

**Chapter 66. State Adoption and Distribution of Instructional Materials**

**Subchapter A. General Provisions**

**§66.4. Requirement for Registers.**

- (a) A register shall be kept by the commissioner of education and appropriate staff of the Texas Education Agency (TEA) to record all personal contacts with publishers, their representatives, agents, authors, consultants, editors, depositories, or any other person who has received or expects to receive any money, thing of value, or financial benefit for an appearance; or contact regarding any instructional materials submitted and being considered for State Board of Education (SBOE) approval.
- (b) Publishers shall file with the commissioner of education, on or before a date specified in the schedule of adoption procedures in each proclamation, a register indicating all visits, meetings, or contacts with SBOE



- (1) an administrative penalty for selling instructional materials with factual errors. The SBOE may assess an administrative penalty against a publisher or manufacturer of instructional materials who sells instructional materials that have been adopted by the SBOE and contain factual errors unless, within 60 days of knowledge of the factual error, the publisher or manufacturer corrects the factual error, including revising web-based instructional materials, providing corrective materials to public schools that have received material containing the factual error, and ensuring no further distribution of materials occurs without correction of the error; or
- (2) an administrative penalty for failure to correct factual errors. The SBOE may assess an administrative penalty against a publisher or manufacturer who fails to correct a factual error, including:

- (i) The SBOE may assess an administrative penalty against a publisher or manufacturer who violates the TEC, §31.151(a)(5), or a rule implementing those provisions.
- (j) The SBOE may assess an administrative penalty against a publisher or manufacturer who violates the TEC, §31.151(a)(6), (7), or (8), or a rule implementing those provisions, including:
  - (1) a penalty for failure to deliver adopted instructional materials, including teacher components, in a timely manner or in the quantities the school district or open-enrollment charter school is eligible to receive as specified in the publisher's bid; and
  - (2) a penalty for failure to deliver adopted instructional materials, including teacher components, in accordance with provisions in the contracts if the failure extends beyond 45 days.
- (k) The SBOE may assess an administrative penalty against a publisher or manufacturer who fails to maintain a website or provide a suitable alternative for conveying the information in the website, or who otherwise fails to meet the requirements of §66.29 of this title (relating to Websites in State-Adopted Instructional Materials).
- (l) The SBOE may, if circumstances warrant, waive or vary penalties contained in this section for first or subsequent violations based on the seriousness of the violation, any history of a previous violation or violations, the amount necessary to deter a future violation, any effort to correct the violation, and any other matter justice requires.
- (m) Each affected publisher shall issue credit to the TEA in the amount of any penalty imposed under the provisions of this section. When circumstances warrant it, the TEA is authorized to require payment of penalties in cash within ten days. Each affected publisher who pays a fine for failure to deliver adopted instructional materials in a timely manner will not be subject to the liquidated damages provision in the publisher's contract for the same failure to deliver adopted instructional materials in a timely manner.
- (n) All administrative penalties shall be credited to the public schools instructional materials allotment funds under the TEC, §31.0212.

*Statutory Authority: The provisions of this §66.15 issued under the Texas Education Code, §§31.002, 31.003, 31.023, 31.035, and 31.151(b).*

*Source: The provisions of this §66.15 adopted to be effective May 5, 2016, 41 TexReg 3137; amended to be effective January 11, 2021, 46 TexReg 301.*