah State Bulletin, subject to a 30-day comment period, with a planned effective date of October 9, 2023.

R277. Education, Administration.

R277-469. Instructional Materials Commission Operating Procedures.

R277-469-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitutional Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;
 - (c) Section 53E-4-402, which directs the Board to appoint an Instructional Materials Commission and directs the Commission to evaluate instructional materials for recommendation by the Board; and
 - (d) Section 53E-4-408, which directs the Board to make rules that establish the qualifications of the independent parties who may evaluate and map the alignment of the primary instructional materials and requirements for the detailed summary of the evaluation.
- (2) The purpose of this rule is to:
 - (a) provide definitions, operating procedures and criteria for recommending instructional materials for use in Utah public schools;
 - (b) provide for mapping and alignment of primary instructional materials to the Core consistent with Utah law; and
 - (c) provide rules for purchase and distribution of instructional materials within the state.

R277-469-2. Definitions.

- (1) "Commission" means the Instructional Materials Commission established in accordance with Section 53E-4-402.
- (2) "Core" means the core standards adopted by the Board in Rule R277-700.
- (3) "Curriculum alignment" means the assurance that the material taught in a course or grade level matches the standards, and assessments set by the state for specific courses or grade levels.

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(4) "Depository" means a business dedicated to storing and distributing resources or materials in sufficient quantities to insure rapid and efficient delivery to LEAs.

(5)(a) "Instructional materials" means systematically arranged content in text, digital, Braille and large print, or audio format which may be used within the state curriculum framework for courses of study by students in public schools.

(b) "Instructional materials" include:

- (i) textbooks;
- (ii) workbooks;
- (iii) ~~[computer software]~~digital resources;
- (iv) online ~~[or internet]~~courses;
- (v) CDs or DVDs; and
- (vi) multiple forms of communication media.

(c) "Instructional materials" may be used by students or teachers or both as principal sources of study to cover any portion of a course.

(d) "Instructional materials":

- (i) are designed for student use;
- (ii) may be accompanied by or contain teaching guides and study helps;
- (iii) shall include all textbooks, workbooks, student materials, supplements, and online and digital materials necessary for a student to fully participate in coursework;
- (iv) shall be high quality, research-based materials for supporting student learning; and

(v) may not be sensitive materials as defined by Subsection 53G-10-103(1)(g).

(6) "Independent party" means an entity that is not part of or related to:

- (a) the Board;
- (b) Board staff;
- (c) an employee or governing board member of an LEA;
- (d) the creator or publisher of instructional materials under review; or
- (e) anyone with a financial interest, however minimal, in instructional materials under review.

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(7) "Instructional Materials Commission" or "Commission" means the commission appointed by the Board in accordance with Section 53E-4-402.

(8) "Integrated instructional program" means any combination of instructional materials for students, including:

- (a) textbooks;
- (b) workbooks;
- (c) ~~[software]~~digital resources;
- (d) videos;
- (e) electronic devices; or
- (f) similar resources.

(9) "Instructional materials provider" means a publisher or author and self-publisher who sells or provides instructional materials for use in Utah public schools.

(10) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(11) "Mapping" means creating a visual representation listing topics in instructional materials in correlation to the standards of the Utah Core.

(12) "National Instructional Materials Access Center" or "NIMAC" means the same as that term is defined in Subsection R277-800-2(14).

(13) "National Instructional Materials Accessibility Standard" or "NIMAS" means the same as that term is defined in Subsection R277-800-2(15).

(14) "Not sampled" means instructional materials that were included in a publisher bid for evaluation by the Instructional Materials Commission, but which were not sampled to the Superintendent or the Commission.

(15) "Primary instructional material" means a comprehensive basal or Core textbook or integrated instructional program for which a publisher seeks a recommendation for Core subjects designated in Sections R277-700-4 through R277-700-6.

(16) "Recommended instructional materials" or "RIMs" means the recommended instructional materials searchable database provided as a free service by the Board for

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the posting of evaluations and alignments to the Core of instructional materials submitted by publishers for review by the Commission and approval of the Board.

(17) "Recommended limited" means instructional materials that are in limited alignment with the Core requirements or are narrow or restricted in their scope and sequence.

(18) "Recommended primary" means instructional materials that:

(a) are in alignment with content, philosophy, and instructional strategies of the Core;

(b) have been mapped and aligned to the Core, consistent with Section 53E-4-408;

(c) are appropriate for use by students as principal sources of study; and

(d) support Core requirements.

(19) "Recommended student resource" means instructional materials aligned to the Core that are developmentally appropriate, but not intended to be the primary instructional resource, which may provide valuable content information for students.

(20) "Recommended teacher resource" means instructional materials that are appropriate as resource materials for use by teachers.

(21) "Reviewed, but not recommended" means instructional materials that an LEA is strongly cautioned against using because the materials:

(a) do not align with the Core;

(b) are inaccurate in content;

(c) include misleading connotations;

(d) contain undesirable presentation; or

(e) are in conflict with existing law or rule.

(22) "Utah State Instructional Materials Access Center" or "USIMAC" means the same as that term is defined in Subsection R277-800-2(21).

R277-469-3. Use of State Funds for Instructional Materials.

(1) An LEA may use state funds for any primary supplemental or supportive instructional materials that support Core requirements.

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(2) An LEA shall select and approve instructional materials consistent with:

- (a) established local board procedures and timelines;
- (b) Utah Code and Board rule, including Section 53G-10-103;
- (c) Subsection 53G-10-402(1)(c)(iii); and
- (d) Subsection 53E-4-403(4).

(3) A school or school district that uses any funding source to purchase materials that have not been recommended or selected consistent with state law, may have funds withheld to the extent of the actual costs of those materials pursuant to Subsection 53E-3-401(8)(a)(ii).

(3)(a) An LEA may use free instructional materials that are used as primary instructional materials or that are part of primary integrated instructional programs subject to the same independent party evaluation and Core mapping as basal or Core material.

(b) If an LEA receives free materials, the LEA may use the materials as student instructional materials only consistent with the law and this rule.

(4) An LEA shall include a requirement in all publisher contracts for instructional materials that the publisher shall:

- (a) prepare and provide electronic files of all instructional materials in the NIMAS format to NIMAC on or before delivery of print instructional materials; or
- (b) provide instructional materials that are produced in, or may be made in, specialized formats; and
- (c) provide materials consistent with the Utah Code and administrative rules.

(5)(a) An LEA shall provide timely notice to all publishers with whom the LEA contracts for instructional materials that all materials shall be provided consistent with Subsection (4).

(b) An LEA's notice shall include a copy of this rule.

R277-469-4. Instructional Materials Commission Members Terms of Service.

(1) The Board shall appoint members of the Instructional Materials Commission in accordance with Section 53E-4-402.

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(2)(a) A member appointed in accordance with Subsection (1) shall serve four year terms, staggered to ensure continuity in the efficient operation of the Commission.

(b) A member may apply for reappointment to one additional term.

(3) The Commission may establish subcommittees as needed.

R277-469-5. Commission Review of Materials.

(1) The Instructional Materials Commission shall primarily focus on reviewing materials used in subjects aligned with Core requirements to include reading, language arts, mathematics through geometry, science, in kindergarten through 12th grade, effectiveness of written expression, and other Core subject areas as assigned by the Board.

(2) The Commission shall determine subject areas and timelines for review based on school district and charter school needs and requests, using forms and procedures provided by the Superintendent.

(3) The Commission shall meet to review materials at least semi-annually.

(4) Following its evaluation of a submitted item, the Commission shall recommend that the Board classify materials in one of the following categories:

(a) Recommended primary;

(b) Recommended limited;

(c) Recommended teacher resource;

(d) Recommended student resource;

(e) Reviewed, but not recommended; or

(f) Not sampled.

R277-469-6. Criteria for Recommendation of Instructional Materials Following Mid-Party Evaluation of Core Curriculum.

(1) The Instructional Materials Commission and the Board, in reviewing whether to recommend instructional materials, may consider whether the instructional materials:

(a) are consistent with Core requirements;

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(b) are mapped and aligned to the Core and state adopted assessments if planned for use as primary materials;

(c) are high quality, research-based, and proven to be effective in supporting student learning;

(d) provide an objective and balanced viewpoint on issues;

(e) include enrichment and extension possibilities;

(f) are appropriate to varying levels of learning;

(g) are accurate and factual;

(h) are arranged chronologically or systematically, or both;

(i) reflect the pluralistic character and culture of the American people and provide accurate representation of diverse ethnic groups;

(j) are not sensitive materials as defined in Subsection 53G-10-103(1)(g);

(k) are consistent with the principles of individual freedom as defined in Section 53G-10-206; and

~~[(k) are free from sexual, ethnic, age, gender or disability bias and stereotyping; and]~~

(l) are of acceptable technical quality.

(2) A publisher, when submitting new primary material to be evaluated by the Superintendent, shall submit an electronic version of that material in NIMAS file format to NIMAC for use in conversion into Braille, large print, and other formats for students with print disabilities.

(3) The Superintendent may require an LEA to provide a report of instructional materials purchased by the LEA or a school in the previous five years.

(4) The Superintendent may initiate a formal or informal audit of instructional materials purchased to determine purchase or use of instructional materials consistent with the law or this rule.

R277-469-7. Agreements and Procedures for LEAs.

(1) A local board shall establish a policy for selection and purchase of instructional materials.

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(2) As part of any materials adoption process or procurement contract for purchasing instructional materials, an LEA shall provide instructional materials to all students, including blind students and other students with disabilities, in a timely manner.

(a) A publisher shall provide materials in electronic files to NIMAC to make materials available to eligible students.

(b) An LEA shall include NIMAS contract language in all contracts with publishers for Core materials.

(c) An LEA may purchase instructional materials from the publisher that are produced in, or may be in, specialized formats for eligible students.

(3) An LEA shall require a detailed Core curriculum alignment before the purchase of primary instructional materials.

R277-469-8. Qualifications for Core Curriculum Alignment Independent Parties.

(1) A primary instructional materials provider shall contract with an independent party in accordance with Subsection 53E-4-408(1)(a).

(2) An independent party may only employ or contract with a reviewer who has a degree or an endorsement specific to the subject area of the primary instructional materials.

(3) A publisher shall provide proof of an independent party's credentials to the Superintendent upon request.

R277-469-9. Detailed Summary Requirements.

(1) An independent party shall submit a summary required under Subsection 53E-4-408(1)(b) in a searchable, ~~software~~digital resource database format designated by the Superintendent.

(2) A summary required under Subsection 53E-4-408(1)(b) shall:

(a) include detailed alignment information that includes, at a minimum:

(i) the title of the material;

(ii) the ISBN number;

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- (iii) the publisher's name;
 - (iv) the name and grade of the Core document used to align the material;
 - (v) the overall percentage of coverage of the Core;
 - (vi) the overall percentage of coverage in ancillary resources of the material to the Core;
 - (vii) the percentage of coverage of the Core in the material for each standard, objective and indicator in the Core with corresponding page numbers;
 - (viii) percentage of coverage of the Core not covered in the material but covered in the ancillary resources for each standard; and
 - (ix) objective and indicator in the Core with corresponding page numbers or URLs; and
- (b) provide the detailed alignment information listed in Subsection (a)(iv) for the student text for all editions of the text that are used in Utah public schools;
 - (c) provide the detailed alignment information listed in Subsection (a)(iv) for a teacher edition of text, if a teacher edition is used in Utah public schools; and
 - (d) provide an assurance, including a personal signature, that the work was completed personally and as required by the licensed and endorsed reviewer.

R277-469-10. Agreements and Procedures for Publishers.

(1) A publisher desiring to sell primary instructional materials to Utah school districts shall comply with the requirements of Section 53E-4-408 and this rule.

(2)(a) A publisher seeking to sell recommended materials to Utah schools or school districts shall ~~[have ten books and tangible adopted materials or such other amount as required by a depository based on anticipated need on deposit within the state at an instructional materials depository in the business of selling instructional materials to schools or school districts in Utah]~~maintain on deposit the number of books necessary to meet the anticipated needs within the state at an instructional materials depository in the business of selling instructional materials to schools or school districts in Utah.

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(b) A publisher shall submit verification of compliance with Subsection (2)(a) to the Superintendent through the publisher's contracted depository prior to the Superintendent posting a review of the materials on RIMs.

(3) A publisher may make a depository agreement with one or more depository.

(4) Notwithstanding Subsection (2), a publisher may sell instructional materials to schools or school districts in Utah directly or through means other than a designated depository.

(5) A publisher need not store digital and online resources within the state, but shall guarantee timely resource availability of a placed order and shall provide digital and online resource orders without shipping charges.

(6) If a revised edition of recommended materials retains the original title and authorship, the publisher may request its substitution for the edition currently recommended providing that:

(a) the original contract price and contract date do not change and the original contract price applies for the substituted materials;

(b) the revised edition is compatible with the earlier edition, permitting use of either or both in the same classroom;

(c) a sample copy of the revised edition is provided to the Superintendent for examination purposes; and

(d) the publisher submits a revised electronic edition in NIMAS file format to the NIMAC if the Superintendent approves the substitution request.

(7) The Commission shall make the final determination about the substitution of a new edition for a previously recommended edition with assistance from the Superintendent.

(8) A publisher's contract price for materials recommended by the Commission and the Board shall apply for five years from the contract date.

R277-469-11. Request for Reconsideration of Recommendation.

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(1) The Superintendent shall provide a school district, school, or publisher with the evaluations and recommendations resulting from the initial review of the Commission.

(2) A school district, school, or publisher may, within 30 days of the Commission's initial recommendation, request to have materials reviewed again during the Commission's next review cycle.

(3)(a) During the period of the reconsideration request, the Superintendent shall classify materials only tentatively.

(b) The Superintendent shall not post tentatively classified materials to RIMs until recommended through the official Commission process.

(4) A school district, school, or publisher may be asked to send a second set of sample materials to the Superintendent as part of a reconsideration request.

(5) Any written information provided by a school district, school, or publisher shall be available to the advisory committees during the second review.

(6) After the second review by the subject area advisory committee, the Commission shall vote on the advisory committee's recommendation at the next scheduled meeting.

(7) If the Commission votes to change the recommendation, the Superintendent shall notify the Board of the action at the next scheduled Board meeting.

(8) The Superintendent shall send a school district, school, or publisher written notification of the final recommendation and new evaluation.

(9) If the Commission and Board approve materials following a request for reconsideration, the Superintendent shall post the evaluation to RIMs.

KEY: instructional materials

Date of Last Change: [February 8,] 2023

Notice of Continuation: September 15, 2022

Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53E-4-402; 53E-4-408; 53E-3-401(4)