

A Report to the **Texas Education Agency** on
“The First Draft Recommendations for Revision to Social Studies TEKS”
K-12 Social Studies Texas Essential Knowledge and Skills

I have reviewed the “First Draft Recommendations for Revisions” to the Texas K-12 Social Studies Texas Essential Knowledge and Skills (TEKS), completed in late July 2009. In this report, I will begin with a couple general observations and recommendations applicable to all or many sections of the TEKS. (I wish to reaffirm the general observations set forth in my initial report.) This will be followed by comments on, and recommendations for, specific sections of the TEKS.

I. GENERAL OBSERVATIONS AND RECOMMENDATIONS

1. Founding Documents

The most recent revisions include minor changes acknowledging the value of primary documents, but they fall short of emphasizing the essential place of constitutions and organic laws in the study of history, civil government, and society. The foundation for effective civics education is a thorough grasp of the themes, principles, and structures of a jurisdiction’s fundamental expressions of the political and legal order. These expressions can be found in documents like the U.S. and Texas constitutions, the Declaration of American Independence, Articles of Confederation, and Northwest Ordinance. These foundational documents reflect a collective public will typically absent in biographies, autobiographies, memoirs, and oral histories. Moreover, as is the case with the U.S. Constitution, they often purport to be “the supreme Law of the Land.” U.S. Const., Art. VI. Some critics question the importance of studying these foundational documents rather than emphasizing more recent civil rights

movements. I answer those critics by saying that it is difficult to understand the arguments of twentieth-century civil rights activists without understanding basic claims of the Declaration of American Independence (such as “all men are created equal” and “that they are endowed by their creator with certain unalienable rights”) and fundamental constitutional principles (such as “equal protection” and “due process of law”). In short, a civics education without a firm grasp of fundamental, organic law is like erecting a house without a foundation. It is not enough to insert words like “documents” and “rich material” to identify one of the sources students will consult and study. It is essential that students learn the meaning of terms like “fundamental law,” “organic law,” “constitution,” “covenant,” and “compact,” and that they can identify basic expressions of American “fundamental law,” “organic law,” and the like. For a useful resource, see Donald S. Lutz, *The Origins of American Constitutionalism* (Baton Rouge: Louisiana State University Press, 1988). I find this content lacking in the TEKS as currently drafted.

If the goal is to equip citizens to participate in civic life, then there is value in emphasizing primary source documents. If we engage students in reading and analyzing critically the founding documents, then students do not have to rely on what the teacher says the documents say and they become less susceptible to the biases of secondary sources. This is especially important in the contentious arenas of politics and law. When it comes to basic expressions of American self-government and law, it is imperative that students learn to read and analyze these documents for themselves and determine what they mean.

Once again, I recommend that every introductory section (usually [a] [2] or [b] [2]) *explicitly* include “state papers and fundamental laws (including charters and constitutions)” among the materials used to support the teaching of the outlined essential knowledge and skills.

This language should also be incorporated into appropriate sections in the TEKS dealing with different sources, including

- §113.22. Social Studies, Grade 6 [b] [21] [A];
- §113.23. Social Studies, Grade 7 [b] [21] [A];
- §113.24. Social Studies, Grade 8 [b] [30] [A];
- §113.32. United States History Studies [c] [27] [A]; and
- §113.33. World History Studies [d] [25] [C]).

A comprehension of key constitutional documents in American history is important for developing not only a basic literacy in American history and civil government but also basic skills of historical research. In order to develop these skills and to provide students with evidence in support of claims about American history and culture, I recommend that greater attention be given to primary source documents, especially state papers.

Students must be taught how to read, evaluate, and use documentary sources. In terms of constitutional and legal interpretation, not all sources and evidence are afforded the same weight. A legislative debate or a constitutional framer's musings in a private missive are not given the same weight as the actual text of a constitutional document or law that has been duly adopted and ratified. Students must learn how to weigh and evaluate these different types of evidence. When confronted with a document, students should ask, *inter alia*, who wrote this, what authority is behind this, when was it written, for whom was it written, why was it written, and how has this documented been interpreted and used? Students should learn how to distinguish between primary source documents and secondary sources (a brief reference is made to this skill, starting in §113.6. Social Studies, Grade 4 [c] [22] [A] and continuing through later grades, but in my opinion it merits much more attention). I recommend that, in §113.24. Social Studies,

Grade 8 (a) (2) and (b) (30); §113.35. United States Government (b) (2) and (d) (20) (D); and §113.38. Special Topics in Social Studies (d) (2) (B), students learn how to define, make appropriate use of, and distinguish between and among private papers and state papers; fundamental law and regular law; constitutional laws, treaties, statutory laws, judicial rulings, administrative rulings and regulations, and executive orders. Students should also consider what each has to contribute to one's political and legal system.

2. Republican / Representative Government

In the introduction to most grade-level sections of the text (often [a] [4]) the following language or a slight variation thereof appears:

(4) Throughout social studies in Kindergarten-Grade 12, students build a foundation in history; geography; economics; government; citizenship; culture; science, technology, and society; and social studies skills. The content, as appropriate for the grade level or course, enables students to understand the importance of patriotism, function in a free enterprise society, and appreciate the basic democratic values of our state and nation as referenced in the Texas Education Code, §28.002(h).

This language is taken in substantial part from Texas Education Code, §28.002(h). In recognition of the fact that the governments of both the State of Texas and the United States of America are republics (see U.S. Const., Art. IV, § 4), I recommend that wherever this section appears in the TEKS that the following clause be added to the second sentence: “understand the design and operation of a republican, representative government.” All students must understand the theory and design of republican, representative government, the constitutional requirement

for republican government, and the distinction between republican government and other forms of governance, such as a democracy.

II. RECOMMENDATIONS FOR SPECIFIC TEKS SECTIONS

§113.2. Social Studies, Kindergarten (b) (10). I would add “(E) explain the role of language” in contributing to national identity.

§113.3. Social Studies, Grade 1 (a) (1). Why limit the subject to “citizenship in a global society”? In keeping with the content in subsequent parts of the section, I recommend that this phrase be revised to read: “citizenship in a local, national, and global society.”

§113.4. Social Studies, Grade 2 (b) (11) (B). I would add police protection and fire protection, which are better examples of core services of civil government than libraries and parks.

§113.5. Social Studies, Grade 3 (c) (2) (A). I would add “religious freedom” as one of the reasons to consider for why people have formed communities. This is particularly relevant in American history.

§113.5. Social Studies, Grade 3 (c) (11) (D). Change “such as” to “including” “military and first responders.” Also add “serving in the military” to §113.24. Social Studies, Grade 8 (b) (20) (D).

§113.7. Social Studies, Grade 5 (c) (1). I would add the following section: “(A) explain how religious intolerance in Europe impacted the establishment of colonies in North America and patterns of migration.” The pursuit of religious toleration was a prime motivator for European settlement in British North America.

§113.7. Social Studies, Grade 5 (c) (1) (B). Other significant colonial leaders who students should be introduced to are: John Winthrop, John Cotton, William Brewster, Myles Standish, Thomas Dale, and Lord de la Warr (Thomas West). Given the other names currently on the list, the exclusion of John Winthrop, who led the Puritans to Massachusetts Bay, is inexplicable.

§113.7. Social Studies, Grade 5 (c) (2). This section should include a new subsection: “(A) describe the impact of religious revivals (the Great Awakening) in shaping a national identity and, perhaps, contributing to the drive for political independence.” Alternatively, this could be added to (c) (2) (A): “including religious revivals, the French and Indian War, . . .”

The Great Awakening, many historians now argue, helped create a national identity, giving colonists up and down the Atlantic seaboard in diverse communities a shared experience. It also had political implications insofar as the somewhat ecumenical revivals challenged the authority of the established church, which in communities under the established Church of England was also a threat to English rule. Before the Great Awakening, many colonists were inclined to defer to authorities in church and civil state because they believed those people derived their authority directly from God in a “top-down” way; after the Great Awakening, this tended to get reversed in the minds of many Americans: God empowers and “awakens” people directly and gives them a certain amount of authority to interpret the Bible for themselves. This was translated in the political realm into the consent of essentially equal people as the source of legitimacy, not rule by unequal elites. The religious historian Alister McGrath has written: “The Awakening also had implications for the democratization of religion. The individual experience of conversion was recognized as being open to all, whether male or female, rich or poor, ignorant or wise.” Alister E. McGrath, *Christianity’s Dangerous Idea: The Protestant Revolution – A History from the Sixteenth Century to the Twenty-First* (New York: HarperOne, 2007), 159.

§113.7. Social Studies, Grade 5 (c) (2) (B). I would add to this list Samuel Adams, Patrick Henry, John Dickinson, George Mason, and Roger Sherman, as well as military figures like Nathanael Greene (just one of many such military leaders).

§113.7. Social Studies, Grade 5 (c) (3) (B). Other important figures who helped shape the U.S. Constitution and who should be introduced to students include: James Wilson, George Mason, Gouverneur Morris, John Rutledge, Charles Pinckney, Elbridge Gerry, Edmund Randolph, and Luther Martin. Recent scholarship typically ranks James Wilson, George Mason, and Gouverneur Morris among the most influential figures in the Constitutional Convention. It will be difficult for students to understand the deliberations and compromises in the Constitutional Convention without including these figures in this section. See Gary L. Gregg II and Mark David Hall, ed., *America’s Forgotten Founders* (Louisville, Kent.: Butler Books; The McConnell Center, University of Louisville, 2008).

§113.7. Social Studies, Grade 5 (c) (4). Again, I would add at the top of this section a whole new subsection: “(A) describe the impact on society of religious revivals (the Second Great Awakening) in the first half of the nineteenth century.” This development had a profound and enduring impact on the society and its institutions. Consider, for example, the rise of benevolent societies and various education projects.

§113.24. Social Studies, Grade 8 (b) (1) (C). Oddly missing from these dates is 1629-1630, the establishment of the Massachusetts Bay Company and the arrival of the Puritans.

§113.24. Social Studies, Grade 8 (b) (2). “Religious” reasons should be included alongside political, economic, and social reasons. Religion was the principal motivation for establishing some early American colonies, especially in New England. It is conspicuous by its absence from this section.

§113.24. Social Studies, Grade 8 (b) (4). Again, I would add at the top of this section a whole new subsection: “(A) analyze the impact of religious revivals (Great Awakening) on creating a national identity and, perhaps, contributing to the drive for political independence.”

§113.24. Social Studies, Grade 8 (b) (4) (B). Consider adding Mercy Otis Warren to this list, along with John Dickinson and George Mason. Military leaders are underrepresented in this section. Alternatively, a list of “significant military leaders” could be added to (b) (4) C).

§113.24. Social Studies, Grade 8 (b) (4) (A). I would add to the “causes” to be analyzed, “British ecclesiastical policies.” There is an extensive body of scholarship that makes the case that British ecclesiastical policy was a major contributing cause to the push for political independence from Great Britain. John Adams, presumably an authority on the causes of the Revolution, remarked:

who will believe that the apprehension of Episcopacy contributed fifty years ago, as much as any other cause, to arouse the attention, not only of the inquiring mind, but of the common people, and urge them to close thinking on the constitutional authority of parliament over the colonies? This, nevertheless, was a fact as certain as any in the history of North America. . . . The reasoning was this . . . if parliament can erect dioceses and appoint bishops, they may introduce the whole hierarchy, establish tithes, forbid marriages and funerals, establish religions, forbid dissenters, make schism heresy, impose penalties extending to life and limb as well as to liberty and property. John Adams to Dr. J. Morse, 2 December 1815.

§113.24. Social Studies, Grade 8 (b) (5) (C). In either this section or an additional section, special attention should be given to the significance and consequences of the bitterly contested presidential election of 1800. This may have been the most significant election in American history.

§113.24. Social Studies, Grade 8 (b) (20) (D). I would add the following language: “including serving in the military.”

§113.24. Social Studies, Grade 8 (b) (25). I would add at the top of this section a whole new subsection: “(A) understand the motivations for reform movements and benevolent societies in

the first half of the nineteenth century, including a religious belief that all people were made in the image of God and, therefore, had value and dignity.”

§113.33. World History Studies (d) (1) (E). I find it difficult to follow the structure of this section. Are “the Reformation” and “the decline of the Roman Catholic church,” for example, among the impacts of “the Renaissance” or are they separate “turning points”? If it is the latter, then there is a lack of parallel structure. The section should be written, for example, to add something like this: “the Protestant Reformation and its impact on arts, government, language, literacy, and intellectual thought.” The clause would now parallel the structure of the preceding clause on “the Renaissance.” Clearly, the Protestant Reformation, like the Renaissance, had an impact on a variety of things like the arts, government, and intellectual thought.

§113.33. World History Studies (d) (1) (H). The Norman Invasion of England in 1066 is certainly one of the most significant dates in English history. The impact of the conquest on English law, language, and civil government, and by extension American law, language, and civil government, is incalculable. A learned discussion of Anglo-American legal history, for example, would certainly require knowledge of what happened in 1066.

§113.33. World History Studies (d) (6) (A). This section mentions “European expansion,” by which I presume is meant things like conquest and colonization. Alongside discussions of European expansion and events, such as the Crusades, students must be asked to “describe the political, legal, economic, social, and religious impact of Islamic conquests of, among other places, Jerusalem, Constantinople, and the Iberian Peninsula.” This information will, among other things, provide valuable context for understanding subsequent conflict, including the Crusades. I would add this to section (d) (4) or (d) (5) or (d) (6) as a separate subsection.

§113.33. World History Studies (d) (18) (B). Missing from this list of “political systems” is “democracy.” Adding democracy to this list will provide an opportunity to develop the theoretical distinction, which is generally lacking in the TEKS, between a democracy and a republic.

§113.33. World History Studies (d) (19) (B). An influential document that should be added to this list is the Virginia Declaration of Rights (June 1776). There is broad agreement that the Virginia Declaration of Rights was the most influential declaration of rights in the founding era. By the end of the founding era, every state had either framed a bill of rights or enacted legislation with similar provisions. Many states, including Pennsylvania, Maryland, North Carolina, Vermont, Delaware, New Hampshire, and Massachusetts, apparently undertook this task with a copy of the Virginia Declaration before them. The national Bill of Rights, ratified in 1791, similarly bears the unmistakable influence of this Declaration. It is also said to have influenced the French Declaration of the Rights of Man and the Universal Declaration of Human

Rights. See R. Carter Pittman, Book Review, *Virginia Magazine of History and Biography* 68 (1960): 110-111.

§113.33. World History Studies (d) (23). The revisions to this section lack explanation or rationale. What is the advantage in excluding “children and families” from this section? What is lost by excluding “children and families”? Would there be something to gain by adding “men” to this section? Are women more representative of “children and families” than men? In the absence of a compelling rationale, I recommend that these revisions be dropped and the previous version be restored. If, in fact, the goal is to identify representatives of “children and families,” as is suggested by comment A102, then I suggest that “men” be added alongside “women” in this text.

§113.35. United States Government (b) (2). Explicit reference should be made to the U.S. Declaration of Independence as one of the primary documents used.

§113.35. United States Government (d) (1) (B). Among the influential sources that should be added to this list, and that students must be exposed to, are the Bible and William Blackstone. As currently written, this section of the TEKS excludes the most cited authority in the political literature of the founding era. See Donald S. Lutz, “The Relative Influence of European Writers on Late Eighteenth-Century American Political Thought,” *American Political Science Review* 78 (March 1984): 189-197. If the most cited authority is excluded and lesser cited authorities included, then the drafters should explain their choice of authorities.

Following an extensive survey of American political literature from 1760 to 1805, political scientist Donald S. Lutz reported that the Bible was cited more frequently than any European writer or even any European school of thought, such as the Enlightenment or Whig intellectual traditions. Even though he excluded from his sample most documents, including many political sermons, that included no citations to secular political thinkers (greatly suppressing the number of references to the Bible in this literature), the Bible accounted for about a third of all citations. According to Lutz, “Deuteronomy is the most frequently cited book, followed by Montesquieu’s *The Spirit of the Laws*.” The book of Deuteronomy alone is “cited almost twice as often as all of Locke’s writings put together,” and “Saint Paul is cited about as frequently as Montesquieu and Blackstone, the two most-cited secular authors.” Donald S. Lutz, *A Preface to American Political Theory* (Lawrence: University Press of Kansas, 1992), 136.

In the 1790s and early 1800s, the English common law scholar and jurist, Sir William Blackstone, was the single most cited thinker in American political literature. And if one looks more widely at American political literature from 1760 to 1805, only Montesquieu is cited more frequently. Donald S. Lutz, “The Relative Influence of European Writers on Late Eighteenth-

Century American Political Thought,” *American Political Science Review* 78 (March 1984): 193. In federal and state cases between 1789 and 1828, Blackstone’s *Commentaries on the Laws of England* (1765-1769) were cited in approximately 6.6% of cases, “more frequently than any other text” or legal treatise. Dennis R. Nolan, “Sir William Blackstone and the New American Republic: A Study of Intellectual Impact,” *New York University Law Review* 51 (Nov. 1976): 753.

§113.35. United States Government (d) (1) (C). Students must be exposed to a more expansive company of founding figures who contributed to the American political founding. This company includes John Dickinson, John Jay, George Mason, Gouverneur Morris, Roger Sherman, James Wilson, and John Witherspoon. See Gary L. Gregg II and Mark David Hall, ed., *America’s Forgotten Founders* (Louisville, Kent.: Butler Books; The McConnell Center, University of Louisville, 2008).

§113.35. United States Government (d) (7) (F). This section needs to identify at least some of the specific “American beliefs and principles reflected in the Declaration of Independence and U.S. Constitution.”

§113.35. United States Government (d) (3) (F). The revision to this section (as indicated by comment A44) reflects a misunderstanding of the subsection as originally written. The incorporation doctrine had a profound impact on federalism and some aspects of majority rule. The section, as originally written, quite correctly identified this as essential knowledge that students must understand. The revisors have misconstrued the section as suggesting that federalism and majority rule were incorporated. The failure to understand this basic feature of constitutional law underscores why an understanding of the incorporation doctrine’s impact on federalism must be included.

§113.32. United States History Studies Since Reconstruction (c) (4) (B). I propose changing “including” to “such as” before “Upton Sinclair.” The options are sufficiently broad that I see no need to limit teachers unnecessarily.

§113.32. United States History Studies Since Reconstruction (c) (10) (B). This subsection expects students to “identify conservative advocacy organizations and individuals, such as Newt Gingrich, Phyllis Schlafly, and the Moral Majority.” This section is problematic on many levels. First, it singles out “conservatives” for identification. Moreover, it is oddly placed among subsections focused on “war,” “global war on terrorism,” and “domestic terrorism.” Second, I suspect self-identified conservatives would debate whether the individuals and group identified by name are representative examples of the current conservative movement. The accompanying notes report that some members recommended another subsection identifying “liberal organizations.” (No explanation is offered why this recommendation was rejected.) This raises

a third problem. What is the definition of “conservative” and what would be the definition of “liberal,” and who decides whether individuals and groups are conservative or liberal? Would it be appropriate to call a group “conservative” if that group rejects the label? For example, libertarian organizations, such as the Cato Institute, are often misidentified in the media as conservative. Fourth, adding a section on “liberal” groups would compound the problem by creating a false dichotomy. Political advocacy is not represented by just “conservative” and “liberal” perspectives. There are conservative, liberal, libertarian, and collectivists advocacy groups, just to give a few examples.

§113.39. Social Studies Research Methods. (c) (2). The deleted sections from original TEKS (5) and (9) need to be restored.