

## ATTACHMENT I

### **Statutory Citations Relating to Proposed Revisions to 19 TAC Chapter 66, State Adoption and Distribution of Instructional Materials, Subchapter A, General Provisions, Subchapter B, State Adoption of Instructional Materials, and Subchapter C, Local Operations**

#### **Texas Education Code, §7.102, State Board of Education Powers and Duties (excerpt):**

- (c)(23) The board shall adopt and purchase or license instructional materials as provided by Chapter 31 and adopt rules required by that chapter.

#### **Texas Education Code, §31.003, Rules:**

The State Board of Education may adopt rules, consistent with this chapter, for the adoption, requisition, distribution, care, use, and disposal of instructional materials.

#### **Texas Education Code, §31.022, Instructional Materials Review and Adoption:**

- (a) The State Board of Education shall adopt a review and adoption cycle for instructional materials for elementary grade levels, including prekindergarten, and secondary grade levels, for each subject in the required curriculum under Section 28.002. In adopting the cycle, the board:
- (1) is not required to review and adopt instructional materials for all grade levels in a single year; and
  - (2) shall give priority to instructional materials in the following subjects:
    - (A) foundation curriculum subjects for which the essential knowledge and skills have been substantially revised and for which assessment instruments are required under Subchapter B, Chapter 39, including career and technology courses that satisfy foundation curriculum requirements as provided by Section 28.002(n);
    - (B) foundation curriculum subjects for which the essential knowledge and skills have been substantially revised, including career and technology courses that satisfy foundation curriculum requirements as provided by Section 28.002(n);
    - (C) foundation curriculum subjects not described by Paragraph (A) or (B), including career and technology courses that satisfy foundation curriculum requirements as provided by Section 28.002(n); and
    - (D) enrichment curriculum subjects.
- (b) The board shall organize the cycle for subjects in the foundation curriculum so that not more than one-fourth of the instructional materials for subjects in the foundation curriculum are reviewed each biennium. The board shall adopt rules to provide for a full and complete investigation of instructional materials for each subject in the foundation curriculum every eight years. The adoption of instructional materials for a subject in the foundation curriculum may be extended beyond the eight-year period only if the content of instructional materials for a subject is sufficiently current.
- (b-1) Expired.
- (c) The board shall adopt rules to provide for a full and complete investigation of instructional materials for each subject in the enrichment curriculum on a cycle the board considers appropriate.
- (d) At least 12 months before the beginning of the school year for which instructional materials for a particular subject and grade level will be adopted under the review and adoption cycle, the board shall publish notice of the review and adoption cycle for those instructional materials. A request

for production must allow submission of open-source instructional materials that are available for use by the state without charge on the same basis as instructional materials offered for sale.

- (d-1) **[2 Versions: As added by Acts 2011, 82nd Leg., ch. 1210]** A notice published under Subsection (d) must state that a publisher of an adopted textbook for a grade level other than prekindergarten must submit an electronic sample of the textbook as required by Sections 31.027(a) and (b) and may not submit a print sample copy.
- (d-1) **[2 Versions: As added by Acts 2011, 82nd Leg., 1st C.S., ch.6]** A notice published under Subsection (d) must state that a publisher of adopted instructional materials for a grade level other than prekindergarten must submit an electronic sample of the instructional materials as required by Sections 31.027(a) and (b) and may not submit a print sample copy.
- (e) The board shall designate a request for production of instructional materials in a subject area and grade level by the school year in which the instructional materials are intended to be made available in classrooms and not by the school year in which the board makes the request for production.
- (f) The board shall amend any request for production issued for the purchase of instructional materials to conform to the instructional materials funding levels provided by the General Appropriations Act for the year of implementation.

**Texas Education Code, §31.0221, Midcycle Review and Adoption of Instructional Materials:**

- (a) The State Board of Education shall adopt rules for the midcycle review and adoption of instructional material for a subject for which instructional materials are not currently under review by the board under Section 31.022. The rules must require:
  - (1) the publisher of the instructional material to pay a fee to the board to cover the cost of the midcycle review and adoption of the instructional material;
  - (2) the publisher of the instructional material to enter into a contract with the board concerning the instructional material for a term that ends at the same time as any contract entered into by the board for other instructional materials for the same subject and grade level; and
  - (3) a commitment from the publisher to provide the instructional material to school districts in the manner specified by the publisher, which may include:
    - (A) providing the instructional material to any district in a regional education service center area identified by the publisher; or
    - (B) providing a certain maximum number of instructional materials specified by the publisher.
- (b) Sections 31.023 and 31.024 apply to instructional material adopted under this section. Section 31.027 does not apply to instructional material adopted under this section.

**Texas Education Code, §31.023, Instructional Material List:**

- (a) For each subject and grade level, the State Board of Education shall adopt a list of instructional materials. The list includes each instructional material submitted for the subject and grade level that meets applicable physical specifications adopted by the State Board of Education and contains material covering at least half of the elements of the essential knowledge and skills of the subject and grade level in the student version of the instructional material, as well as in the teacher version of the instructional material, as determined by the State Board of Education under Section 28.002 and adopted under Section 31.024.

- (a-1) The State Board of Education shall determine the percentage of the elements of the essential knowledge and skills of the subject and grade level covered by each instructional material submitted. The board's determination under this subsection is final.
- (b) Each instructional material on the list must be free from factual errors.

**Texas Education Code, §31.024, Adoption by State Board of Education:**

- (a) By majority vote, the State Board of Education shall:
  - (1) place each submitted instructional material on the list adopted under Section 31.023; or
  - (2) reject instructional material submitted for placement on that list.
- (b) Not later than December 1 of the year preceding the school year for which the instructional materials for a particular subject and grade level will be purchased under the cycle adopted by the board under Section 31.022, the board shall provide the list of adopted instructional materials to each school district.

**Texas Education Code, §31.0241, Adoption of Open-Source Instructional Materials:**

- (a) In this section, "eligible institution" means:
  - (1) a public institution of higher education that is designated as a research university or emerging research university under the higher education coordinating board's accountability system, or a private university located in this state that is a member of the Association of American Universities; or
  - (2) a public technical institute, as defined by Section 61.003.
- (b) The State Board of Education shall place open-source instructional material for a secondary-level course submitted for adoption by an eligible institution on the list adopted under Section 31.023 if:
  - (1) the instructional material is written, compiled, or edited primarily by faculty of the eligible institution who specialize in the subject area of the instructional material;
  - (2) the eligible institution identifies each contributing author;
  - (3) the appropriate department of the eligible institution certifies the instructional material for accuracy; and
  - (4) the eligible institution determines that the instructional material qualifies for placement on the list based on the extent to which the instructional material covers the essential knowledge and skills identified under Section 28.002 for the subject for which the instructional material is written and certifies that:
    - (A) for instructional material for a senior-level course, a student who successfully completes a course based on the instructional material will be prepared, without remediation, for entry into the eligible institution's freshman-level course in that subject; or
    - (B) for instructional material for a junior-level and senior-level course, a student who successfully completes the junior-level course based on the instructional material will be prepared for entry into the senior-level course.

- (c) This section does not prohibit an eligible institution from submitting instructional material for placement on the list adopted under Section 31.023 through any other adoption process provided by this chapter.

**Texas Education Code, §31.026, Contract; Price:**

- (a) The State Board of Education shall execute a contract for the purchase or licensing of each adopted instructional material.
- (b) A contract must require the publisher to provide the number of instructional materials required by school districts in this state for the term of the contract, which must coincide with the board's adoption cycle.
- (c) As applicable, a contract must provide for the purchase or licensing of instructional material at a specific price, which may not exceed the lowest price paid by any other state or any school or school district. The price must be fixed for the term of the contract.
- (d) This section does not apply to open-source instructional material.

**Texas Education Code, §31.0261, Contracts for Printing of Open-Source Instructional Materials:**

The State Board of Education may execute a contract for the printing of open-source instructional materials placed on the list adopted under Section 31.023. The contract must allow a school district to requisition printed copies of open-source instructional materials as provided by Section 31.103.

**Texas Education Code, §31.035, Supplemental Instructional Materials:**

- (a) Notwithstanding any other provision of this subchapter, the State Board of Education may adopt supplemental instructional materials that are not on the list adopted under Section 31.023. The State Board of Education may adopt supplemental instructional material under this section only if the instructional material:
  - (1) contains material covering one or more primary focal points or primary topics of a subject in the required curriculum under Section 28.002, as determined by the State Board of Education;
  - (2) is not designed to serve as the sole instructional material for a full course;
  - (3) meets applicable physical specifications adopted by the State Board of Education; and
  - (4) is free from factual errors.
- (b) The State Board of Education shall identify the essential knowledge and skills identified under Section 28.002 that are covered by supplemental instructional material adopted by the board under this section.
- (c) Supplemental instructional material is subject to the review and adoption cycle provisions, including the midcycle review and adoption cycle provisions, of this subchapter.
- (d) A school district or open-enrollment charter school may requisition supplemental instructional material adopted under this section only if the district or school requisitions the supplemental instructional material along with other supplemental instructional materials or instructional materials on the list adopted under Section 31.023 that in combination cover each element of the essential knowledge and skills for the course for which the district or school is requisitioning the supplemental instructional materials.
- (e) Repealed.

- (f) A school district or open-enrollment charter school that requisitions supplemental instructional materials shall certify to the agency that the supplemental instructional materials, in combination with any other instructional materials or supplemental instructional materials used by the district or school, cover the essential knowledge and skills identified under Section 28.002 by the State Board of Education for the subject and grade level for which the district or school is requisitioning the supplemental instructional materials.
- (g) Repealed.