

The State Board of Education (SBOE) adopts an amendment to §67.25, concerning state review and approval of instructional materials. The amendment is adopted with changes to the proposed text as published in the October 11, 2024 issue of the *Texas Register* (49 TexReg 8304) and will be republished. The adopted amendment establishes a minimum threshold for standards alignment for instructional materials for enrichment subjects and courses and for supplemental instructional materials by defining the criteria to be used in the review and approval of instructional materials by the SBOE and the Texas Education Agency (TEA).

**REASONED JUSTIFICATION:** Texas Education Code (TEC), Chapter 31, addresses instructional materials in public education and permits the SBOE to adopt rules for the adoption, requisition, distribution, care, use, and disposal of instructional materials. House Bill 1605, 88th Texas Legislature, Regular Session, 2023, significantly revised TEC, Chapter 31, including several provisions under SBOE authority.

The adopted amendment establishes a minimum threshold for standards alignment for instructional materials for enrichment subjects and courses and for supplemental instructional materials by defining the criteria to be used in the review and approval of instructional materials.

At adoption, paragraph (2) was amended to modify the criteria for enrichment subjects by outlining the requirements for full-subject tier one instructional materials and partial-subject tier one instructional materials.

The SBOE approved the amendment for first reading and filing authorization at its September 13, 2024 meeting and for second reading and final adoption at its November 22, 2024 meeting.

In accordance with TEC, §7.102(f), the SBOE approved the amendment for adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2025-2026 school year. The earlier effective date will allow the board to consider and review instructional materials for career and technical education courses and instructional materials for supplemental products in Instructional Materials Review and Approval (IMRA) Cycle 2025. The effective date is 20 days after filing as adopted with the Texas Register.

**SUMMARY OF COMMENTS AND RESPONSES:** The public comment period on the proposal began October 11, 2024, and ended at 5:00 p.m. on November 12, 2024. The SBOE also provided an opportunity for registered oral and written comments at its November 2024 meeting in accordance with the SBOE board operating policies and procedures. Following is a summary of the public comments received and corresponding responses.

**Comment.** A publisher expressed support for the proposed rule text for supplemental materials that would allow a publisher to indicate the standards covered by their product prior to review in the IMRA process.

**Response.** The SBOE agrees that the rule will support the wide array of supplemental materials in the marketplace and allow for a fair review of standards alignment.

**Comment.** Nine individuals commented in opposition to the materials under review for IMRA Cycle 2024.

**Response.** These comments are outside the scope of the proposed rulemaking.

**STATUTORY AUTHORITY.** The amendment is adopted under Texas Education Code (TEC), §28.002(a), which identifies the subjects of the required curriculum; TEC, §31.003(a), as amended by House Bill (HB) 1605, 88th Texas Legislature, Regular Session, 2023, which permits the State Board of Education (SBOE) to adopt rules for the adoption, requisition, distribution, care, use, and disposal of instructional materials; TEC, §31.022, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, which requires the SBOE to review instructional materials that have been provided to the board by the Texas Education Agency (TEA) under TEC, §31.023; and TEC, §31.023, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, which requires the commissioner of education to establish, in consultation with and with the approval of the SBOE, a process for the annual review of instructional materials by TEA. In conducting a review under this section, TEA must use a rubric developed by TEA in consultation with and approved by the SBOE.

**CROSS REFERENCE TO STATUTE.** The amendment implements Texas Education Code, §28.002(a), and §§31.003(a), 31.022, and 31.023, as amended by House Bill 1605, 88th Texas Legislature, Regular Session, 2023.

<rule>

**§67.25. Consideration and Approval of Instructional Materials by the State Board of Education.**

The State Board of Education (SBOE) shall review the results of the instructional materials reviews completed by a review panel and submitted by the commissioner of education in accordance with Texas Education Code (TEC), §31.022 and §31.023. Instructional materials may be placed on the list of approved instructional materials only if they meet the following criteria:

- (1) for full-subject and partial-subject tier one instructional materials for foundation subjects as defined by TEC, §28.002(a)(1), the product components cover 100% of the Texas Essential Knowledge and Skills (TEKS) and applicable English Language Proficiency Standards (ELPS) for the specific grade level and subject area when the proclamation or request for instructional materials was issued. In determining the percentage of the TEKS and ELPS covered by instructional materials, each student expectation shall count as an independent element of the standards;
- (2) for enrichment subjects as defined by TEC, §28.002(a)(2):
  - (A) the product components for full-subject tier one instructional materials cover 100% of the TEKS for the specific grade level and subject area when the proclamation or request for instructional materials was issued. In determining the percentage of the TEKS covered by instructional materials, each student expectation shall count as an independent element of the standards; and
  - (B) the product components for partial-subject tier one instructional materials cover 100% of the applicable TEKS for the specific grade level and subject area when the proclamation or request for instructional materials was issued. The agency will bring recommendations regarding which TEKS are applicable to the SBOE for approval. In determining the percentage of the TEKS covered by instructional materials, each student expectation shall count as an independent element of the standards;
- (3) for supplemental instructional materials as defined by TEC, §31.002(3), the publisher will indicate which TEKS are applicable, and the product and its components cover 100% of the applicable student expectations in the TEKS for the specific subject or course for which the materials are designed;
- (4) materials have been reviewed through the process required by TEC, §31.023;
- (5) materials are free from factual error, defined as a verified error of fact or any error that would interfere with student learning, including significant grammatical or punctuation errors;
- (6) materials meet the Web Content Accessibility Guidelines (WCAG) and meet the technical specifications of the Federal Rehabilitation Act, Section 508, as specified when a request for instructional materials or proclamation was issued;
- (7) materials conform to or exceed in every instance the latest edition of the Manufacturing Standards and Specifications for Textbooks (MSST), developed by the State Instructional Materials Review Association, when the proclamation or request for instructional materials was issued;
- (8) materials are compliant with the suitability standards adopted by the SBOE and are compliant with all applicable state laws; and
- (9) materials provide access to a parent portal as required by TEC, §31.154.