

INSTRUCTION

Instructional Materials and Equipment

Challenged Library and Instructional Materials

This regulation supersedes Regulation 3009.10.

I. PURPOSE

To establish the procedure for reviewing challenges of instructional or library materials that have been selected according to the current versions of Policy 3003, Instructional Materials, Regulation 3004, Adopted Basal Instructional Materials, Regulation 3005, Program and Supplemental Instructional Print Materials—Identification, Evaluation, and Approval, Regulation 3007, Program and Supplemental Instructional Electronic Media—Identification, Evaluation, and Approval, Regulation 3011, Treatment of Women and Minority Groups in Instructional Materials, and Regulation 3013, School Library Collection Development.

II. SUMMARY OF CHANGES SINCE LAST PUBLICATION

- A. The Office of Responsibility has changed.
- B. The Purpose has been reworded to include Regulation 3011.
- C. This regulation has undergone significant changes and should be reviewed in its entirety.

III. OVERVIEW

A. Right to Challenge

Library materials or instructional materials, whether basal, program, or supplementary, or digital may be challenged by any person who resides in Fairfax County or Fairfax City, is the parent or guardian of a student in Fairfax County Public Schools (FCPS), or is employed by Fairfax County Public Schools.

B. Definitions

1. Basal materials: Instructional materials approved by the School Board through a formal process for use in all schools.
2. Program materials: Print and digital instructional materials approved through a formal department review process for use by all students in a specific

curriculum or program.

3. Supplementary materials:
 - a. Print and electronic instructional materials, approved for classroom use by a departmental office.
 - b. Print and digital instructional materials approved for classroom use by the local school.
4. Library materials: Any books, periodicals, or digital material items that are purchased centrally or accepted as gifts by a school's library.
5. Challenge: A request by an individual to restrict use of, withdraw from use, or expand the use of any of the materials defined above. Challenges filed by those with standing (as explained below in item 7.) will be processed as parent or staff member challenges under Section V. All other challenges will be filed as resident challenges under Section VI.
6. Departments:
 - a. Instructional Services Department (ISD).
 - b. Department of Special Services (DSS).
7. Standing: Parents or guardians of children who attend Fairfax County Public Schools and who are currently and directly affected by the use of specific materials (e.g., classroom materials in the elementary school grade level in which their child is enrolled, or materials in a middle or high school class in which their child is enrolled, or library materials in the school that their child attends) and Fairfax County Public Schools teachers or administrators whose students are currently and directly affected by specific materials have standing to file parent or staff member challenges.

C. Procedures Applicable to All Challenges

1. A resident interested in challenging materials shall be apprised of the procedure and shall receive a copy of this regulation. (See Attachment A for outline of process.)
2. All concerns regarding instructional or library materials begin with an informal conference at the local school. (See Section IV)
3. Complainants may request removal, restriction, or expanded access to materials. Challenges are limited to one book or other material per challenge.
4. The written challenge must identify a violation of Virginia law, FCPS

regulations, or FCPS standards regarding educational content. If the challenge does not provide this information, or if it does not fully and adequately describe substantive issues for review, and the complainant does not correct the deficiencies in a reasonable time period, the principal (or the departmental or interdepartmental committee responsible for the initial review of the challenge) may dismiss the challenge on a summary basis without completing the remaining steps of the review process.

5. No complainant may file a new challenge until all of that individual's previously filed challenges have been decided.
6. No complainant may challenge materials on which the School Board has previously ruled or declined to rule until three or more years after the School Board's decision.
7. Failure of the complainant to comply with the requirements of this regulation at any step (including the requirement that the complainant will have read the materials) or with reasonable related requests of administrators will result in dismissal of the challenge.
8. A complainant who believes his or her challenge was improperly dismissed for procedural reasons may appeal to the School Board within 15 workdays of the decision of the principal or committee. The School Board will decide within 30 workdays, on the basis of the written record, whether or not the challenge should proceed.

IV. LOCAL SCHOOL CONFERENCE

A. Conference Procedure

1. The complainant shall advise the principal of the material being challenged, and the principal shall gather information regarding the original rationale for inclusion of the material when such information is available, as well as any other background information the principal deems relevant. The principal, librarian, and/or teacher using the material and the complainant shall meet to discuss the purpose and use of the material. If the principal is the complainant, the challenge moves automatically to the department level. (See Section V.C.)
2. If the complainant requests that the instructional material be withdrawn from use with his or her child, the principal may honor the request after determining that the substitution of other instructional material would be appropriate as outlined in Regulation 3005. If the complainant wants to restrict access to specific library materials by the complainant's own child, the complainant must assume this responsibility; school staff members will not restrict access to otherwise available library materials based on individual requests.
3. The principal can only restrict or remove materials on a schoolwide basis if (a)

permitted by other FCPS regulations such as those for eliminating outdated or unused materials or (b) the challenge involves supplementary instructional materials that were approved by the local school. If the complainant wants to restrict or remove library materials, or any materials on a countywide basis, the complainant must file a formal challenge.

B. Filing a Formal Challenge

1. If the complainant desires further action, the principal shall provide an explanation of the process, a copy of this regulation, and the form titled [Fairfax County Public Schools Request for Reconsideration of Library or Instructional Material](#).
2. The complainant begins the formal challenge process by submitting the form titled [Fairfax County Public Schools Request for Reconsideration of Library or Instructional Material](#) to the principal. The principal determines whether the challenge constitutes a parent or staff member challenge or a resident challenge. If the principal is not responsible for the next level of review, the principal refers the challenge to the appropriate department or committee and notifies the complainant in writing. (See Section V.C.).

V. PARENT OR STAFF MEMBER CHALLENGES

A. Principal Review

1. For challenges involving supplementary instructional materials selected by the local school, the principal shall decide the challenge, following the guidelines of Section IV.A.3. For challenges involving library materials, the principal shall include the librarian to provide the rationale for inclusion in the library. After the conference, if the complainant would like to restrict or remove access to the book in the library, Section V.C. will be followed.
2. In making a decision, the principal shall consult with the involved teacher and may consult with any other individuals with appropriate expertise, including program specialists in ISD and DSS. They shall read or view the material thoroughly, checking recommended materials lists and other authorities, such as professional reviews.
3. The principal shall determine whether the challenged instructional material meets established Program of Studies objectives and complies with the current versions of Regulations 3005, 3007 and 3011, as applicable. If the principal concludes the material satisfies FCPS standards, the principal shall deny the challenge.
4. The principal shall notify the complainant of this decision within 15 workdays of receipt of the formal challenge and send a copy of the decision to the appropriate assistant superintendent (ISD or DSS). If the challenge has been

denied, the letter shall include a description of the appeals process and the name and address of the assistant superintendent to whom an appeal should be addressed.

B. Appeal of Principal's Decision

1. The complainant may appeal the decision within 15 workdays of receiving the principal's letter by writing a letter or email to the appropriate assistant superintendent (ISD or DSS), and including a copy of the form titled [Fairfax County Public Schools Request for Reconsideration of Library or Instructional Material](#) and a copy of the communication from the principal. A copy of this communication must be sent to the principal by the complainant.
2. Appeals shall follow the procedures in Section V.C. Departmental Review, and, thereafter, the procedures in Section VII. These procedures describe appeals to the Superintendent and the School Board.

C. Departmental Review

The appropriate assistant superintendent (ISD or DSS) shall review challenges of basal materials adopted by the School Board, supplementary materials approved by a department (ISD or DSS), and requests for removal or restriction of library materials from school libraries (ISD). The appropriate assistant superintendent also shall receive appeals from principals' decisions regarding challenged materials under Section V.A.

1. The appropriate assistant superintendent or his or her designee shall form and chair a departmental committee. If the challenge or appeal involves more than one department, the committee will be chaired by the departments involved. The chair(s) will vote only in case of a tie.
2. Lists of individuals identified to serve on department review committees, with their addresses and phone numbers, shall be submitted by the following groups before the last school day in September of each year:
 - a. Local school principals
 - b. Region assistant superintendents

Copies of completed lists will be forwarded to the assistant superintendents of ISD and DSS for their use in forming department-level committees. The names on the lists will be compiled in random order and numbered.

3. The appropriate assistant superintendent(s) or his or her designee(s) shall select the department committee members from the lists in numerical order and shall include:

- a. Two teachers from the local school lists of teachers. One of the two teachers shall be from the program involved.
- b. Two parents who are not employed by FCPS from the local school lists of parents.
- c. One school-based administrator from the region assistant superintendents' lists.
- d. One staff member or other person designated by the Equity and Family Engagement team in the Office of Professional Learning and Family Engagement.
- e. For challenges involving high school materials only, two high school students from the local school lists.

Once individuals have served on a department-level committee, they will not be asked to serve again until others from the list have been offered that opportunity. If no qualifying challenges have been submitted, the committee shall not meet.

- 4. The chair shall provide an orientation for the committee and communicate, in writing, the logistics of the challenge process to the complainant. The committee shall:
 - a. Review the letter and completed form titled [Fairfax County Public Schools Request for Reconsideration of Library or Instructional Material](#) from the complainant and the principal's response if any.
 - b. Study the challenged material and consult professional reviews and authoritative sources when possible. Consult the complainant and/or the instructional staff if further information or clarification is needed.
 - c. Determine whether the material appropriately supports the Fairfax County Public Schools Program of Studies objectives or was appropriately included for selection for the library according to the current version of Regulation 3013.
 - d. Prepare a written report of recommendations based on a majority decision of the committee and forward this report to the appropriate assistant superintendent (ISD or DSS).
- 5. The appropriate assistant superintendent shall review the committee's report and issue a decision within 45 workdays of receipt of the challenge or appeal. The assistant superintendent shall send the report and his or her decision to the complainant and shall send copies to the principal, the committee members, and the program or curriculum coordinator. The letter shall include

a description of the appeal process and the name and address of the Division Superintendent.

D. Appeal of Departmental Decision

Appeals of the assistant superintendent's decision shall follow the procedures in Section VII.

VI. RESIDENT CHALLENGES

After the initial conference, the principal shall refer any formal challenge filed by a person who lacks standing (as defined in Section II.B.7.) to the interdepartmental committee for review.

A. Interdepartmental Review Committee Process

1. The interdepartmental committee shall be convened and chaired by an individual designated by the Superintendent and shall consist of the following:
 - a. Three administrators, one each from the elementary, middle, and high school levels, appointed by their respective principal associations. The administrator from the appropriate school level will participate in committee deliberations relating to materials at his or her school level.
 - b. Six School Board members (on a rotating basis) will each select an individual to serve a one-year term on the Interdepartmental Review Committee. Two appointees will participate at each of the three levels of challenged materials: elementary, middle, and high school. The level will be determined by random selection. If the deliberations involve multiple levels, one randomly selected School Board appointee from each involved level will participate.
 - c. A librarian, appointed by the Association of School Librarians of Fairfax County, or a teacher in the involved program, appointed by the chair from local school lists of teachers, whichever is appropriate given the type of challenge.
 - d. An individual appointed by the Fairfax County Public Library.
 - e. An individual appointed by the Equity and Family Engagement team in the Office of Professional Learning and Family Engagement.
 - f. For challenges of high school materials, an individual appointed by the student representative to the School Board.

The offices and individuals listed above shall submit the names, addresses, and phone numbers of their appointees to the Superintendent not later than

September 30 of each school year. Committee members shall serve one-year terms and, with the exception of the chair, shall not be eligible to be reappointed.

2. The chair shall convene the committee twice a year: not later than December 1 and April 1. If no qualifying challenges have been submitted, the committee shall not meet.
3. The committee shall review all challenges received 30 days or more in advance of the December and April meetings. Any challenges received after the 30-day deadline, as well as challenges not completed at prior meetings, shall be reserved for the next scheduled meeting.
4. The committee's review shall be limited to the challenged material and the appeal documents submitted by the complainant; the complainant may not appear before the committee. The committee may, but shall not be required to, consult supplementary sources, such as professional literature.
5. Each committee member shall have one vote, except for the chair, who shall vote only in case of a tie. Any other procedures shall be determined by the committee.
6. Not more than ten resident challenges will be accepted in any school year. Resident challenges will have lower priority than parent or staff member challenges in the event of budgetary and staffing constraints.
7. The chair shall advise the complainant of the committee's decision, in writing, within 30 workdays of the date of the meeting at which the challenged material was reviewed.

B. Appeal From Interdepartmental Review

Appeals from the Interdepartmental Review Committee shall follow the procedures of Section VII.

VII. APPEALS OF PARENT OR STAFF MEMBER AND RESIDENT CHALLENGES AFTER DEPARTMENTAL OR INTERDEPARTMENTAL REVIEW

A. Appeal to the Superintendent

1. Within 15 workdays of receiving the decision of the departmental or interdepartmental committee, the complainant may appeal to the Superintendent by submitting a letter of appeal, the decisions issued at prior steps of the process, and the form titled [Fairfax County Public Schools Request for Reconsideration of Library or Instructional Material](#).
2. The Superintendent shall issue his or her decision, which shall be based on

the written record, within 15 workdays of receiving the appeal.

3. The complainant shall have 15 workdays from receipt of the Superintendent's decision in which to appeal to the School Board.

B. Appeal to the School Board

1. The complainant may request an appeal to the School Board by submitting a letter of appeal, the decisions issued at prior steps of the process, and the form titled [Fairfax County Public Schools Request for Reconsideration of Library or Instructional Material](#).
2. At least four members of the School Board shall read or view the challenged material and decide within 30 workdays whether or not to grant the request for appeal. The agreement of four members of the School Board shall be required for the School Board to grant the request. If the request for appeal fails, the Superintendent's decision (or a staff member's decision, in case of procedural dismissals) shall be final.
3. If the School Board agrees to review the appeal, it shall have 30 workdays from the decision to review the appeal request to respond to the appeal.
4. The School Board chairman shall determine the review process to be employed by the Board in each case, which shall be limited to the written record.
5. The School Board will provide copies of the decision to the complainant and to the schools and departments affected by the decision.

C. Reconsideration of School Board Decision

1. Complainants may appeal a School Board's decision to limit access of students to library or instructional materials by submitting a written request to the chairman of the School Board.
2. The School Board shall have 30 workdays from receipt of the appeal request to decide the appeal.
3. The School Board chairman shall determine the reconsideration process to be employed by the Board, which shall be limited to the written record.
4. Requests for reconsideration shall be subject to the three-year limitation period (See Section III.C.6.).

Nothing in this regulation shall be construed to limit the Superintendent or a member of the School Board from reconsidering any decision on his or her own initiative.

D. Final Decision

The decision of the School Board shall be final.

VIII. PROCEDURAL ADJUSTMENTS

Administrators shall process materials challenges in accordance with this regulation; however, if administrators or the School Board determine that compliance is not feasible due to the number or scope of pending challenges, they may extend time lines and consolidate the review of related challenges as necessary. Complainants shall be notified of any such changes prior to their implementation.

See also the current versions of:

Policy 3003, Instructional Materials
Policy 3009, Challenged Library and Instructional Materials
Regulation 3004, Adopted Basal Instructional Materials
Regulation 3005, Program and Supplemental Instructional Print Materials
 Identification, Evaluation, and Approval
Regulation 3007, Program and Supplemental Instructional Electronic Media
 Identification, Evaluation, and Approval
Regulation 3011, Treatment of Women and Minority Groups in Instructional Material
Regulation 3013, School Library Collection Development

Attachment

Challenged Material Review and Appeal Process

All concerns regarding materials shall be discussed initially at the school level.

