

Chapter 66. State Adoption and Distribution of Instructional Materials

Subchapter B. State Adoption of Instructional Materials

§66.21. Review and Adoption Cycle.

- (a) The State Board of Education (SBOE) shall adopt a review and adoption cycle for instructional materials for prekindergarten and for elementary and secondary grade levels for each subject in the required curriculum.
- (b) In adopting the cycle, the SBOE:
 - (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 the Texas Education Code (TEC), Chapter 39, Subchapter B, including career and technical education courses that satisfy foundation curriculum requirements as provided by the TEC, §28.002(n);
 - (B) foundation curriculum subjects for which the essential knowledge and skills have been substantially revised, including career and technical education courses that satisfy foundation curriculum requirements as provided by the TEC, §28.002(n);
 - (C) foundation curriculum subjects not described by subparagraph (A) or (B) of this paragraph, including career and technical education courses that satisfy foundation curriculum requirements as provided by the TEC, §28.002(n); and
 - (D) enrichment curriculum subjects.
 - (3) The adoption cycle for subjects in the foundation curriculum shall be organized so that instructional materials for not more than one-fourth of the subjects in the foundation curriculum are reviewed each biennium. A full and complete investigation of instructional materials for each subject in the foundation curriculum shall occur every eight years unless content of instructional materials for a subject is sufficiently current. Estimated expenditures and historical or expected legislative appropriations shall be considered when determining placement of subjects in the cycle.
 - (4) The adoption cycle for subjects in the enrichment curriculum shall be organized so that placement of a subject in the cycle is based on the need for up-to-date materials that align to revised Texas essential knowledge and skills or the addition of new courses. Estimated expenditures and historical or expected legislative appropriations shall be considered when determining placement of subjects in the cycle.

Statutory Authority: The provisions of this §66.21 issued under the Texas Education Code, §§7.102, 31.003, 31.005, 31.022, 31.0221, 31.023, 31.024, 31.0241, 31.0242, 31.026, 31.0261, and 31.035.

Source: The provisions of this §66.21 adopted to be effective September 1, 1996, 21 TexReg 7236; amended to be effective March 4, 2001, 26 TexReg 1706; amended to be effective July 8, 2012, 37 TexReg 4911; amended to be effective May 21, 2014, 39 TexReg 3855; amended to be effective May 5, 2016, 41 TexReg 3137.

§66.27. Proclamation, Public Notice, and Schedule for Adopting Instructional Materials.

- (a) Texas Education Code (TEC), §31.002, defines instructional materials as content that conveys the essential knowledge and skills of a subject in the public-school curriculum through a medium or a combination of media for conveying information to a student. The term includes a book; supplementary materials; a combination of a book, workbook, and supplementary materials; computer software; magnetic media; DVD; CD-ROM; computer courseware; online services; or an electronic medium or other means of

§66.B.

State Adoption of Instructional Materials

conveying information to the student or otherwise contributing to the learning process through electronic means, including open education resource instructional material.

- (b) Upon the adoption of revised Texas essential knowledge and skills (TEKS) or Texas Prekindergarten Guidelines (TPG), the St

- (6) specifications for providing computerized files to produce braille versions of adopted instructional materials;
 - (7) specifications for ensuring that electronic instructional materials are fully accessible to students with disabilities;
 - (8) a schedule of adoption procedures; and
 - (9) an option for the submission of open education resource instructional materials that are available for use by the state without charge on the same basis as instructional materials offered for sale.
- (h) The proclamation shall require the instructional materials submissions to cover:
- (1) content essential knowledge and skills for the subject area and grade level or course for which the materials are intended:
 - (A) at least once in the student text narrative; and
 - (B) once in an end-of-section review exercise, an end-of-chapter activity, or a unit test; and
 - (2) process essential knowledge and skills:
 - (A) at least once in the student text narrative and once in an end-of-section review exercise, an end-of-chapter activity, or a unit test; or
 - (B) twice in an end-of-section review exercise, an end-of-chapter activity, or a unit test.
- (i) A proclamation for prekindergarten materials shall require the instructional materials submissions to cover the end-of-year outcomes at least twice in the teacher materials and as deemed developmentally appropriate in the student materials. The coverage must include both an opportunity for the teacher to teach and the student to practice or demonstrate the knowledge or skill.
- (j) A draft copy of the proclamation shall be provided to each member of the SBOE and posted on the TEA website, and the TEA shall solicit input regarding the draft proclamation prior to its scheduled adoption by the SBOE. Any revisions recommended as a result of input from publishers shall be presented to the SBOE along with the subsequent draft of the proclamation.
- (k) If the SBOE determines that good cause as defined by the SBOE exists, the SBOE may adopt an emergency, supplementary, or revised proclamation without complying with the timelines and other requirements of this section.
- (l) The SBOE may issue a proclamation for instructional materials eligible for midcycle review. The midcycle adoption process shall follow the same procedures as the regular adoption except to the extent specified in this subsection.
- (1) The midcycle proclamation shall include a fee not to exceed \$10,000 for each program or system

- (c) A publisher that intends to offer instructional materials for adoption shall submit a statement of intent to bid on or before the date specified in the schedule of adoption procedures.
 - (1) The statement of intent to bid shall be submitted in a format designated by the commissioner.
 - (2) A publisher shall indicate in the statement of intent to bid the percentage of Texas essential knowledge and skills or Texas Prekindergarten Guidelines that the publisher believes are sufficiently covered in each instructional materials submission.
 - (3) A publisher shall specify hardware and system requirements needed to review any item included in an instructional materials submission.
 - (4) Additions to a publisher's statement of intent to bid shall not be accepted after the deadline for filing statements of intent to bid, except as allowed in the schedule of adoption procedures included in a proclamation.
 - (5) A publisher that intends to offer instructional materials for midcycle review shall submit a statement of intent to bid and price information on or before the date specified in the schedule of adoption procedures under midcycle review. The statement of intent to bid must:
 - (A) specify the manner in which instructional materials will be provided to school districts as specified in §66.27(k)(2) of this title (relating to Proclamation, Public Notice, and Schedule for Adopting Instructional Materials); and
 - (B) include payment of the fee for review of instructional materials submitted for midcycle

- (8) One sample copy of each student and teacher component of an instructional materials submission shall be provided for each member of the appropriate state review panel in accordance with instructions provided by the TEA. Samples for review must be as free from factual and editorial error as possible and reflect the quality of the final product intended to go into classrooms. Publishers have the option to provide reviewers with print samples, electronic samples in an open file format or closed format, or galley proofs.

any extensions of the contract terms, but for no more than 12 years. The offer must be set forth in the publisher's official bid.

- (B) The publisher's official bid shall contain a clear explanation of the terms of the sale, including the publisher's agreement to supply consumable student materials for the duration of the contract and extensions as noted in subparagraph (A) of this paragraph.
 - (C) The publisher and the school district shall determine the manner in which consumable student materials are supplied beyond the initial order year.
- (i) A publisher may not submit instructional materials for review that have been authored or contributed to by a current employee of the TEA.
 - (j) A publisher or author may not solicit input, directly or indirectly, on new or revised content from a member of the state review panel for a product the panelist reviewed while the product is being considered or even after the product has been adopted or rejected.
 - (k) On or before the deadline established in the schedule of adoption procedures, publishers shall submit correlations of instructional materials submitted for review with essential knowledge and skills required by the proclamation. Correlations shall be provided for materials designed for student use and materials designed for teacher use and must identify evidence of each student expectation addressed in the ways specified in §66.27(h) of this title. Correlations shall be submitted in a format designated by the commissioner.
 - (l) A publisher shall provide a list of all corrections required to be made to each student and teacher component of an instructional materials submission to bring them into compliance with applicable laws, rules, or the proclamation. The list must be in a format designated by the commissioner and filed on or before the deadline specified in the schedule of adoption procedures. If no corrections are necessary, the publisher shall file a statement to that effect in a format designated by the commissioner on or before the deadline in the schedule for submitting the list of corrections.
 - (m) On or before the deadline for submitting lists of corrections, publishers shall submit certification that all instructional materials have been edited for accuracy, content, and compliance with requirements of the proclamation.
 - (n) One complete electronic sample copy in an open file format or closed format of each student and teacher component of adopted instructional materials that incorporate all corrections required by the SBOE shall be filed with the commissioner on or before the date specified in the schedule of adoption procedures. The complete sample copies filed with the TEA must be representative of the final program.
 - (o) A publisher who intends to offer instructional materials for adoption shall comply with additional requirements included in a proclamation related to submission of instructional materials for adoption.

Statutory Authority: The provisions of this §66.28 issued under the Texas Education Code, §§7.102, 31.002, 31.003, 31.005, 31.022, 31.0221, 31.023, 31.024, 31.0241, 31.0242, 31.026, 31.0261, and 31.035.

Source: The provisions of this §66.28 adopted to be effective May 5, 2016, 41 TexReg 3137; amended to be effective March 27, 2018, 43 TexReg 1847; amended to be effective March 24, 2020, 45 TexReg 1989.

§66.29. Websites in State-Adopted Instructional Materials.

- (a) This section applies only to a website that is a component used to address Texas essential knowledge and skills as part of a state-adopted product.
- (b) A publisher shall monitor, update, and maintain any in-house and third party electronic, web-based, or online products furnished as part of the instructional materials specified in the contract for the period determined by the State Board of Education (SBOE).
- (c) If, at any time during the contract period, the commissioner of education determines in a hearing that electronic, web-based, or online instructional materials furnished and supplied under the terms of a contract have faulty manufacturing characteristics or display dated or inferior information that is not in alignment with the Texas essential knowledge and skills that were in place at the time of the materials' original

- (5) educators, parents, business and industry representatives, and employers.
- (f) For purposes of this section, an "academic expert" is a person who:
 - (1) is a public-school teacher with at least ten years of classroom teaching experience; or
 - (2) has at least a master's degree in the subject area; or
 - (3) is a professor at an accredited four-year institution of higher education in Texas.
- (g) The commissioner shall notify the SBOE of the proposed appointments. The commissioner shall assign each appointee to the SBOE district in which he or she resides.
- (h) An SBOE member may reject the proposed appointment of a panel member representing that member's SBOE district by notifying the commissioner via electronic mail within five business days of receiving the proposed appointment list. Failure to reject a proposed appointment within five business days constitutes consent for the appointment.
- (i) After close of the five-business-day period under subsection (h) of this section, the commissioner may propose additional members if necessary. The commissioner shall provide to the SBOE member who represents the district of residence for each additional proposed panel member the opportunity for review of additional members in accordance with the time period and rejection rules under subsection (h) of this section. The SBOE shall be notified of finalized appointments made by the commissioner to state review panels. The final list of a3 -1.14oh22 (t)6.9 (e)4.2 (r)1.7 (e)4.257 e [por]1.(a)4.2 (y)eg2 (bea)4.2 (tv e)-2.8 4 (e)4.25.1 (a)4.

(6) at the conclusion of the review process, certify to the

§66.39. Regional Education Service Centers: Procedures for Handling Samples; Public Access to Samples.

- (a) Each regional education service center (ESC) executive director shall designate one person to supervise all access to samples of instructional materials.
- (b) On or before the date specified in the schedule of adoption procedures, each ESC representative shall notify the commissioner of education of all irregularities in electronic samples in a manner designated by the commissioner. The appropriate publisher shall be notified of any sample irregularities reported by the ESCs.
- (c) One electronic sample of all instructional materials under consideration for adoption shall be retained in each ESC for review by interested persons. The review sample must remain available until the ESC receives the electronic final adopted product sample on the date specified in the schedule of adoption procedures.
- (d) Appropriate information, such as locator and login information and passwords, shall be made available by the ESCs to ensure public access to Internet-based instructional content throughout the review or contonseres.iS5.1BDC4 47C

State Adoption of Instructional Materials**§66.B.**

- (d) New content may be provided as print samples, electronic samples in an open file format or closed format, or galley proofs for review by the state review panels.
- (e) New content must be provided to the review panels as quickly as possible and within the timeframe established by the TEA.
- (f) Electronic samples of new content approved by the review panels for the purpose of making the product eligible for adoption shall be submitted to the TEA and each education service center prior to the adoption of instructional materials. New content submitted under this subsection must be submitted by the deadline established in the schedule of adoption procedures in the proclamation.
- (g) If a publisher receives a request or a "no report" from a panel, the publisher shall be given no less than 48 hours to provide content in response to the request or report.

Statutory Authority: The provisions of this §66.41 issued under the Texas Education Code, §§7.102, 31.002, 31.003, 31.005, 31.022, 31.0221, 31.023, 31.024, 31.0241, 31.0242, 31.026, 31.0261, and 31.035

§66.B.

- (2) less than 50% of the TEKS or TPG for the subject and grade for which the product is intended and/or less than 100% of the ELPS designated for the subject and grade for which the product is intended.
- (e) Upon the conclusion of the period of time designated for show-cause hearings, the commissioner shall submit to the State Board of Education (SBOE) a final report regarding TEKS or TPG and ELPS coverage, alleged factual errors identified by either the publisher or the review panel, and information regarding whether a publisher on the list has refused to rebid instructional materials according to §66.72 of this title (relating to Contracts).

Statutory Authority: The provisions of this §66.63 issued under the Texas Education Code, §§7.102, 31.003, 31.005, 31.022, 31.0221, 31.023, 31.024, 31.0241, 31.0242, 31.026, 31.0261, and 31.035.

Source: The provisions of this §66.63 adopted to be effective September 1, 1996, 21 TexReg 7236; amended to be effective December 25, 2007, 32 TexReg 9611; amended to be effective February 22, 2010, 35 TexReg 1454; amended to be effective July 8, 2012, 37 TexReg 4911; amended to be effective March 13, 2014, 39 TexReg 1709; amended to be effective May 5, 2016, 41 TexReg 3137; amended to be effective March 24, 2020, 45 TexReg 1989.

§66.66. Consideration and Adoption of Instructional Materials by the State Board of Education.

- (a) The State Board of Education (SBOE) shall either adopt or reject each submitted instructional material in accordance with the Texas Education Code (TEC), §31.024.
- (b) The SBOE shall adopt instructional materials in accordance with the TEC, §31.023. Instructional materials may be adopted only if:
 - (1) they meet at least 50% of the Texas essential knowledge and skills (TEKS) or Texas Prekindergarten Guidelines (TPG) when the SBOE calls for materials as specified in §66.27(c)(1) of this title (relating to Proclamation, Public Notice, and Schedule for Adopting Instructional Materials) or meet requirements of the proclamation when the SBOE calls for materials as specified in §66.27(c)(2) or (3) of this title for the subject and grade level or course(s) in materials designed for student use and materials designed for teacher use. In determining the percentage of the TEKS or TPG covered by instructional materials, each student expectation shall count as an independent element of the TEKS or TPG;
 - (2) the publisher has agreed to ensure that they meet the established physical specifications adopted by the SBOE prior to making materials available for use in districts;
 - (3) the publisher has agreed to ensure that they follow the Web Content Accessibility Guidelines (WCAG) and technical specifications of the Federal Rehabilitation Act, Section 508, as specified in the proclamation;
 - (4) they are free from factual errors, including significant grammatical or punctuation errors that have been determined to impede student learning or that make the product of a quality not acceptable in Texas public schools, or the publisher has agreed to correct any identified factual errors or grammatical or punctuation errors that have been determined to impede student learning, prior to making them available for use in districts and charter schools;
 - (5) they are deemed to be suitable for the subject area and grade level.

§66.B.

State Adoption of Instructional Materials

- (f) A publisher may withdraw from the adoption process at any time prior to execution of a contract with the SBOE for any reason by providing notification in writing to the commissioner of education. Notification of withdrawal is final and irrevocable.
- (g) The commissioner may remove materials from the adopted list if the publisher fails to meet deadlines established in the schedule of adoption procedures.

Statutory Authority: The provisions of this §66.66 issued under the Texas Education Code, §§7.102, 31.002, 31.003, 31.005, 31.022, 31.0221, 31.023, 31.024, 31.0241, 31.0242, 31.026, 31.0261, and 31.035.

Source: The provisions of this §66.66 adopted to be effective September 1, 1996, 21 TexReg 7236; amended to be

- (e) All information and certifications required by subsection (d) of this section shall be provided in a format designated by the commissioner of education.
- (f) A publisher that offers open education resource instructional materials must provide a report for each electronic component that verifies that the component substantially follows Web Content Accessibility Guidelines (WCAG) and technical standards required by the Federal Rehabilitation Act, Section 508, as applicable. Specific standards that must be met will be specified in each proclamation.
- (g) Before placing open education resource instructional materials submitted under subsection (b) of this section on the adopted list, the SBOE shall direct the Texas Education Agency (TEA) to post the materials on the TEA website for 60 days to allow for public comment and the SBOE shall hold a public hearing on the instructional materials. Public comment shall be provided to members of the SBOE and posted on the TEA website within five working days of its receipt.
- (h) Not later than the 90th day after the date open education resource instructional materials are submitted as

§66.B.

State Adoption of Instructional Materials

- (2) availability and projected cost of new instructional materials;
 - (3) willingness of publishers to renew contracts; and
 - (4) cost of instructional materials under a renewal contract.
- (g) Publishers awarded new contracts shall be prepared to make the adopted instructional materials available for at least one extended contract 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 one time. Failure of a publisher to negotiate an acceptable price for an extended contract shall not be considered failure to rebid instructional materials.
- (h) Contracts with publishers are subject to all provisions of the Texas Education Code (TEC), Chapter 31.
- (i) The SBOE may execute a contract for the printing of open education resource instructional materials on the adopted list that allows a school district or an open-enrollment charter school to requisition printed copies of open education resource instructional materials as provided by the TEC, §31.103.

Statutory Authority: The provisions of this §66.72 issued under the Texas Education Code, §§7.102, 31.002, 31.003, 31.005, 31.022, 31.0221, 31.023, 31.024, 31.0241, 31.0242, 31.026, 31.0261, and 31.035.

- (2) certify in writing that the new material meets the applicable essential knowledge and skills and is free from factual errors; and
- (3) certify that the updates do not affect the prodpir /Typeif

