



# AGENDA

State Board of Education  
Special-Called Meeting

December 13, 2023

**STATE BOARD OF EDUCATION**

Special-Called Meeting

December 13, 2023

**STATE BOARD OF EDUCATION**

(updated February 2023)

*(State Board for Career and Technology Education)*

**KEVEN ELLIS, Lufkin**  
**Chair of the State Board of Education**  
**District 9**

**PAM LITTLE, Fairview**  
**Vice Chair of the State Board of Education**  
**District 12**

**PAT HARDY, Fort Worth**  
**Secretary of the State Board of Education**  
**District 11**

**Board Members**

**MELISSA ORTEGA, El Paso**  
**District 1**

**JULIE PICKREN, Pearland**  
**District 7**

**LJ FRANCIS, Corpus Christi**  
**District 2**

**AUDREY YOUNG, Trinity**  
**District 8**

**MARISA PEREZ-DIAZ, San Antonio**  
**District 3**

**TOM MAYNARD, Florence**  
**District 10**

**STACI CHILDS, Houston**  
**District 4**

**AICHA DAVIS, Dallas**  
**District 13**

**REBECCA BELL-METTEREAU**  
**San Marcos, District 5**

**EVELYN BROOKS, Frisco**  
**District 14**

**WILL HICKMAN, Houston**  
**District 6**

**AARON KINSEY, Midland**  
**District 15**

## **Committees of the State Board of Education**

(Updated February 2023)

### **INSTRUCTION**

Audrey Young- Chair  
Evelyn Brooks-Vice Chair  
Aicha Davis  
Pam Little  
Melissa N. Ortega

### **SCHOOL FINANCE/PERMANENT SCHOOL FUND**

Tom Maynard-Chair  
Marisa Perez-Diaz-Vice Chair  
Keven Ellis  
Patricia Hardy  
Aaron Kinsey

### **SCHOOL INITIATIVES**

Will Hickman-Chair  
LJ Francis-Vice Chair  
Rebecca Bell-Metereau  
Staci Childs  
Julie Pickren

This page has been intentionally left blank.

**William B. Travis Building  
1701 N. Congress Avenue, Austin, Texas**

**SCHEDULES AND AGENDAS  
State Board of Education, Austin, Texas**

<p><b>Wednesday, December 13, 2023</b></p> <p><b>9:00 a.m.      State Board of Education (Room 1-104)</b></p>
---

The presiding officer of the board intends to be physically present in room 1-104, William B. Travis Building, 1701 North Congress Avenue. Some members may attend via videoconferencing.

The SBOE or a committee of the SBOE may conduct a closed meeting on any agenda item in accordance with Texas Open Meetings Act, Chapter 551, Subchapters D and E. Before any closed meeting is convened, the presiding officer will publicly identify the section or sections of the Act authorizing the closed meeting. All final votes, actions, or decisions will be taken in open meeting.

The agenda is online at <https://tea.texas.gov/sboe/agenda/> on the Texas Education Agency website. The posted information contains links to board action items including rule items and rule text, and selected discussion items. Public comments on proposed rules may be submitted electronically. All agenda items and rule text are subject to change at any time prior to each board meeting. To the extent possible, copies of changes made after the agenda and the schedule are published will be available at the board meeting.

**WEDNESDAY  
December 13, 2023**

**9:00 a.m.**

**STATE BOARD OF EDUCATION – Room 1-104**

*Public testimony – The procedures for public testimony at State Board of Education committee meetings and general board meetings are provided online at SBOE [Operating Rules](#).*

- 1. Proposed New 19 TAC Chapter 67, State Review and Approval of Instructional Materials, Subchapter B, State Review and Approval, §67.21, Proclamations, Public Notice, and Requests for Instructional Materials for Review; §67.23, Requirements for Publisher Participation in Instructional Materials Review and Approval (IMRA); and §67.25, Consideration and Approval of Instructional Materials by the State Board of Education, and Subchapter D, Duties of Publishers and Manufacturers, §67.81, Instructional Materials Contracts, and §67.83, Publisher Parent Portal**  
**(First Reading and Filing Authorization)**  
**([Board agenda page SBOE-1](#))**

**SBOE - ACTION**

This item presents for first reading and filing authorization proposed new 19 Texas Administrative Code (TAC) Chapter 67, State Review and Approval of Instructional Materials, Subchapter B, State Review and Approval, §67.21, Proclamations, Public Notice, and Requests for Instructional Materials for Review; §67.23, Requirements for Publisher Participation in Instructional Materials Review and Approval (IMRA); and §67.25, Consideration and Approval of Instructional Materials by the State Board of Education, and Subchapter D, Duties of Publishers and Manufacturers, §67.81, Instructional Materials Contracts, and §67.83, Publisher Parent Portal. The proposed new rules would implement House Bill (HB) 1605, 88th Texas Legislature, Regular Session, 2023, by defining the criteria to be used in the review and approval of instructional materials by the State Board of Education (SBOE) and the Texas Education Agency (TEA); defining requirements for publisher participation in the instructional materials review and approval (IMRA) process; and establishing rules for the annual request for instructional materials for review and future proclamations, contracts for instructional materials, and criteria for publishers required to host parent portals. Statutory authority is the Texas Education Code (TEC), §§26.006, 31.003(a), 31.022, 31.023, and 31.151, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, and 31.154, as added by HB 1605, 88th Texas Legislature, Regular Session, 2023.

**STATE BOARD OF EDUCATION (continued)**

- 2. Consideration for Approval of Instructional Materials Review Quality Rubrics** **SBOE - ACTION**  
**(Board agenda page SBOE-8)**

This item provides an opportunity for the State Board of Education (SBOE) to consider for approval the initial set of quality rubrics for the Instructional Materials Review and Approval (IMRA) process. Statutory authority is the Texas Education Code (TEC), §§31.003(a), 31.022, and 31.023, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023.

- 3. Consideration for Approval of Instructional Materials Review Suitability Rubrics** **SBOE - ACTION**  
**(Board agenda page SBOE-10)**

This item provides an opportunity for the State Board of Education (SBOE) to consider for approval the suitability criteria and rubric for the Instructional Materials Review and Approval (IMRA) process. This rubric will define the criteria to be used in the instructional materials review and approval process to determine suitability and appropriateness of instructional materials for the subject and grade level for which the materials are designed, as required by House Bill (HB) 1605, 88th Texas Legislature, Regular Session, 2023. Statutory authority is the Texas Education Code (TEC), §31.003 and §31.022, as amended by HB 1605, 88<sup>th</sup> Texas Legislature, Regular Session, 2023.

- 4. Consideration for Approval of Instructional Materials Review and Approval Process** **SBOE - ACTION**  
**(Board agenda page SBOE-12)**

This item provides an opportunity for the State Board of Education (SBOE) to consider for approval the process and procedure for the new Instructional Materials Review and Approval (IMRA) process. Statutory authority is the Texas Education Code (TEC), §31.003(a) and §31.023, as amended by HB 1605, 88<sup>th</sup> Texas Legislature, Regular Session, 2023.

**STATE BOARD OF EDUCATION (continued)**

- 5. Approval of Library Collection Development Standards in Compliance with House Bill 900**  
**(Board agenda page SBOE-14)**

**SBOE - ACTION**

House Bill (HB) 900, passed by the 88th Texas Legislature, Regular Session, requires the Texas State Library and Archives Commission (TSLAC), with approval by majority vote of the State Board of Education, to adopt standards for school library collection development that a school district is required to adhere to in developing or implementing the district's library collection development policies. This item provides the opportunity for the board to consider approval of the proposed collection development standards. Statutory authority is the Texas Education Code (TEC), §33.021, as amended by HB 900.

**STATE BOARD OF EDUCATION**

**Proposed New 19 TAC Chapter 67, State Review and Approval of Instructional Materials, Subchapter B, State Review and Approval, §67.21, Proclamations, Public Notice, and Requests for Instructional Materials for Review; §67.23, Requirements for Publisher Participation in Instructional Materials Review and Approval (IMRA); and §67.25, Consideration and Approval of Instructional Materials by the State Board of Education, and Subchapter D, Duties of Publishers and Manufacturers, §67.81, Instructional Materials Contracts, and §67.83, Publisher Parent Portal (First Reading and Filing Authorization)**

**December 13, 2023**

**STATE BOARD OF EDUCATION: ACTION**

**SUMMARY:** This item presents for first reading and filing authorization proposed new 19 Texas Administrative Code (TAC) Chapter 67, State Review and Approval of Instructional Materials, Subchapter B, State Review and Approval, §67.21, Proclamations, Public Notice, and Requests for Instructional Materials for Review; §67.23, Requirements for Publisher Participation in Instructional Materials Review and Approval (IMRA); and §67.25, Consideration and Approval of Instructional Materials by the State Board of Education, and Subchapter D, Duties of Publishers and Manufacturers, §67.81, Instructional Materials Contracts, and §67.83, Publisher Parent Portal. The proposed new rules would implement House Bill (HB) 1605, 88th Texas Legislature, Regular Session, 2023, by defining the criteria to be used in the review and approval of instructional materials by the State Board of Education (SBOE) and the Texas Education Agency (TEA); defining requirements for publisher participation in the instructional materials review and approval (IMRA) process; and establishing rules for the annual request for instructional materials for review and future proclamations, contracts for instructional materials, and criteria for publishers required to host parent portals.

**STATUTORY AUTHORITY:** Texas Education Code (TEC), §§26.006, 31.003(a), 31.022, 31.023, and 31.151, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, and 31.154, as added by HB 1605, 88th Texas Legislature, Regular Session, 2023.

TEC, §26.006, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, requires school districts and open-enrollment charter schools to make available access to instructional materials for parents via a parent portal if applicable.

TEC, §31.003(a), as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, permits the SBOE to adopt rules for the adoption, requisition, distribution, care, use, and disposal of instructional materials.

TEC, §31.022, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, requires the SBOE to review instructional materials that have been provided to the board by TEA under TEC, §31.023.

TEC, §31.023, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, requires the commissioner of education to establish, in consultation with and with the approval of the SBOE, a process for the annual review of instructional materials by TEA. In conducting a review under this section, TEA must use a rubric developed by TEA in consultation with and approved by the SBOE.

TEC, §31.151, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, permits the SBOE to determine the standard terms and conditions of instructional materials contracts.

TEC, §31.154, as added by HB 1605, 88th Texas Legislature, Regular Session, 2023, requires the SBOE to adopt standards for entities that supply instructional materials reviewed by TEA to make instructional materials supplied by the entity available on a parent portal hosted by the entity.

The full text of statutory citations can be found in the statutory authority section of this agenda.

**EFFECTIVE DATE:** The proposed effective date of the proposed new sections is 20 days after filing as adopted with the Texas Register. Under TEC, §7.102(f), the SBOE must approve the rule action at second reading and final adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2024-2025 school year. The earlier effective date would allow for the implementation of the IMRA process to occur in the summer of 2024 as planned by the SBOE.

**PREVIOUS BOARD ACTION:** At the November 2023 SBOE meeting, the Committee of the Full Board discussed proposed new 19 TAC Chapter 67.

**BACKGROUND INFORMATION AND JUSTIFICATION:** TEC, Chapter 31, addresses instructional materials in public education and permits the SBOE to adopt rules for the adoption, requisition, distribution, care, use, and disposal of instructional materials. HB 1605, 88th Texas Legislature, Regular Session, 2023, significantly revised TEC, Chapter 31, including several provisions under SBOE authority. HB 1605 also added a new provision to TEC, Chapter 48, to provide additional funding to school districts and charter schools that adopt and implement SBOE-approved materials. In addition, the bill added requirements related to adoption of essential knowledge and skills in TEC, Chapter 28.

At the June 2023 SBOE meeting, the Committee of the Full Board held a work session to receive an overview presentation on HB 1605 from the commissioner of education and begin discussing preliminary decisions and next steps. The June 2023 SBOE HB 1605 Work Session Presentation shared during the work session is available on the TEA website at [June 2023 SBOE HB 1605 Work Session Slides](#).

At the August-September 2023 meeting, the Committee of the Full Board discussed the IMRA process and discussed the approach to developing the quality rubric criteria and process.

The proposed new sections would implement HB 1605 and incorporate the feedback provided by the board.

**FISCAL IMPACT:** The TEA has determined that there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

**LOCAL EMPLOYMENT IMPACT:** The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

**SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT:** The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis specified in Texas Government Code, §2006.002, is required.

**COST INCREASE TO REGULATED PERSONS:** The proposal may impose a cost on regulated persons, another state agency, a special district, or a local government. However, these rules are necessary to implement legislation and, therefore, are not subject to Texas Government Code, §2001.0045.

**TAKINGS IMPACT ASSESSMENT:** The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

**GOVERNMENT GROWTH IMPACT:** TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, the proposed rulemaking would create new regulations regarding the review and approval of instructional materials, the requirements of publishers when hosting a publisher parent portal, and standard terms and conditions for approved instructional materials contracts in order to implement HB 1605, 88th Texas Legislature, Regular Session, 2023. The proposed rulemaking would require an increase in future legislative appropriations to the agency. The Texas Legislature funded this program through House Bill 1, Article IX, Section 18.78, 88th Texas Legislature, Regular Session, 2023; however, future legislative appropriations will be required to implement the process outlined by these proposed rules. The proposed rulemaking would positively affect the state's economy by allowing increased participation by publishers in the market for instructional materials in the state of Texas.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require a decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not expand, limit, or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not adversely affect the state's economy.

**PUBLIC BENEFIT AND COST TO PERSONS:** The proposal would ensure that adopted instructional materials continue to appropriately meet statutory and SBOE requirements prior to use by Texas teachers and students, that publishers hosting a publisher parent portal meet statutory and SBOE requirements, and that approved instructional materials contracts appropriately meet statutory and SBOE requirements. There is no anticipated economic cost to persons who are required to comply with the proposal.

**DATA AND REPORTING IMPACT:** The proposed new sections would have no data and reporting impact.

**PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS:** TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

**PUBLIC COMMENTS:** The public comment period on the proposal begins December 29, 2023, and ends at 5:00 p.m. on January 29, 2024. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in January-February 2024 in accordance with the SBOE board operating policies and procedures. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on December 29, 2023.

**MOTION TO BE CONSIDERED:** The State Board of Education:

Approve for first reading and filing authorization proposed new 19 TAC Chapter 67, State Review and Approval of Instructional Materials, Subchapter B, State Review and Approval, §67.21, Proclamations, Public Notice, and Requests for Instructional Materials for Review; §67.23, Requirements for Publisher Participation in Instructional Materials Review and Approval (IMRA); and §67.25, Consideration and Approval of Instructional Materials by the State Board of Education; and Subchapter D, Duties of Publishers and Manufacturers, §67.81, Instructional Materials Contracts, and §67.83, Publisher Parent Portal.

**Staff Member Responsible:**

Colin Dempsey, Director, District Operations, Technology, and Sustainability Supports

**Attachment:**

Text of Proposed New 19 TAC Chapter 67, State Review and Approval of Instructional Materials, Subchapter B, State Review and Approval, §67.21, Proclamations, Public Notice, and Requests for Instructional Materials for Review; §67.23, Requirements for Publisher Participation in Instructional Materials Review and Approval (IMRA); and §67.25, Consideration and Approval of Instructional Materials by the State Board of Education; and Subchapter D, Duties of Publishers and Manufacturers, §67.81, Instructional Materials Contracts, and §67.83, Publisher Parent Portal

**ATTACHMENT**  
**Text of Proposed New 19 TAC**

**Chapter 67. State Review and Approval of Instructional Materials**

**Subchapter B. State Review and Approval**

**§67.21. Proclamations, Public Notice, and Requests for Instructional Materials for Review.**

- (a) Upon the adoption of revised Texas Essential Knowledge and Skills (TEKS) or Texas Prekindergarten Guidelines (TPG), the State Board of Education (SBOE) shall conduct an investigation to determine the extent of the revisions and whether revisions have created a need to remove instructional materials from the list approved under Texas Education Code, §31.022.
- (b) The SBOE shall issue a proclamation calling for instructional materials if the investigation required in subsection (a) of this section results in the determination that a proclamation is necessary. The proclamation shall serve as notice to all publishers with approved instructional materials for the subject and grade level or course(s) that to remain on the list of approved materials, the publisher must submit new or revised materials or new information demonstrating alignment of current instructional materials to the revised TEKS or TPG.
- (c) The Texas Education Agency shall issue an annual request for instructional materials to notify all publishers and the public that submissions of instructional materials aligned to quality rubrics approved by the SBOE are being invited for review.
- (d) Each proclamation and annual request for instructional materials for review shall contain the following:
  - (1) information about and reference to applicable TEKS in each subject for which submissions are being invited;
  - (2) the student enrollment of the courses or grade levels called for, to the extent that it is available, for the school year prior to the year in which the proclamation or annual request for instructional materials is issued;
  - (3) the requirement that a publisher grant electronic access to the instructional materials being submitted that complies to the specifications in the proclamation or annual request for instructional materials for review and may not submit a print copy;
  - (4) specifications for providing computerized files to produce accessible formats of approved instructional materials;
  - (5) specifications for ensuring that electronic instructional materials are fully accessible to students with disabilities; and
  - (6) a schedule of instructional materials review and approval procedures.

**§67.23. Requirements for Publisher Participation in Instructional Materials Review and Approval (IMRA).**

- (a) A publisher with approved materials shall comply with product standards and specifications.
- (b) Publishers participating in the adoption process are responsible for all expenses incurred by their participation.
- (c) A publisher may not submit instructional materials for review that have been authored or contributed to by a current employee of Texas Education Agency.
- (d) On or before the deadline established in the schedule of approval procedures, publishers shall submit correlations of instructional materials submitted for review in a format designated by the commissioner of education. Correlations shall be provided for materials designed for student use and materials designed for teacher use and include:

- (1) evidence of coverage of each student expectation of the Texas Essential Knowledge and Skills required by the proclamation or the request for instructional materials for review; and
  - (2) evidence of alignment to the quality rubric indicators.
- (e) A publisher that intends to offer instructional materials for review and approval shall comply with additional requirements included in a proclamation or the annual request for instructional materials for review.

**§67.25. Consideration and Approval of Instructional Materials by the State Board of Education.**

The State Board of Education (SBOE) shall review the results of the instructional materials reviews submitted by the commissioner of education in accordance with Texas Education Code (TEC), §31.022. Instructional materials may be placed on the list of approved instructional materials only if they meet the following criteria:

- (1) for full-subject and partial-subject tier one instructional materials for foundation subjects as defined by TEC, §28.002(a)(1), the product components cover 100% of the Texas Essential Knowledge and Skills (TEKS) for the specific grade level and subject area when the proclamation or request for instructional materials was issued. In determining the percentage of the TEKS covered by instructional materials, each student expectation shall count as an independent element of the TEKS;
- (2) materials have been reviewed through the process required by TEC, §31.023;
- (3) materials are free from factual error, defined as a verified error of fact or any error that would interfere with student learning, including significant grammatical or punctuation errors;
- (4) materials meet the Web Content Accessibility Guidelines (WCAG) and meet the technical specifications of the Federal Rehabilitation Act, Section 508, as specified when a request for instructional materials or proclamation was issued;
- (5) materials conform to or exceed in every instance the latest edition of the Manufacturing Standards and Specifications for Textbooks (MSST), developed by the State Instructional Materials Review Association, when the proclamation or request for instructional materials was issued; and
- (6) materials do not contain obscene or harmful content as defined by the suitability rubric, are compatible with certification requirements under TEC, §31.1011(a)(1)(B), and are compliant with all applicable state laws.

**Subchapter D. Duties of Publishers and Manufacturers**

**§67.81. Instructional Materials Contracts.**

- (a) The state contract for materials placed on the list of approved materials shall not be changed or modified without the approval of Texas Education Agency (TEA) legal counsel.
- (b) Contracts shall be sent to publishers for signature. Signed contracts returned by publishers shall be signed by the chair of the State Board of Education (SBOE) and attested to by the commissioner of education. Properly signed and attested contracts shall be filed with TEA.
- (c) The publisher of instructional materials approved by the SBOE shall:
  - (1) enter into a contract with the SBOE for a term not to exceed an initial term of eight years; and
  - (2) commit to provide the instructional materials in the manner specified by the publisher in the official bid specified in §67.23 of this title (relating to Requirements for Publisher Participation in Instructional Materials Review and Approval (IMRA)).
- (d) The commissioner shall annually review contracts for instructional materials and present to the SBOE those contracts that are eligible for renewal.

- (e) The SBOE shall renew existing contracts upon determining that the renewal would be in the best interest of the state and after considering the following factors:
  - (1) placement of subject areas in the Texas Essential Knowledge and Skills review schedule;
  - (2) willingness of publishers to renew contracts; and
  - (3) cost of instructional materials under a renewal contract.
- (f) Publishers awarded new contracts shall be prepared to make the approved instructional materials available for at least one contract renewal period of not more than four years at prices that are mutually agreeable to publishers and to the commissioner. The SBOE may consider refusing to award future contracts to a publisher that, after receiving written notice to do so, refuses to rebid instructional materials at least once. Failure of a publisher to negotiate an acceptable price for an extended contract shall not be considered failure to rebid instructional materials.
- (g) Contracts with publishers are subject to all provisions of Texas Education Code (TEC), Chapter 31.
- (h) This section does not apply to open education resource instructional material.

**§67.83. Publisher Parent Portal.**

- (a) Standards under this section apply to any publisher that supplies instructional materials that are reviewed by Texas Education Agency under Texas Education Code (TEC), §31.023, and placed on the list of approved instructional materials by the State Board of Education (SBOE) as outlined in TEC, §31.022.
- (b) Standards under this section apply to any instructional materials, including:
  - (1) full-subject tier one instructional material;
  - (2) open education resource instructional material;
  - (3) partial-subject tier one instructional material; and
  - (4) supplemental instructional material.
- (c) A publisher hosting an instructional materials parent portal must:
  - (1) include in the portal all components placed on the list of instructional materials approved by the SBOE, including teacher- and student-facing materials;
  - (2) for each school district or open-enrollment charter school that purchases the instructional materials, make the parent portal interoperable with any learning management system or online learning portal used by the district or charter school to assign, distribute, present, or make available instructional materials as defined by TEC, §31.002, to students;
  - (3) for instructional materials not available in a digital format, contain the instructional materials component International Standard Book Number (ISBN) or part number, title, edition, and author to allow a parent to locate a physical copy of the material;
  - (4) allow access beginning not later than 30 days before the school year begins and concluding not earlier than 30 days after the school year ends;
  - (5) optimize the portal for viewing on large monitors, laptops, tablets, and smartphone devices; and
  - (6) meet Web Content Accessibility Guidelines (WCAG) identified in the associated proclamation or annual request for instructional materials for review and any technical standards required by the Federal Rehabilitation Act, Section 508.
- (d) A publisher hosting an instructional materials parent portal may not:
  - (1) include any instructional materials as defined by TEC, §31.002, that were not reviewed and placed on the approved materials list; or
  - (2) include any instructional materials on the portal that would undermine, subvert, or impede any local education agency or open-enrollment charter school from complying with TEC, §31.1011.

## Consideration for Approval of Instructional Materials Review Quality Rubrics

December 13, 2023

### STATE BOARD OF EDUCATION: ACTION

**SUMMARY:** This item provides an opportunity for the State Board of Education (SBOE) to consider for approval the initial set of quality rubrics for the Instructional Materials Review and Approval (IMRA) process.

**STATUTORY AUTHORITY:** Texas Education Code (TEC), §§31.003(a), 31.022, and 31.023, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023.

TEC, §31.003(a), permits the SBOE to adopt rules for the adoption, requisition, distribution, care, use, and disposal of instructional materials.

TEC, §31.022, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, requires the SBOE to review instructional materials that have been provided to the board by the Texas Education Agency (TEA) under TEC, §31.023.

TEC, §31.023, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, requires the commissioner of education to establish, in consultation with and with the approval of the SBOE, a process for the annual review of instructional materials by TEA. In conducting a review under this section, TEA must use a rubric developed by TEA in consultation with and approved by the SBOE.

The full text of statutory citations can be found in the statutory authority section of this agenda.

**PREVIOUS BOARD ACTION:** Draft IMRA Quality Rubrics were presented at the November 2023 SBOE meeting.

**BACKGROUND INFORMATION AND JUSTIFICATION:** TEC, Chapter 31, addresses instructional materials in public education and permits the SBOE to adopt rules for the adoption, requisition, distribution, care, use, and disposal of instructional materials. HB 1605, 88th Texas Legislature, Regular Session, 2023, significantly revises TEC, Chapter 31, including several provisions under SBOE authority. HB 1605 also added a new provision to TEC, Chapter 48, to provide additional funding to school districts and charter schools that adopt and implement SBOE approved materials. In addition, the bill added requirements related to adoption of essential knowledge and skills in TEC, Chapter 28. The SBOE will need to amend rules and take related action to align with the requirements of this legislation.

At the June 2023 meeting, the Committee of the Full Board held a work session to receive an overview presentation on HB 1605 from the commissioner of education and to begin discussing preliminary decisions and next steps. The June 2023 SBOE HB 1605 Work Session Presentation shared during the work session is available on the TEA website at [June 2023 SBOE HB 1605 Work Session Slides](#).

At the August-September 2023 meeting, the Committee of the Full Board discussed the IMRA process and discussed the approach to developing the quality rubric criteria and process.

**PUBLIC BENEFIT AND COST TO PERSONS:** The proposal would benefit the public through adding clarity to the instructional materials quality review and approval process resulting from the

implementation of House Bill (HB) 1605, 88th Texas Legislature, Regular Session, 2023. There is no anticipated economic cost to persons who are required to comply with the proposal.

**PUBLIC COMMENTS:** A summary of public feedback will be presented to the board at the December 2023 special-called meeting.

**MOTION TO BE CONSIDERED:** The State Board of Education:

Approve quality rubrics for the Instructional Materials Review and Approval (IMRA) process.

**Staff Members Responsible:**

Todd Davis, Associate Commissioner of Instructional Strategy

Nicholas Keith, Executive Director of High-Quality Instructional Materials Supports

Colin Dempsey, Director, District Operations, Technology, and Sustainability Supports

**Separate Exhibit:**

Summary of public feedback on the draft IMRA quality rubrics

(to be provided at the SBOE December 2023 special-called meeting)

## Consideration for Approval of Instructional Materials Review Suitability Rubric

December 13, 2023

### STATE BOARD OF EDUCATION: ACTION

**SUMMARY:** This item provides an opportunity for the State Board of Education (SBOE) to consider for approval the suitability criteria and rubric for the Instructional Materials Review and Approval (IMRA) process. This rubric will define the criteria to be used in the instructional materials review and approval process to determine suitability and appropriateness of instructional materials for the subject and grade level for which the materials are designed, as required by House Bill (HB) 1605, 88th Texas Legislature, Regular Session, 2023.

**STATUTORY AUTHORITY:** Texas Education Code (TEC), §31.003 and §31.022, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023.

TEC, §31.003, permits the State Board of Education (SBOE) to adopt rules for the adoption, requisition, distribution, care, use, and disposal of instructional materials.

TEC, §31.022 requires the SBOE to review instructional materials that have been provided to the board by the agency under TEC, §31.023. The SBOE is required to determine that the material is free from factual error and suitable for the subject and grade level for which the material is designed, and, if the material is intended to cover the foundational skills reading curriculum in kindergarten through third grade, does not include three-cueing, as defined by TEC, §28.0062(a-1).

The full text of statutory citations can be found in the statutory authority section of this agenda.

**PREVIOUS BOARD ACTION:** At the November 2023 meeting, the board discussed criteria for the suitability and appropriateness of instructional materials for the subject and grade level for which the materials are designed to be used in the instructional materials review and approval process outlined in HB 1605, 88th Texas Legislature, Regular Session.

**BACKGROUND INFORMATION AND JUSTIFICATION:** Texas Education Code, Chapter 31, addresses instructional materials in public education and permits the State Board of Education (SBOE) to adopt rules for the adoption, requisition, distribution, care, use, and disposal of instructional materials. HB 1605, passed by the 88th Texas Legislature, Regular Session, significantly revises Chapter 31 including several provisions under SBOE authority. HB 1605 also adds a new provision to TEC, Chapter 48, to provide additional funding to school districts and charter schools that adopt and implement SBOE approved materials. The bill adds requirements related to adoption of essential knowledge and skills in TEC, Chapter 28. The SBOE will need to amend rules and take related action to align with the requirements of this legislation.

At the June 2023 meeting, the committee of the full board held a work session to receive an overview presentation on HB 1605 from Commissioner of Education, Mike Morath and to begin discussion of preliminary decisions and next steps. The June 2023 SBOE HB 1605 Work Session Presentation shared during the work session is available on the TEA website.

At the August/September 2023 meeting, the committee of the full board discussed possible criteria in existing statute that should be incorporated into a suitability rubric.

**PUBLIC BENEFIT AND COST TO PERSONS:** The proposal would benefit the public through adding clarity to the instructional materials suitability review and approval process resulting from the implementation of House Bill (HB) 1605, 88th Texas Legislature, Regular Session, 2023. There is no anticipated economic cost to persons who are required to comply with the proposal.

**PUBLIC COMMENTS:** A summary of public feedback will be presented to the board at the December 2023 special-called meeting.

**MOTION TO BE CONSIDERED:** The State Board of Education:

Approve the Suitability criteria and rubric for the Instructional Materials Review and Approval (IMRA) process.

**Staff Members Responsible:**

Todd Davis, Associate Commissioner of Instructional Strategy

Nicholas Keith, Executive Director of High-Quality Instructional Materials Supports

Colin Dempsey, Director, District Operations, Technology, and Sustainability Supports

**Separate Exhibit:**

Draft Suitability Criteria

(to be provided at the December 2023 special-called meeting)

## Consideration for Approval of Instructional Materials Review and Approval Process

December 13, 2023

### STATE BOARD OF EDUCATION: ACTION

**SUMMARY:** This item provides an opportunity for the State Board of Education (SBOE) to consider for approval the process and procedure for the new Instructional Materials Review and Approval (IMRA) process.

**STATUTORY AUTHORITY:** Texas Education Code (TEC), §31.003(a) and §31.023, as amended by House Bill (HB) 1605, 88th Texas Legislature, Regular Session, 2023.

TEC, §31.003(a), as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, permits the SBOE to adopt rules for the adoption, requisition, distribution, care, use, and disposal of instructional materials.

TEC, §31.023, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, requires the commissioner of education to establish, in consultation with and with the approval of the SBOE, a process for the annual review of instructional materials by TEA. In conducting a review under this section, TEA must use a rubric developed by TEA in consultation with and approved by the SBOE.

The full text of statutory citations can be found in the statutory authority section of this agenda.

**PREVIOUS BOARD ACTION:** At the November 2023, the board discussed the proposed IMRA process and provided feedback to staff.

**BACKGROUND INFORMATION AND JUSTIFICATION:** TEC, Chapter 31, addresses instructional materials in public education and permits the SBOE to adopt rules for the adoption, requisition, distribution, care, use, and disposal of instructional materials. HB 1605, 88th Texas Legislature, Regular Session, 2023, significantly revises TEC, Chapter 31, including several provisions under SBOE authority. HB 1605 also added a new provision to TEC, Chapter 48, to provide additional funding to school districts and charter schools that adopt and implement SBOE approved materials. In addition, the bill added requirements related to adoption of essential knowledge and skills in TEC, Chapter 28. The SBOE will need to amend rules and take related action to align with the requirements of this legislation.

At the June 2023 meeting, the Committee of the Full Board held a work session to receive an overview presentation on HB 1605 from the commissioner of education and to begin discussing preliminary decisions and next steps. The June 2023 SBOE HB 1605 Work Session Presentation shared during the work session is available on the TEA website at [June 2023 SBOE HB 1605 Work Session Slides](#).

At the August-September 2023 meeting, the Committee of the Full Board discussed the IMRA process and discussed the approach to developing the quality rubric criteria and process.

**PUBLIC BENEFIT AND COST TO PERSONS:** In accordance with HB 1605, 88th Texas Legislature, Regular Session, 2023, the new IMRA process will provide clarification to publishers, districts, and the public regarding the process and procedures for the review and SBOE approval of instructional materials. There is no anticipated economic cost to persons who are required to comply with the proposal.

**PUBLIC COMMENTS:** A summary of public feedback will be presented to the board at the December 2023 special-called meeting.

**MOTION TO BE CONSIDERED:** The State Board of Education:

Approve the process and procedure for the new Instructional Materials Review and Approval (IMRA) process.

**Staff Members Responsible:**

Todd Davis, Associate Commissioner of Instructional Strategy

Nicholas Keith, Executive Director of High-Quality Instructional Materials Supports

Colin Dempsey, Director, District Operations, Technology, and Sustainability Supports

**Separate Exhibit:**

Instructional Materials Review and Approval Draft Process

(to be provided in advance of the December 2023 special-called meeting)

## Approval of Library Collection Development Standards in Compliance with House Bill 900

December 13, 2023

### STATE BOARD OF EDUCATION: ACTION

**SUMMARY:** House Bill (HB) 900, passed by the 88th Texas Legislature, Regular Session, requires the Texas State Library and Archives Commission (TSLAC), with approval by majority vote of the State Board of Education, to adopt standards for school library collection development that a school district is required to adhere to in developing or implementing the district's library collection development policies. This item provides the opportunity for the board to consider approval of the proposed collection development standards.

**STATUTORY AUTHORITY:** Texas Education Code (TEC), §33.021, as amended by HB 900.

TEC, §33.021(b), requires the Texas State Library and Archives Commission (TSLAC) , in consultation with the State Board of Education, to adopt voluntary standards for school library services, other than collection development, that a school district must consider in developing, implementing, or expanding library services.

TEC, §33.021(c), requires the TSLAC, with approval by majority vote of the State Board of Education, to adopt standards for school library collection development that a school district must adhere to in developing or implementing the district's library collection development policies.

The full text of statutory citations can be found in the statutory authority section of this agenda.

**BACKGROUND INFORMATION AND JUSTIFICATION:** Prior to passage of HB 900, TEC, §33.021 required the TSLAC, in consultation with the SBOE, to adopt standards for school library services. A school district was required to consider the standards in developing, implementing, or expanding library services.

The 88th Texas Legislature, Regular Session, 2023, passed HB 900, amending TEC §33.021 to require the TSLAC, in consultation with the SBOE, to adopt voluntary standards for school library services, other than collection development, that a school district must consider in developing, implementing, or expanding library services. HB 900 also requires the TSLAC, with approval by majority vote of the State Board of Education, to adopt standards for school library collection development that a school district is required to adhere to in developing or implementing the district's library collection development policies. The TSLAC must adopt the standards for school library collection development not later than January 1, 2024. The school library collection development standards must be reviewed and updated at least once every five years, and include a collection development policy that does the following:

- Prohibits the possession, acquisition, and purchase of harmful material, as defined by Texas Penal Code §43.24; library material rated sexually explicit material by the selling library material vendor, or library material that is pervasively vulgar or educationally unsuitable as referenced in *Pico v. Board of Education*, 457 U.S. 853 (1982)
- Recognizes that obscene content is not protected by the First Amendment to the United States Constitution
- Is required for all library materials available for use or display, including material contained in school libraries, classroom libraries, and online catalogs

- Recognizes that parents are the primary decision makers regarding a student’s access to library material
- Encourages schools to provide library catalog transparency
- Recommends schools communicate effectively with parents regarding collection development
- Prohibits the removal of material based solely on the ideas contained in the material or personal background of the author of the material or characters in the material

At the August-September 2023 SBOE meeting, the Committee on Instruction received an update on the draft library collection development standards and the anticipated timeline for future action. The committee had an opportunity to discuss the draft and provide preliminary feedback to the TSLAC.

This item provides the opportunity for the committee and board to consider approval of the proposed collection development standards.

**Staff Members Responsible:**

Monica Martinez, Associate Commissioner, Standards and Programs  
Shelly Ramos, Senior Director, Curriculum Standards and Student Support

**Separate Exhibit:**

Proposed Collection Development Standards  
(to be provided in advance of the December 2023 SBOE special-called meeting)

**STATUTORY AUTHORITY REFERENCE SECTION:**

TEXAS CONSTITUTION ARTICLE VII

TEXAS EDUCATION CODE (TEC)

TEXAS GOVERNMENT CODE (TGC)

TEXAS OCCUPATIONS CODE (TOC)

NATURAL RESOURCES CODE (NRC)

TEXAS EDUCATION CODE  
TITLE 2. PUBLIC EDUCATION  
SUBTITLE E. STUDENTS AND PARENTS  
CHAPTER 26. PARENTAL RIGHTS AND RESPONSIBILITIES

**TEC, §26.006. ACCESS TO TEACHING MATERIALS.**

- (a) A parent is entitled to:
- (1) review all teaching materials, instructional materials, and other teaching aids used in the classroom of the parent's child, including while the child is participating in virtual or remote learning;
  - (2) review each test administered to the parent's child after the test is administered; and
  - (3) observe virtual instruction while the parent's child is participating in virtual or remote learning to the same extent the parent would be entitled to observe in-person instruction of the child.
- (b) A school district shall make tests readily available for review by parents in person and teaching materials readily available for review by parents both in person and, if applicable, through an instructional materials parent portal established under Section [31.154](#). In providing access to instructional materials to a student's parent under this section, the district shall:
- (1) allow access beginning not later than 30 days before the school year begins and concluding not earlier than 30 days after the school year ends; and
  - (2) include, for the entire period specified in Subdivision (1), access to all instructional materials that pertain to each subject area in the grade level in which the student is enrolled, except for:
    - (A) tests or exams that have not yet been administered to the student; and
    - (B) the student's graded assignments.
- (b-1) The district may specify reasonable hours for in-person review.
- (c) A student's parent is entitled to request that the school district or open-enrollment charter school the student attends allow the student to take home any instructional materials used by the student. Subject to the availability of the instructional materials, the district or school shall honor the request. A student who takes home instructional materials must return the instructional materials

to school at the beginning of the next school day if requested to do so by the student's teacher. A school district or open-enrollment charter school must provide the instructional materials to the student in printed format if the student does not have reliable access to technology at the student's home. In this subsection, "instructional material" has the meaning assigned by Section [31.002](#).

- (d) The requirement under Subsection (c) to provide to a student instructional materials in a printed format does not require a school district or open-enrollment charter school to purchase printed copies of instructional materials that the district or school otherwise would not purchase. A district or school may comply with Subsection (c) by providing the student a printout of the relevant electronic instructional materials.
- (e) Each school district and open-enrollment charter school that uses a learning management system or any online learning portal to assign, distribute, present, or make available instructional materials as defined by Section [31.002](#) to students shall provide login credentials to the system or portal to each student's parent.
- (f) A school district may not deny a parent access to an instructional materials parent portal hosted under Section [31.154](#).

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 2001, 77th Leg., ch. 805, Sec. 1, eff. June 14, 2001.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. [6](#)), Sec. 12, eff. July 19, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1031 (H.B. [391](#)), Sec. 1, eff. June 14, 2019.

Acts 2021, 87th Leg., R.S., Ch. 558 (S.B. [348](#)), Sec. 1, eff. June 14, 2021.

Acts 2021, 87th Leg., 2nd C.S., Ch. 9 (S.B. [3](#)), Sec. 2, eff. December 2, 2021.

Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. [1605](#)), Sec. 5, eff. June 13, 2023.

TEXAS EDUCATION CODE  
TITLE 2. PUBLIC EDUCATION  
SUBTITLE F. CURRICULUM, PROGRAMS, AND SERVICES  
CHAPTER 31. INSTRUCTIONAL MATERIALS AND TECHNOLOGY  
SUBCHAPTER A. GENERAL PROVISIONS

**TEC, §31.003. RULES.**

- (a) The State Board of Education may adopt rules, consistent with this chapter, for the adoption, requisition, distribution, care, use, and disposal of instructional materials.
- (b) The commissioner may adopt rules, consistent with this chapter, as necessary to implement a provision of this chapter that the commissioner or agency is responsible for implementing.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. [6](#)), Sec. 20, eff. July 19, 2011.

Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. [1605](#)), Sec. 13, eff. June 13, 2023.

TEXAS EDUCATION CODE  
CHAPTER 31. INSTRUCTIONAL MATERIALS  
SUBCHAPTER B. STATE REVIEW AND ADOPTION

**TEC, §31.022. STATE BOARD OF EDUCATION INSTRUCTIONAL MATERIALS REVIEW AND APPROVAL.**

- (a) The State Board of Education shall review instructional materials provided to the board by the agency under Section [31.023](#). Before approving instructional material, the board may review the material and must determine that the material is free from factual error and suitable for the subject and grade level for which the material is designed, and, if the material is intended to cover the foundational skills reading curriculum in kindergarten through third grade, does not include three-cueing, as defined by Section [28.0062\(a-1\)](#). The board shall add each material approved under this section to a list of approved instructional materials and may add a material not approved under this section to a list of rejected instructional materials.
- (b) The State Board of Education may adopt criteria necessary for approval of instructional material under Subsection (a) and may require:
  - (1) all instructional material submitted as full subject tier one instructional material to cover a minimum percentage, as determined by the board, of the essential knowledge and skills adopted for the subject and grade level for which the material is designed;
  - (2) electronic samples of the material;
  - (3) certain physical specifications;
  - (4) the instructional material to not contain obscene or harmful content and otherwise be compatible with certification requirements under Section [31.1011\(a\)\(1\)\(B\)](#); and
  - (5) the instructional material to be made publicly available for review.
- (c) The State Board of Education may remove instructional material from the list of approved instructional materials under this section if the essential knowledge and skills intended to be covered by the material are revised or the material is revised without the approval of the board.
- (c-1) If the State Board of Education intends to remove an instructional material from the list of approved instructional materials under Subsection (c) because the board plans to revise the essential knowledge and skills intended to be covered by the material, the board shall issue a proclamation requesting the revision of the applicable instructional materials and shall, not later than December 1 of the year preceding the school year for which the revision will take effect, provide to each school district the updated list of approved instructional materials for the relevant subject or grade level.
- (d) The State Board of Education shall indicate whether each instructional material reviewed under Subsection (a) is capable of being made available through an instructional materials parent portal established under Section [31.154](#).
- (d-1) Repealed by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. [1605](#)), Sec. 51(2), eff. June 13, 2023.
- (e) Repealed by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. [1605](#)), Sec. 51(2), eff. June 13, 2023.
- (f) Repealed by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. [1605](#)), Sec. 51(2), eff. June 13, 2023.
- (g) Repealed by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. [1605](#)), Sec. 51(2), eff. June 13, 2023.
- (h) Repealed by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. [1605](#)), Sec. 51(2), eff. June 13, 2023.
- (i) Repealed by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. [1605](#)), Sec. 51(2), eff. June 13, 2023.

TEXAS EDUCATION CODE  
TITLE 2. PUBLIC EDUCATION  
SUBTITLE F. CURRICULUM, PROGRAMS, AND SERVICES  
CHAPTER 31. INSTRUCTIONAL MATERIALS  
SUBCHAPTER B. STATE REVIEW AND ADOPTION

**TEC, §31.023. INSTRUCTIONAL MATERIAL REVIEW.**

- (a) The commissioner shall establish, in consultation with and with the approval of the State Board of Education, a process for the annual review of instructional materials by the agency. The process established under this subsection must:
- (1) establish a process for the agency to select instructional materials for review that includes:
    - (A) evaluating requests for review of instructional materials submitted to the agency by:
      - (i) a school district;
      - (ii) a majority of the members of the State Board of Education; or
      - (iii) a publisher of instructional material, which may only be submitted for material published by the requesting publisher;
    - (B) requiring the agency to review materials if the State Board of Education requests by a majority vote that the material be reviewed by the agency;
    - (C) reviewing instructional materials requisitioned or purchased under Section [31.0212](#); and
    - (D) reviewing instructional materials using a time frame appropriate for the proclamation requesting the revision of the instructional materials under Section [31.022\(c-1\)](#) to address revisions made by the State Board of Education to the essential knowledge and skills for a particular subject or grade level;
  - (2) describe the types of instructional materials the agency may review, including:
    - (A) partial subject tier one instructional material, including those designed for use in the phonics curriculum required under Section [28.0062\(a\)\(1\)](#);
    - (B) open education resource instructional material;
    - (C) instructional materials developed by a school district and submitted to the agency by the district for review; and
    - (D) commercially available full subject tier one instructional material;

- (3) establish procedures for the agency to conduct reviews of instructional materials, including:
    - (A) the use of a rubric approved under Subsection (b); and
    - (B) consultation with classroom teachers and other curriculum experts for the appropriate subject and grade level; and
  - (4) ensure the procedures for review allow the agency to review at least 200 individual instructional materials each year.
- (b) In conducting a review under this section, the agency must use a rubric developed by the agency in consultation with and approved by the State Board of Education that includes, with respect to the instructional material being reviewed, a determination of:
- (1) whether the material is free from factual error and satisfies the criteria adopted by the board under Section [31.022](#);
  - (2) the quality of the material;
  - (3) the essential knowledge and skills for the subject and grade level for which the material was developed that are covered by the material, including identification of:
    - (A) each essential knowledge and skill covered by the material;
    - (B) for a full subject tier one instructional material, the percentage of the essential knowledge and skills adopted for the subject and grade level covered by the material; and
    - (C) for a partial subject tier one instructional material, the percentage of the essential knowledge and skills for the relevant portion of the subject and grade level covered by the material; and
  - (4) whether the material contains obscene or harmful content or is otherwise incompatible with certification requirements under Section [31.1011\(a\)\(1\)\(B\)](#).
- (c) After completing a review under this section, the agency shall provide the results of the review and any related recommendations to the State Board of Education for approval or rejection of the instructional material and the inclusion of the instructional material on a list maintained by the State Board of Education under Section [31.022](#).
- (d) The agency shall use funds appropriated to the agency for the purposes of reviewing instructional material or available in the state instructional materials and technology fund for purposes of implementing this section.

- (e) A process established under Subsection (a) or a rubric developed under Subsection (b) is automatically approved by the State Board of Education if not rejected by the board before the 91st day after the date the agency submits the item to the board.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 445 (H.B. [188](#)), Sec. 4, eff. June 16, 2007.

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. [6](#)), Sec. 26, eff. July 19, 2011.

Acts 2017, 85th Leg., R.S., Ch. 578 (S.B. [801](#)), Sec. 1, eff. September 1, 2017.

Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. [1605](#)), Sec. 23, eff. June 13, 2023.

TEXAS EDUCATION CODE  
TITLE 2. PUBLIC EDUCATION  
SUBTITLE F. CURRICULUM, PROGRAMS, AND SERVICES  
CHAPTER 31. INSTRUCTIONAL MATERIALS  
SUBCHAPTER D. ADMINISTRATIVE PENALTIES AND PENAL PROVISIONS

**TEC, §31.151. DUTIES OF PUBLISHERS AND MANUFACTURERS**

- (a) A publisher or manufacturer of instructional materials:
- (1) shall furnish any instructional material the publisher or manufacturer offers in this state at a price that does not exceed the lowest price at which the publisher offers that instructional material for adoption or sale to any state, public school, or school district in the United States;
  - (2) shall automatically reduce the price of instructional material sold for use in a school district or open-enrollment charter school to the extent that the price is reduced elsewhere in the United States;
  - (3) shall provide any instructional material or ancillary item free of charge in this state to the same extent that the publisher or manufacturer provides the instructional material or ancillary item free of charge to any state, public school, or school district in the United States;
  - (4) shall guarantee that each copy of instructional material sold in this state is at least equal in quality to copies of that instructional material sold elsewhere in the United States and is free from factual error;
  - (5) may not become associated or connected with, directly or indirectly, any combination in restraint of trade in instructional materials or enter into any understanding or combination to control prices or restrict competition in the sale of instructional materials for use in this state;
  - (6) shall deliver instructional materials to a school district or open-enrollment charter school;
  - (7) shall, at the time an order for instructional materials is acknowledged, provide to school districts or open-enrollment charter schools an accurate shipping date for instructional materials that are back-ordered;
  - (8) shall guarantee delivery of instructional materials at least 10 business days before the opening day of school of the year for which the instructional materials are ordered if the instructional materials are ordered by a date specified in the sales contract;
  - (9) shall submit to the State Board of Education an affidavit certifying any instructional material the publisher or manufacturer offers in this state to be free of factual errors at the time the publisher executes the contract required by Section [31.026](#); and

- (10) shall comply with all other standard terms and conditions adopted by the State Board of Education for use in contracts for the procurement of instructional materials under Subsection (a-1).
- (a-1) The State Board of Education shall adopt standard terms and conditions for use in contracts for the procurement of instructional materials from publishers and manufacturers under this section.
- (b) The State Board of Education may impose a reasonable administrative penalty against a publisher or manufacturer who knowingly violates Subsection (a). The board shall provide for a hearing to be held to determine whether a penalty is to be imposed and, if so, the amount of the penalty. The board shall base the amount of the penalty on:
- (1) the seriousness of the violation;
  - (2) any history of a previous violation;
  - (3) the amount necessary to deter a future violation;
  - (4) any effort to correct the violation; and
  - (5) any other matter justice requires.
- (c) A hearing under Subsection (b) shall be held according to rules adopted by the State Board of Education.
- (d) A penalty collected under this section shall be deposited to the credit of the state instructional materials and technology fund.
- (e) Repealed by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. [1605](#)), Sec. 51(15), eff. June 13, 2023.

TEXAS EDUCATION CODE  
TITLE 2. PUBLIC EDUCATION  
SUBTITLE F. CURRICULUM, PROGRAMS, AND SERVICES  
CHAPTER 31. INSTRUCTIONAL MATERIALS  
SUBCHAPTER D. ADMINISTRATIVE PENALTIES AND PENAL PROVISIONS

**TEC, §31.154. INSTRUCTIONAL MATERIALS PARENT PORTAL.**

- (a) The State Board of Education shall adopt standards for entities that supply instructional materials reviewed by the agency under Section [31.023](#) to make instructional materials supplied by the entity available on a parent portal hosted by the entity.
- (b) An instructional materials parent portal must:
  - (1) provide to each parent of a student enrolled in a school district or open-enrollment charter school access to instructional materials, other than tests or exams, that are included in the portal and used by the district or school;
  - (2) organize instructional material by unit and in the order in which the material is designed to be used;
  - (3) be capable of being searched by key word; and
  - (4) for instructional material not available in a digital format, contain sufficient information to allow a parent to locate a physical copy of the material.
- (c) Standards adopted under Subsection (a) may not require:
  - (1) a classroom teacher to submit instructional materials developed by the teacher for inclusion in an instructional materials parent portal; or
  - (2) an entity hosting an instructional materials parent portal to include tests or exams in the portal.
- (d) To comply with an intellectual property license or other restrictions placed on an instructional material and to maintain security of the information contained in an instructional materials parent portal under this section, a parent may be required, before accessing the portal, to:
  - (1) enter a password;
  - (2) comply with other user access verification procedures; and
  - (3) accept user terms and conditions, which may not limit or exclude access to instructional material based on the uses of the material that would otherwise be permitted under fair use provisions of copyright law.
- (e) An entity that hosts an instructional materials parent portal must comply with requests regarding parental access to the portal made by a school district in compliance with this section or Section [26.006](#).

Added by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. [1605](#)), Sec. 46, eff. June 13, 2023.

TEXAS EDUCATION CODE  
CHAPTER 33. SERVICE PROGRAMS AND EXTRACURRICULAR ACTIVITIES  
SUBCHAPTER B. LIBRARIES

**TEC, §33.021 LIBRARY STANDARDS.**

- (a) In this section, "sexually explicit material" means any communication, language, or material, including a written description, illustration, photographic image, video image, or audio file, other than library material directly related to the curriculum required under Section 28.002(a), that describes, depicts, or portrays sexual conduct, as defined by Section 43.25, Penal Code, in a way that is patently offensive, as defined by Section 43.21, Penal Code.
- (b) The Texas State Library and Archives Commission, in consultation with the State Board of Education, shall adopt voluntary standards for school library services, other than collection development, that a school district shall consider in developing, implementing, or expanding library services.
- (c) The Texas State Library and Archives Commission, with approval by majority vote of the State Board of Education, shall adopt standards for school library collection development that a school district shall adhere to in developing or implementing the district's library collection development policies.
- (d) The standards adopted under Subsection (c) must:
  - (1) be reviewed and updated at least once every five years; and
  - (2) include a collection development policy that:
    - (A) prohibits the possession, acquisition, and purchase of:
      - (i) harmful material, as defined by Section 43.24, Penal Code;
      - (ii) library material rated sexually explicit material by the selling library material vendor; or
      - (iii) library material that is pervasively vulgar or educationally unsuitable as referenced in *Pico v. Board of Education*, 457 U.S. 853 (1982);
    - (B) recognizes that obscene content is not protected by the First Amendment to the United States Constitution;

- (C) is required for all library materials available for use or display, including material contained in school libraries, classroom libraries, and online catalogs;
- (D) recognizes that parents are the primary decision makers regarding a student's access to library material;
- (E) encourages schools to provide library catalog transparency;
- (F) recommends schools communicate effectively with parents regarding collection development; and
- (G) prohibits the removal of material based solely on the:
  - (i) ideas contained in the material; or
  - (ii) personal background of:
    - (a) the author of the material; or
    - (b) characters in the material.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 808 (H.B. 900), Sec. 2, eff. September 1, 2023.