

INSTRUCTION

Instructional Materials and Equipment

Challenged Library and Instructional Materials

This regulation supersedes Regulation 3009.11.

I. PURPOSE

To establish the procedure for reviewing challenges of an instructional or library material that has 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

This regulation has undergone significant changes and should be reviewed in its entirety.

III. OVERVIEW

A. Right to Challenge

A library or instructional material may be challenged by any person who resides in Fairfax County or Fairfax City, is the parent or guardian of a current student in Fairfax County Public Schools (FCPS), is a current student, or is employed by Fairfax County Public Schools.

B. Definitions

1. Instructional materials: All print and digital resources used by teachers to support meeting learning outcomes. Includes materials that are approved by the School Board through a formal process for use in all schools, materials approved by the local school, or materials selected by the teacher.
2. Library material: Any book, periodical, or digital material items that are purchased centrally, locally, or accepted as gifts by a school's library.

3. **Challenge:** A request by an individual, known as the complainant, to restrict use of, withdraw from use, or expand the use of any material defined in B.1.-B.2. of this regulation. Challenges may be filed by individuals with standing, as defined below, and residents of Fairfax City and Fairfax County.
4. **Departments:**
 - a. Instructional Services Department (ISD).
 - b. Department of Special Services (DSS).
5. **Standing:** Parents or guardians of children who attend Fairfax County Public Schools and who are currently and directly affected by the use of a specific material (e.g., classroom material in the elementary school grade level in which their child is enrolled, or material in a middle or high school class in which their child is enrolled, or a library material in the school that their child attends); students attending FCPS; and Fairfax County Public Schools school-based staff and administrators whose students are currently and directly affected by a specific material have standing to file a school-based challenge. Nonschool-based FCPS staff and administrators also have standing.
6. **Written Record:** The official documents that are produced throughout the challenge process which include: the complainant's completed Fairfax County Public Schools Request for Reconsideration of Library or Instructional Material form, letters of appeal, background information provided to the departmental review committee, the summary memo pertaining to committee review, decision letters, and related Fairfax County Public Schools regulations.

C. Procedures Applicable to All Challenges

1. An individual who notifies a school administrator of their interest in challenging an instructional or library material shall be apprised of the procedure and shall receive a copy of this regulation.
2. All challenges regarding an instructional or library material begin with a local school conference (See Section IV.).
3. Complainants may request removal, restriction, or expanded access to a material. Challenges are limited to one book or other material per challenge. Complainants must indicate that they have read a book in its entirety when making a request to remove, restrict, or expand access to a book.
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, does not fully and adequately describe substantive issues for review, or is otherwise incomplete, and the complainant does not correct the deficiencies within 10 workdays, the principal (or the

departmental review committee if 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. A challenge may contain only one title for review.
6. Only one instructional material and one library material challenge can be in the departmental review stage of the process at a time.
7. No complainant may file a new challenge until that individual's previously filed challenge has been decided. Individuals are limited to two challenges within a school year.
8. No complainant may challenge a material which has gone through the departmental review process until three or more years after the outcome was determined.
9. 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.
10. A complainant who believes his or her challenge was improperly dismissed for procedural reasons may appeal to the School Board within 10 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. Local School Conference Procedure for an Instructional Material

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 may contact central office staff for support in preparing for the conference. The principal, 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 VI.).
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.
3. The principal can only restrict or remove an instructional material on a

schoolwide basis if the challenge involves instructional materials that were approved by the local school.

After the conference if the complainant seeks to restrict any material on a countywide basis, the complainant must file a formal challenge.

B. Filing a Formal Challenge of an Instructional Material

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 is responsible for the first level of review of instructional materials (See Section V.).

C. Local School Conference Procedure for a Library Material

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 professional book reviews and any other background information the principal deems relevant. The principal may contact central office staff for support in preparing for the conference. The principal, librarian, 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 VI.).
2. If the complainant seeks to restrict access to a specific library material 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. After the conference, if the complainant seeks to restrict or remove a library material, the complainant must file a formal challenge. Outcomes of a library challenge are not limited to a school but implemented divisionwide.

D. Filing a Formal Challenge of a Library Material

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. A library challenge is submitted to the principal then forwarded to the Assistant

Superintendent of Instruction or superintendent's designee and the complainant is notified in writing. During a library challenge, the material in question will remain available to students through regular library circulation methods throughout the review process and may not be removed from the library unless the outcome deems it appropriate to do so.

3. A library challenge received by the Assistant Superintendent of Instruction moves to Departmental Review (See Section VI.).

V. PARENT, STUDENT, SCHOOL-BASED or NONSCHOOL-BASED EMPLOYEE CHALLENGES OF AN INSTRUCTIONAL MATERIAL

A. Principal Review

1. For challenges involving an instructional material selected by the local school, the principal shall decide the challenge, following the guidelines of Section IV.A.3.
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) or superintendent's designee. 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 10 workdays of receiving the principal's letter by writing a letter or email to the appropriate assistant superintendent (ISD or DSS) or superintendent's designee, 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 VI. Departmental Review, and, thereafter, the procedures in Section VIII. These procedures describe appeals to the superintendent and the School Board.

VI. DEPARTMENTAL REVIEW

The appropriate assistant superintendent (ISD or DSS) or superintendent's designee shall review challenges of instructional materials adopted by the School Board, supplementary instructional 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 instructional materials under Section V.A.

A. Departmental Review Process

1. The appropriate assistant superintendent or his or her designee shall form and chair a departmental review 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. Only committee members will be present during committee meetings.
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 for selection on a committee. The names and contact information of potential and serving committee members shall be kept confidential.

3. The appropriate assistant superintendent(s) or his or her designee(s) shall select the department committee members from the lists in random numerical order and shall include:
 - a. Two teachers or two librarians as appropriate from the local school lists of teachers and librarians. At least one of the two teachers shall be from the program involved.
 - b. Two parents of currently enrolled FCPS students 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.
 - f. The FCPS Ombudsman, or other assistant superintendent appointee, to serve as an ex officio member of the committee to observe the committee orientation and review process for fidelity to Regulation 3009.
 - g. Once individuals have served on a department-level committee, they will not be asked to serve again until others from the lists have been offered that opportunity. Members of the committee shall not be included from the school in which the complaint originated. If no qualifying challenges have been submitted, the committee shall not meet.
4. The chair shall provide an orientation for the committee during which the challenge process is reviewed, copies of the complaint, relevant regulations, professional book reviews, necessary background information, and copies of the book are distributed. The chair shall answer any questions the committee has regarding the process.
5. 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. Read the challenged material and the documents provided at orientation. Consult the committee chair 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. Participate in a review meeting which includes:
 - i. Verification that each individual has read the book and other committee materials.
 - ii. Explanation of the confidentiality of participants and outcome.
 - iii. Participation in an evaluative dialogue considering the

potential merits and concerns of a book as a literary or informational work, the potential merits and concerns in retaining student access to the material in the library or as an instructional material in the classroom, and the potential merits and concerns related to removing access to the material in the library or as an instructional material in the classroom.

- iv. A blind vote either to retain or remove access to the library material or use as an instructional material in the classroom and determine a majority opinion.

6. The chair shall:

- a. Provide copies of the book and committee documents.
- b. Answer committee questions about the process and documents.
- c. Facilitate the dialogue to ensure all aspects of the complaint have been considered and discussed.
- d. Review with the committee the supporting rationale for the committee recommendation.
- e. Prepare a written summary memo of the meeting including the recommendations and rationale based on a majority decision of the committee and forward this report to the appropriate assistant superintendent (ISD or DSS) or superintendent's designee.

7. 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 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.

B. Appeal of Departmental Decision

Appeals of the assistant superintendent's decision by the complainant shall follow the procedures in Section VIII.

VII. RESIDENT CHALLENGES

After the initial conference, the principal shall refer any formal challenge filed by a person who lacks standing to the ISD or DSS assistant superintendent or superintendent's designee for a departmental committee review.

A. Departmental Review Process for Resident Challenges

Resident challenges will follow the process for challenges initiated by individuals with standing with the following additions and exceptions:

1. In addition to the committee members identified for the departmental review committee, six School Board members (on a rotating basis) will each select an individual to serve a one-year term in the event a resident challenge is submitted. If a resident challenge is not submitted during this term, the appointees will not participate on a developmental review committee. The designated School Board members 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. Not more than ten resident challenges will be accepted in any school year. Resident challenges will have lower priority than challenges submitted by those with standing.
5. The ISD or DSS assistant superintendent or superintendent's designee shall advise the complainant of the committee's decision, in writing, within 45 workdays of the date of the meeting at which the challenged material was reviewed.

VIII. APPEALS AFTER DEPARTMENTAL REVIEW

A. Appeal to the Superintendent

1. Within 10 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 10 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 independently read or view the challenged material and communicate to the chair their decision within 30 workdays whether or not to grant the request for a full School Board review. The agreement of three 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. Each School Board member shall read the book separately and then communicate to the chair whether to grant or deny the appeal. Information sources shall be limited to the written record.
4. The School Board will provide copies of the decision to the complainant and to the schools and departments affected by the decision.

C. School Board Review

1. If the full School Board review is granted, the process will follow established procedures for new business items. The School Board may determine that a work session is necessary.
2. Each School Board member will be provided a copy of the book to read and access to the written record.
3. The School Board will vote on a decision no later than 30 days after the School Board review has been granted.

IX. Future Reconsideration of School Board Decision

- A. Requests for reconsideration shall be subject to the three-year limitation period (See Section III.C.8.).
- B. After three years, complainants may request reconsideration of a previously challenged library or instructional material by submitting a [Fairfax County Public Schools Request for Reconsideration of Library or Instructional Material](#) form to the local school. All procedures and guidelines are followed as if this were a new challenge.

X. 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 within the required timeline, they may extend timelines 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