

HB 514 - AS INTRODUCED

2023 SESSION

23-0720

08/04

HOUSE BILL            **514**

AN ACT                relative to the dissemination of obscene material by schools and institutions of higher learning.

SPONSORS:            Rep. Cordelli, Carr. 7

COMMITTEE:          Education

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ANALYSIS

This bill requires local school boards to develop a policy for responding to parental complaints of obscene material in schools.

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Explanation:        Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~[in brackets and struckthrough.]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Three*

AN ACT relative to the dissemination of obscene material by schools and institutions of higher learning.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 Justifiable and Non-commercial Private Dissemination. Amend RSA 650:4, I to read as  
2 follows:

3 I. Institutions or persons having scientific, [~~educational~~] **higher education**, governmental  
4 or other similar justification for possessing obscene material; or

5 2 Preliminary Hearing. Amend RSA 650:6, I-II to read as follows:

6 I. No recognized or established [~~school~~] **institution in the university system or**  
7 **community college system of New Hampshire**, museum, public library or governmental agency,  
8 nor any person acting as an employee or agent of such institution, shall be arrested, charged or  
9 indicted for any violation of a provision of this chapter until such time as the material involved has  
10 first been the subject of an adversary hearing wherein such institution or person is made a  
11 defendant, and, after such material is declared by the court to be obscene matter, such institution or  
12 person continues to engage in the conduct prohibited by this chapter. The sole issue at the hearing  
13 shall be whether the material is obscene matter.

14 II. The adversary hearing prescribed in paragraph I of this section may be initiated only by  
15 complaint of the county attorney [~~or~~] the attorney general, **the department of health and human**  
16 **services, or the department of education**. Hearing on the complaint shall be held in the superior  
17 court of the county in which the alleged violation occurs. Notice of the complaint and of the hearing  
18 shall be given by registered mail or personal service. The notice shall state the nature of the  
19 violation, the date, place and time of the hearing, and the right to present and cross-examine  
20 witnesses. In addition to the defendant, any other interested party may appear at the hearing in  
21 opposition to the complaint and may present and cross-examine witnesses. For the purposes of this  
22 paragraph, the term "interested party" includes, but is not limited to the manufacturer of the  
23 material alleged to be harmful to minors.

24 3 New Subdivision; Complaint Resolution Policy; Obscene or Questionable Material. Amend  
25 RSA 189 by inserting after section 74 the following new subdivision:

School Board Complaint Policy for Obscene or Questionable Material

27 189:75 School Board Complaint Policy for Obscene or Questionable Material.

28 I. No later than January 1, 2024, each local school board shall adopt a complaint resolution  
29 policy for its local school system to be used to address complaints submitted by parents or permanent  
30 guardians alleging that material that is in violation of RSA 650 has been provided or is currently

1 available to a student enrolled in the local school system who is the child of such parent or  
2 permanent guardian. The complaint resolution process shall, at a minimum, require that:

3 (a) Complaints be submitted in writing to the principal of the school where the student  
4 is enrolled; and

5 (b) Complaints shall provide a reasonably detailed description of the material that is  
6 alleged to be harmful to minors.

7 II. Within 7 school days of receiving a written complaint, the school principal or his or her  
8 designee review the complaint and take reasonable steps to investigate the allegations in the  
9 complaint, including, but not limited to, reviewing the material that is alleged to be harmful to  
10 minors, if it is available.

11 III. The school principal or his or her designee shall determine whether the material that is  
12 the subject of the complaint is harmful to minors.

13 IV. The school principal or his or her designee shall determine whether student  
14 access to the material that is the subject of the complaint shall be removed or restricted.

15 V. Within 10 school days of receiving the complaint, unless another schedule is  
16 mutually agreed to by the parent or permanent guardian and the school principal or his or her  
17 designee, the school principal or his or her designee shall confer with the parent or permanent  
18 guardian and inform him or her whether the material that is the subject of the complaint was  
19 determined to be harmful to minors, and whether student access to such material will be removed or  
20 restricted.

21 VI. Appeals of the school's principal's or his or her designee's determinations provided for in  
22 paragraphs IV and V of this section shall be subject to review by the local school board, which shall  
23 also include the ability of the parent or permanent guardian to provide input during public comment  
24 at a regularly scheduled board meeting. Unless another time frame is mutually agreed upon by the  
25 parent or permanent guardian and the local school board, the review and final disposition of the  
26 appeal by the local school board shall be completed within 30 calendar days of receiving the written  
27 appeal.

28 VII. An aggrieved parent or guardian may appeal the local school board decision to the state  
29 board of education which shall hear the appeal pursuant to RSA 21-N:11, III.

30 4 Effective Date. This act shall take effect 30 days after its passage.