

Floor Amendment to HB 1419-FN

1 Amend the title of the bill by replacing it with the following:

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

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6 Amend the bill by replacing all after the enacting clause with the following:

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8 1 Justifiable and Non-Commercial Private Dissemination. Amend RSA 650:4, I to read as  
9 follows:

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

12 2 Preliminary Hearing. Amend RSA 650:6, I-II to read as follows:

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

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

31 3 New Subdivision; Complaint Resolution Policy; Obscene or Questionable Material. Amend  
32 RSA 189 by inserting after section 74 the following new subdivision:

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School Board Complaint Policy for Obscene or Questionable Material

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

I. Each local school board may, in accordance with this section, adopt a complaint resolution policy for its local school system to be used to address complaints submitted by parents or permanent guardians alleging that material that is in violation of RSA 650 has been provided or is currently available to a student enrolled in the local school system who is the child of such parent or permanent guardian. Such complaint resolution process shall, at a minimum, require that:

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

(b) Complaints shall provide a reasonably detailed description of the material that is alleged to violate RSA 650.

II. Within 7 school days of receiving a written complaint, the school principal or his or her designee review the complaint and take reasonable steps to investigate the allegations in the complaint, including, but not limited to, reviewing the material that is alleged to violate RSA 650, if it is available.

III. The school principal or his or her designee shall determine whether the material that is the subject of the complaint violates RSA 650.

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

V. Within 10 school days of receiving the complaint, unless another schedule is mutually agreed to by the parent or permanent guardian and the school principal or his or her designee, the school principal or his or her designee shall confer with the parent or permanent guardian and inform him or her whether the material that is the subject of the complaint was determined to violate RSA 650, and whether student access to such material will be removed or restricted.

VI. Appeals of the school's principal's or his or her designee's determinations provided for in paragraphs IV and V of this section shall be subject to review by the assistant superintendent of schools, or his or her designee. Within 10 school days of receiving the complaint, unless another schedule is mutually agreed to by the parent or permanent guardian and the assistant superintendent of schools, or his or her designee, the assistant superintendent of schools, or his or her designee, shall confer with the parent or permanent guardian and inform him or her whether the material that is the subject of the complaint was determined to be harmful to minors, and whether student access to such material will be removed or restricted.

VII. Appeals of the assistant superintendent of schools, or his or her designee's determinations, provided for in paragraph VI of this section, shall be subject to review by the superintendent of schools. Within 10 school days of receiving the complaint, unless another schedule is mutually agreed to by the parent or permanent guardian and the superintendent of schools, the superintendent of schools shall confer with the parent or permanent guardian and inform him or her

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1 whether the material that is the subject of the complaint was determined to be harmful to minors,  
2 and whether student access to such material will be removed or restricted.

3 VIII. An aggrieved parent or guardian may appeal the decision of the superintendent of  
4 schools to the local school board.

5 4 Effective Date. This act shall take effect 30 days after its passage.

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2024-0700h

AMENDED ANALYSIS

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