

EDUCATION CODE

TITLE 2. PUBLIC EDUCATION

SUBTITLE F. CURRICULUM, PROGRAMS, AND SERVICES

CHAPTER 31. INSTRUCTIONAL MATERIALS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 31.001. FREE INSTRUCTIONAL MATERIALS. Instructional materials selected for use in the public schools shall be furnished without cost to the students attending those schools. Except as provided by Section 31.104(d), a school district may not charge a student for instructional material or technological equipment purchased by the district with the district's instructional materials and technology allotment.

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. 18, eff. July 19, 2011.

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. 810), Sec. 1, eff. June 9, 2017.

Acts 2017, 85th Leg., R.S., Ch. 705 (H.B. 3526), Sec. 1, eff. June 12, 2017.

Reenacted by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 5.003, eff. September 1, 2019.

Sec. 31.002. DEFINITIONS. In this chapter:

(1) "Instructional material" means 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, on-line services, or an electronic medium, or other means of conveying information to the student or otherwise contributing to the learning process through electronic means, including open education resource instructional material.

(1-a) "Open education resource instructional

material" means teaching, learning, and research resources that reside in the public domain or have been released under an intellectual property license that allows for free use, reuse, modification, and sharing with others, including full courses, course materials, modules, textbooks, streaming videos, tests, software, and any other tools, materials, or techniques used to support access to knowledge. The term includes state-developed open education resource instructional material purchased under Subchapter B-1.

(2) "Publisher" includes an on-line service or a developer or distributor of electronic instructional materials.

(3) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 6, Sec. 67(1), eff. July 19, 2011.

(4) "Technological equipment" means hardware, a device, or equipment necessary for:

(A) instructional use in the classroom, including to gain access to or enhance the use of electronic instructional materials; or

(B) professional use by a classroom teacher.

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

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 679 (H.B. 2488), Sec. 1, eff. September 1, 2009.

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

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 67(1), eff. July 19, 2011.

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. 810), Sec. 2, eff. June 9, 2017.

Acts 2017, 85th Leg., R.S., Ch. 942 (S.B. 1784), Sec. 1, eff. June 15, 2017.

Sec. 31.003. RULES. The State Board of Education may adopt rules, consistent with this chapter, for the adoption, requisition, distribution, care, use, and disposal of instructional materials.

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.

Sec. 31.004. CERTIFICATION OF PROVISION OF INSTRUCTIONAL MATERIALS. (a) Each school district and open-enrollment charter school shall annually certify to the State Board of Education and the commissioner that, for each subject in the required curriculum under Section 28.002, other than physical education, and each grade level, the district provides each student with instructional materials that cover all elements of the essential knowledge and skills adopted by the State Board of Education for that subject and grade level.

(b) To determine whether each student has instructional materials that cover all elements of the essential knowledge and skills as required by Subsection (a), a school district or open-enrollment charter school may consider:

(1) instructional materials adopted by the State Board of Education;

(2) materials adopted or purchased by the commissioner under Section 31.0231 or Subchapter B-1;

(3) open education resource instructional materials submitted by eligible institutions and adopted by the State Board of Education under Section 31.0241;

(4) open education resource instructional materials made available by other public schools;

(5) instructional materials developed or purchased by the school district or open-enrollment charter school; and

(6) open education resource instructional materials and other electronic instructional materials included in the repository under Section 31.083.

Added by Acts 2009, 81st Leg., R.S., Ch. 679 (H.B. 2488), Sec. 2, eff. September 1, 2009.

Amended by:

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

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. 810), Sec. 3, eff. June 9, 2017.

Acts 2017, 85th Leg., R.S., Ch. 705 (H.B. [3526](#)), Sec. 2, eff. June 12, 2017.

Sec. 31.005. FUNDING FOR OPEN-ENROLLMENT CHARTER SCHOOLS. An open-enrollment charter school is entitled to the instructional materials and technology allotment under this chapter and is subject to this chapter as if the school were a school district.

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

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. [810](#)), Sec. 4, eff. June 9, 2017.

Acts 2017, 85th Leg., R.S., Ch. 705 (H.B. [3526](#)), Sec. 3, eff. June 12, 2017.

Reenacted by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. [4170](#)), Sec. 5.004, eff. September 1, 2019.

SUBCHAPTER B. STATE FUNDING, ADOPTION, AND PURCHASE

Sec. 31.021. STATE INSTRUCTIONAL MATERIALS AND TECHNOLOGY FUND. (a) The state instructional materials and technology fund consists of:

(1) an amount set aside by the State Board of Education from the available school fund, in accordance with Section [43.001\(d\)](#); and

(2) all amounts lawfully paid into the fund from any other source.

(c) Money in the state instructional materials and technology fund shall be used to:

(1) fund the instructional materials and technology allotment, as provided by Section [31.0211](#);

(2) purchase special instructional materials for the education of blind and visually impaired students in public schools;

(3) pay the expenses associated with the instructional materials adoption and review process under this chapter;

(4) pay the expenses associated with the purchase or licensing of open education resource instructional material;

(5) pay the expenses associated with the purchase of instructional material, including freight and shipping and the insurance expenses associated with freight and shipping;

(6) fund the technology lending grant program established under Section [32.301](#);

(7) provide funding to the Texas School for the Blind and Visually Impaired, the Texas School for the Deaf, and the Texas Juvenile Justice Department; and

(8) pay the expenses associated with the instructional materials web portal developed under Section [31.081](#).

(d) Money transferred to the state instructional materials and technology fund remains in the fund until spent and does not lapse to the state at the end of the fiscal year.

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

Amended by Acts 1997, 75th Leg., ch. 258, Sec. 1, 2, eff. May 26, 1997; Acts 2003, 78th Leg., ch. 201, Sec. 20, eff. June 10, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1339 (S.B. [151](#)), Sec. 2, eff. June 18, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1407 (H.B. [4294](#)), Sec. 2, eff. June 19, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. [6](#)), Sec. 22, eff. July 19, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. [6](#)), Sec. 67(2), eff. July 19, 2011.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. [1549](#)), Sec. 31, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. [810](#)), Sec. 4, eff. June 9, 2017.

Acts 2017, 85th Leg., R.S., Ch. 705 (H.B. [3526](#)), Sec. 4, eff. June 12, 2017.

Reenacted by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. [4170](#)), Sec. 5.005(a), eff. September 1, 2019.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 724 (H.B. [396](#)), Sec. 1, eff.

September 1, 2019.

Sec. 31.0211. INSTRUCTIONAL MATERIALS AND TECHNOLOGY ALLOTMENT. (a) A school district is entitled to an allotment each biennium from the state instructional materials and technology fund for each student enrolled in the district on a date during the last year of the preceding biennium specified by the commissioner. The commissioner shall determine the amount of the allotment per student each biennium on the basis of the amount of money available in the state instructional materials and technology fund to fund the allotment. An allotment under this section shall be transferred from the state instructional materials and technology fund to the credit of the district's instructional materials and technology account as provided by Section 31.0212.

(b) A juvenile justice alternative education program under Section 37.011 is entitled to an allotment from the state instructional materials and technology fund in an amount determined by the commissioner. The program shall use the allotment to purchase items listed in Subsection (c) for students enrolled in the program. The commissioner's determination under this subsection is final and may not be appealed.

(c) Subject to Subsection (d), funds allotted under this section may be used to:

(1) purchase:

(A) materials on the list adopted by the commissioner, as provided by Section 31.0231;

(B) instructional materials, regardless of whether the instructional materials are on the list adopted under Section 31.024;

(C) consumable instructional materials, including workbooks;

(D) instructional materials for use in bilingual education classes, as provided by Section 31.029;

(E) instructional materials for use in college preparatory courses under Section 28.014, as provided by Section 31.031;

(F) supplemental instructional materials, as

provided by Section 31.035;

(G) state-developed open education resource instructional materials, as provided by Subchapter B-1;

(H) instructional materials and technological equipment under any continuing contracts of the district in effect on September 1, 2011;

(I) technological equipment necessary to support the use of materials included on the list adopted by the commissioner under Section 31.0231 or any instructional materials purchased with an allotment under this section; and

(J) inventory software or systems for storing, managing, and accessing instructional materials and analyzing the usage and effectiveness of the instructional materials; and

(2) pay:

(A) for training educational personnel directly involved in student learning in the appropriate use of instructional materials and for providing for access to technological equipment for instructional use; and

(B) the salary and other expenses of an employee who provides technical support for the use of technological equipment directly involved in student learning.

(d) Each biennium a school district shall use the district's allotment under this section to purchase, in the following order:

(1) instructional materials necessary to permit the district to certify that the district has instructional materials that cover all elements of the essential knowledge and skills of the required curriculum, other than physical education, for each grade level as required by Section 28.002; and

(2) any other instructional materials or technological equipment as determined by the district.

(e) Not later than May 31 of each school year, a school district may request that the commissioner adjust the number of students for which the district is entitled to receive an allotment under Subsection (a) on the grounds that the number of students attending school in the district will increase or decrease during the school year for which the allotment is provided. The commissioner may also adjust the number of students for which a

district is entitled to receive an allotment, without a request by the district, if the commissioner determines a different number of students is a more accurate reflection of students who will be attending school in the district. The commissioner's determination under this subsection is final.

(f) The commissioner may adopt rules as necessary to implement this section.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 23, eff. July 19, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 211 (H.B. 5), Sec. 26(a), eff. June 10, 2013.

Acts 2015, 84th Leg., R.S., Ch. 731 (H.B. 1474), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. 810), Sec. 5, eff. June 9, 2017.

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. 810), Sec. 6, eff. June 9, 2017.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 5.007, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 724 (H.B. 396), Sec. 2, eff. September 1, 2019.

Reenacted by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 5.006, eff. September 1, 2019.

Sec. 31.0212. INSTRUCTIONAL MATERIALS AND TECHNOLOGY ACCOUNT. (a) The commissioner shall maintain an instructional materials and technology account for each school district. In the first year of each biennium, the commissioner shall deposit in the account for each district the amount of the district's instructional materials and technology allotment under Section 31.0211.

(b) The commissioner shall pay the cost of instructional materials requisitioned by a school district under Section 31.103 using funds from the district's instructional materials and technology account.

(c) A school district may also use funds in the district's

account to purchase electronic instructional materials or technological equipment. The district shall submit to the commissioner a request for funds for this purpose from the district's account. The commissioner shall adopt rules regarding the documentation a school district must submit to receive funds under this subsection.

(d) Money deposited in a school district's instructional materials and technology account during each state fiscal biennium remains in the account and available for use by the district for the entire biennium. At the end of each biennium, a district with unused money in the district's account may carry forward any remaining balance to the next biennium.

(e) The commissioner shall adopt rules as necessary to implement this section. The rules must include a requirement that a school district provide the title and publication information for any instructional materials requisitioned or purchased by the district with the district's instructional materials and technology allotment.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 23, eff. July 19, 2011.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 731 (H.B. 1474), Sec. 2, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. 810), Sec. 7, eff. June 9, 2017.

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. 810), Sec. 8, eff. June 9, 2017.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 5.009, eff. September 1, 2019.

Reenacted by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 5.008, eff. September 1, 2019.

Sec. 31.0213. CERTIFICATION OF USE OF INSTRUCTIONAL MATERIALS AND TECHNOLOGY ALLOTMENT. Each school district shall annually certify to the commissioner that the district's instructional materials and technology allotment has been used only for expenses allowed by Section 31.0211.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 23, eff. July 19, 2011.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. 810), Sec. 9, eff. June 9, 2017.

Acts 2017, 85th Leg., R.S., Ch. 705 (H.B. 3526), Sec. 9, eff. June 12, 2017.

Reenacted by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 5.010, eff. September 1, 2019.

Sec. 31.0214. ADJUSTMENT FOR HIGH ENROLLMENT GROWTH DISTRICTS.

(a) Each year the commissioner shall adjust the instructional materials and technology allotment of school districts experiencing high enrollment growth. The commissioner shall establish a procedure for determining high enrollment growth districts eligible to receive an adjustment under this section and the amount of the instructional materials and technology allotment those districts will receive.

(b) The commissioner may adopt rules as necessary to implement this section.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 23, eff. July 19, 2011.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. 810), Sec. 10, eff. June 9, 2017.

Acts 2017, 85th Leg., R.S., Ch. 705 (H.B. 3526), Sec. 10, eff. June 12, 2017.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 5.011, eff. September 1, 2019.

Sec. 31.0215. INSTRUCTIONAL MATERIALS AND TECHNOLOGY ALLOTMENT PURCHASES. (a) The commissioner shall, as early as practicable during each biennium, notify each school district and open-enrollment charter school of the estimated amount to which the district or charter school will be entitled under Section 31.0211 during the next fiscal biennium.

(b) The commissioner may allow a school district or open-enrollment charter school to place an order for instructional materials before the beginning of a fiscal biennium and to receive instructional materials before payment. The commissioner shall limit the cost of an order placed under this section to 80 percent of the estimated amount to which a school district or open-enrollment charter school is estimated to be entitled as provided by Subsection (a) and shall first credit any balance in a district or charter school instructional materials and technology account to pay for an order placed under this section.

(c) The commissioner shall make payments for orders placed under this section as funds become available to the instructional materials and technology fund and shall prioritize payment of orders placed under this section over reimbursement of purchases made directly by a school district or open-enrollment charter school.

(d) The commissioner shall ensure that publishers of instructional materials are informed of any potential delay in payment and that payment is subject to the availability of appropriated funds. A publisher may decline to accept an order placed under this section.

(e) Chapter [2251](#), Government Code, does not apply to purchases of instructional materials under this section.

(f) The commissioner may adopt rules to implement this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 211 (H.B. [5](#)), Sec. 27, eff. June 10, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 731 (H.B. [1474](#)), Sec. 3, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. [810](#)), Sec. 11, eff. June 9, 2017.

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. [810](#)), Sec. 12, eff. June 9, 2017.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. [4170](#)), Sec. 5.013, eff. September 1, 2019.

Reenacted by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. [4170](#)), Sec.

5.012, eff. September 1, 2019.

Sec. 31.022. INSTRUCTIONAL MATERIALS REVIEW AND ADOPTION.

(a) The State Board of Education shall adopt a review and adoption cycle for instructional materials for elementary grade levels, including prekindergarten, and secondary grade levels, for each subject in the required curriculum under Section 28.002. In adopting the cycle, the board:

(1) is not required to review and adopt instructional materials for all grade levels in a single year; and

(2) shall give priority to instructional materials in the following subjects:

(A) foundation curriculum subjects for which the essential knowledge and skills have been substantially revised and for which assessment instruments are required under Subchapter B, Chapter 39, including career and technology courses that satisfy foundation curriculum requirements as provided by Section 28.002(n);

(B) foundation curriculum subjects for which the essential knowledge and skills have been substantially revised, including career and technology courses that satisfy foundation curriculum requirements as provided by Section 28.002(n);

(C) foundation curriculum subjects not described by Paragraph (A) or (B), including career and technology courses that satisfy foundation curriculum requirements as provided by Section 28.002(n); and

(D) enrichment curriculum subjects.

(b) The board shall organize the cycle for subjects in the foundation curriculum so that not more than one-fourth of the instructional materials for subjects in the foundation curriculum are reviewed each biennium. The board shall adopt rules to provide for a full and complete investigation of instructional materials for each subject in the foundation curriculum every eight years. The adoption of instructional materials for a subject in the foundation curriculum may be extended beyond the eight-year period only if the content of instructional materials for a subject is sufficiently current.

(c) The board shall adopt rules to provide for a full and complete investigation of instructional materials for each subject in the enrichment curriculum on a cycle the board considers appropriate.

(d) At least 12 months before the beginning of the school year for which instructional materials for a particular subject and grade level will be adopted under the review and adoption cycle, the board shall publish notice of the review and adoption cycle for those instructional materials. A request for production must allow submission of open education resource instructional materials that are available for use by the state without charge on the same basis as instructional materials offered for sale.

(d-1) A notice published under Subsection (d) must state that a publisher of adopted instructional materials for a grade level other than prekindergarten must submit an electronic sample of the instructional materials as required by Sections 31.027(a) and (b) and may not submit a print sample copy.

(e) The board shall designate a request for production of instructional materials in a subject area and grade level by the school year in which the instructional materials are intended to be made available in classrooms and not by the school year in which the board makes the request for production.

(f) The board shall amend any request for production issued for the purchase of instructional materials to conform to the instructional materials funding levels provided by the General Appropriations Act for the year of implementation.

(g) In reviewing and adopting instructional materials, the board shall consider a school district's need for technology as well as instructional materials and in any biennium may limit the adoption of instructional materials to provide sufficient resources to purchase technology resources, including digital curriculum.

(h) The board shall include information regarding open education resource instructional materials during the adoption cycle, including any cost savings associated with the adoption of open education resource instructional materials.

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. 2, eff. June 16, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1407 (H.B. 4294), Sec. 3, eff. June 19, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 24, eff. July 19, 2011.

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. 810), Sec. 13, eff. June 9, 2017.

Sec. 31.0221. MIDCYCLE REVIEW AND ADOPTION OF INSTRUCTIONAL MATERIALS. (a) The State Board of Education shall adopt rules for the midcycle review and adoption of instructional material for a subject for which instructional materials are not currently under review by the board under Section 31.022. The rules must require:

(1) the publisher of the instructional material to pay a fee to the board to cover the cost of the midcycle review and adoption of the instructional material;

(2) the publisher of the instructional material to enter into a contract with the board concerning the instructional material for a term that ends at the same time as any contract entered into by the board for other instructional materials for the same subject and grade level; and

(3) a commitment from the publisher to provide the instructional material to school districts in the manner specified by the publisher, which may include:

(A) providing the instructional material to any district in a regional education service center area identified by the publisher; or

(B) providing a certain maximum number of instructional materials specified by the publisher.

(b) Sections 31.023 and 31.024 apply to instructional material adopted under this section. Section 31.027 does not apply to instructional material adopted under this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 445 (H.B. 188), Sec. 3, eff. June 16, 2007.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 25, eff. July 19, 2011.

Sec. 31.023. INSTRUCTIONAL MATERIAL LIST. (a) For each subject and grade level, the State Board of Education shall adopt a list of instructional materials. The list includes each instructional material submitted for the subject and grade level that meets applicable physical specifications adopted by the State Board of Education and contains material covering at least half of the elements of the essential knowledge and skills of the subject and grade level in the student version of the instructional material, as well as in the teacher version of the instructional material, as determined by the State Board of Education under Section 28.002 and adopted under Section 31.024.

(a-1) The State Board of Education shall determine the percentage of the elements of the essential knowledge and skills of the subject and grade level covered by each instructional material submitted. The board's determination under this subsection is final.

(b) Each instructional material on the list must be:

(1) free from factual errors;

(2) suitable for the subject and grade level for which the instructional material was submitted; and

(3) reviewed by academic experts in the subject and grade level for which the instructional material was submitted.

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.

Sec. 31.0231. COMMISSIONER'S LIST. (a) The commissioner shall adopt a list of:

(1) electronic instructional material; and

(2) material that conveys information to the student or otherwise contributes to the learning process, including tools, models, and investigative materials designed for use as part of the foundation curriculum for:

(A) science in kindergarten through grade five; and

(B) personal financial literacy in kindergarten through grade eight.

(b) A school district may select material on the list adopted under Subsection (a) to be funded by the district's instructional materials and technology allotment under Section [31.0211](#).

(c) Before the commissioner places material on the list adopted under Subsection (a), the State Board of Education must be given an opportunity to comment on the material. If the commissioner places material on the list adopted under Subsection (a), the State Board of Education may, not later than the 90th day after the date the material is placed on the list, require the commissioner to remove the material from the list. Material placed on the list adopted under Subsection (a):

(1) must be reviewed and recommended to the commissioner by a panel of recognized experts in the subject area of the material and experts in education technology;

(2) must satisfy criteria adopted for the purpose by commissioner rule; and

(3) must meet the National Instructional Materials Accessibility Standard, to the extent practicable as determined by the commissioner.

(d) The criteria adopted under Subsection (c)(2) must:

(1) include evidence of alignment with current research in the subject for which the material is intended to be used;

(2) include coverage of the essential knowledge and skills identified under Section [28.002](#) for the subject for which the material is intended to be used and identify:

(A) each of the essential knowledge and skills for the subject and grade level or levels covered by the material;

and

(B) the percentage of the essential knowledge and skills for the subject and grade level or levels covered by the material; and

(3) include appropriate training for teachers.

(e) The commissioner shall update, as necessary, the list adopted under Subsection (a). Before the commissioner places material on the updated list, the requirements of Subsection (c) must be met.

(f) After notice to the commissioner explaining in detail the changes, the provider of material on the list adopted under Subsection (a) may update the navigational features or management system related to the material.

(g) After notice to the commissioner and a review by the commissioner, the provider of material on the list adopted under Subsection (a) may update the content of the material if needed to accurately reflect current knowledge or information.

(h) The commissioner shall adopt rules as necessary to implement this section. The rules must:

(1) be consistent with Section [31.151](#) regarding the duties of publishers and manufacturers, as appropriate, and the imposition of a reasonable administrative penalty; and

(2) require public notice of an opportunity for the submission of material.

Added by Acts 2009, 81st Leg., R.S., Ch. 1407 (H.B. [4294](#)), Sec. 4, eff. June 19, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 885 (S.B. [290](#)), Sec. 2, eff. June 17, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. [6](#)), Sec. 27, eff. July 19, 2011.

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. [810](#)), Sec. 14, eff. June 9, 2017.

Acts 2017, 85th Leg., R.S., Ch. 705 (H.B. [3526](#)), Sec. 13, eff. June 12, 2017.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. [4170](#)), Sec. 5.014, eff. September 1, 2019.

Sec. 31.024. ADOPTION BY STATE BOARD OF EDUCATION. (a) By majority vote, the State Board of Education shall:

(1) place each submitted instructional material on the list adopted under Section 31.023; or

(2) reject instructional material submitted for placement on that list.

(b) Not later than December 1 of the year preceding the school year for which the instructional materials for a particular subject and grade level will be purchased under the cycle adopted by the board under Section 31.022, the board shall provide the list of adopted instructional materials to each school district.

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. 28, eff. July 19, 2011.

Sec. 31.0241. ADOPTION OF OPEN EDUCATION RESOURCE INSTRUCTIONAL MATERIALS. (a) In this section, "eligible institution" means:

(1) a public institution of higher education that is designated as a research university or emerging research university under the higher education coordinating board's accountability system, or a private university located in this state that is a member of the Association of American Universities; or

(2) a public technical institute, as defined by Section 61.003.

(b) The State Board of Education shall place open education resource instructional material for a secondary-level course submitted for adoption by an eligible institution on the list adopted under Section 31.023 if:

(1) the instructional material is written, compiled, or edited primarily by faculty of the eligible institution who specialize in the subject area of the instructional material;

(2) the eligible institution identifies each contributing author;

(3) the appropriate department of the eligible

institution certifies the instructional material for accuracy; and

(4) the eligible institution determines that the instructional material qualifies for placement on the list based on the extent to which the instructional material covers the essential knowledge and skills identified under Section 28.002 for the subject for which the instructional material is written and certifies that:

(A) for instructional material for a senior-level course, a student who successfully completes a course based on the instructional material will be prepared, without remediation, for entry into the eligible institution's freshman-level course in that subject; or

(B) for instructional material for a junior-level and senior-level course, a student who successfully completes the junior-level course based on the instructional material will be prepared for entry into the senior-level course.

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

Added by Acts 2009, 81st Leg., R.S., Ch. 679 (H.B. 2488), Sec. 3, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 30, eff. July 19, 2011.

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. 810), Sec. 15, eff. June 9, 2017.

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. 810), Sec. 16, eff. June 9, 2017.

Sec. 31.0242. REVIEW OF OPEN EDUCATION RESOURCE INSTRUCTIONAL MATERIAL. Not later than the 90th day after the date open education resource instructional material is submitted as provided by Section 31.0241, the State Board of Education may review the instructional material. The board shall:

(1) post with the list adopted under Section 31.023 comments made by the board regarding the open education resource

instructional material placed on the list; and

(2) distribute board comments to school districts.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 31, eff. July 19, 2011.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. 810), Sec. 17, eff. June 9, 2017.

Sec. 31.026. CONTRACT; PRICE. (a) The State Board of Education shall execute a contract for the purchase or licensing of each adopted instructional material.

(b) A contract must require the publisher to provide the number of instructional materials required by school districts in this state for the term of the contract, which must coincide with the board's adoption cycle.

(c) As applicable, a contract must provide for the purchase or licensing of instructional material at a specific price, which may not exceed the lowest price paid by any other state or any school or school district. The price must be fixed for the term of the contract.

(d) This section does not apply to open education resource instructional material.

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

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 679 (H.B. 2488), Sec. 4, eff. September 1, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 32, eff. July 19, 2011.

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. 810), Sec. 18, eff. June 9, 2017.

Sec. 31.0261. CONTRACTS FOR PRINTING OF OPEN EDUCATION RESOURCE INSTRUCTIONAL MATERIALS. The State Board of Education may execute a contract for the printing of open education resource instructional materials placed on the list adopted under Section 31.023. The contract must allow a school district to requisition printed copies of open education resource instructional materials

as provided by Section 31.103.

Added by Acts 2009, 81st Leg., R.S., Ch. 679 (H.B. 2488), Sec. 5, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 33, eff. July 19, 2011.

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. 810), Sec. 19, eff. June 9, 2017.

Sec. 31.027. INFORMATION TO SCHOOL DISTRICTS; ELECTRONIC SAMPLE. (a) A publisher shall provide each school district and open-enrollment charter school with information that fully describes each of the publisher's submitted instructional materials. On request of a school district, a publisher shall provide an electronic sample of submitted instructional material.

(b) A publisher shall provide an electronic sample of each submitted instructional material to be maintained at each regional education service center.

(c) This section does not apply to open education resource instructional material.

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

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 679 (H.B. 2488), Sec. 6, eff. September 1, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 34(a), eff. July 19, 2011.

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. 810), Sec. 20, eff. June 9, 2017.

Sec. 31.028. SPECIAL INSTRUCTIONAL MATERIALS. (a) The commissioner may purchase special instructional materials for the education of blind and visually impaired students in public schools. In addition, for a teacher who is blind or visually impaired, the commissioner shall provide a teacher's edition in Braille or large type, as requested by the teacher, for each instructional material the teacher uses in the instruction of students. The teacher edition must be available at the same time

the student instructional materials become available.

(b) The publisher of adopted instructional material shall provide the agency with computerized instructional material files for the production of Braille instructional materials or other versions of instructional materials to be used by students with disabilities, on request of the commissioner. A publisher shall arrange computerized instructional material files in one of several optional formats specified by the commissioner.

(c) The commissioner may also enter into agreements providing for the acceptance, requisition, and distribution of special instructional materials and instructional aids pursuant to 20 U.S.C. Section 101 et seq. for use by students enrolled in:

- (1) public schools; or
- (2) private nonprofit schools, if state funds, other than for administrative costs, are not involved.

(d) In this section:

(1) "Blind or visually impaired student" includes any student whose visual acuity is impaired to the extent that the student is unable to read the text in regularly adopted instructional material used in the student's class.

(2) "Special instructional material" means instructional material in Braille, large type or any other medium or any apparatus that conveys information to a student or otherwise contributes to the learning process.

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. 35, eff. July 19, 2011.

Sec. 31.029. BILINGUAL INSTRUCTIONAL MATERIALS.

(a) A school district shall purchase with the district's instructional materials and technology allotment or otherwise acquire instructional materials for use in bilingual education classes.

(b) The commissioner shall adopt rules regarding the purchase of instructional materials under this section.

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. 36, eff. July 19, 2011.

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. 810), Sec. 21, eff. June 9, 2017.

Acts 2017, 85th Leg., R.S., Ch. 705 (H.B. 3526), Sec. 14, eff. June 12, 2017.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 5.015, eff. September 1, 2019.

Sec. 31.030. USED INSTRUCTIONAL MATERIALS. The State Board of Education shall adopt rules to ensure that used instructional materials sold to school districts and open-enrollment charter schools are not sample copies that contain factual errors. The rules may provide for the imposition of an administrative penalty in accordance with Section 31.151 against a seller of used instructional materials who knowingly violates this section.

Added by Acts 2001, 77th Leg., ch. 805, Sec. 2, eff. June 14, 2001.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 37, eff. July 19, 2011.

Sec. 31.031. COLLEGE PREPARATORY INSTRUCTIONAL MATERIALS.

(a) A school district may purchase with the district's instructional materials and technology allotment or otherwise acquire instructional materials for use in college preparatory courses under Section 28.014.

(b) The commissioner shall adopt rules regarding the purchase of instructional materials under this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 211 (H.B. 5), Sec. 28(a), eff. June 10, 2013.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. 810), Sec. 22, eff. June 9, 2017.

Acts 2017, 85th Leg., R.S., Ch. 705 (H.B. 3526), Sec. 15, eff. June 12, 2017.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 5.016,

eff. September 1, 2019.

Sec. 31.035. SUPPLEMENTAL INSTRUCTIONAL MATERIALS.

(a) Notwithstanding any other provision of this subchapter, the State Board of Education may adopt supplemental instructional materials that are not on the list adopted under Section 31.023. The State Board of Education may adopt supplemental instructional material under this section only if the instructional material:

(1) contains material covering one or more primary focal points or primary topics of a subject in the required curriculum under Section 28.002, as determined by the State Board of Education;

(2) is not designed to serve as the sole instructional material for a full course;

(3) meets applicable physical specifications adopted by the State Board of Education;

(4) is free from factual errors;

(5) is suitable for the subject and grade level; and

(6) is reviewed by academic experts in the subject and grade level.

(b) The State Board of Education shall identify the essential knowledge and skills identified under Section 28.002 that are covered by supplemental instructional material adopted by the board under this section.

(c) Supplemental instructional material is subject to the review and adoption cycle provisions, including the midcycle review and adoption cycle provisions, of this subchapter.

(d) A school district or open-enrollment charter school may requisition supplemental instructional material adopted under this section only if the district or school requisitions the supplemental instructional material along with other supplemental instructional materials or instructional materials on the list adopted under Section 31.023 that in combination cover each element of the essential knowledge and skills for the course for which the district or school is requisitioning the supplemental instructional materials.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 6, Sec. 67(5), eff. July 19, 2011.

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

(g) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 6, Sec. 67(5), eff. July 19, 2011.

Added by Acts 2007, 80th Leg., R.S., Ch. 445 (H.B. 188), Sec. 5, eff. June 16, 2007.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 38, eff. July 19, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 39, eff. July 19, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 67(5), eff. July 19, 2011.

Acts 2017, 85th Leg., R.S., Ch. 578 (S.B. 801), Sec. 2, eff. September 1, 2017.

SUBCHAPTER B-1. STATE-DEVELOPED OPEN EDUCATION RESOURCE
INSTRUCTIONAL MATERIALS

Sec. 31.071. PURCHASE AUTHORITY. (a) The commissioner may purchase state-developed open education resource instructional materials in accordance with this subchapter.

(b) The commissioner:

(1) shall purchase any state-developed open education resource instructional materials through a competitive process; and

(2) may purchase more than one state-developed open education resource instructional material for a subject or grade

level.

(c) Except as provided by Section [31.0711](#), a state-developed open education resource instructional material must be irrevocably owned by the state. The state must have unlimited authority to modify, delete, combine, or add content to the instructional material after purchase.

(d) The commissioner may issue a request for proposals for state-developed open education resource instructional material:

(1) in accordance with the instructional material review and adoption cycle under Section [31.022](#); or

(2) at any other time the commissioner determines that a need exists for additional instructional material options.

(e) The costs of administering this subchapter and purchasing state-developed open education resource instructional materials shall be paid from the state instructional materials and technology fund, as determined by the commissioner.

Added by Acts 2009, 81st Leg., R.S., Ch. 679 (H.B. [2488](#)), Sec. 7, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. [6](#)), Sec. 41, eff. July 19, 2011.

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. [810](#)), Sec. 24, eff. June 9, 2017.

Acts 2017, 85th Leg., R.S., Ch. 705 (H.B. [3526](#)), Sec. 16, eff. June 12, 2017.

Acts 2017, 85th Leg., R.S., Ch. 942 (S.B. [1784](#)), Sec. 2, eff. June 15, 2017.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. [4170](#)), Sec. 5.017, eff. September 1, 2019.

Sec. 31.0711. CONTENT NOT OWNED BY STATE. Instructional material purchased under this subchapter may include content not owned by the state and for which preexisting rights may exist if the content:

(1) is in the public domain;

(2) may be used under a limitation or exception to copyright law, including a limitation under Section 107, Copyright

Act of 1976 (17 U.S.C. Section 107); or

(3) is licensed to the state under a license that:

(A) grants the state unlimited authority to modify, delete, combine, or add content;

(B) permits the free use and repurposing of the material by any person or entity; and

(C) is for a term of use acceptable to the commissioner to ensure a useful life of the material.

Added by Acts 2017, 85th Leg., R.S., Ch. 942 (S.B. [1784](#)), Sec. 3, eff. June 15, 2017.

Sec. 31.072. CONTENT REQUIREMENTS. (a) State-developed open education resource instructional material must:

(1) be evaluated by teachers or other experts, as determined by the commissioner, before purchase; and

(2) meet the requirements for inclusion on the instructional material list adopted under Section [31.023](#).

(b) Following a curriculum revision by the State Board of Education, the commissioner shall require the revision of state-developed open education resource instructional material relating to that curriculum. The commissioner may, at any time, require an additional revision of state-developed open education resource instructional material or contract for ongoing revisions of state-developed open education resource instructional material for a period not to exceed the period under Section [31.022](#) for which instructional material for that subject and grade level may be adopted. The commissioner shall use a competitive process to request proposals to revise state-developed open education resource instructional material under this subsection.

Added by Acts 2009, 81st Leg., R.S., Ch. 679 (H.B. [2488](#)), Sec. 7, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. [6](#)), Sec. 42, eff. July 19, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. [6](#)), Sec. 67(6), eff. July 19, 2011.

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. [810](#)), Sec. 24, eff.

June 9, 2017.

Sec. 31.073. SELECTION BY SCHOOL DISTRICT. (a) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 6, Sec. 67(7), eff. July 19, 2011.

(b) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 6, Sec. 67(7), eff. July 19, 2011.

(c) Notwithstanding Section 31.022, a school district or open-enrollment charter school may adopt state-developed open education resource instructional material at any time, regardless of the instructional material review and adoption cycle under that section.

(d) A school district or open-enrollment charter school may not be charged for selection of state-developed open education resource instructional material in addition to instructional material adopted under Subchapter B.

Added by Acts 2009, 81st Leg., R.S., Ch. 679 (H.B. 2488), Sec. 7, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 43, eff. July 19, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 44, eff. July 19, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 67(7), eff. July 19, 2011.

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. 810), Sec. 24, eff. June 9, 2017.

Sec. 31.074. DISTRIBUTION. (a) The commissioner shall provide for the distribution of state-developed open education resource instructional materials in a manner consistent with distribution of instructional materials adopted under Subchapter B.

(b) The commissioner may use a competitive process to contract for printing or other reproduction of state-developed open education resource instructional material on behalf of a school district or open-enrollment charter school. The commissioner may

not require a school district or open-enrollment charter school to contract with a state-approved provider for the printing or reproduction of state-developed open education resource instructional material.

Added by Acts 2009, 81st Leg., R.S., Ch. 679 (H.B. 2488), Sec. 7, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 45, eff. July 19, 2011.

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. 810), Sec. 24, eff. June 9, 2017.

Sec. 31.075. OWNERSHIP; LICENSING. (a) State-developed open education resource instructional material is the property of the state.

(b) To encourage the use of instructional material purchased by the state under this subchapter by school districts and open-enrollment charter schools, the commissioner shall provide a license for the instructional material that allows for the free use, reuse, modification, or sharing of the material by any person or entity.

(c) The terms of a license provided by the commissioner under this section:

(1) shall require that a user who reproduces the instructional material in any manner:

(A) except as provided by Subdivision (2)(A), must keep all copyright notices for the material intact;

(B) except as provided by Subdivision (2)(A), must attribute the authorship of the material to the agency or another person specified by the commissioner;

(C) must indicate if the user has modified the material;

(D) may not assert or imply any connection with or sponsorship or endorsement by the agency or this state, unless authorized by the commissioner; and

(E) to the extent reasonably practicable, must provide in any product or derivative material a uniform resource

identifier or hyperlink through which a person may obtain the material free of charge;

(2) must provide that:

(A) the commissioner may request that a user remove a copyright notice or attribution from the material and that a user must comply with the request to the extent reasonably practicable; and

(B) the rights granted under the license to a user are automatically terminated if the user fails to comply with the terms of the license; and

(3) may include any additional terms determined by the commissioner.

(d) The commissioner may exempt a license under this section from including one or more of the requirements under Subsection (c)(1).

(e) The commissioner shall determine what is considered reasonably practicable for purposes of Subsections (c)(1)(E) and (c)(2)(A).

(f) The commissioner may:

(1) specify requirements to reinstate a user's rights under a license that has been terminated; and

(2) reinstate a user's rights on completion of those requirements.

(g) The commissioner may use a license commonly applied to an open education resource in implementing this section.

(h) The attorney general shall represent the agency in an action brought under this section and may recover reasonable expenses incurred in obtaining relief, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs.

Added by Acts 2009, 81st Leg., R.S., Ch. 679 (H.B. [2488](#)), Sec. 7, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. [6](#)), Sec. 46, eff. July 19, 2011.

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. [810](#)), Sec. 24, eff. June 9, 2017.

Acts 2017, 85th Leg., R.S., Ch. 942 (S.B. 1784), Sec. 4, eff. June 15, 2017.

Sec. 31.076. RULES; FINALITY OF DECISIONS. (a) The commissioner may adopt rules necessary to implement this subchapter.

(b) A decision by the commissioner regarding the purchase, revision, cost, licensing, or distribution of state-developed open education resource instructional material is final and may not be appealed.

Added by Acts 2009, 81st Leg., R.S., Ch. 679 (H.B. 2488), Sec. 7, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 47, eff. July 19, 2011.

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. 810), Sec. 25, eff. June 9, 2017.

Acts 2017, 85th Leg., R.S., Ch. 942 (S.B. 1784), Sec. 5, eff. June 15, 2017.

SUBCHAPTER B-2. INSTRUCTIONAL MATERIALS WEB PORTAL

Sec. 31.081. INSTRUCTIONAL MATERIALS WEB PORTAL. (a) The commissioner shall develop and maintain a web portal to assist school districts and open-enrollment charter schools in selecting instructional materials under Section 31.101.

(b) The web portal must include general information such as price, computer system requirements, and any other relevant specifications for each instructional material:

(1) on the instructional materials list, including the list adopted under Section 31.0231; or

(2) submitted by a publisher for inclusion in the web portal.

(c) The commissioner by rule shall establish the procedure by which a publisher may submit instructional materials for inclusion in the web portal.

(d) The commissioner shall use a competitive process to

contract for the development of the web portal.

(e) The commissioner shall use money in the state instructional materials and technology fund to pay any expenses associated with the web portal.

Added by Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. 810), Sec. 27, eff. June 9, 2017.

Added by Acts 2017, 85th Leg., R.S., Ch. 705 (H.B. 3526), Sec. 17, eff. June 12, 2017.

Reenacted by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 5.018, eff. September 1, 2019.

Sec. 31.082. QUALITY OF INSTRUCTIONAL MATERIALS SUBMITTED BY PUBLISHER. (a) The commissioner shall contract with a private entity to conduct an independent analysis of each instructional material submitted by a publisher for inclusion in the web portal developed under Section 31.081. The analysis must:

(1) evaluate the quality of the material; and

(2) determine the extent to which the material covers the essential knowledge and skills identified under Section 28.002 for the subject and grade level for which the material is intended to be used, including an identification of:

(A) each of the essential knowledge and skills for the subject and grade level or levels covered by the material; and

(B) the percentage of the essential knowledge and skills for the subject and grade level or levels covered by the material.

(b) The commissioner shall include in the web portal developed under Section 31.081 the results of each analysis conducted under Subsection (a).

Added by Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. 810), Sec. 27, eff. June 9, 2017.

Added by Acts 2017, 85th Leg., R.S., Ch. 705 (H.B. 3526), Sec. 17, eff. June 12, 2017.

Sec. 31.083. INSTRUCTIONAL MATERIALS REPOSITORY. (a) The commissioner shall include in the web portal developed under

Section [31.081](#) a repository of open education resource instructional materials and other electronic instructional materials that school districts and open-enrollment charter schools may access at no cost.

(b) A publisher may submit instructional materials for inclusion in the repository.

Added by Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. [810](#)), Sec. 27, eff. June 9, 2017.

Sec. 31.084. RULES. The commissioner may adopt rules as necessary to implement this subchapter.

Added by Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. [810](#)), Sec. 27, eff. June 9, 2017.

Added by Acts 2017, 85th Leg., R.S., Ch. 705 (H.B. [3526](#)), Sec. 17, eff. June 12, 2017.

SUBCHAPTER C. LOCAL OPERATIONS

Sec. 31.101. SELECTION AND PURCHASE OF INSTRUCTIONAL MATERIALS BY SCHOOL DISTRICTS. (a) Each year, during a period established by the State Board of Education, the board of trustees of each school district and the governing body of each open-enrollment charter school shall:

(1) for a subject in the foundation curriculum, notify the State Board of Education of the instructional materials selected by the board of trustees or governing body for the following school year from the instructional materials list, including the list adopted under Section [31.0231](#); or

(2) for a subject in the enrichment curriculum:

(A) notify the State Board of Education of each instructional material selected by the board of trustees or governing body for the following school year from the instructional materials list, including the list adopted under Section [31.0231](#); or

(B) notify the State Board of Education that the board of trustees or governing body has selected instructional material that is not on the list.

(b) In selecting instructional material each year, a school district or open-enrollment charter school may consider the use of open education resource instructional materials.

(b-1) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 6, Sec. 67(8), eff. July 19, 2011.

(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 6, Sec. 67(8), eff. July 19, 2011.

(c-1) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 6, Sec. 67(8), eff. July 19, 2011.

(d) For instructional material that is not on the list, a school district or open-enrollment charter school must use the instructional material for the period of the review and adoption cycle the State Board of Education has established for the subject and grade level for which the instructional material is used.

(e) A school district or open-enrollment charter school that selects subscription-based instructional material on the list adopted under Section 31.023 or electronic instructional material on the list adopted by the commissioner under Section 31.0231 may cancel the subscription and subscribe to new instructional material on the list adopted under Section 31.023 or electronic instructional material on the list adopted by the commissioner under Section 31.0231 before the end of the state contract period under Section 31.026 if:

(1) the district or school has used the instructional material for at least one school year; and

(2) the agency approves the change based on a written request to the agency by the district or school that specifies the reasons for changing the instructional material used by the district or school.

(f) The commissioner shall maintain an online requisition system for school districts to requisition instructional materials to be purchased with the district's instructional materials and technology allotment.

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

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1407 (H.B. 4294), Sec. 5, eff. June 19, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 49, eff. July 19, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 50, eff. July 19, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 67(8), eff. July 19, 2011.

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. 810), Sec. 28, eff. June 9, 2017.

Acts 2017, 85th Leg., R.S., Ch. 705 (H.B. 3526), Sec. 18, eff. June 12, 2017.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 5.020, eff. September 1, 2019.

Sec. 31.102. TITLE AND CUSTODY. (a) Each instructional material purchased as provided by this chapter for a school district or an open-enrollment charter school is the property of the district or school.

(b) Subsection (a) applies to electronic instructional material only to the extent of any applicable licensing agreement.

(c) The board of trustees of a school district or the governing body of an open-enrollment charter school shall distribute printed instructional material to students in the manner that the board or governing body determines is most effective and economical.

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. 51, eff. July 19, 2011.

Sec. 31.103. INSTRUCTIONAL MATERIAL REQUISITIONS.

(a) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 6, Sec. 67(10), eff. July 19, 2011.

(b) A school district or open-enrollment charter school shall make a requisition for instructional material using the online requisition program maintained by the commissioner. The publisher or manufacturer shall fill a requisition approved by the agency.

(c) In making a requisition under this section, a school district or open-enrollment charter school may requisition instructional materials on the list adopted under Section 31.023 for grades above the grade level in which a student is enrolled.

(d) A school district or open-enrollment charter school that selects open education resource instructional material shall requisition a sufficient number of printed copies for use by students unable to access the instructional material electronically unless the district or school provides to each student:

(1) electronic access to the instructional material at no cost to the student; or

(2) printed copies of the portion of the instructional material that will be used in the course.

(e) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 6, Sec. 67(10), eff. July 19, 2011.

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

Amended by Acts 2001, 77th Leg., ch. 129, Sec. 2, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 805, Sec. 4, eff. June 14, 2001; Acts 2003, 78th Leg., ch. 201, Sec. 21, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 679 (H.B. 2488), Sec. 8, eff. September 1, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 52, eff. July 19, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 53, eff. July 19, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 67(10), eff. July 19, 2011.

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. 810), Sec. 29, eff. June 9, 2017.

Acts 2019, 86th Leg., R.S., Ch. 597 (S.B. 668), Sec. 1.08, eff. June 10, 2019.

Sec. 31.104. DISTRIBUTION AND HANDLING. (a) The board of trustees of a school district or the governing body of an open-enrollment charter school may delegate to an employee the

authority to requisition, distribute, and manage the inventory of instructional materials in a manner consistent with this chapter and rules adopted under this chapter.

(b) A school district or open-enrollment charter school may order replacements for instructional materials that have been lost or damaged directly from the publisher of the instructional materials or any source for a printed copy of open education resource instructional material.

(c) Except as provided by Subsection (g), a student must return all instructional materials to the teacher at the end of the school year or when the student withdraws from school.

(d) Each student, or the student's parent or guardian, is responsible for all instructional materials and technological equipment not returned in an acceptable condition by the student. A student who fails to return in an acceptable condition all instructional materials and technological equipment forfeits the right to free instructional materials and technological equipment until all instructional materials and technological equipment previously issued but not returned in an acceptable condition are paid for by the student, parent, or guardian. As provided by policy of the board of trustees or governing body, a school district or open-enrollment charter school may waive or reduce the payment requirement if the student is from a low-income family. The district or school shall allow the student to use instructional materials and technological equipment at school during each school day. If instructional materials or technological equipment is not returned in an acceptable condition or paid for, the district or school may withhold the student's records. A district or school may not, under this subsection, prevent a student from graduating, participating in a graduation ceremony, or receiving a diploma. The commissioner by rule shall adopt criteria for determining whether instructional materials and technological equipment are returned in an acceptable condition.

(e) The board of trustees of a school district may not require an employee of the district who acts in good faith to pay for instructional materials or technological equipment that is damaged, stolen, misplaced, or not returned. A school district

employee may not waive this provision by contract or any other means, except that a district may enter into a written agreement with a school employee whereby the employee assumes financial responsibility for electronic instructional material or technological equipment usage off school property or outside of a school-sponsored event in consideration for the ability of the school employee to use the electronic instructional material or technological equipment for personal business. Such a written agreement shall be separate from the employee's contract of employment, if applicable, and shall clearly inform the employee of the amount of the financial responsibility and advise the employee to consider obtaining appropriate insurance. An employee may not be required to agree to such an agreement as a condition of employment.

(g) At the end of the school year for which open education resource instructional material that a school district or open-enrollment charter school does not intend to use for another student is distributed, the printed copy of the open education resource instructional material becomes the property of the student to whom it is distributed.

(h) This section does not apply to an electronic copy of open education resource instructional material.

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

Amended by Acts 2001, 77th Leg., ch. 129, Sec. 3, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 805, Sec. 6, eff. June 14, 2001;

Acts 2003, 78th Leg., ch. 634, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 116 (S.B. 370), Sec. 2, eff. May 17, 2007.

Acts 2009, 81st Leg., R.S., Ch. 366 (H.B. 1332), Sec. 1, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 679 (H.B. 2488), Sec. 9, eff. September 1, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 54, eff. July 19, 2011.

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. 810), Sec. 30, eff. June 9, 2017.

Sec. 31.105. SALE OR DISPOSAL OF INSTRUCTIONAL MATERIALS AND TECHNOLOGICAL EQUIPMENT. (a) The board of trustees of a school district or governing body of an open-enrollment charter school may sell printed instructional materials on the date the instructional material is discontinued for use in the public schools by the State Board of Education or the commissioner. The board of trustees or governing body may also sell electronic instructional materials and technological equipment owned by the district or school. Any funds received by a district or school from a sale authorized by this subsection must be used to purchase instructional materials and technological equipment allowed under Section 31.0211.

(b) The board of trustees of a school district or governing body of an open-enrollment charter school shall determine how the district or school will dispose of discontinued printed instructional materials, electronic instructional materials, and technological equipment.

(c) The board of trustees of a school district or governing body of an open-enrollment charter school may dispose of printed instructional material before the date the instructional material is discontinued for use in the public schools by the State Board of Education if the board of trustees or governing body determines that the instructional material is not needed by the district or school and the board of trustees or governing body does not reasonably expect that the instructional material will be needed. A district or school must notify the commissioner of any instructional material the district or school disposes of under this subsection.

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. 55, eff. July 19, 2011.

Sec. 31.106. USE OF LOCAL FUNDS. In addition to any instructional material selected under this chapter, a school district or open-enrollment charter school may use local funds to

purchase any instructional materials.

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. 56, eff. July 19, 2011.

SUBCHAPTER D. ADMINISTRATIVE PENALTIES AND PENAL PROVISIONS

Sec. 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; and

(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](#).

(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) An eligible institution, as defined by Section [31.0241](#)(a), that offers open education resource instructional materials under Section [31.0241](#) is not a publisher or manufacturer for purposes of this section.

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

Amended by Acts 2001, 77th Leg., ch. 129, Sec. 1, eff. Sept. 1,

2001; Acts 2001, 77th Leg., ch. 805, Sec. 7, eff. June 14, 2001;

Acts 2003, 78th Leg., ch. 1276, Sec. 6.004, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 679 (H.B. 2488), Sec. 10, eff. September 1, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 57, eff. July 19, 2011.

Acts 2017, 85th Leg., R.S., Ch. 581 (S.B. 810), Sec. 31, eff. June 9, 2017.

Acts 2017, 85th Leg., R.S., Ch. 705 (H.B. 3526), Sec. 19, eff. June 12, 2017.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 5.021, eff. September 1, 2019.

Sec. 31.152. ACCEPTING REBATE ON INSTRUCTIONAL MATERIALS OR TECHNOLOGICAL EQUIPMENT. (a) A school trustee, administrator, or teacher commits an offense if that person receives any commission or rebate on any instructional materials or technological equipment used in the schools with which the person is associated as a trustee, administrator, or teacher.

(b) A school trustee, administrator, or teacher commits an offense if the person accepts a gift, favor, or service that:

- (1) is given to the person or the person's school;
- (2) might reasonably tend to influence a trustee, administrator, or teacher in the selection of instructional material or technological equipment; and
- (3) could not be lawfully purchased with state instructional materials funds.

(c) An offense under this section is a Class B misdemeanor.

(d) In this section, "gift, favor, or service" does not include:

- (1) staff development, in-service, or teacher training; or
- (2) ancillary materials, such as maps or worksheets, that convey information to the student or otherwise contribute to the learning process.

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

Amended by Acts 2001, 77th Leg., ch. 805, Sec. 8, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1407 (H.B. 4294), Sec. 8, eff. June 19, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 58, eff. July 19, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 59, eff. July 19, 2011.

Sec. 31.153. VIOLATION OF FREE INSTRUCTIONAL MATERIALS LAW.

(a) A person commits an offense if the person knowingly violates any law providing for the purchase or distribution of free instructional materials for the public schools.

(b) An offense under this section is a Class C misdemeanor. 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. 60, eff. July 19, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 61, eff. July 19, 2011.