



The Mission of Promontory School of Expeditionary Learning is to provide a rich educational environment that views learning as an Expedition and uses the study of Great Thinkers to cultivate the value of excellence and the love of knowledge. Using investigation and discovery to make connections to ideas and our community, we empower children to embrace challenge, act with humanity, and become the Great Thinkers of the 21st century.

BOARD OF DIRECTORS MEETING

AGENDA

August 15, 2024

7:00PM

1051 W 2700 S

Perry, UT 84302

Join via zoom at:

<https://uetn-org.zoom.us/j/7462007176>

7:00 PM – **CALL TO ORDER:** Michelle Flynn

- Welcome/Mission Statement and Pledge: Riley Riser

7:10PM – **PUBLIC COMMENT**

** PUBLIC PLEASE NOTE: All public input will be taken into consideration, but not be discussed by the board during this meeting. Comments will be limited to three minutes each. We appreciate your input and invite your comments. - Promontory Board of Trustees*

7:15PM—POP Update

7:20 PM –Training: Robert's Rule

7:30 PM – **FINANCE REPORT**

- Budget Review – Brian Cates

7:40 PM – **MINUTES**

- 6-20-2024 Board Meeting Minutes

In compliance with the American with Disabilities Act, persons needing auxiliary communicative aids and services for these meetings should contact Tammy Stutznegger at tstutznegger@promontoryschool.org giving at least three working days notice. "This institution is an equal opportunity provider and employer.

7:45 PM – **BUSINESS ITEMS**

- Fall Retreat
- Peach Days Parade
- Fundraising and Employee Relationship and Disclosures Policy
- Gang Prevention
- Code of Behavior Policy/Student Contract

8:15 PM --**ACTION ITEMS**

- Early Learning Plan
- 3 /4 Crew City of Rocks Family Fieldwork
- 5/6 Crew Curley Campground, Idaho Overnight Fieldwork
- POP Fundraisers
- Equal Opportunity in Curriculum Policy (formerly “Equity in Curriculum Policy”)
- Equal Opportunity in Education Policy (formerly “Educational Equity Policy”)
- Library Materials Policy
- Early Learning Grant
- TSSA Grant
- LEA Licenses

8:40 PM **DIRECTOR’S REPORT**

- Staffing Update
- Enrollment
- Student Achievement
- Professional Development
- Public Relations
- Lottery

8:50 PM CLOSED MEETING

9:00 PM – ADJOURN

*Next scheduled Board Meeting Thursday, September 19, 2024



PROMONTORY

school of expeditionary learning

June 20, 2024
7:00PM
1051 W 2700 S
Perry, UT 84302

Trustees:

Michelle Flynn
Dorothy Dobson
Becca Ashby
Kiersten Baker--Zoom
Stephanie Quintero
Riley Riser

Officers:

Amber Jenks
Jessica Flinn
Hilary Gerhardt
Michelle Wison

Absent:

Emily Morgan
Zach Davis
Kandice Scothern

Director:

Amber Edelman

Visitors:

Tammy Stutznegger
Brian Cates—Zoom
Glenna Petersen--Zoom
Darnelle Earl—Zoom

7:01 PM – **CALL TO ORDER:** Michelle Flynn

· Welcome/Mission Statement and Pledge: Dorothy Dobson

7:07PM – **PUBLIC COMMENT:** No public comment.

7:08PM—POP Update: Summer used uniform sale will be on Friday, July 19th 4:30-6:00pm and Saturday the 20th 9:00am-11:00am. Also have one at back-to-school night. We have two new pop board members—Kacey Quire and Meg Lawson. Marci Mitchell resigned, and Kierstin Baker moved to the board.

7:09 PM –Training—Michelle attended the UAPC training last week. She will be working on training new board members. Working on binders.

7:11 PM – FINANCE REPORT

- Budget Review – Brian Cates–Reports as of end of May. A lot of work with restricted funds/reimbursements requested. Preparing books for the audit which begins at the end of July. A lot of compliance related items won't be tested until about October. Next month we will have a lot of quarterly items to take care of. We will be approving budgets at this meeting. PTIF best place for our cash reserve. Interest earned for May was just under \$6800. Next year we budgeted a little more conservatively planned for a rate drop which usually occurs in a voting year. Cash balance is pretty typical—we will have a jump in the summer months from reimbursements. End of May enrollment was at 437. Will vote on two budget—one for this year and one for last year. Starting off next year with a pretty good place. Healthy increase in state revenue. Do have a drop in our federal revenue—loss of ESSR funds or covid related funds. Spinning down project fund which has been spinning down. A lot of expenditures on building. We do have an increase on our bond payment. Still at a good place for next year.

7:18 PM – MINUTES

- 5-16-2024 Board Meeting Minutes–Stephanie motions to approve. Becca seconds. Motion is carried.

7:20 PM – BUSINESS ITEMS

- UAPCS Conference–Showed video. Amber was nominated as director of the year.
- Founding Member Policy–Update to have grandchildren listed as having enrollment preferential. Had been updated already to add grandchildren–policy needs to be updated on website.
- Food Sold on School Grounds Policy–codes have changed. Will need to be updated and voted on.
- Fieldwork and Overnight Policy–Update policy. Add to August agenda.

7:38 PM ACTION ITEMS

7:40PM· Ratify Director–Met with Amber in May and discussed goals and offered her a contract. Becca motions to approve. Dorothy seconds. Motion is carried.

7:42PM· Ratify Board Members/Terms–Stephanie stepping down as vice chair and taking over policies. Becca is stepping into vice chair. Josie Beth has stepped off of board. Board for the 2024 school year. Dorothy motions to approve. Stephanie seconds. Motion is carried.

8:16PM· Dress Code Policy–Nothing drastically changed. Little clarifications. Fieldwork dress code. Promontory will be providing field work shirts for everyone at the start of each year. Update family handbook. Discussed swimwear–clarify avoiding extremes, no bikini, no cut-outs. Policy updated. Had some push back from aides–colored denim jeans, not blue jeans. It was brought up at our board retreat. Amber is over the dress code for the employees. Board just wants us to look professional and be held to a higher standard like we expect our students to be held to. Students allowed to wear hats on Friday.

Stephanie motions to approve. Becca seconds. Motion is carried.

8:18PM· Attendance Policy–Added new portion of policy. Codes still good. Riley motions to approve. Dorothy seconds. Motion is approved.

8:20PM· Attendance Procedures– Riley motions to approve. Stephanie seconds. Motion is carried.

- Early Learning Plan 24-25–Table to August

8:22PM· Current Fiscal Year Amended Budget–Kierstin motions to approve. Riley seconds. Motion is carried.

8:23PM· Next Fiscal Year Annual Budget–Becca motions to approve. Stephanie seconds. Motion is carried.

8:25 PM **DIRECTOR'S REPORT**

- Staffing Update: We are currently fully staffed.

- Enrollment: Total enrollment once all offers are accepted 454

- Charter Agreement Goals: Student attendance rate 90%/94%, Within year enrollment 93%/87%, Year to Year enrollment 89%/80%, Continuous enrollment 45%/70%. Students make connections with Ideas and community, study of great thinkers, empower children to embrace challenge and act with humanity all 100%

- Professional Development: Lots of End of School Year PD at Lava Hot Springs. This was funded by the PCBL Grant, Teachers got to choose their own experience, and we had a powerful collaborative planning sessions with their teams. It was a wonderful event! PCBL assignment, home visits, data training, Upcoming Aide Bootcamp, UFLI training, Pineview Family PD Retreat

- Public Relations: Requests to use the west side/ Neighborhood is asking for a sign up sheet, Social media posts with Enrollhand, Video done by UAPCS, Request for BENJ article about Board Award, State Charter Board award night

Back to school night will be on August 19th.

8:55 PM CLOSED MEETING–No closed meeting

8:58 PM – ADJOURN–Dorothy motions to adjourn. Stephanie seconds. Motion is carried.

*Next scheduled Board Meeting Thursday, August 15, 2024

Finance Manager : School Budget | Current Yr Budget

Current Yr Budget

Budget Name	PY Amount	YTD Amount	Budget	Variance	Forecast	% Target	% of Forecast
Promontory School of Expeditionary Learning - Revenue - 1000 Local Revenue - 7.9% (11 School Budget records)							
1510 Interest on Investments	\$184,332	\$11,296	\$70,000	\$0	\$70,000	8.0%	16.1%
1610 Lunch Program	\$58,534		\$60,000	\$0	\$60,000		
1720 Yearbook Income	\$3,317		\$0	\$0	\$0		
1720 Bookfair Income	\$1,246		\$0	\$0	\$0		
1720 Uniforms	\$403	\$152	\$0	\$152	\$152		100.0%
1741 Middle School Fees	\$6,525		\$7,000	\$0	\$7,000		
1920 Fieldwork/Expedition Donations	\$7,180		\$6,000	\$0	\$6,000		
1920 Community Donations	\$11,670		\$1,000	\$0	\$1,000		
1923 POP Income			\$3,000	\$0	\$3,000		
1923 Adventure			\$0	\$0	\$0		
1990 Miscellaneous/Background Checks/Fines	\$41,434	\$448	\$3,000	\$0	\$3,000		14.9%
TOT	\$314,642	\$11,896	\$150,000	\$152	\$150,152		
Promontory School of Expeditionary Learning - Revenue - 3000 State Revenue - 9.6% (32 School Budget records)							
3010 Regular School Prgm K-12	\$1,697,638	\$148,549	\$1,782,591	\$0	\$1,782,591	8.0%	8.3%
3020 Professional Staff	\$92,293	\$8,076	\$96,907	\$0	\$96,907	8.0%	8.3%
3105 Special Education -- Add-On	\$386,286	\$41,292	\$495,499	\$0	\$495,499	8.0%	8.3%
3110 Special Education -- Self-Contained		\$990	\$11,884	\$0	\$11,884	8.0%	8.3%
3120 Special Education -- Extended Year	\$3,759	\$331	\$3,974	\$0	\$3,974	8.0%	8.3%
3125 Special Education -- State Programs	\$7,519	\$717	\$8,599	\$0	\$8,599	8.0%	8.3%
3128 Special Education -- Stipends for ESY	\$3,910		\$0	\$0	\$0		
3153 Students At-Risk Add-on	\$83,974	\$8,700	\$104,396	\$0	\$104,396	8.0%	8.3%
3211 Gifted and Talented	\$4,660		\$4,660	\$0	\$4,660		
3230 Class Size Reduction - K-8	\$176,933	\$15,594	\$187,129	\$0	\$187,129	8.0%	8.3%
3400 Teacher Salary Supplement			\$0	\$0	\$0		
3410 Flexible Allocation	\$1,077	\$93	\$1,122	\$0	\$1,122	8.0%	8.3%
3520 School Land Trust	\$64,964	\$67,210	\$67,210	\$0	\$67,210	100.0%	100.0%
3566 Professional Learning	\$3,596		\$0	\$0	\$0		
3579 Mental Health Grant	\$2,293		\$38,577	\$0	\$38,577		
3582 Beverly T. Sorenson Elem Arts	\$20,000		\$36,000	\$0	\$36,000		
3596 School Safety Grant	\$3,000		\$3,000	\$0	\$3,000		
3655 Digital Teaching & Learning	\$26,319		\$26,000	\$0	\$26,000		
3719 Charter School Local Replacement	\$1,412,098	\$120,241	\$1,476,065	\$0	\$1,476,065	8.0%	8.1%
3725 Charter School Admin Costs	\$51,980	\$7,016	\$84,192	\$0	\$84,192	8.0%	8.3%
3770 School Lunch (Liquor Tax)	\$45,395		\$45,000	\$0	\$45,000		
3800 TSSA Program	\$110,236		\$120,128	\$0	\$120,128		
3800 Suicide Prevention	\$1,000		\$1,000	\$0	\$1,000		
3800 Educator Professional Time	\$49,252	\$45,554	\$56,943	\$0	\$56,943	80.0%	80.0%
3800 Public Ed Capital & Tech Fund			\$0	\$0	\$0		
3800 Early Interactive Software Program			\$12,580	\$0	\$12,580		
3800 Elevate Grant			\$90,000	\$0	\$90,000		
3868 Teacher Materials and Supplies	\$4,395	\$7,578	\$9,472	\$0	\$9,472	80.0%	80.0%
3870 PCBL Competency Based Learning			\$100,000	\$0	\$100,000		
3872 Substance Prevention	\$4,000		\$4,000	\$0	\$4,000		
3876 Educator Salary Adjustment	\$297,386	\$26,254	\$315,043	\$0	\$315,043	8.0%	8.3%
3878 Special Education- Extended Year			\$0	\$0	\$0		
TOT	\$4,553,963	\$498,195	\$5,181,971	\$0	\$5,181,971		
Promontory School of Expeditionary Learning - Revenue - 4000 Federal Revenue - (empty) (12 School Budget records)							
4079 Foods for Local Schools Co-op	\$5,905		\$0	\$0	\$0		
4500 SRSA (REAP) Grant	\$50,583		\$50,583	\$0	\$50,583		
4522 IDEA Preschool			\$1,950	\$0	\$1,950		
4524 IDEA Part-B			\$82,879	\$0	\$82,879		
4571 National School Lunch Prgm	\$17,593		\$17,000	\$0	\$17,000		
4572 Free & Reduced Reimbursement	\$59,220		\$55,000	\$0	\$55,000		
4573 National School Breakfast	\$18,417		\$17,000	\$0	\$17,000		

Budget Name	PY Amount	YTD Amount	Budget	Variance	Forecast	% Target	% of Forecast
4575 Supply Chain Assistance	\$13,076		\$0	\$0	\$0		
4801 Title IA			\$51,501	\$0	\$51,501		
4860 Title IIA			\$7,884	\$0	\$7,884		
4890 Title IVA	\$10,000		\$10,000	\$0	\$10,000		
4893 Stronger Connections Grant			\$50,000	\$0	\$50,000		
TOT	\$174,794		\$343,797	\$0	\$343,797		
Promontory School of Expeditionary Learning - Expense - 100 Salaries - 6.4% (15 School Budget records)							
121.24 Administration	-\$196,028	-\$14,133	-\$200,000	\$0	-\$200,000	8.0%	7.1%
131.1 Teachers	-\$1,271,948	-\$99,332	-\$1,335,000	\$0	-\$1,335,000	8.0%	7.4%
131.1 Merit Pay/Winter Bonus	-\$50,090		-\$30,000	\$0	-\$30,000		
131.1 Special Education Teachers	-\$154,649	-\$12,750	-\$240,000	\$0	-\$240,000	8.0%	5.3%
131.1 Stipends	-\$121,182	-\$13,400	-\$150,000	\$0	-\$150,000	8.0%	8.9%
132.1 Substitute Teachers	-\$60,377	-\$4,000	-\$40,000	\$0	-\$40,000		10.0%
132.1 PTO Cash Out	-\$10,550		-\$10,550	\$0	-\$10,550		
142.21 Counselor	-\$49,562	-\$4,167	-\$64,000	\$0	-\$64,000	8.0%	6.5%
152.24 Office Salaries	-\$109,237	-\$10,433	-\$155,000	\$0	-\$155,000	8.0%	6.7%
161.1 Community Aides/ Literacy Aides	-\$327,791	-\$520	-\$286,100	\$0	-\$286,100	8.0%	0.2%
161.1 Special Education Aides	-\$182,008	-\$6,090	-\$79,600	\$0	-\$79,600	8.0%	7.7%
161.1 RTI / Title I	-\$35,979		-\$44,600	\$0	-\$44,600		
162.22 Library Aide	-\$38,555	-\$266	-\$32,300	\$0	-\$32,300	8.0%	0.8%
182.26 Custodial/Maintenance Salaries	-\$119,763	-\$16,594	-\$116,600	\$0	-\$116,600	8.0%	14.2%
191.31 Kitchen Salaries	-\$113,324	-\$3,917	-\$116,000	\$0	-\$116,000	8.0%	3.4%
TOT	-\$2,841,044	-\$185,601	-\$2,899,750	\$0	-\$2,899,750		
Promontory School of Expeditionary Learning - Expense - 200 Employee Benefits - 7.6% (8 School Budget records)							
220 FICA	-\$211,916	-\$13,758	-\$223,000	\$0	-\$223,000	8.0%	6.2%
230 Retirement	-\$115,108	-\$9,929	-\$116,000	\$0	-\$116,000	8.0%	8.6%
241 Health Insurance	-\$399,482	-\$36,388	-\$450,000	\$0	-\$450,000	8.0%	8.1%
242 Life and Disability Insurance	-\$5,298	-\$499	-\$5,300	\$0	-\$5,300	8.0%	9.4%
243 HRA/Flex Spending	-\$13,615	-\$1,697	-\$17,000	\$0	-\$17,000	8.0%	10.0%
244 Dental Insurance	-\$22,510	-\$1,871	-\$23,000	\$0	-\$23,000	8.0%	8.1%
270 Worker's Compensation Fund	-\$8,181		-\$9,000	\$0	-\$9,000		
280 Unemployment Insurance	-\$7,453		-\$5,000	\$0	-\$5,000		
TOT	-\$783,564	-\$64,143	-\$848,300	\$0	-\$848,300		
Promontory School of Expeditionary Learning - Expense - 300 Professional and Technical Services - 2.9% (9 School Budget records)							
323.21 SpEd Services OT, Psych, other	-\$112,145		-\$98,000	\$0	-\$98,000		
330.22 Expeditionary Learning Contract			\$0	\$0	\$0		
331.22 Professional Development	-\$22,485	-\$1,640	-\$17,000	\$0	-\$17,000		9.6%
345.23 Audit Services	-\$16,540		-\$17,000	\$0	-\$17,000		
345.25 Business Services	-\$77,328	-\$6,637	-\$79,648	\$0	-\$79,648	8.0%	8.3%
345.25 Professional Services	-\$15,128	-\$7	-\$3,000	\$0	-\$3,000		0.2%
347.21 Speech Therapy Services	-\$79,473		-\$80,000	\$0	-\$80,000		
349.23 Legal Services		-\$1,925	-\$10,000	\$0	-\$10,000		19.3%
350.25 Technical Services (IT)	-\$58,048	-\$339	-\$58,000	\$0	-\$58,000		0.6%
TOT	-\$381,147	-\$10,548	-\$362,648	\$0	-\$362,648		
Promontory School of Expeditionary Learning - Expense - 400 Property Services - 4.3% (6 School Budget records)							
412.26 Water / Sewage / Garbage	-\$11,209	-\$626	-\$12,500	\$0	-\$12,500		5.0%
422.26 Lawn Care & Snow Removal	-\$8,199		-\$20,000	\$0	-\$20,000		
423.26 Custodial Services	-\$49,992	-\$4,166	-\$52,000	\$0	-\$52,000	8.0%	8.0%
430.26 Repairs / Maintenance / Monitoring	-\$18,073		-\$35,000	\$0	-\$35,000		
443.25 Lease of Copy Machines	-\$18,651	-\$2,529	-\$21,000	\$0	-\$21,000	8.0%	12.0%
450.46 Construction Services (West Side)	-\$23,120		-\$30,000	\$0	-\$30,000		
TOT	-\$129,243	-\$7,321	-\$170,500	\$0	-\$170,500		
Promontory School of Expeditionary Learning - Expense - 500 Other Services - 5.4% (7 School Budget records)							
518.21 Field Work Travel / Entrance Fees	-\$6,836	-\$168	-\$16,000	\$0	-\$16,000		1.1%
518.21 Adventure	-\$6,388		-\$7,500	\$0	-\$7,500		
520.23 Liability, Property, D&O Insurance	-\$40,116	-\$4,691	-\$45,000	\$0	-\$45,000		10.4%
530.24 Telephone	-\$6,815	-\$496	-\$9,500	\$0	-\$9,500		5.2%
540.23 Marketing	-\$18,147	-\$22	-\$15,000	\$0	-\$15,000		0.1%

Budget Name	PY Amount	YTD Amount	Budget	Variance	Forecast	% Target	% of Forecast
580.22 Travel	-\$4,954	-\$39	-\$8,000	\$0	-\$8,000		0.5%
581 Board Expenses	-\$3,102		-\$3,000	\$3,000	\$0		
TOT	-\$86,358	-\$5,416	-\$104,000	\$3,000	-\$101,000		
Promontory School of Expeditionary Learning - Expense - 600 Supplies and Materials - 8.0% (16 School Budget records)							
610.1 Classroom / Expedition	-\$54,354	-\$2,038	-\$90,000	\$0	-\$90,000		2.3%
610.1 Adventure Supplies	-\$6,657		-\$4,500	\$0	-\$4,500		
610.1 Special Education Materials	-\$1,206		-\$3,500	\$0	-\$3,500		
610.22 Professional Development Supplies	-\$1,410	-\$2,929	-\$5,000	\$0	-\$5,000		58.6%
610.22 Yearbooks	-\$3,434		-\$3,754	\$0	-\$3,754		
610.23 Board Expenses			\$0	-\$3,000	-\$3,000		
610.24 Office Supplies	-\$35,884	-\$405	-\$33,000	\$0	-\$33,000		1.2%
610.33 POP Expenses	-\$7,852		-\$10,000	\$0	-\$10,000		
622.26 Energy Supplies	-\$49,162	-\$3,955	-\$49,000	\$0	-\$49,000		8.1%
630.31 Food and Kitchen	-\$102,791		-\$113,000	\$0	-\$113,000		
641.1 Textbooks & Curriculum	-\$10,997	-\$3,992	-\$10,000	\$0	-\$10,000		39.9%
644.22 Library	-\$5,963		-\$7,000	\$0	-\$7,000		
644.22 Book Fair	-\$1,299		-\$2,000	\$0	-\$2,000		
650.21 Tech-Related Supplies	-\$32,199	-\$30	-\$6,000	\$0	-\$6,000		0.5%
670.1 Software	-\$41,224	-\$11,117	-\$45,000	\$0	-\$45,000		24.7%
680.26 Maintenance & Cleaning Supplies	-\$41,185	-\$9,207	-\$35,000	\$0	-\$35,000		26.3%
TOT	-\$395,618	-\$33,673	-\$416,754	-\$3,000	-\$419,754		
Promontory School of Expeditionary Learning - Expense - 700 Property - 37.3% (5 School Budget records)							
720.26 Land & Site Improvement	-\$3,201,513	-\$22,534	-\$10,000	\$0	-\$10,000		225.3%
733.1 Furniture and Fixtures	-\$68,388	-\$5,094	-\$10,000	\$0	-\$10,000		50.9%
734.1 Technology-Related Hardware	-\$103,920	-\$341	-\$50,000	\$0	-\$50,000		0.7%
739.26 Maintenance Equipment			-\$3,000	\$0	-\$3,000		
739.31 Kitchen Equipment			-\$2,000	\$0	-\$2,000		
TOT	-\$3,373,821	-\$27,969	-\$75,000	\$0	-\$75,000		
Promontory School of Expeditionary Learning - Expense - 800 Debt Service and Misc - 6.4% (5 School Budget records)							
810.24 Dues and Fees	-\$3,724	-\$146	-\$4,200	\$0	-\$4,200		3.5%
810.24 Charter School Association Dues	-\$3,616		-\$3,616	\$0	-\$3,616		
810.25 Background Checks	-\$1,940		-\$2,300	\$0	-\$2,300		
830 Facility Mortgage Payment	-\$330,443	-\$36,167	-\$555,019	\$0	-\$555,019	8.0%	6.5%
890.21 Misc. Expenditures	-\$1,204		-\$1,204	\$0	-\$1,204		
TOT	-\$340,928	-\$36,313	-\$566,339	\$0	-\$566,339		
TOT	-\$3,288,325	\$139,108	\$232,477	\$152	\$232,629		

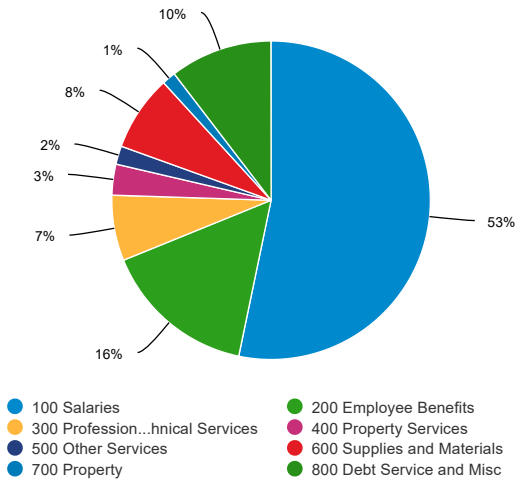
Financial Summary

Category	YTD Amount	Total Budget	Total Forecast	% Target	% Forecast
Revenue (3 School Category records)					
1000 Local Revenue	\$11,896	\$150,000	\$150,152	3.7%	7.9%
3000 State Revenue	\$498,195	\$5,181,971	\$5,181,971	9.4%	9.6%
4000 Federal Revenue		\$343,797	\$343,797	0.0%	
TOT	\$510,091	\$5,675,768	\$5,675,920		
Expense (8 School Category records)					
100 Salaries	-\$185,601	-\$2,899,750	-\$2,899,750	7.7%	6.4%
200 Employee Benefits	-\$64,143	-\$848,300	-\$848,300	7.9%	7.6%
300 Professional and Technical Services	-\$10,548	-\$362,648	-\$362,648	1.8%	2.9%
400 Property Services	-\$7,321	-\$170,500	-\$170,500	3.4%	4.3%
500 Other Services	-\$5,416	-\$104,000	-\$101,000	-0.0%	5.4%
600 Supplies and Materials	-\$33,673	-\$416,754	-\$419,754	-0.0%	8.0%
700 Property	-\$27,969	-\$75,000	-\$75,000	-0.0%	37.3%
800 Debt Service and Misc	-\$36,313	-\$566,339	-\$566,339	7.8%	6.4%
TOT	-\$370,983	-\$5,443,291	-\$5,443,291		
TOT	\$139,108	\$232,477	\$232,629		

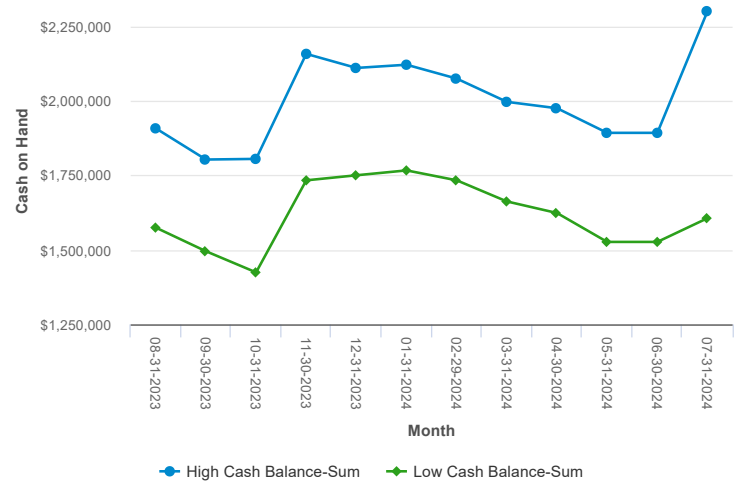
Financial Metrics

Financial Metric	Covenant	Target	Forecast
Operating Margin		4.0	4.1
Debt Service Ratio	1.15	1.30	1.42
% Building Unrestricted Days Cash	40	<16	9.8

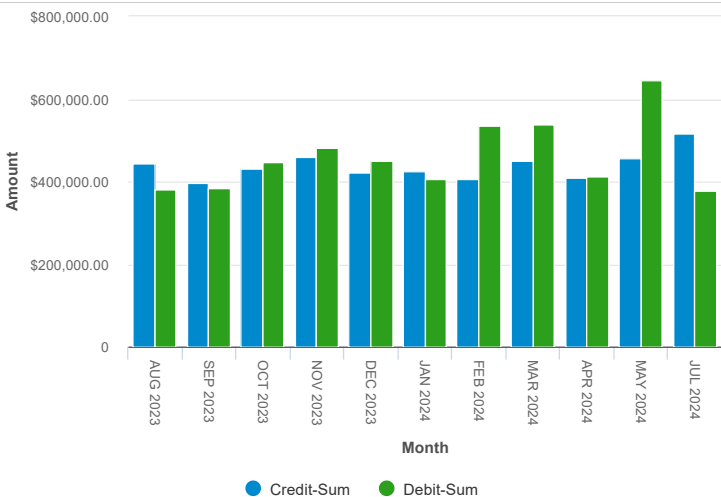
Expense Distribution



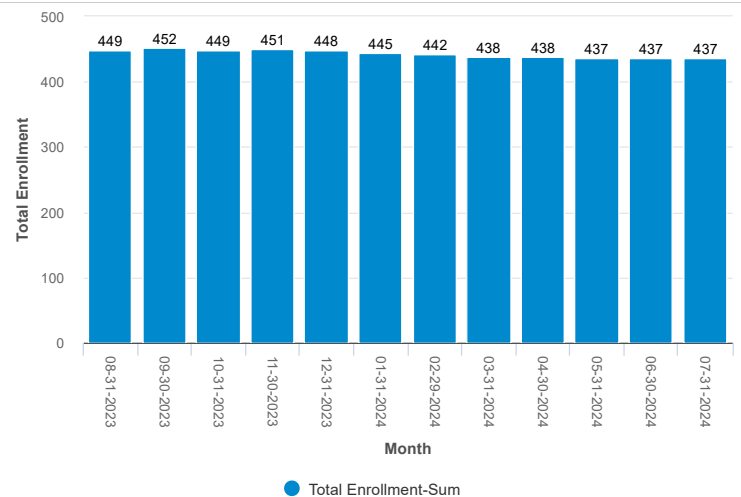
Cash Balance



Revenue vs Expenses



Enrollment Trend



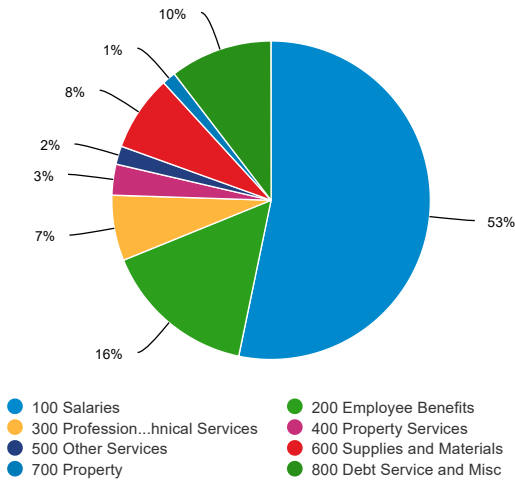
Financial Summary

Category	YTD Amount	Total Budget	Total Forecast	% Target	% Forecast
Revenue (3 School Category records)					
1000 Local Revenue	\$11,896	\$150,000	\$150,152	3.7%	7.9%
3000 State Revenue	\$498,195	\$5,181,971	\$5,181,971	9.4%	9.6%
4000 Federal Revenue		\$343,797	\$343,797	0.0%	
TOT	\$510,091	\$5,675,768	\$5,675,920		
Expense (8 School Category records)					
100 Salaries	-\$185,601	-\$2,899,750	-\$2,899,750	7.7%	6.4%
200 Employee Benefits	-\$64,143	-\$848,300	-\$848,300	7.9%	7.6%
300 Professional and Technical Services	-\$10,548	-\$362,648	-\$362,648	1.8%	2.9%
400 Property Services	-\$7,321	-\$170,500	-\$170,500	3.4%	4.3%
500 Other Services	-\$5,416	-\$104,000	-\$101,000	-0.0%	5.4%
600 Supplies and Materials	-\$33,673	-\$416,754	-\$419,754	-0.0%	8.0%
700 Property	-\$27,969	-\$75,000	-\$75,000	-0.0%	37.3%
800 Debt Service and Misc	-\$36,313	-\$566,339	-\$566,339	7.8%	6.4%
TOT	-\$370,983	-\$5,443,291	-\$5,443,291		
TOT	\$139,108	\$232,477	\$232,629		

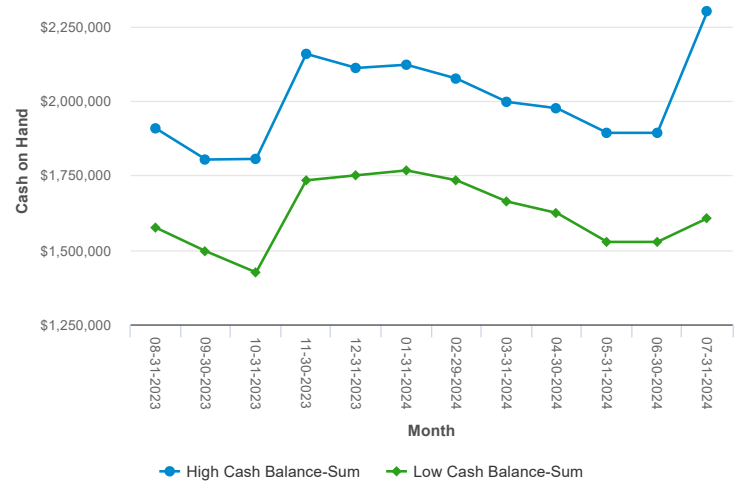
Financial Metrics

Financial Metric	Covenant	Target	Forecast
Operating Margin		4.0	4.1
Debt Service Ratio	1.15	1.30	1.42
% Building Unrestricted Days Cash	40	<16	9.8

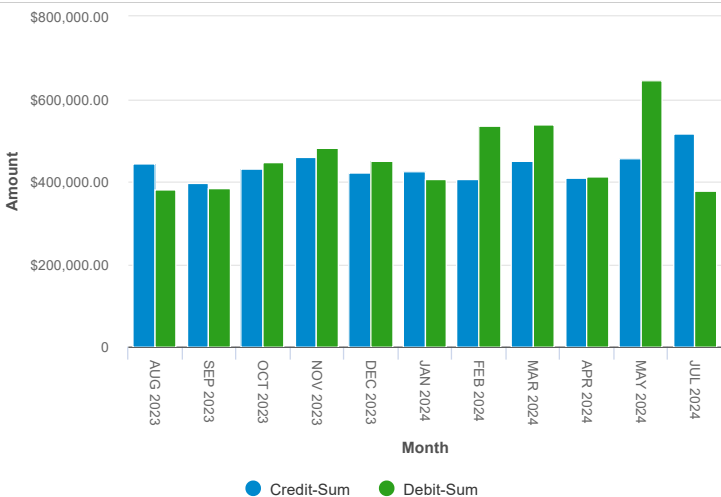
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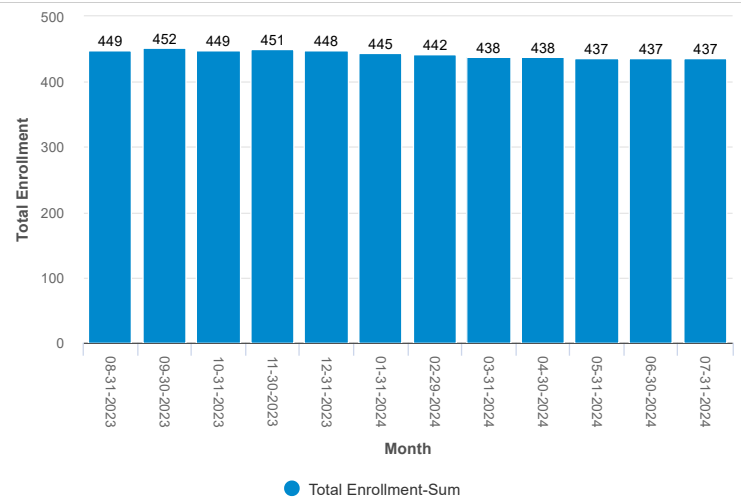
Cash Balance



Revenue vs Expenses



Enrollment Trend



FUNDRAISER REQUEST FOR APPROVAL

(Please submit form electronically to board@promontoryschool.org for processing and records.)

Fundraiser Description

Name of Fundraiser: Box Tops for Education

Box Tops provides an easy way for families to earn cash for our school with products they already buy. To collect box tops, individuals must download the Box Tops app, select Promontory School for their donation school, and scan a copy of their store receipts within 14 days of purchase. Digital and Email receipts count too. Individuals can now connect their Walmart apps to their BoxTops app and then any purchases made at Walmart using their payment methods saved in their Walmart account will automatically earn rewards.

Estimated Volunteer Time: 20 hrs

Estimated Faculty Time: 0 hrs (unknown)

Start Date: July 1, 2024

End Date: June 30, 2025



Fundraiser Goals

PURPOSE: TBD

REVENUE:

- **TARGET:** \$300
- **COST:** \$0 (They provide digital flyers, pre-made communication for emails, we can print physical ones at school if needed, box tops are submitted electronically.)
- **ESTIMATED PROFIT:** \$300 (rounded to the nearest 100 of highest profit we've made since they moved digital.)

VISION: How does the fundraiser align with Promontory's mission statement, values, policies, philosophies, and educational beliefs?

- This fundraiser supports Promontory's family value as it provides an opportunity for families to support the school in a way that does not inconvenience them or their time by utilizing something they already do.
- Anyone is able to choose our school to support, and this fundraiser does not require anyone to spend extra money, making it something that everyone is able to participate in. It also makes this a great opportunity to spread the word about Promontory.
- We will encourage everyone to use the Box Tops app to submit pictures of their store receipts, however, POP will emulate the Promontory value of service by having the option for parents to turn in receipts to be scanned by volunteers.
- We will encourage parents to use the resources Box Tops has created to earn rewards as easily as possible, such as the new Walmart partnership.

Event Approval

Director Signature: [REDACTED]

Date: [REDACTED]

Board Approval Date: [REDACTED]

Board Chair Signature: [REDACTED]

Date: [REDACTED]

Please submit form to board@promontoryschool.org at least two weeks prior to board meeting for placement on the board agenda. Red fields to be filled out by administration.



FUNDRAISER REQUEST FOR APPROVAL

(Please submit form electronically to board@promontoryschool.org for processing and records.)

Fundraiser Description

Name of Fundraiser: Office Depot/Office Max Inspiring Donations **ORGANIZATION NUMBER: 70229312**

Office Depot/Office Max gives schools 5% back in credits for FREE supplies when people make a purchase of qualifying products and provide the school ID at checkout or enter the receipt later online.

Here's how it works:

- Enter the school ID when you checkout online
- Tell the cashier when you checkout in store
- OR enter the details from your receipt online by going to
 - <https://www.officedepot.com/l/school-supplies/give-back>



Estimated Volunteer Time: 1-2 hrs

Estimated Faculty Time: 0 hours

Start Date: July 1, 2024

End Date: June 30, 2025

Fundraiser Goals

PURPOSE: TBD

REVENUE:

- **TARGET:** \$100
- **COST:** \$0 (We only need to advertise and promote to families and staff at the school to sign up.)
- **ESTIMATED PROFIT:** \$100

VISION: How does the fundraiser align with Promontory's mission statement, values, policies, philosophies, and educational beliefs?

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Event Approval

Director Signature: [REDACTED]

Date: [REDACTED]

Board Approval Date: [REDACTED]

Board Chair Signature: [REDACTED]

Date: [REDACTED]



FUNDRAISER REQUEST FOR APPROVAL

(Please submit form electronically to board@promontoryschool.org for processing and records.)

Fundraiser Description

Name of Fundraiser: Smith's Inspiring Donations

ORGANIZATION NUMBER: VP835

Smith's will donate 0.5% of every eligible purchase made by supporters of Promontory School, once that customer has linked their rewards card to our NPO (non-profit organization). Adults simply go online to smithsfoodanddrug.com/inspire and sign-in to their Fresh Values account, or set one up if they don't have one yet, and then select Promontory School of Expeditionary Learning as the organization they want to donate to. They can search by name or by our organization number.

Estimated Volunteer Time: 1-2 hrs

Estimated Faculty Time: 0 hours

Start Date: July 1, 2024

End Date: June 30, 2025



Fundraiser Goals

PURPOSE: TBD

REVENUE:

- **TARGET:** \$1600
- **COST:** \$0 (We only need to advertise and promote to families at the school to sign up.)
- **ESTIMATED PROFIT:** \$1600

VISION: How does the fundraiser align with Promontory's mission statement, values, policies, philosophies, and educational beliefs?

- This fundraiser supports Promontory's family value as it provides an opportunity for families to support the school in a way that does not inconvenience them or their time by utilizing something they already do.
- Anyone is able to choose our school to support, and this fundraiser does not require anyone to spend extra money, making it something that everyone is able to participate in. It also makes this a great opportunity to spread the word about Promontory.

Event Approval

Director Signature: [REDACTED]

Date: [REDACTED]

Board Approval Date: [REDACTED]

Board Chair Signature: [REDACTED]

Date: [REDACTED]

EVENT REQUEST FOR APPROVAL

(Please submit form electronically to board@promontoryschool.org for processing and records.)

Event Description *(Please attach additional event details as needed.)*

Name of Event: Peach Days Float

The Peach Days Float 2024 Event will be a family/community event. It will be a two day event for participation at Peach Days, in addition to the time it takes to build the float. Possible student involvement could include the students walking with family members behind the float during the Jr Peach Days Parade.

Estimated Volunteer Time: 30 hrs

Estimated Faculty Time: 1.5 hrs (walking in the parade).

Start Date: September 6, 2024

End Date: September 7, 2024



Event Goals

PURPOSE FOR EVENT: Community Awareness and School Spirit

COST: \$100 (Float supplies, otter pops & water for students, & thank you for driver)

VISION: How does the fundraiser align with Promontory's mission statement, values, policies, philosophies, and educational beliefs?

- This Event's purpose is to involve the community with and educate the community about Promontory.
- This fundraiser also supports the family value as it provides a family activity for the Promontory community.
- It supports the Wellness Policy by encouraging increased physical activity, bringing together families and friends to make it even more enjoyable and fun.
- We would like to continue the tradition of having the Promontory school song playing over a speaker and parents and students singing as they walk, and also to have American flags available for students to carry.

Event Approval

Director Signature:

Date:

Board Approval Date:

Board Chair Signature:

Date:

Code of Behavior

STUDENT CONTRACT

Upon entering Promontory, each student must sign a contract. If students violate their contract they can lose their position at the school. A student with serious disciplinary problems will be reviewed on an individual basis and their placement determined by the school administration.

Promontory student contract

As a student at Promontory School of Expeditionary Learning I have the following rights and responsibilities:

MY RIGHTS

- I have the right to learn in a safe and healthy environment.
- I have the right to be treated with respect by my teachers and classmates.
- I have the right to have my concerns and ideas heard and addressed by teachers and administrators. This does not mean that my point of view will always prevail, but my concerns, and ideas will be taken seriously.

MY RESPONSIBILITIES

- I will support the mission and values of Promontory School of Expeditionary Learning.
- I will keep my family informed of all school events and meetings by taking home all school notices and teacher letters.
- I will place an active role in keeping the school building clean and conducive to learning.
- I will speak to my classmates and teachers with respect at all times.
- I will be on time to school and participate in all activities.
- I will abide by all the policies outlined in the Promontory School of Expeditionary Learning Family Handbook.

Student Signature/Date

Parent Signature/Date

Teacher Signature/Date

Director Signature/Date

RIGHTS & RESPONSIBILITIES

rights

Students have a right to:

- Learn and study in a positive atmosphere for learning, one that is unbiased, nonjudgmental, and free from prejudice, discrimination, verbal or physical threats and abuse.
- Expect that school rules will be enforced in a consistent, fair and reasonable manner.
- Discuss and receive assistance with educational concerns from Promontory staff.
- Receive a copy of the Promontory Family Handbook.
- Receive fair discipline without discrimination.
- Have access to their “own” student records and portfolios.
- Use computers and other equipment for learning.
- Fair, consistent and respectful treatment by staff members and other students.
- Present complaints or grievances to school authorities.
- Receive authoritative replies within a reasonable time regarding the disposition of their complaints or grievances.
- Students may exercise their constitutionally protected rights of free speech, and/or expressions, giving due consideration to the rights of others – time, place, and manner of the expression.

Responsibilities

Students have a responsibility to follow the Promontory School of Expeditionary Learning Family Handbook including:

- Attend school regularly, arrive on time, bring appropriate materials and be prepared to participate in class and complete assignments.
- Strive for academic growth.
- Respect the rights, feelings, and property of fellow students, parents, school staff, visitors, guests, and school neighbors.
- Conduct themselves properly on school grounds, school buses, and other school vehicles, at any school-related activity, and in the classroom, so as not to interfere with the rights of other students learning.
- Make up work resulting from an excused absence or suspension.
- Follow discipline guidelines adopted by the school and Board of Trustees.
- Use computers in an appropriate manner as defined in the school’s Computer Policy that is signed by each student.



EARLY LEARNING PLAN 2024-2025

LEA Name: Promontory School of Expeditionary Learning

Date of Expected Local Board Approval: 08/15/2024

Submission of Early Learning Plan:

- Submission on or before August 1st: For ELP **approval**, submit the following to earlylearning@schools.utah.gov **by August 1st.**
 - ELP Plan as a WORD document
- Plan approval added to Local Board agenda by August 1 to have approval completed by September 1
- All Revisions submitted **no later than September 1st by 5 p.m.**

SECTION A: EARLY LITERACY

List your evidence-informed core curriculum program(s) and evidence-based intervention program(s)/strategies for grades K-3 literacy along with the year published or edition.

SB 127: Districts and charters are required to provide instructional materials that are evidence-informed for core instruction and evidence-based for intervention and supplemental instruction.

***Evidence-Informed Curriculum(s)** (defined in SB 127 as: (i) is developed using high-quality research outside of a controlled setting in the given field, and (ii) includes strategies and activities with a strong scientific basis for use)

***Evidence-based** is defined in SB 127 as: means that a strategy demonstrates a statistically significant effect, of at least a 0.40 effect size, on improving student outcomes based on: (i) strong evidence from at least one well-designed and well-implemented experimental study or (ii) moderate evidence from at least one well-designed and well-implemented quasi-experimental study.

*Resources available: [Science of Reading Evidence-Informed Core Criteria Checklist](#)
[Strong and Moderate Evidence Criteria](#)

Core program(s) with year published/edition	Intervention program(s) with year published/edition or evidence-based strategies
CKLA 2nd Edition Amplify	95 Phonics Lesson library 1st Edition

SECTION B: EARLY MATHEMATICS

1. What evidence-based curriculum is being used in tier 1 instruction and intervention instruction for K-3 mathematics?

Core program(s)	Intervention program(s) and/or strategies
UEN Lesson Plans that outline the Utah Core Standards, Montessori Math	Zearn, Open Up, ST Math, Khan Kids

2. Describe how the following mathematical components are incorporated in tier 1 instruction in grades K-3.

Mathematical Components	Evidence-based Strategies
Conceptual Understanding: the comprehension and connection of concepts, operations, and relations.	Teachers implement tasks that promote reasoning and problem solving. They facilitate meaningful mathematical discourse through rich tasks, and Training in “Building Thinking Classrooms” through Shannon Olsen
Procedural Fluency: the meaningful, flexible, accurate, and efficient use of procedures to solve problems.	Teachers give students regular opportunities to apply procedures to solve real-world problems related to Expeditionary Learning. Play games that give students practice solving problems, and give students time to practice procedures using the ST Math software program.
Strategic and Adaptive Mathematical Thinking: the ability to formulate, represent, and solve mathematical problems with the capacity to justify the logic used to arrive at the solution.	Mathematical Practices in the Utah Core State Standards, mathematical tasks from the math curriculum with a high level of cognitive demand, and practice with the ST Math individualized math software program
Productive Disposition: the attitude of a student who sees mathematics as useful and worthwhile while exercising a steady effort to learn mathematics.	Teachers will implement evidence-based strategies, setting goals with students while focusing on a growth mindset while providing positive experiences in math instruction for students.

SECTION C: LOCAL GOALS

Goals must be measurable, address current performance gaps in student math and/or literacy data, and include specific strategies for improving outcomes.

Videos to support goal writing: [Analyzing Data and Identifying Areas of Need](#) and [Writing Goals](#)

Goal Sentence Frame:

By **[date]**, **[who is responsible]** will **[what will change and by how much--measurable]** by **[how--which evidence-based strategy(ies) will be used]** to **[why—for what purpose]**.

1. Early Mathematics Goal *(required)*

By **May 30, 2025**, **Promontory School** will maintain the percentage of third-grade students scoring at/above benchmark on the Acadience Math Composite from the beginning of the year (BOY) to the end of the year (EOY). This will be accomplished through the implementation of targeted, evidence-based interventions tailored to each student's diagnostic needs, as assessed by the Acadience Math Screener and Open Up Math assessments. The interventions will focus on addressing specific skill gaps and increasing the proportion of students progressing out of the well-below benchmark status. These students will also receive 30 minutes a day of additional support to enrich learning in mastery of skills and concepts.

2. Early Literacy or Mathematics Goal *(required)*

Literacy Goal

Mathematics Goal

By **May 30, 2025**, **Promontory School** will increase the percentage of first-grade students scoring at or above benchmark in Acadience Reading composite by 23% from BOY to EOY. This will be achieved through ongoing teacher training, coaching, and feedback on the adoption of CKLA, focusing on PSF, and ORF. The interventions will focus on addressing specific skill gaps and increasing the proportion of students progressing out of the well-below benchmark status. All students receive 30 additional minutes a day with targeted support in Tier 2 instructional small groups.

General Assurances: *Check the boxes below.*

The LEA assures that it is in compliance with State Code [53E-4-307.5](#), [53G-7-218](#), [53E-3-521](#) and Utah Board Rule [R277-406](#) applicable to this program.

The LEA has adopted high quality instructional materials and intervention programs aligned with the effective research regarding the science of reading and the LEA's reading strategies meet the criteria in Section [53G-11-303](#).

The Early Learning Plan submitted will be reviewed and approved by your local board in an open, public meeting.

By submitting this form, I certify the information I provided on and in connection to this application is true, accurate and complete. I also understand that any false statements on this application I file with the Utah State Board of Education may be grounds for corrective action.

Equal Opportunity in Curriculum Policy

Patriotic, Civic, Character, and Historical Education

In accordance with R277-475-3, Promontory School of Expeditionary Learning shall provide instruction for patriotic, civic and character education in the social studies curricula of kindergarten through grade eight as part of our integrated school curriculum and in the regular course of schoolwork.

Definitions

- (1) Character education
Reaffirming values and qualities of character which promote an upright and desirable citizenry
- (2) Civic Education
The cultivation of informed, responsible participation in political life by competent citizens committed to the fundamental values and principles of representative democracy in Utah and the United States
- (3) Patriotic
Having love of and dedication to one's country.
- (4) Patriotic education
The educational and systematic process to help students identify, acquire, and act upon a dedication to one's country.

Promontory School shall

- (1) ensure that all patriotic, civic and character education programs are consistent with the requirements of Sections 53G-10-302, 53G-10-304, and 53G-10-204
- (2) provide instruction in United States history and government that include the following:
 - (a) a study of forms of government including but not limited to:
 - i. republic
 - ii. democracy
 - iii. monarchy
 - iv. oligarchy
 - v. theocracy
 - vi. dictatorship
 - vii. the United States form of government, a constitutional compound republic
 - (b) Political philosophies and economic systems including but not limited to:
 - i. communism
 - ii. free market capitalism
 - iii. socialism
 - iv. individualism

- (3) Ensure these and curricular topics related to the history of the United States shall follow the plan of the Social Studies core curriculum in grades kindergarten through eight.

Curriculum Alignment with R277-328 Equal Opportunity in Education

The state of Utah has identified four keys for successful implementation of R277-328. The teachers at Promontory School of Expeditionary are encouraged and expected to adhere to these four keys, utilizing resources provided here developed by the Utah State Office of Education

Engage in parental transparency

Promontory School believes that parental transparency and involvement are vital to a successful school and optimal student achievement. Teachers are expected to be transparent with parents on the topics/content they will be teaching. This could be accomplished through a combination of actions such as providing access to disclosure statements, posting content on Canvas, sending emails to families when a particular discussion comes up, and encouraging them to speak and engage with their child. The overall objective is open communication.

Ensure content is age appropriate

Consider the age and maturity of the students you work with and whether particular topics are age and developmentally appropriate.

Promontory School teachers are expected to follow the Utah Core Curriculum. This document, created by experienced Utah educators, has been developed to provide age-appropriate curriculum for our students.

An additional technique which might be helpful in expedition development is the Inquiry Arc of the College, Career, and Civic Life (C3) Framework developed by the National Council for the Social Studies. Because the students are involved with the development of questions and inquiries, these curricular elements are quite likely to be age appropriate. The C3 Framework is

TABLE 1: C3 Framework Organization

DIMENSION 1: DEVELOPING QUESTIONS AND PLANNING INQUIRIES	DIMENSION 2: APPLYING DISCIPLINARY TOOLS AND CONCEPTS	DIMENSION 3: EVALUATING SOURCES AND USING EVIDENCE	DIMENSION 4: COMMUNICATING CONCLUSIONS AND TAKING INFORMED ACTION
Developing Questions and Planning Inquiries	Civics	Gathering and Evaluating Sources	Communicating and Critiquing Conclusions
	Economics		
	Geography	Developing Claims and Using Evidence	Taking Informed Action
	History		

found below, with much more information available at the National Council for the Social Studies (NCSS) website.

Preview all materials before use with students

Promontory School implements learning through expeditions that go beyond mastering a fixed set of materials allowing instructional planning to change with each expedition, requiring teachers themselves to be learners. As new materials are introduced to lesson plans, Promontory School requires all teaching staff to preview and vet those materials thoroughly for alignment with Promontory standards. Additionally, in accordance with our Material Distribution Policy, written and printed materials, handbills, photographs, pictures, petitions, films, tapes, or other visual or auditory materials may not be sold, circulated, or distributed on Promontory School of Expeditionary Learning property by a teacher, staff, student, parent, or volunteer without the prior approval of the director.

Remain unbiased in classroom

Promontory School will provide a fair and non-discriminatory learning environment, remaining unbiased in classroom instruction, materials, and discussions. Every Promontory School employee has the responsibility to provide a safe space to let students explore important, albeit sometimes challenging, topics. Having collaborative classroom norms will help prevent most problematic conversations. Teachers at Promontory School will check their bias and opinions at the door and provide a model for how to be respectful in conversation. By doing this, they are better positioned to facilitate productive discussions that maintain civility.

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LIBRARY MATERIALS POLICY

I. Library Policy

- A. Promontory School's libraries support and enhance student learning. Promontory School values libraries, media centers, and library staff who select, maintain, and preserve rich repositories of balanced, relevant, age appropriate, and varied educational sources for students.
- B. This policy specifies the process for identifying materials to be included or disqualified from use in libraries and schools based on Section 53G-10-103, *Sensitive Instructional Materials*, state and federal law, Board Rule R277-217, *Educator Standards and LEA Reporting*, or based on age appropriate content.
- C. All employees of Promontory School must adhere to this policy and are subject to the Promontory School employee conduct policies for any personal violation.

II. Selection of Materials for Library Collection

- A. The library professional will initially select all library materials under the direction of the local board, including gifts and donations, consistent with this policy using the following criteria:
 - 1. seek recommendations and work collaboratively with parents, patrons, others in the school community during the selection process;
 - 2. create a collection that reflects diversity of ideas; and
 - 3. create a collection that adheres to the law.
- B. Electronic databases and other web-based searches and content will be filtered through Promontory School's state-required internet filter.
- C. Gifts and donations will be reviewed following selection criteria and will be accepted or rejected using the same criteria; and
- D. The responsibility for final material selection rests with trained library personnel under direction of the governing board of Promontory School using the following criteria:
 - 1. Overall purpose and educational significance;
 - 2. Legality;
 - 3. Age and developmental appropriateness;
 - 4. Timeliness and/or permanence;
 - 5. Readability and accessibility for intended audience;
 - 6. Artistic quality and literary style;
 - 7. Reputation and significance of author, producer, and/or publisher;
 - 8. Variety of format with efforts to incorporate emerging technologies; and
 - 9. Quality and value commensurate with cost and/or need.
- E. A record of reviewed materials will be maintained by Promontory School and include:
 - 1. the name of the school;
 - 2. the title and author of the material;

3. all available formats of the material (digital/hard copy/etc.);
4. the intended use of the material;
5. the date the material was reviewed; and
6. the employee's name and title that reviewed the material.

III. Library Collection Maintenance

- A. Library materials will be maintained consistent with the criteria listed in II.D, state and federal laws, including Utah Code Ann. Section 53G-10-103, and represent varying viewpoints.
- B. The school librarian or designated specialist will inventory the school library collection and equipment annually.
 1. The inventory may be used to determine losses and remove damaged or worn materials to be considered for replacement.
 2. The inventory may also be used to deselect and remove materials that are inconsistent with the law, or that are no longer relevant to the curriculum or of interest to students.
 3. Identify gaps or deficits in the library's collection.

IV. Library Materials Review Process

- A. Promontory School will ensure a least restrictive, transparent process for a library materials review request to be made in physical or electronic formats.
- B. A library materials review request of a material may only be made by:
 1. a parent of a student that attends the school;
 2. a student who attends the school; or
 3. an employee of the school.
- C. If challenges become unduly burdensome Promontory School may limit the number of challenges an individual may make in the course of a school year.
- D. A library materials review may be based upon the concern that the material is a sensitive material as defined in Section 53G-10-103, or upon concerns that with age-appropriateness of content.
- E. The identity of the requestor will be protected and kept confidential from all individuals outside of the review process outlined in this policy, to the extent possible.
- F. Promontory School will ensure each school provides access to a Library Materials Review Request Form (See Appendix A).
- G. The requestor must provide all information requested on the form including the requestor's complaint or objection to the library material.
- H. The material that is subject to a review request will have restricted access by maintaining the material behind the circulation desk or requiring an access code for digital materials until the processes described in this policy are completed. Access is limited to students with prior parent/guardian permission only. A list of restricted materials shall be made available to the public.
- I. The material's access level will be consistent at Promontory School until a final determination is made regarding the material.
- J. Upon receipt of a request for review, the school administrator or designee will acknowledge the receipt of the request, create a case number for the review, and convene a Review

Committee within a reasonable time according to the procedure outlined below:

1. A Review Committee will include a reasonable and an odd number of individuals.
 2. Members of the committee will include:
 - i. a facilitator chosen by Promontory School's administration;
 - ii. at least one administrator or designee;
 - iii. a licensed teacher at the school who is currently teaching English language arts or subject relevant to the challenged material;
 - iv. a licensed teacher-librarian or school librarian; and
 - v. parents of current students at the school that number at least one more than the LEA employees on the Committee including parents reflective of the school community as required in Subsection 53G-10-103(3).
- K. The Review Committee will determine the amount of time needed for an adequate review of a material to make a thorough and thoughtful decision and inform the requestor of the determined timeline with a preference for 30 school days where possible and no longer than 60 school days.
- L. The Review Committee may request that the Promontory School's governing board determine the maximum amount of time allowed for review and determination.
- M. Members of the Review Committee will receive materials to complete the review process, including the following:
1. access to the complete work that includes the material being challenged;
 2. a copy of the Materials Review Request form;
 3. a copy of this policy
 4. relevant information about the title compiled and shared by the library staff, including reason for initial approval of the material; and
 5. recorded public comment as described below in Subsection O.
- N. Prior to a decision of the Review Committee the school conducting the review will provide an opportunity for public comment regarding the material at a governing board meeting. O. The school conducting the review will provide notice to parents about the opportunity to provide public comment and include the name of the material that is the subject of the materials review at least 48 hours prior to the scheduled meeting for public comment. P. The school conducting the review will record all public comments, including written comments received, and make those comments available to the Review Committee within 48 hours of the public comment meeting.
- Q. The Review Committee will schedule meetings as determined by the Review Committee and maintain minutes of each meeting.
- R. The notes from each meeting will be retained by Promontory School along with all relevant documentation and the final determination.
- S. The Review Committee will determine whether the material constitutes sensitive material consistent with Section 53G-10-103, this policy, and the guidance letter provided by the Attorney General's Office dated June 1, 2022.
- T. In deciding whether the material constitutes sensitive material, the Committee must:
1. consider *all* elements of the definitions of pornographic or indecent materials as defined in Utah Code Sections 76-10-1235, 76-10-1201, 76-10-1203, and 76-10-1227; and
 2. whether the material is age appropriate due to vulgarity or violence.
- U. In deciding whether the material is age appropriate due to vulgarity, violence, or content,

the Committee must consider the material taken as a whole and consider whether it has serious literary, artistic, political, *or* scientific value for minors, which may include the following objective criteria:

1. reliable, expert reviews of the material or other objective sources;
2. committee members' experience and background; and
3. community standards.

V. In deciding whether the material taken as a whole has serious literary, artistic political, or scientific value as described in Subsection U., the Committee should consider that: 1.

serious value does not mean *any value*; and

2. greater protections should exist concerning content for a library in an elementary or middle school setting.

W. The Review Committee will make a final determination of a reviewed material as follows:

1. **Retained:** the determination to maintain access in a school setting to the challenged material for all students.

2. **Restricted:** the determination to restrict access in a school setting to the challenged material for certain students as determined by the Review Committee.

3. **Removed:** the determination to prohibit access in a school setting to the challenged material for all students.

X. The decision of the Review Committee will be determined by majority vote. Y. A material may not be reviewed again for three school years following the Review Committee's determination.

Z. The final determination of the Review Committee will be communicated to the requestor and appropriate employees within 5 school days of the decision being made.

AA. Promontory School will maintain a list of all materials that receive a "removed" determination and make the list available.

BB. Decisions of all challenged books will be communicated whether retained, restricted, or removed.

V. Appeals Process

A. The original requestor or another individual who was not on the Review Committee may appeal the determination of the Review Committee in writing to the school principal within 15 business days of receipt of the Review Committee's final determination using an Appeal Request Form (See Appendix B).

B. If an appeal is filed with the school principal, the local governing authority will act as the Appeals Committee.

1. The local governing authority (Appeal Committee) may add parent or school administrator member(s) who did not participate in the initial Review Committee, only as necessary to have an odd number of members.

C. If there is not an appeal of the Review Committee's recommendation, the Review Committee's recommendation is the final determination for the challenged material. D. The Appeals Committee will determine the amount of time needed for an adequate review, not longer than 60 school days and a preference for 30 school days, of a material required to make a thorough and thoughtful decision and inform the requestor of the determined timeline.

E. Members of the Appeals Committee will receive materials to complete the review process, including the following:

1. a copy of the material;
 2. a copy of the Materials Review Request form;
 3. all meeting minutes;
 4. the Review Committee's final recommendation and rationale for the decision; 5. any other documents considered part of the administrative record related to the Review Committee's proceedings including all recorded public comments as described in Subsection V.O. above.
- F. The Appeals Committee will schedule meetings as needed, as determined by the Appeals Committee and maintain minutes of each meeting.
- G. The notes from each meeting will be retained by Promontory School along with all relevant documentation and the final determination by the Appeals Committee. H. The Appeals Committee may make a final determination of a reviewed material as follows:
1. **Retained:** the determination to maintain access in a school setting to the challenged material for all students;
 2. **Restricted:** the determination to restrict access in a school setting to the challenged material for certain students;
 3. **Removed:** the determination to prohibit access in a school setting to the challenged material for all students; or
 4. Another determination as decided by the Appeals Committee.
- I. The decision of the Appeals Committee will be determined by majority vote. J. A material may not be reviewed again for three school years if the Appeals Committee votes to uphold a Review Committee's determination.
- K. The final determination of the Appeals Committee will be communicated to the requestor and appropriate employees within 10 days of the determination.
- L. Promontory School will maintain a list of the determinations by Appeals Committee and make the list available to the public.

VII. Final Procedural Review (*Not Legally Binding until USBE amends R277-123*) A.

The requestor in V.A., may petition the USBE for a procedural review of the Appeals Committee's decision.

1. The USBE will review the petition and determine if a procedural review is warranted, to determine whether the LEA correctly followed its library materials review policy referred to in Rule R277-628.
 2. That determination may include the USBE's decision to have the appeal considered initially by a USBE Committee or a panel of USBE members.
 3. If the USBE determines in USBE's procedural review that the LEA did not correctly follow its materials review policy, it will return the appeal to the LEA with direction to repeat its review process in compliance with its library materials review policy referred to in Rule R277-628.
- B. The USBE will make a final written appeal decision no more than 60 school days after the USBE's determination that the appeal satisfies the criteria for USBE review.
- C. This USBE review decision is final.

VIII. Communication

- A. An easily accessible webpage on the public website for Promontory School will be updated and available prior to the beginning of each school year to inform teachers, staff, students, and parents of the following:
1. A Materials Review Request Form (See Appendix A);
 2. An Appeal Request Form (See Appendix B);
 3. Application to serve on a materials Review Committee;
 4. This Library Policy;
 5. A list of all materials that are restricted while under Review or have received a Review Committee or Appeals Committee determination.
- B. If made aware of material that may be considered sensitive material as defined in Section 53G-10-103, Promontory School will inform relevant parties regarding appropriate actions to take pursuant to this policy.

Appendix A: Materials Review Form

Title:

Author:

School:

Review Request initiated by:

Telephone:

Address:

City:

Zip:

Email:

1) Does your child attend this school? Yes No

2) Was this material recommended, assigned, or made available through the students' school? If so, where?

3) What concerns you about this material? Please provide examples, page numbers, links, or any other information to help in locating or identifying content of concern. Please attach any images or other corroborating evidence.

4) What action are you requesting the committee to consider?

Signature:

Date

*****Below is for internal use

only***** LEA Appointed Committee Convener/Facilitator

(Determined by Promontory School) Administration

Suggested Review Timeline: _____

Appendix B: Appeal Request Form

Instructions:

1. A requestor will submit the District Appeal Form along with a copy of the School Library Materials Reconsideration decision within 15 business days of receiving the decision of the School Library Material Reconsideration Committee.

Requestor Information:

1. Date _____
2. Legal Name of Guardian _____
3. Address _____
4. E-mail _____
5. Phone Number _____
6. School _____
7. School Challenge Decision Date _____

The submission of a District Appeal Form will receive a receipt of notice of submission within ten (10) school calendar days. The receipt of submission will include an estimated time-line for a determination of the District Appeal to be completed within a reasonable time period not to exceed _____ school days.

Challenged Material Information:

1. Title _____
2. Author _____
3. Publisher and date of publication _____
4. School where title can be accessed _____

Please provide a written statement setting forth your rationale to appeal the School Committee's decision regarding the title (attach additional pages as needed).

Requestor’s Signature: _____

Appendix C: Attorney Generals Guidance Letter and Supplemental Guidance Letter

STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL



SEAN D. REYES

ATTORNEY GENERAL

Daniel Burton General Counsel

Melissa A. Holyoak Deputy Solicitor General

Spencer E. Austin Chief Criminal Deputy

Ric Cantrell
Chief of Staff

Solicitor General

Brian L. Tarbet Chief Civil

MEMORANDUM

DATE: RE:

TO:

Utah State Board of Education

FROM:

Utah Attorney General Sean D. Reyes; Utah Solicitor General Melissa A. Holyoak; Education Division Director Meb W. Anderson

June 1, 2022

This memorandum provides analysis regarding
HB 374, *Sensitive Materials in Schools*,

Official Memorandum-Laws Surrounding School
Libraries

Introduction

and its prohibition of obscenity in school libraries. This memorandum supersedes any prior memorandum or other information previously provided by the Office of the Utah Attorney General (AGO) on the question of removing pornographic books from school libraries, including a May 4, 2022 memorandum from AGO Education Division Counsel (May 4 Memo), titled "Laws surrounding school libraries." Any conflict or inconsistency between this document and any prior pronouncement from the AGO should be resolved in favor of the analysis herein. Any relevant part of the May 4 Memo not inconsistent with this document is incorporated by reference.

This memorandum has been personally written, reviewed, and approved by the Utah Attorney General and senior executive leadership of the AGO and constitutes the official position of the AGO (Official Memo). Our office was asked by the Utah State Board of Education (Board) and local education agencies (LEAs) to address issues limited to removal of inappropriate books in school libraries. Thus, the Official Memo does not address broader issues

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of appropriate classroom materials or other school curricula and focuses solely on school library books.¹ The focus and emphasis on these materials should not, therefore, be interpreted as the sum of AGO analysis on all issues relating to HB 374. The AGO is available to provide analysis

¹The May 4 Memo similarly does not address these broader issues because the AGO was only asked about the limited question of books in school libraries.

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to the Board and LEAs on these broader issues if we are asked to do so as contemplated by state statute.

Background

With access and addiction to pornography increasing among Utah children, the average age of first exposure and addiction to pornography among young people reaching pre-pubescent levels, and an increasing online threat of porn to the health, development, and welfare of youth, the Utah State Legislature has taken very positive and proactive measures to address the threat of pornography to

schoolchildren. Parenthetically, through the multiple programs of the AGO, including its Internet Crimes Against Children Taskforce (ICAC), Children's Justice Centers (CJCs), Secure Strikeforce, and online training resources, the AGO is at the front line every day of protecting vulnerable Utah children from exposure to and exploitation from pornography. In cases we investigate and prosecute, we witness the devastation to child victims and survivors of pornography exploitation and exposure.

Among other measures to combat pornography's detrimental impact on children, the Utah Legislature recently passed HB 374 which addresses "sensitive materials" that the Legislature intends to prohibit in the school setting and designates exceptions for certain instructional materials. The State of Utah has recognized that pornography in Utah is a public health crisis and that the school settings are places where "pornographic or indecent materials" will not be allowed. Because **HB 374** applies to both textbooks used to deliver curriculum and material used to support a student's learning in the school setting, it applies to library books in public schools.

Executive Summary

Library books in Utah public schools are prohibited if they are pornographic or indecent as defined under one of three state statutes. The Board must create model policies consistent with such statutes, including HB 374, for LEAs. In turn, LEAs must follow such policies to comply with state statutes. As is the case with most laws that implicate the First Amendment of the United States Constitution, HB 374 will likely be subject to legal challenge. If the law is challenged, the AGO will vigorously defend the law.

As further detailed below, there are actions the Board and LEAs may take in complying with HB 374 to mitigate the risk of legal challenge. The first is to immediately remove books from school libraries that are categorically defined as pornography under state statute. This will help protect the LEAs from potential lawsuits brought by parents or groups alleging the school failed to comply with state laws.

The second mitigation action comes into play as LEAs remove pornographic materials from libraries. In such instances, any legal challenge to that removal will be analyzed under both

Utah statute (including HB 374) and federal law.² However, under federal law, there are some conflicts as to the appropriate standard and there is no definitive United States Supreme Court precedent governing removal of library books. Because under federal law, categorical exclusions alone may not be sufficient, the LEAs can further mitigate risk regarding their removal decision by engaging in analysis as to any overall value the materials may have that might forestall removal. Undertaking such an analysis in good faith significantly increases the likelihood of overcoming a legal challenge to the removal of the book.

Nothing in the legal analysis contained in the May 4 Memo or Official Memo should be read to undermine the legislative goals or the laws which aim to initiate and bring about the proactive removal of obscenity from school libraries. The AGO views the Board's responsibility as creating model policies for LEAs to strictly comply with HB 374.

While the AGO cannot determine on a book-by-book basis which materials should be removed, the office supports schools and the Board as they execute their duties in evaluating what materials can be removed under state and federal law. The AGO has, therefore, provided analysis on the standards found in statute and in case law, but declines to designate which books are likely to survive legal challenge if removed from public school library shelves.

Analysis

This Official Memo is provided to clarify certain points of law discussed in the May 4 Memo and to assure appropriate context on certain matters.

1. The purpose of the May 4 Memo and this Official Memo is to provide analysis of HB 374 with respect to library books only.

Generally, the May 4 Memo was written in response to the requirement in HB 374 that the Board, in consultation with the AGO, "provide guidance and training to support public schools in identifying instructional materials that meet the definition of sensitive materials under" Section 530-10-103. More specifically, the May 4 Memo was for LEAs relating only to library books. (The first sentence of the Memo states that it "outlines the law as it pertains to school library books in Utah.") In fact, LEAs throughout Utah had requested information relating specifically to the handling of school library books pursuant to HB 374. Like the May 4 Memo, this Official Memo does not address course material. This Official Memo does not contain the AGO's discussions and analysis to the Board on other issues relating to HB 374. It is limited to the questions posed relating to the removal of certain books from library shelves due to reports of pervasively vulgar material, identified as sensitive materials under HB 374. The AGO will

²The First Amendment provides that "Congress shall make no law ... abridging the freedom of speech, or of the press." It applies to the States by virtue of the Fourteenth Amendment. *Gitlow v. New York*, 268 U.S. 652, 666 (1925). The Supremacy Clause of the U.S. Constitution directs state courts that they "must not give effect to state laws that conflict with federal law[]." *Armstrong v. Exceptional Child Center, Inc.*, 575 U.S. 320,324 (2015).

Accordingly, federal court decisions inform the analysis here.

continue to consult with the Board relating to both school library books and other school course materials.

2. Utah Law prohibits "sensitive material" in the school setting.

HB 374 (Section 53G-10-103) references three applicable definitions of "pornographic or indecent material." HB 374 creates a new legislative approach to identify "sensitive materials" in a school setting under Utah statute. Under HB 374, pornographic or indecent material means any material defined as harmful to minors in Section 76-10-1201, described as pornographic in Section 76-10-1203, or described in Section 76-10-1227. Under HB 374, if a school library book meets the definition of *any* of these three standards then the book should be removed from a school library.³ We reiterate our view that these definitions and standards are legally defensible. The relevant definitions are:

a. **Utah Code Ann. § 76-10-1201:** "Harmful to minors" means that quality of any description or representation, in whatsoever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse when it:

- (i) taken as a whole, appeals to the prurient interest in sex of minors;
- (ii) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and
- (iii) taken as a whole, does not have serious value for minors.

As described in the May 4 Memo, if a school library book in Utah were identified and removed from a library shelf as vulgar or obscene based on this standard, it is **likely to pass constitutional review** in a subsequent legal challenge.

b. **Utah Code Ann. § 76-10-1203:** Any material or performance is pornographic if: (a) The average person, applying contemporary community standards, finds that, taken as a whole, it appeals to prurient interest in sex;

- (b) It is patently offensive in the description or depiction of nudity, sexual conduct, sexual excitement, sadomasochistic abuse, or excretion; and
- (c) Taken as a whole it does not have serious literary, artistic, political or scientific value.

As described in the May 4 Memo, if a school library book in Utah were identified and removed from a library shelf as vulgar or obscene based on this standard, it is **likely to pass constitutional review** in a subsequent legal challenge.

³ HB 374, as codified at Section 53G-10-103, defines "sensitive material" as an instructional material that is pornographic or indecent material as that term is defined in Section 76-10-1235, *Accessing pornographic or indecent material on school property*. When citing to the language of Section 1235 in the May 4 Memo, there was a citation error (i.e., it stated 1217 instead of 1227). To be clear, Section 76-10-1235 states that in a school setting or on school property in Utah, "Pornographic or indecent material" means any material: "(i) defined as harmful to

minors in Section 76-10-1201; (ii) described as pornographic in Section 76-10-1203; or (iii) described in Section 76-10-1227."

c. **Utah Code Ann. § 76-10-1227:** "Description or depiction of illicit sex or sexual immorality" means:

- (i) human genitals in a state of sexual stimulation or arousal;
- (ii) acts of human masturbation, sexual intercourse, or sodomy;
- (iii) fondling or other erotic touching of human genitals or pubic region; or (iv) fondling or other erotic touching of the human buttock or female breast.

Section 1227(2)(a) states that subject to Section 1227(2)(c), "this section and Section 76-10-1228 do not apply to any material which, when taken as a whole, has serious value for minors." Section 1227(2)(c) states conclusively that subsections (i), (ii) and (iii) of 1227(1)(a) "ha[ve] no serious value for minors."

Section 1227(2)(c) can be read as a legislative directive that no description of illicit sex in subsections (i-iii) could have serious literary, artistic, political, or scientific value. Under that interpretation, if a book contains any of the material listed in subsections (i), (ii), or (iii), HB 374 requires the book to be removed from a school library. Such an interpretation creates categorical exclusions or a "bright line" rule. A decisionmaker that removes library books based on these defined categories directly complies with state statute. Other materials under category (iv), as per the plain language of the statute, can be assessed under a "taken as a whole analysis" to further comply with state statute.

Direct compliance with HB 374 and removal of books under state statutes 76-10-1201, 1203, and 1227 will likely insulate LEAs from lawsuits for violations of state statute.

3. Federal Law may require more than application of a bright line rule.

Even when removal of library books meets strict compliance with HB 374 and related state statutes, a legal challenge will invite application of federal First Amendment jurisprudence, a body of cases which have not favored bright line rules in obscenity cases. *See, e.g., Home Box Off, Inc. v. Wilkinson*, 531 F. Supp. 987, 996 (D. Utah 1982) ("It is elementary that merely calling something obscene doesn't make it so").⁴

⁴The U.S. Supreme Court has long held that "the Fourteenth Amendment requires that regulation by the States of obscenity conform to procedures that will ensure against the curtailment of constitutionally protected expression, which is often separated from obscenity only by a dim and uncertain line." *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58, 66 (1963). Simply put, while HB 374 provides very specific categories of materials to be removed, in federal jurisprudence, there is no bright line rule regarding the removal of books from library shelves in public schools under the U.S. Constitution.

A federal court might plausibly read Section 1227(2)(c) not as a bright line rule, but as a rebuttable presumption. That is, descriptions or depictions of things set forth in 1227(1)(a)(i), (ii), and (iii) presumably have no serious value for minors, *unless* the school proactively determines that such materials have serious literary, artistic, political, or scientific value. This is akin to the "taken as a whole" analysis that removal under subsection (iv) requires under Section 1227(2)(a) and (b). Failure to consider library materials "as a whole" may present risk of conflict with federal law. *State v. Watts*, 498 P.3d 365, 374-75 (Utah 2021) (citing *Miller v. California*, 413 U.S. 15, 18 (1973)).⁵

For example, removing a school library book because it contains a sole description or depiction of an act of "sexual intercourse" or "fondling" (or other forbidden depiction specified under Section 1227) may be subject to increased risk of legal challenge if the book would not otherwise be removed under Sections 1201 or 1203, or 1227 (iv), when taken as a whole.

A cardinal rule of statutory interpretation is that when a statute is susceptible to two plausible interpretations, it should be interpreted to avoid the constitutional conflict. *See, e.g., Clark v. Martinez*, 543 U.S. 371, 381-82 (2005); *see also Hernandez v. Carrreera-Carlson*, 547 F.3d 1237, 1251 (10th Cir. 2008) ("[E]ven after a court has construed a statute to avoid constitutional doubts, an agency remains free to interpret the same statute in a different manner so long as its subsequent interpretation is reasonable and avoids serious constitutional questions").

Accordingly, to further protect the bright line removal decisions made under state statute from any legal challenge, LEAs analyzing material under subsections (i), (ii), and (iii) of 1227(1)(a) may consider further analyzing the material under the "serious value" definition found in 1227(2)(b). Under 1227(2)(b) a book that otherwise violates 1227(1)(a) should remain on the shelves if it has "serious literary, artistic, political, or scientific value for minors, taking into consideration the ages of all minors who could be exposed to the material." This is not intended as a formula to avoid implementation of HB 374 but to bolster the removal decisions and assure there has been a thoughtful process to determine whether there is any redemptive value in the offending material.

In other words, even if the material is specifically listed in subsections (i), (ii), and (iii), the decisionmaker may consider independently analyzing whether such material has serious value for minors under 1227(2)(b). And, to further validate the removal decision under federal law, decisionmakers may consider assessing the materials "as a whole" when analyzing materials under Section 1227.

⁵The possible ambiguity between bright line and rebuttable presumption of Section 1227(2)(c) is amplified by the fact that Section 1227 is generally meant to apply to indecent *public* displays. The First Amendment's obscenity analysis for public displays may differ from its obscenity analysis for library materials but is not addressed herein.

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Any decision or attempt to resist removal of offending material under Section 1227 based on "serious value" or "as a whole," is fraught with its own risks and potential legal challenge by parents who believe the decision is too permissive and contrary to state statute. *Cf. United States v. Stevens*, 559 U.S. 460,478 (2010) ("But the text says 'serious' value, and 'serious' should be taken seriously."). *Serious* value does not mean *any* value. Of crucial note, this risk of lawsuits by parents only increases for libraries in elementary or middle schools versus high schools. *See* Utah Code § 76-10-1227(2)(b) ("serious value' ... taking into consideration the ages of all minors who could be exposed to the material").

4. Circuit courts disagree on the precedential impact of the *Pico* case.

In *Board of Education, Island Trees Union Free School District No. 26 v. Pico*, 457 U.S. 853 (1982) ("*Pico*"), the U.S. Supreme Court was faced with a challenge to the removal of books from library shelves by the defendant board of education. "[T]he only books at issue in [*Pico*] are *library* books, books that by their nature are optional rather than required reading." *Id.* at 862 (emphasis in original). The relevant question in *Pico* was whether the "First Amendment impose[s] any limitations upon the discretion of petitioners [the School Board] to remove library books from the Island Trees High School and Junior High School?" *Id.*

While *Pico* is the only case in which the Supreme Court has addressed the removal of books from library shelves, it is a plurality opinion-no part of the opinion garnered five votes. Justice Brennan's view, joined by Justices Marshall and Stevens, was that if there was a finding that the removals were based on viewpoint, then the removals violated the First Amendment. *Id.* at 871-72. Justice Blackmun concurred, finding that schools cannot remove books if "motivated simply by the officials' disapproval of the ideas involved." *Id.* at 879-80 (Blackmun, J., concurring). Justice White also concurred solely as to remanding the matter for a trial on whether the school board removed the books based on viewpoint or vulgarity. *Id.* at 883 (White, J., concurring). The dissenting justices (Chief Justice Burger joined by Justices Powell, Rehnquist, and O'Connor) questioned the plurality's recognition of the "right" of access to particular books: "It does not follow, however, that a school board must affirmatively aid the speaker in his communication with the recipient. In short the plurality suggests today that if a writer has something to say, the government through its schools must be the courier." *Id.* at 887 (Burger, C.J., dissenting).

The *Pico* case is the closest the U.S. Supreme Court has come to providing guidance on the issue of removal of books from school library shelves and supports the notion that "pervasively vulgar" books can be removed. *Id.* at 871. The Court later acknowledged this holding: "all members of the [*Pico*] Court, otherwise sharply divided, acknowledged that the school board has the authority to remove books that are vulgar." *Bethel Sch. Dist. No. 403 v. Fraser*, 478 U.S. 675,684 (1986).

Opinions from the circuit courts of appeals on the precedential nature of *Pico* are as divided as the justices were. At least two federal circuit courts have issued opinions suggesting

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that Justice Brennan's *Pico* plurality opinion is the opinion of the High Court. See, *Monteiro v. Tempe Union High Sch. Dist.*, 158 F.3d 1022, 1027 & n.5 (9th Cir. 1998); see also *Turkish Coal. Of Am., Inc. v. Bruininks*, 678 F.3d 617, 623 (8th Cir. 2012). Neither of these cases directly addressed the issue of removal of books from library shelves and both distinguished *Pico* on those grounds. *Monteiro*, 158 F.3d at 1027; *Turkish Coal*, 678 F.3d at 623.

Other circuits have held otherwise. The Fifth Circuit concluded that "*Pico* is of no precedential value as to the application of the First Amendment to these issues." *Muir v. Alabama Educ. Television Comm'n*, 688 F.2d 1033, 1045 (5th Cir. 1982). Similarly, the Eleventh Circuit held that "[w]ith five different opinions and no part of any of them gathering five votes from among the nine justices [] *Pico* is a non-decision so far as precedent is concerned. It establishes no standard." *Am. C.L. Union of Fla., Inc. v. Miami-Dade Cnty. Sch. Bd.*, 557 F.3d 1177, 1200 (11th Cir. 2009).

The Tenth Circuit-the case law that Utah is bound by-held that in "*Pico*, a plurality of the Supreme Court recognized a free speech 'right to receive' information and held unconstitutional a school board's censorship of several books from a school library." *Roberts v. Madigan*, 921 F.2d 1047, 1056 (10th Cir. 1990); but see *Cummins v. Campbell*, 44 F.3d 847, 853 n.4 (10th Cir. 1994) (noting that *Pico* did not produce a "majority opinion on the merits"). *Roberts* involved a students' challenge of the opportunity to read the Bible. 921 F.2d at 1056. The Tenth Circuit recognized the similarity between the removal of the Christian books and the claims in *Pico*, but the court expressed no opinion as to the students' "right to receive ideas" because the *Roberts*' plaintiffs lacked standing. *Id.*

Even if the Tenth Circuit were to treat Justice Brennan's plurality opinion in *Pico* as controlling, that opinion recognized that courts must apply the First Amendment "in light of the special characteristics of the school environment." 457 U.S. at 868 (quoting *Tinker v. Des Moines School Dist.*, 393 U.S. 503, 508 (1969)). In *Pico*, Justice Brennan emphasized that the constitutionality of removal decisions "depends upon the motivation behind" the library book removals. *Id.* "[U]nconstitutional motivation would not be demonstrated if it were shown that petitioners had decided to remove the books at issue because those books were pervasively vulgar," nor if "the removal decision was based solely upon the 'educational suitability' of the books in question." *Id.* Following this reasoning, decisionmakers motivated to remove a book under an HB 374 challenge in order to protect youth from the public health crisis of pornography likely satisfy *Pico*'s constitutional motivation analysis.

Conclusion

HB 374 prohibits pornographic or indecent material as defined as harmful to minors in Section 76-10-1201, described as pornographic in Section 76-10-1203, or described in Section 76-10-1227. School library books that meet any of these statutory definitions are prohibited from school libraries. Analysis under these statutory definitions, or strict application of the categorical exclusions in 1227(1)(a)(i), (ii), and (iii), is the way to directly comply with HB 374. To mitigate the risk of legal challenge relating to decisions under Section 1227, LEAs may also analyze the materials as a whole and determine whether the materials have any serious literary, artistic, political, or scientific value. While these are important considerations, nothing should prevent the Board and LEAs from proactively complying with state law in removing pornographic books from library shelves. Any decision to retain books in libraries that meet the definition of pornography is contrary to state statute and significantly increases the likelihood of a lawsuit against the LEA for non-compliance. The AGO will continue to consult with the Board and LEAs regarding analysis and compliance with other facets of HB 374.

STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL



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MEMORANDUM TO LEAs

TO: LEAs

FROM: Ashley Biehl, Assistant Attorney General

RE: Laws surrounding library policies

DATE: 05/03/2022

The document outlines the law as it pertains to school library books in Utah. The intent is to provide LEAs with legal guidance. The Utah State Board of Education (USBE) will be releasing a model library policy before the 2022-2023 school year that LEAs may utilize in addition to these principles.

1. Do students have legal rights regarding access to school library materials?

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Yes. The United States Supreme Court (“SCOTUS”) has an extremely long history of recognizing that students have their own First Amendment rights in school. The removal of books from a school library can constitute an official suppression of ideas, in violation of the First Amendment. In *Tinker v. Des Moines*, SCOTUS held that “School officials do not possess absolute authority over their students. Students in school as well as out of school are ‘persons’ under our Constitution. They are possessed of fundamental rights which the State must respect.”¹ “The vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools.”²

In *Island Trees v. Pico*, SCOTUS noted that “[l]ocal school boards have broad discretion in the management of school affairs, but such discretion must be exercised in a manner that comports with the transcendent imperatives of the First Amendment. . . . [T]he special characteristics of the school *library* make that environment especially appropriate for the recognition of such rights.”³

Finally, SCOTUS has stated that “students must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding.”⁴ “The school library is the principal locus of such freedom.”⁵

2. What is the legal standard for assessing what is harmful to minors?

Utah Code Annotated (UCA) 76-10-1201⁶ defines harmful to minors. It is important to note that to be defined as harmful to minors, a book must meet all three factors outlined below.

(5)(a) “Harmful to minors” means that quality of any description or representation, in whatsoever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse when it:

- (i) taken as a whole, appeals to the prurient interest in sex of minors;
 - (ii) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and
 - (iii) taken as a whole, does not have serious value for minors.
- (b) Serious value includes only serious literary, artistic, political or scientific value for minors.

¹*Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 511, 89 S. Ct. 733, 739, 21 L. Ed. 2d 731 (1969)

² Shelton v. Tucker, (364 U.S. 479), at 487 (81 S.Ct. 247, 5 L.Ed.2d 231) (1960)

³ Bd. of Educ., Island Trees Union Free Sch. Dist. No. 26 v. Pico, 457 U.S. 853, 853, 102 S. Ct. 2799, 2801, 73 L. Ed. 2d 435 (1982)

⁴ Bd. of Educ., Island Trees Union Free Sch. Dist. No. 26 v. Pico, quoting Keyishian v. Bd. of Regents of Univ. of State of N. Y., 385 U.S. 589, 603, 87 S. Ct. 675, 683, 17 L. Ed. 2d 629 (1967)

⁵ Bd. of Educ., Island Trees Union Free Sch. Dist. No. 26 v. Pico, 457 U.S. 853, 868–69, 102 S. Ct. 2799, 2809, 73 L. Ed. 2d 435 (1982)

⁶ Utah Code Ann. § 76-10-1201

This means that a work that contains nudity, sexual conduct, sexual excitement, or sadomasochistic abuse is not harmful to minors on its face. If a work contains one of those things (as defined below), it **MUST** then be considered under this three-factor test. In order to be harmful to minors, the work must contain nudity, sexual conduct, sexual excitement or sadomasochistic abuse AND appeal to the prurient interest in sex of minors, be patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for minors, AND lack serious literary, artistic, political, or scientific value.

EXAMPLE: A book on anatomy contains depiction of nudity. This book is not harmful to minors because it does not appeal to the prurient interest in sex of minors, and has serious scientific value for minors.

EXAMPLE: Bram Stoker’s *Dracula* contains a scene of sexual conduct. This book is not harmful to minors because it does not appeal to the prurient interest of minors, is not patently offensive to prevailing standards in the adult community when taken as a whole with respect to what is suitable for minors, and it has serious literary value.

EXAMPLE: *Penthouse Magazine* is likely to be considered harmful to minors as it appeals to the prurient interests in sex, would likely be deemed to be patently offensive to prevailing standards in the adult community with respect to what is suitable for minors, and arguably lacks serious literary, artistic, political and scientific value.

i. *How is nudity defined?*

UCA 76-10-1201

(10) “Nudity” means:

- (a) the showing of the human male or female genitals, pubic area, or buttocks, with less than an opaque covering;
- (b) the showing of a female breast with less than an opaque covering, or any portion of the female breast below the top of the areola; or
- (c) the depiction of covered male genitals in a discernibly turgid state.

ii. *How is sexual conduct defined?*

UCA 76-10-1201

(14) “Sexual conduct” means acts of masturbation, sexual intercourse, or any touching of a person's clothed or unclothed genitals, pubic area, buttocks, or, if the person is a female, breast, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent or actual sexual stimulation or gratification.

iii. *How is sexual excitement defined?*

UCA 76-10-1201

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(15) “Sexual excitement” means a condition of human male or female genitals when in a state of sexual stimulation or arousal, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

iv. *How is sadomasochistic abuse defined?*

UCA 76-10-1201

(13) “Sadomasochistic abuse” means:

- (a) flagellation or torture by or upon a person who is nude or clad in undergarments, a mask, or in a revealing or bizarre costume; or
- (b) the condition of being fettered, bound, or otherwise physically restrained on the part of a person clothed as described in Subsection (13)(a).

v. *What does “prurient interest” mean?*

SCOTUS has defined prurient interest as: “Material appeals to the prurient interest, for instance, only if it is in some sense erotic.”⁷

The Utah Supreme Court has also clarified that “Material does not evoke a prurient interest unless it has the capacity to provoke ‘sexual responses over and beyond those that would be characterized as normal.’”⁸ “An expression or depiction must at least be erotic in some significant way to the average person”.⁹

vi. *What standards must be used to determine if an item has scientific, literary, political or artistic value?*

To determine whether a book has scientific, literary, political or artistic value, the determining factor is whether a reasonable person would find value in the material when taken as a whole. This factor utilizes a national floor for what constitutes value. Thus, the work must be considered as a whole, and must be looked at through the lens of whether a reasonable person in America would think it has redeeming value.

In *Ashcroft v. ACLU*, SCOTUS laid out this standard as follows: “[T]he value of [a] work [does not] vary from community to community based on the degree of local acceptance it has won.”¹⁰ Rather, the relevant question is “whether a reasonable person would find ... value in the material,

taken as a whole.”¹¹ Thus, the serious value requirement “allows appellate courts to

⁷ Ashcroft v. Am. C.L. Union, 535 U.S. 564, 579, 122 S. Ct. 1700, 1710, 152 L. Ed. 2d 771 (2002).

⁸ City of St. George v. Turner, 860 P.2d 929, 934 (Utah 1993), citing Brockett v. Spokane Arcades, Inc., 472 U.S. 491, 498, 105 S.Ct. 2794, 2799, 86 L.Ed.2d 394 (1985).

⁹ City of St. George v. Turner, 860 P.2d 929, 934 (Utah 1993), citing Cohen v. California, 403 U.S. 15, 91 S.Ct. 1780, 29 L.Ed.2d 284 (1971)

¹⁰ Ashcroft v. Am. C.L. Union, citing Pope v. Illinois, 481 U.S. 497, 500, 107 S. Ct. 1918, 1921, 95 L. Ed. 2d 439 (1987)

¹¹ *Id.*, at 501, 107 S.Ct. 1918.

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impose some limitations and regularity on the definition by setting, *as a matter of law*, a national floor for socially redeeming value.”

UCA 76-10-1227 (c) provides that “(c) A description or depiction of illicit sex or sexual immorality as defined in Subsection (1)(a)(i), (ii), or (iii) has no serious value for minors.” Subsection (1)(a)(i-iii) reads: “) "Description or depiction of illicit sex or sexual immorality" means: (i) human genitals in a state of sexual stimulation or arousal; (ii) acts of human masturbation, sexual intercourse, or sodomy; (iii) fondling or other erotic touching of human genitals or pubic region”. However, it is important to remember that 76-10-1201 requires all three prongs of the test to be met. Therefore, even if a book does not have literary, scientific, political or artistic value for the above reasons, it must also patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors, and appeal to the prurient interests in sex of minors, in order to be harmful to minors.

vii. *Does this require a book to be considered as a whole when assessing suitability?*

Yes. The third prong of “harmful to minors” requires a book to lack serious artistic, scientific, political, or literary value. SCOTUS has defined this criteria as “whether a reasonable person would find ... value in the material, taken as a whole.”¹² Therefore, the book must be considered in its entirety when determining whether it has scientific, literary, artistic, or political value.

Additionally, UCA 76-10-1227(2)(a) provides that: “Subject to Subsection (2)(c), this section and Section 76-10-1228 do not apply to any material which, when taken as a whole, has serious value for minors.”

Finally, the Utah Supreme Court has held that “under Supreme Court caselaw, an obscenity analysis must focus on the work ‘taken as a whole’”.¹³

viii. *Can books be banned if, taken as a whole, they are vulgar or educationally unsuitable?*

Yes. SCOTUS has held that “an unconstitutional motivation would *not* be demonstrated if it were shown that petitioners had decided to remove the books at issue because those books

were pervasively vulgar. ...[I]f it were demonstrated that the removal decision was based solely upon the “educational suitability” of the books in question, then their removal would be “perfectly permissible.”¹⁴

¹² *Id.*

¹³ *State v. Watts*, 498 P.3d 365, 374-75 (Utah 2021), citing *Miller v. California*, 413 U.S. 15, 18 (1973)

¹⁴ *Bd. of Educ., Island Trees Union Free Sch. Dist. No. 26 v. Pico*, 457 U.S. 853, 871, 102 S. Ct. 2799, 2810, 73 L. Ed. 2d 435 (1982)

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3. Are library books and books assigned as apart of classroom curricula subject to the same standard?

No. Library Books are given significantly wider protection under the First Amendment than books that are assigned as a part of school curriculum.

“Petitioners might well defend their claim of absolute discretion in matters of *curriculum* by reliance upon their duty to inculcate community values. But we think that petitioners' reliance upon that duty is misplaced where, as here, they attempt to extend their claim of absolute discretion beyond the compulsory environment of the classroom, into the school library and the regime of voluntary inquiry that there holds sway.”¹⁵

4. What factors may NOT go into a book removal?

Books may not be removed because they contain ideas that local school boards disagree with based upon: politics, nationalism, religion, or other matters of opinion.

“In brief, we hold that local school boards may not remove books from school library shelves simply because they dislike the ideas contained in those books and seek by their removal to “prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion.” Such purposes stand inescapably condemned by our precedents.”¹⁶

“Petitioners rightly possess discretion to determine the content of their school libraries. But that discretion may not be exercised in a narrowly partisan or political manner.”¹⁷

5. Does HB 374 change the standard for school library books?

No. HB 374 prohibits sensitive materials in the school setting. HB 374 defines sensitive material as “an instructional material that is pornographic or indecent material as that term is defined in Section 76-10-1235.” Section 76-10-1235 defines pornographic or indecent material as: “i) defined as harmful to minors in Section 76-10-1201; ii) described as pornographic in Section 76-10-1203; or (iii) described in Section 76-10-1217.”

This section references back to 76-10-1201, which, as noted above in question 2, requires the

three prong test under 76-10-1201(5)(a) to be utilized in determining whether a material is harmful to minors. Therefore, this three-prong test under 76-10-1201(5)(a) must always be utilized when assessing whether a library book is 'sensitive material'. It also references UCA 76-10-1203, which provides the same test as 76-10-1201(5), with the difference that the first two

¹⁵ Bd. of Educ., Island Trees Union Free Sch. Dist. No. 26 v. Pico, 457 U.S. 853, 869, 102 S. Ct. 2799, 2809, 73 L. Ed. 2d 435 (1982)

¹⁶ Bd. of Educ., Island Trees Union Free Sch. Dist. No. 26 v. Pico, 457 U.S. 853, 872, 102 S. Ct. 2799, 2810, 73 L. Ed. 2d 435 (1982) citing West Virginia Board of Education v. Barnette, 319 U.S., at 642, 63 S.Ct., at 1187.

¹⁷ Bd. of Educ., Island Trees Union Free Sch. Dist. No. 26 v. Pico, 457 U.S. 853, 870, 102 S. Ct. 2799, 2810, 73 L. Ed. 2d 435 (1982)

prongs assess what appeals to the prurient interests in sex or is patently offensive to adults, rather than minors. UCA 76-10-1203 essentially repeats the same three-prong test, but focuses on adults, rather than minors.

6. Are library books included in HB 374?

Yes, though HB 374 does not change the standard that is used to assess school library books, which is noted above in question 2, and can be found under UCA 76-10-1201.

HB 374 defines instructional materials as:

(1)(a) (i) "Instructional material" means a material, regardless of format, used:

(A) as or in place of textbooks to deliver curriculum within the state curriculum 122 framework for courses of study by students; or

(B) to support a student's learning in the school setting.

(ii) "Instructional material" includes reading materials, handouts, videos, digital 125 materials, websites, online applications, and live presentations.

...

(f) (i) "School setting" means, for a public school:

(A) in a classroom;

(B) in a school library; or

(C) on school property

(g) (i) "Sensitive material" means an instructional material that is pornographic or indecent material as that term is defined in Section 76-10-1235.

(ii) "Sensitive material" does not include an instructional material:

(A) that an LEA selects under Section 53G-10-402;

- (B) for medical courses;
- (C) for family and consumer science courses; or
- (D) for another course the state board exempts in state board rule.

As noted in question 5, HB 374 defines sensitive material as “an instructional material that is pornographic or indecent material as that term is defined in Section 76-10-1235.” Section 76-10-1235 defines pornographic or indecent material as: “i) defined as harmful to minors in Section 76-10-1201; ii) described as pornographic in Section 76-10-1203; or (iii) described in Section 76-10-1217.”

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Section 76-10-1201, requires the three prong test under 76-10-1201(5)(a) to be utilized in determining whether a material is harmful to children, and section 76-10-1203 essentially provides the same test. Therefore, this three-prong test under 76-10-1201(5)(a) must be utilized when assessing whether a library book is ‘sensitive material’.

7. What should be done with a book while it is pending review?

While there is no specific law stating that books must be left in the library when facing a challenge, leaving books on the shelves while pending review helps to ensure that schools are not engaging in prior restraint. As noted in question 1, students have extensive first amendment rights in school, and the removal of a book from a school library can constitute a suppression of ideas. Prior restraint is a legal doctrine in the first amendment is violated when the government prevents speech before it occurs. In this case, removing books before a determination is made as to whether they meet the definition of “harmful to children” runs the risk of violating student’s first amendment right’s to study and inquire, via prior restraint.

SCOTUS has a long history of disfavoring prior restraints. “Prior restraints on speech and publication are the most serious and the least tolerable infringement on First Amendment rights,” wrote then-Chief Justice Warren Burger. SCOTUS has held that “[a]ny system of prior restraints of expression comes to this Court bearing a heavy presumption against its constitutional validity.”¹⁸ They further noted that “[t]he special vice of a prior restraint is that communication will be suppressed, either directly or by inducing excessive caution in the speaker, before an adequate determination that it is unprotected by the First Amendment.”¹⁹

¹⁸ *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58, 70, 83 S.Ct. 631, 639, 9 L.Ed.2d 584 (1963) ¹⁹ Pittsburgh Press Co. v. Pittsburgh Comm'n on Hum. Rels., 413 U.S. 376, 390, 93 S. Ct. 2553, 2561, 37 L. Ed. 2d 669 (1973)

STATEMENT OF ACCOUNT

PTIF

UTAH PUBLIC TREASURERS' INVESTMENT FUND

Marlo M. Oaks, Utah State Treasurer, Fund Manager

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Account **Account Period**

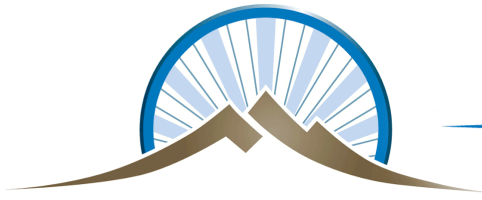
8282 July 01, 2024 through July 31, 2024

Summary

Beginning Balance	\$ 1,480,981.30	Average Daily Balance	\$ 1,480,981.30
Deposits	\$ 6,831.19	Interest Earned	\$ 6,831.19
Withdrawals	\$ 0.00	360 Day Rate	5.3566
Ending Balance	\$ 1,487,812.49	365 Day Rate	5.4310

Date	Activity	Deposits	Withdrawals	Balance
07/01/2024	FORWARD BALANCE	\$ 0.00	\$ 0.00	\$ 1,480,981.30
07/31/2024	REINVESTMENT	\$ 6,831.19	\$ 0.00	\$ 1,487,812.49
07/31/2024	ENDING BALANCE	\$ 0.00	\$ 0.00	\$ 1,487,812.49

{Effective: 07/31/2024} The GASB Fair Value factor at June 30, 2024 is 1.00150349



PROMONTORY

school of expeditionary learning

Framework for Teacher and Student Success Plan:

Pursuant to UCA 53G-7-1304, Promontory School of Expeditionary Learning (PSEL) hereby adopts the following framework within which the administration may develop a Teacher and Student Success Plan.

Allowable Expenditures

In accordance with statute and USBE rule, the school may spend TSSA monies on the following:

- 1) PSEL plans to use the TSSA funds to pay the salary of a full-time instructional coach Gwen Andrus to provide specific and targeted professional development to the teachers and staff during collaborative team planning meetings.
- 2) PSEL plans to use any additional funds left over to pay for Donovan Malone salary for IT services.

The administration and Instructional Leadership Crew (ILC) will create, review, and make adjustments to a Teacher and Student Success Plan according to the following framework at least annually.

1. Needs Assessment

- a. The administration shall gather and analyze data to determine school improvement needs. The following methods may be used.
 - a) Staff surveys
 - b) Parent surveys
 - c) Student surveys
 - d) Assessment results
 - e) Administrative structures of observation and evaluation
- b. Data shall be gathered in key areas including:
 - a) Collaborative Leadership and Staff Development
 - b) Curriculum, Instruction, and Assessment
 - c) School Environment

2. Goal Setting

- a. PSEL Administration shall prioritize school improvement needs and identify goals to address needs.
- b. The administration shall present and discuss goals with the Board at least once annually.

3. Implementation.

- a. The SIP shall be reviewed with PSEL employees.
- b. All employees will share responsibilities for progress on SIP goals.

4. Monitor and Review.

- a. PSEL Administration and staff shall review the school improvement goals at least annually to determine progress and make adjustments as necessary.
- b. PSEL Administration shall report progress to the PSEL Board annually.

	Forecast	Actual	Difference
Income			
Roll Over	\$ -	\$ -	\$ -
Funding FY25	\$ 120,128.00	\$	\$ 0.00
Expense			
100 - Salaries	\$120,128.00	\$	\$0
200 - Benefits	\$ -	\$ -	\$ -
300 - Professional Service	\$-	\$	\$ -0
400 - Property Services	\$ -	\$ -	\$ -
500 - Professional Development / Travel	\$ -	\$ -	\$ -
600 - Supplies	\$ -	\$ -	\$ -
700 - Equipment	\$ -	\$ -	\$ -
800 - Other	\$ -	\$ -	\$ -
Totals	\$ 0	\$ -	

Grant funds will be used for Gwen Andrus, the instructional guide's salary and any remaining funds will be used to pay Donovan Malone salary for IT services.