

Pending Administrative Code Changes

Alabama Libraries must enforce the following policy changes to be eligible to receive State Aid. We, the Library, are actively preparing new policies for our Board's review to reflect these new requirements. The Library's Board of Trustees is approving the appropriate policies at their next meeting on July 17th at 11am in the Library's Bay Meeting Room. As such, we are closing July 18th until further notice to confirm our children's and teens' collections are compliant with these new changes and policies.

- A. Governor Ivey's Recommendations:** As part of HB145: The Education Trust Fund Budget, Libraries must enforce the following policies as recommended by Governor Ivey. The policies include -
- a. The physical location & relocation of sexually explicit or other material inappropriate for children.
 - b. Advance approval of materials recommended, displayed, or otherwise actively promoted to children or youth.
 - c. Exercising discretion in the location of sexually explicit material or other material deemed by the public library board to be inappropriate for children or youth does not constitute a denial of service on the basis of age. Taking age into account with recommending, displaying, or otherwise actively promoting library materials does not constitute a denial of service on the basis of age.
 - d. Any expenditure of public funds to the American Library Association must be approved by the governing board of the public library or public library system in an open, public meeting following advance notice.
- B. Alabama Public Library Services' Board of Trustees** approved **Governor Ivey's Recommendations** along with amendments proposed by **John Wahl** and **Amy Minton**. These Administrative Code Changes are scheduled to be certified on **July 15th** unless the Legislative Services Agency rejects them. The amendments also call for policies that include –
- a. Materials selection policies, including selection criteria for minors and how they are safeguarded from sexually explicit or other material deemed inappropriate for children or youth.
 - b. Approve written policies that ensure library sections designated for minors under the age of 18 remain free of material containing obscenity, sexually explicit, or other material deemed inappropriate for children or youth. Age-appropriate materials regarding religion, history, biology, or human anatomy should not be construed to be against this rule.
 - c. Approve written selection criteria for minors that prevent the purchase or otherwise acquiring of any material advertised for consumers under the age of 18 that contains obscenity, sexually explicit, or other material deemed inappropriate for children or youth. Age-appropriate materials regarding religion, history, biology, or human anatomy should not be construed to be against this rule.
 - d. Approve written guidelines that establish library cards for minors under the age of 18 must require parental approval before a minor's card is permitted to checkout materials from the library's adult section.

On June 13th, the Board of Trustees adopted definitions for “sexually explicit” and “inappropriate for minors” for use within our pending policies. The Library's definitions are below -

The following definition of **inappropriate to minors** is synonymous with **harmful to minors** as defined by the Alabama Code Title 13A. Criminal Code 13A-12-200.1.

Inappropriate for minors is defined as:

- a. The average person, applying contemporary community standards, would find that the material, taken as a whole, appeals to the prurient interest of minors; and
- b. The material depicts or describes sexual conduct, breast nudity, or genital nudity, in a way which is patently offensive to prevailing standards in the adult community with respect to what is suitable for minors; and
- c. A reasonable person would find that the material, taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.

The following definition of **sexually explicit** is procured from a combination of the Department of Justice's definition found in 18 U.S.C. 2256: Definitions for Chapter for “sexually explicit content” and the Alabama Code 13a-12-200.1 for “explicit content”.

Sexually Explicit is defined as actual or simulated –

- a. Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;
- b. Sexual excitement;
- c. Nudity;
- d. Bestiality;
- e. Masturbation;
- f. Sadistic or masochistic abuse; or
- g. Lascivious exhibition of the anus, genital or pubic area of any person;

and predominantly appeals to the prurient interest of minors 18 years and younger.

Furthermore, for the purpose of this Library policy, the above terms are defined below as derived from AL Code 1975, 13A-6-111.

Masturbation: manipulation, by hand or instrument, of the human genitals, whether one's own or another's for the purpose of sexual stimulation. [13A-12-190(8)]

Material: any book, magazine, newspaper, printed or written matter, writing, description, picture, drawing, animation, photograph, pictorial representation, depiction, or image. [13A-12-200.1(15)]

Nudity: the lewd showing of the post-pubertal human female breasts below a point immediately above the top of the areola and/or of the genitals or pubic area. [13A-12-190(10) & (11) and 13A-12-200.1(4) & (10)]

Obscene: means that the average person, applying contemporary community standards, would find that the material, taken as a whole, appeals to the prurient interest; and the material depicts or describes, in a patently offensive way, sexual conduct, actual or simulated, normal or perverted; and a reasonable person would find that the material, taken as a whole, lacks serious literary, artistic, political or scientific value [13A-12-200.2(17)]; (OR)

Obscene: means (a) when used to describe any matter that contains a visual reproduction of breast nudity, matter that applying contemporary local community standards, on the whole, appeals to the prurient interest; and is patently offensive; and on the whole, lacks serious literary, artistic, political or scientific value; (b) when used to describe matter that is a depiction of an act of sado-masochistic abuse, sexual intercourse, sexual excitement, masturbation, genital nudity, or other sexual conduct, matter containing such a visual reproduction that itself lacks serious literary, artistic, political or scientific value. [13A-12-190(13)]

Sado-masochistic abuse: means flagellation or torture, in an act of sexual stimulation, by or upon a person who is nude or clad in undergarments or in a revealing or bizarre costume; or the binding or physical restraining of a person who is nude or clad in undergarments or in a revealing or bizarre costume in an act of sexual stimulation. [13A-12-200.1(21)]; (OR)

Sado-masochistic abuse: means flagellation or torture, for the purpose of sexual stimulation, by or upon a person who is nude or clad in undergarments or in a revealing or bizarre costume; or the condition of a person who is nude or clad in undergarments or in a revealing or bizarre costume being fettered, bound or otherwise physically restrained for the purpose of sexual stimulation. [13A-12-190(50)]

Sexual acts include: sexual intercourse, sodomy, sexual performance, obscene sexual performance, or sexual conduct for his/her benefit. [13A-6-111(d)]

Sexual conduct: is any act of sexual intercourse, masturbation, urination, defecation, lewd exhibition of the genitals, sado-masochistic abuse, bestiality, or the fondling of the sex organs of animals; or any other physical contact with a person's unclothed genitals, pubic area, buttocks, or the breast or breasts of a female, whether alone or between members of the same or opposite sex or between a human and an animal, in an act of sexual stimulation, gratification or perversion. [13A-12-200.1(22) and 13A-12-190(9)]

Sexual intercourse: means intercourse, real or simulated, whether genital-genital, genital-anal, oral-genital, or oral-anal, whether between persons of the same or opposite sex or between a human and an animal and has its ordinary meaning and occurs upon any penetration, however slight; emission is not required. [13A-6-60(1); 13A-12-190(7); and 13A-12-200.1(23)]

The term "**prurient interest**" appears in the definition of obscenity. According to Black's Law Dictionary (2nd ed.) the term means "a morbid interest in sex, nudity and obscene or pornographic matters."