

EDUCATION CODE

TITLE 2. PUBLIC EDUCATION

SUBTITLE F. CURRICULUM, PROGRAMS, AND SERVICES

CHAPTER 31. INSTRUCTIONAL MATERIALS AND TECHNOLOGY

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) "Full subject tier one instructional material" means instructional material designed to, if implemented as designed, provide a student with mastery of the essential knowledge and skills adopted by the board for a certain subject and grade level in the required curriculum under Section 28.002 or for prekindergarten without the need for supplementation.

(1-a) "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) material used by a teacher, including a

lesson plan, answer key, grading rubric, or unit plan;

(B) material used by a principal or campus instructional leader to support instruction; and

(C) material used by a student, including 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-b) "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.

(1-c) "Partial subject tier one instructional material" means instructional material designed to, if implemented as designed, provide a student with mastery in a portion of the essential knowledge and skills adopted by the State Board of Education for a certain subject and grade level in the required curriculum under Section [28.002](#) or for prekindergarten without the need for supplementation in the essential knowledge and skills covered.

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

(3) "Supplemental instructional material" means instructional material designed to assist in the instruction of one or more of the essential knowledge and skills adopted by the State Board of Education for a subject in the required curriculum under Section [28.002](#) or for prekindergarten.

(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.

Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. 1605), Sec. 12, eff. June 13, 2023.

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

(b) The commissioner may adopt rules, consistent with this chapter, as necessary to implement a provision of this chapter that the commissioner or agency is responsible for implementing.

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

Amended by:

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

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

Sec. 31.006. ADVISORY COMMITTEE. The State Board of Education or the agency may form an advisory committee to comply with the provisions of this chapter. Chapter 2110, Government Code, does not apply to an advisory committee formed under this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. 1605), Sec. 14,

eff. June 13, 2023.

SUBCHAPTER A-1. STATE FUNDING FOR INSTRUCTIONAL MATERIALS AND  
TECHNOLOGY

Sec. 31.0205. 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.

Transferred and redesignated from Education Code, Section 31.005 by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. 1605), Sec. 16, eff. June 13, 2023.

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 and Internet website maintained under this chapter;

(4) pay the expenses associated with the purchase, licensing, printing, or other reproduction 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](#); and

(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.

(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.

Transferred and amended from Education Code, Section 31.021 by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. 1605), Sec. 17, eff. June 13, 2023.

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) Funds allotted under this section may be used to:

(1) purchase:

(A) instructional materials, regardless of whether the instructional materials are on the list of approved instructional materials maintained by the State Board of Education under Section 31.022;

(B) consumable instructional materials, including workbooks;

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

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

(E) supplemental instructional materials;

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

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

(H) technological equipment necessary to support the use of any instructional materials purchased with an allotment under this section;

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

(J) services, equipment, and technology infrastructure necessary to ensure Internet connectivity and adequate bandwidth; 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;

(B) for training personnel in the electronic administration of assessment instruments;

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

(D) for costs associated with distance learning, including Wi-Fi, Internet access hotspots, wireless network service, broadband service, and other services and technological equipment necessary to facilitate Internet access.

(d) In purchasing technological equipment, a school district shall:

(1) secure technological solutions that meet the varying and unique needs of students and teachers in the district; and

(2) consider:

(A) the long-term cost of ownership; and

(B) flexibility for innovation.

(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) Funds allotted under this section may not be used to purchase instructional material that contains obscene or harmful content or would otherwise cause the school district to which the funds were allotted to be unable to submit the certification required under Section 31.1011(a)(1)(B).

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. 6, eff. June 9, 2017.

Acts 2017, 85th Leg., R.S., Ch. 705 (H.B. 3526), Sec. 6, eff. June 12, 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.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 806 (H.B. [1525](#)), Sec. 13, eff. June 16, 2021.

Acts 2021, 87th Leg., R.S., Ch. 1003 (H.B. [3261](#)), Sec. 1, eff. June 18, 2021.

Reenacted and amended by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. [4595](#)), Sec. 6.008, eff. September 1, 2023.

Reenacted, transferred and amended by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. [1605](#)), Sec. 18, eff. June 13, 2023.

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) 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.

(d) A school district shall provide to the agency the title and publication information for any instructional materials requisitioned or purchased by the district with the district's instructional materials and technology allotment.

(e) The agency shall provide for the development and maintenance of an online requisition and disbursement system for each school district's instructional materials and technology account.

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. 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.

Transferred and amended from Education Code, Section [31.0212](#) by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. [1605](#)), Sec. 17, eff. June 13, 2023.

Sec. 31.0214. ADJUSTMENT FOR HIGH ENROLLMENT GROWTH DISTRICTS. 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.

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.

Transferred and amended from Education Code, Section [31.0214](#) by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. [1605](#)), Sec. 17, eff. June 13, 2023.

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 shall 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.

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. 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.

Transferred and amended from Education Code, Section [31.0215](#) by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. [1605](#)), Sec. 17, eff. June 13, 2023.

Sec. 31.0216. AGENCY PURCHASE OF INSTRUCTIONAL MATERIALS AND TECHNOLOGY. (a) From funds appropriated for the purpose, the agency may contract directly, including by extending a contract, for the purchase of instructional materials and technology for use by school districts.

(b) The provisions of Chapter [2157](#), Government Code, requiring a state agency to use a contract or contract terms developed or preapproved by the Department of Information Resources do not apply to a contract entered into under this section, but the agency may participate in a program authorized by that chapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. [1605](#)), Sec. 19, eff. June 13, 2023.

#### SUBCHAPTER B. STATE REVIEW AND ADOPTION

Sec. 31.022. STATE BOARD OF EDUCATION INSTRUCTIONAL MATERIALS REVIEW AND APPROVAL.

(a) The State Board of Education shall review instructional materials provided to the board by the agency under Section [31.023](#). Before approving instructional material, the board may review the material and must determine that the material is free from factual error and suitable for the subject and grade level for which the material is designed, and, if the material is intended to cover the foundational skills reading curriculum in kindergarten through third grade, does not include three-cueing, as defined by Section [28.0062](#)(a-1). The board shall add each material approved under this section to a list of approved instructional materials and may add a material not approved under this section to a list of rejected instructional materials.

(b) The State Board of Education may adopt criteria necessary for approval of instructional material under Subsection (a) and may require:

(1) all instructional material submitted as full

subject tier one instructional material to cover a minimum percentage, as determined by the board, of the essential knowledge and skills adopted for the subject and grade level for which the material is designed;

(2) electronic samples of the material;

(3) certain physical specifications;

(4) the instructional material to not contain obscene or harmful content and otherwise be compatible with certification requirements under Section [31.1011\(a\)\(1\)\(B\)](#); and

(5) the instructional material to be made publicly available for review.

(c) The State Board of Education may remove instructional material from the list of approved instructional materials under this section if the essential knowledge and skills intended to be covered by the material are revised or the material is revised without the approval of the board.

(c-1) If the State Board of Education intends to remove an instructional material from the list of approved instructional materials under Subsection (c) because the board plans to revise the essential knowledge and skills intended to be covered by the material, the board shall issue a proclamation requesting the revision of the applicable instructional materials and shall, not later than December 1 of the year preceding the school year for which the revision will take effect, provide to each school district the updated list of approved instructional materials for the relevant subject or grade level.

(d) The State Board of Education shall indicate whether each instructional material reviewed under Subsection (a) is capable of being made available through an instructional materials parent portal established under Section [31.154](#).

(d-1) Repealed by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. [1605](#)), Sec. 51(2), eff. June 13, 2023.

(e) Repealed by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. [1605](#)), Sec. 51(2), eff. June 13, 2023.

(f) Repealed by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. [1605](#)), Sec. 51(2), eff. June 13, 2023.

(g) Repealed by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B.

1605), Sec. 51(2), eff. June 13, 2023.

(h) Repealed by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. 1605), Sec. 51(2), eff. June 13, 2023.

(i) Repealed by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. 1605), Sec. 51(2), eff. June 13, 2023.

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.

Acts 2021, 87th Leg., R.S., Ch. 1003 (H.B. 3261), Sec. 2, eff. June 18, 2021.

Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. 1605), Sec. 21, eff. June 13, 2023.

Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. 1605), Sec. 22, eff. June 13, 2023.

Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. 1605), Sec. 51(2), eff. June 13, 2023.

Sec. 31.023. INSTRUCTIONAL MATERIAL REVIEW. (a) The commissioner shall establish, in consultation with and with the approval of the State Board of Education, a process for the annual review of instructional materials by the agency. The process established under this subsection must:

(1) establish a process for the agency to select instructional materials for review that includes:

(A) evaluating requests for review of instructional materials submitted to the agency by:

(i) a school district;

(ii) a majority of the members of the State Board of Education; or

(iii) a publisher of instructional

material, which may only be submitted for material published by the requesting publisher;

(B) requiring the agency to review materials if the State Board of Education requests by a majority vote that the material be reviewed by the agency;

(C) reviewing instructional materials requisitioned or purchased under Section 31.0212; and

(D) reviewing instructional materials using a time frame appropriate for the proclamation requesting the revision of the instructional materials under Section 31.022(c-1) to address revisions made by the State Board of Education to the essential knowledge and skills for a particular subject or grade level;

(2) describe the types of instructional materials the agency may review, including:

(A) partial subject tier one instructional material, including those designed for use in the phonics curriculum required under Section 28.0062(a)(1);

(B) open education resource instructional material;

(C) instructional materials developed by a school district and submitted to the agency by the district for review; and

(D) commercially available full subject tier one instructional material;

(3) establish procedures for the agency to conduct reviews of instructional materials, including:

(A) the use of a rubric approved under Subsection (b); and

(B) consultation with classroom teachers and other curriculum experts for the appropriate subject and grade level; and

(4) ensure the procedures for review allow the agency to review at least 200 individual instructional materials each year.

(b) In conducting a review under this section, the agency must use a rubric developed by the agency in consultation with and approved by the State Board of Education that includes, with

respect to the instructional material being reviewed, a determination of:

(1) whether the material is free from factual error and satisfies the criteria adopted by the board under Section [31.022](#);

(2) the quality of the material;

(3) the essential knowledge and skills for the subject and grade level for which the material was developed that are covered by the material, including identification of:

(A) each essential knowledge and skill covered by the material;

(B) for a full subject tier one instructional material, the percentage of the essential knowledge and skills adopted for the subject and grade level covered by the material; and

(C) for a partial subject tier one instructional material, the percentage of the essential knowledge and skills for the relevant portion of the subject and grade level covered by the material; and

(4) whether the material contains obscene or harmful content or is otherwise incompatible with certification requirements under Section [31.1011\(a\)\(1\)\(B\)](#).

(c) After completing a review under this section, the agency shall provide the results of the review and any related recommendations to the State Board of Education for approval or rejection of the instructional material and the inclusion of the instructional material on a list maintained by the State Board of Education under Section [31.022](#).

(d) The agency shall use funds appropriated to the agency for the purposes of reviewing instructional material or available in the state instructional materials and technology fund for purposes of implementing this section.

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

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

Amended by:

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

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

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

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

Sec. 31.025. INSTRUCTIONAL MATERIAL INTERNET WEBSITE.

(a) The agency shall develop and maintain an instructional material Internet website to assist school districts in locating and selecting instructional material.

(b) For each instructional material included, the Internet website developed and maintained under this section shall provide:

- (1) the price of the material;
- (2) the technological requirements needed to use the material;
- (3) the results of an agency review of the material conducted under Section 31.023;
- (4) a statement of whether the material is included on the list of approved instructional materials maintained by the State Board of Education under Section 31.022 or has been rejected by the board; and
- (5) any other information the agency determines relevant to a school district's selection of instructional material.

(c) The Internet website developed and maintained under this section must include the repository of open education resource instructional material required by Section 31.0722.

(d) The agency shall use funds appropriated to the agency for the purposes of reviewing instructional material or available in the state instructional materials and technology fund for purposes of implementing this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. 1605), Sec. 24, eff. June 13, 2023.

Sec. 31.0251. INSTRUCTIONAL MATERIAL SUPPORT. (a) On request of a school district, the agency shall provide the district assistance in evaluating, adopting, or using instructional materials.

(b) Except as otherwise provided, the agency may not require a school district to adopt or otherwise use instructional material reviewed by the agency under Section 31.023 or included on the list of approved instructional materials maintained by the State Board of Education under Section 31.022.

Added by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. 1605), Sec. 24, eff. June 13, 2023.

Sec. 31.0252. LOCAL REVIEW OF CLASSROOM INSTRUCTIONAL MATERIAL. (a) The agency shall develop standards in consultation with stakeholders, including educators, by which a school district may conduct a review of instructional materials used by a classroom teacher in a foundation curriculum course under Section 28.002(a)(1) to determine the degree to which the material:

(1) corresponds with the instructional materials adopted by the school district or district campus; and

(2) meets the level of rigor of the essential knowledge and skills adopted under Section 28.002 for the grade level in which it is being used.

(b) The agency shall develop a rubric, approved by the State Board of Education, to determine if reviewed instructional material complies with the rigor requirements described by Subsection (a)(2).

(c) The agency, in developing standards under Subsection (a):

(1) shall minimize, to the extent possible, the time a classroom teacher is required to spend complying with a review conducted under this section;

(2) may not, unless unavoidable, require a teacher to spend more than 30 minutes on a single review conducted under this section; and

(3) may not authorize the review of instructional materials used by a classroom teacher for a specific subject or

grade level at a specific school district campus more than once per school year.

(d) The agency shall permit a regional education service center or a curriculum review service provider approved by the agency to conduct the review for a school district under this section and provide to approved centers and providers training relating to appropriately conducting the review.

(e) The agency shall award grants to assist school districts in conducting reviews under this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. 1605), Sec. 24, eff. June 13, 2023.

Sec. 31.026. CONTRACT; PRICE. (a) The State Board of Education may 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.

(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.

Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. 1605), Sec. 25, eff. June 13, 2023.

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.

#### SUBCHAPTER B-1. OPEN EDUCATION RESOURCE INSTRUCTIONAL MATERIALS

Sec. 31.0701. REFERENCES TO STATE-DEVELOPED OPEN EDUCATION RESOURCE INSTRUCTIONAL MATERIAL. In this chapter, a reference to a state-developed open education resource instructional material means an open education resource instructional material, as defined by Section [31.002](#).

Added by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. [1605](#)), Sec. 27, eff. June 13, 2023.

Sec. 31.071. AVAILABILITY OF OPEN EDUCATION RESOURCE INSTRUCTIONAL MATERIAL. (a) The commissioner shall ensure that open education resource instructional materials are available for use by school districts in accordance with this subchapter.

(b) To ensure the availability of open education resource instructional materials under Subsection (a), the commissioner may:

(1) purchase a license authorizing the use of open education resource instructional materials in a manner that complies with all applicable state laws and rules relating to procurement by a state agency;

(2) purchase or otherwise acquire ownership of open education resource instructional materials;

(3) develop open education resource instructional materials;

(4) adopt open education resource instructional materials; or

(5) use any combination of the methods described by Subdivisions (1), (2), (3), and (4) to acquire open education resource instructional materials.

(b-1) The commissioner may make available more than one open education resource instructional material for a subject or grade level.

(b-2) The commissioner shall:

(1) to the extent practicable, ensure full subject tier one instructional materials are available as open education resource instructional material for:

(A) English language arts and mathematics courses in kindergarten through grade eight;

(B) prekindergarten, in subject areas related to English language arts and mathematics; and

(C) all foundation curriculum courses in kindergarten through grade five in a manner that permits the instruction of the content to be provided:

(i) in an integrated manner; and

(ii) for approximately 240 minutes of

instructional time per day, including time needed each day for accelerated instruction under Section [28.0211](#); and

(2) ensure open education resource instructional materials are available to all students, parents, classroom teachers, and school districts in this state free of charge, except for a fee for the printing or shipping of the material.

(c) Except as provided by Section [31.0711](#), an open education resource instructional material must be licensed to this state under an intellectual property license that allows for free use, reuse, modification, or sharing with others as described by Section [31.07101](#).

(d) The costs of administering this subchapter and ensuring the availability of open education resource instructional materials shall be paid from funds appropriated for the purpose and 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.

Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. [1605](#)), Sec. 28, eff. June 13, 2023.

Sec. 31.07101. FREE USE, REUSE, MODIFICATION, OR SHARING LICENSE. (a) Instructional material is licensed to this state under an intellectual property license that allows for free use, reuse, modification, or sharing with others if the license:

(1) is irrevocable and perpetual;

(2) permits the state to sublicense the material;

(3) authorizes the use of the material by any person in any location permitted by the terms of the original license, if applicable;

(4) authorizes access, use, transmission, adaptation, public display, public performance, public distribution, and copying of the material; and

(5) authorizes the creation of derivative works as permitted by the terms of the original license, if applicable.

(b) Instructional material licensed to this state under an intellectual property license that is restricted to noncommercial or educational use qualifies under this subchapter as instructional material licensed to this state under a license that allows for free use, reuse, modification, or sharing with others.

Added by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. [1605](#)), Sec. 29, eff. June 13, 2023.

Sec. 31.0711. CONTENT NOT OWNED BY STATE. Open education resource instructional material made available 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);

(3) has been made available by the copyright owner under a Creative Commons license or another intellectual property license that allows for free use, reuse, modification, or sharing as described by Section [31.07101](#); or

(4) is licensed to the state under another license that:

(A) grants access to and allows for use of the material by students, teachers, educators, and other education professionals;

(B) permits access, use, public display, public performance, public distribution, and copying of the material for noncommercial or educational purposes; 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.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. 1605), Sec. 30, eff. June 13, 2023.

Sec. 31.0712. OPEN EDUCATION RESOURCE ADVISORY BOARD. The agency shall establish an open education resource advisory board to ensure that open education resource instructional materials made available under this subchapter are:

- (1) of the highest quality;
- (2) aligned with the essential knowledge and skills adopted by the State Board of Education under Section 28.002 for the applicable subject and grade level;
- (3) suitable for the age of students at the grade level for which the materials are developed;
- (4) free from bias and factual error; and
- (5) in compliance with Section 28.0022.

Added by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. 1605), Sec. 31, eff. June 13, 2023.

Sec. 31.072. CONTENT REQUIREMENTS. (a) Before being made available under this subchapter, open education resource instructional material must be evaluated by:

- (1) teachers or other experts, as determined by the commissioner; and
- (2) parents of students in this state.

(b) Based on feedback received by the agency from teachers, parents, and other experts regarding open education resource instructional materials made available under this subchapter, the commissioner may, at any time, require an additional revision of the 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. 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.

Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. 1605), Sec. 32, eff. June 13, 2023.

Sec. 31.0721. REVIEW AND RELEASE OF OPEN EDUCATION RESOURCE INSTRUCTIONAL MATERIAL. (a) Except as provided by Subsection (b), open education resource instructional material may not be made available under this subchapter to students, teachers, educators, or other education professionals before being reviewed by the agency under Section 31.023 and included on the list of approved instructional materials maintained by the State Board of Education under Section 31.022.

(b) The agency may make open education resource instructional material available to a limited number of classroom teachers for a limited time before the material is reviewed by the agency under Section 31.023 and included on the list of approved instructional materials maintained by the State Board of Education under Section 31.022 to assist in developing or testing the quality of the material. A school district may only use unreviewed material made available under this subsection in a grade level in which the material has not been used previously if:

(1) the board of trustees of the district approves the use of the unreviewed material; and

(2) the district provides evidence to the agency showing that classroom teachers support the use of the material.

(c) Except as provided by Subsection (b), open education resource instructional materials made available under this section may not remain available once amended or modified unless the material as amended or modified is reviewed under Section 31.023 and included on the list of approved instructional materials maintained by the State Board of Education under Section 31.022.

Added by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. 1605), Sec. 33,

eff. June 13, 2023.

Sec. 31.0722. OPEN EDUCATION RESOURCE INSTRUCTIONAL MATERIALS REPOSITORY. (a) The commissioner shall include in the Internet website developed under Section 31.025 a repository of open education resource instructional materials, including open education resource instructional materials made available under Section 31.0721(b), and other electronic instructional materials that school districts and open-enrollment charter schools may access at no cost.

(b) The repository under Subsection (a) must:

(1) comply with the requirements of Section 31.154; and

(2) allow a person to provide comments on open education resource instructional material contained in the repository to assist the agency in improving and updating the material.

(c) The agency shall ensure that a person may order a print copy of any open education resource instructional material included in the repository that is reducible to print.

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

Transferred, redesignated and amended from Education Code, Section 31.083 by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. 1605), Sec. 34, eff. June 13, 2023.

Sec. 31.073. SELECTION BY SCHOOL DISTRICT. (a) Except as otherwise provided by this code, the commissioner may not require a school district or open-enrollment charter school to adopt or use an open education resource instructional material.

(c) A school district or open-enrollment charter school may adopt open education resource instructional material at any time.

(d) A school district or open-enrollment charter school may not be charged for a cost associated with the selection of an open education resource instructional material, except for the cost of printing copies of the 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. 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.

Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. 1605), Sec. 35, eff. June 13, 2023.

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

(b) The commissioner may use a competitive process to contract for printing, other reproduction, or storage of 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, reproduction, or storage of open education resource instructional material.

(c) The agency is not required to comply with Subchapters C and D, Chapter 2052, Government Code, with regard to the printing or reproduction of an open education resource instructional material made available under this subchapter.

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.

Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. 1605), Sec. 35, eff.

June 13, 2023.

Sec. 31.075. STATE OWNERSHIP; LICENSING. (a) Except as otherwise provided by this subchapter, 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 may provide a license for the instructional material that:

(1) requires 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) provides 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) includes 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

(b)(1).

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

Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. [1605](#)), Sec. 36, eff. June 13, 2023.

Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. [1605](#)), Sec. 37, eff. June 13, 2023.

Sec. 31.0751. OPEN EDUCATION RESOURCE INSTRUCTIONAL MATERIAL TRANSITION PLAN. (a) Except as provided by Subsection (c), to qualify for additional state aid under Section [48.308](#) the board of trustees of a school district must adopt an open education resource instructional material transition plan to assist classroom teachers in the district who will be using an open education resource instructional material in a specific subject or

grade level for which the teacher has not previously used an open education resource instructional material.

(b) A plan adopted under this section must ensure that open education resource instructional materials are used in a manner that maintains the instructional flexibility of a classroom teacher to address the needs of each student.

(c) A school district that participates in the program developed and maintained by the agency under Section [31.0752](#) is not required to adopt a transition plan under this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. [1605](#)), Sec. 38, eff. June 13, 2023.

Sec. 31.0752. OPEN EDUCATION RESOURCE INSTRUCTIONAL MATERIAL SUPPORT PROGRAM. The agency shall develop and maintain a program to assist school districts and open-enrollment charter schools in adopting and using open education resource instructional material made available under this subchapter, including by assisting districts and schools to:

(1) maintain the instructional flexibility of classroom teachers to address the needs of each student; and

(2) schedule instructional periods in a manner that allows classroom teachers sufficient time to effectively prepare and present instructional material within the teacher's normal work day.

Added by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. [1605](#)), Sec. 38, eff. June 13, 2023.

Sec. 31.0753. TEACHER CANDIDATE ACCESS AND SUPPORT PROGRAM. The agency shall develop and maintain a program to assist educator preparation programs in implementing Section [21.044\(a-1\)\(4\)](#).

Added by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. [1605](#)), Sec. 38, eff. June 13, 2023.

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

(b) A decision made by the commissioner under this subchapter 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.

Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. 1605), Sec. 39, eff. June 13, 2023.

#### SUBCHAPTER C. LOCAL OPERATIONS

Sec. 31.1011. 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:

(1) for each subject in the required curriculum under Section 28.002, other than physical education, and each grade level, the district or school:

(A) 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; and

(B) in the provision of instructional materials, protects students from obscene or harmful content as necessary for compliance with:

(i) the Children's Internet Protection Act (Pub. L. No. 106-554);

(ii) Section 28.0022;

(iii) Section 43.22, Penal Code; and

(iv) any other law or regulation that protects students from obscene or harmful content; and

(2) the district or school used money allocated to the

district or school under the instructional materials and technology allotment only for purposes allowed under Section [31.0211](#).

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

(3) open education resource instructional materials and other electronic instructional materials included in the repository under Section [31.0722](#).

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.

Transferred, redesignated and amended from Education Code, Section 31.004 by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. [1605](#)), Sec. 40, eff. June 13, 2023.

Sec. 31.1012. REPORT TO AGENCY. Each school district shall annually report to the agency information regarding the instructional materials used by the district during the previous school year, including the cost of each material, to assist the agency in ensuring compliance with Section [31.151](#)(a).

Added by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. [1605](#)), Sec. 41, eff. June 13, 2023.

Sec. 31.102. TITLE AND CUSTODY; SCHOOL DISTRICT PURCHASES.

(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.

(d) A school district is not required to use a method provided by Section 44.031(a) to purchase instructional materials that have been reviewed by the agency under Section 31.023 and included on the list of approved instructional materials maintained by the State Board of Education under Section 31.022.

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.

Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. 1605), Sec. 42, eff. June 13, 2023.

Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. 1605), Sec. 43, eff. June 13, 2023.

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 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.

Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. 1605), Sec. 44, eff. June 13, 2023.

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;

(9) shall submit to the State Board of Education an affidavit certifying any instructional material the publisher or manufacturer offers in this state to be free of factual errors at the time the publisher executes the contract required by Section [31.026](#); and

(10) shall comply with all other standard terms and conditions adopted by the State Board of Education for use in contracts for the procurement of instructional materials under Subsection (a-1).

(a-1) The State Board of Education shall adopt standard terms and conditions for use in contracts for the procurement of instructional materials from publishers and manufacturers under this section.

(b) The State Board of Education may impose a reasonable administrative penalty against a publisher or manufacturer who knowingly violates Subsection (a). The board shall provide for a hearing to be held to determine whether a penalty is to be imposed and, if so, the amount of the penalty. The board shall base the amount of the penalty on:

- (1) the seriousness of the violation;
- (2) any history of a previous violation;
- (3) the amount necessary to deter a future violation;
- (4) any effort to correct the violation; and
- (5) any other matter justice requires.

(c) A hearing under Subsection (b) shall be held according to rules adopted by the State Board of Education.

(d) A penalty collected under this section shall be deposited to the credit of the state instructional materials and technology fund.

(e) Repealed by Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. [1605](#)), Sec. 51(15), eff. June 13, 2023.

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.

Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. 1605), Sec. 45, eff. June 13, 2023.

Acts 2023, 88th Leg., R.S., Ch. 818 (H.B. 1605), Sec. 51(15), eff. June 13, 2023.

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.

Sec. 31.154. INSTRUCTIONAL MATERIALS PARENT PORTAL.

(a) The State Board of Education shall adopt standards for entities that supply instructional materials reviewed by the agency under Section 31.023 to make instructional materials supplied by the entity available on a parent portal hosted by the entity.

(b) An instructional materials parent portal must:

(1) provide to each parent of a student enrolled in a school district or open-enrollment charter school access to instructional materials, other than tests or exams, that are included in the portal and used by the district or school;

(2) organize instructional material by unit and in the order in which the material is designed to be used;

(3) be capable of being searched by key word; and

(4) for instructional material not available in a digital format, contain sufficient information to allow a parent to locate a physical copy of the material.

(c) Standards adopted under Subsection (a) may not require:

(1) a classroom teacher to submit instructional materials developed by the teacher for inclusion in an instructional materials parent portal; or

(2) an entity hosting an instructional materials parent portal to include tests or exams in the portal.

(d) To comply with an intellectual property license or other restrictions placed on an instructional material and to maintain security of the information contained in an instructional materials parent portal under this section, a parent may be required, before accessing the portal, to:

(1) enter a password;

(2) comply with other user access verification procedures; and

(3) accept user terms and conditions, which may not limit or exclude access to instructional material based on the uses of the material that would otherwise be permitted under fair use provisions of copyright law.

(e) An entity that hosts an instructional materials parent portal must comply with requests regarding parental access to the portal made by a school district in compliance with this section or Section [26.006](#).

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