

Chapter 66. State Adoption and Distribution of Instructional Materials

Subchapter BB. Commissioner's Rules Concerning State-Developed Open-Source Instructional Materials

§66.1113. Requirements for State-Developed Open-Source Instructional Materials.

- (a) The commissioner of education may purchase state-developed open-source instructional materials in accordance with the Texas Education Code (TEC), §31.071. The purchase shall be through a competitive process.
- (b) State-developed open-source instructional materials must be irrevocably owned by or licensed to the state for use in the applicable subject and grade level.
- (c) The state must have unlimited authority to modify, delete, combine, or add content to the open-source instructional materials after purchase.
- (d) State-developed open-source instructional materials must be created using the industry-standard software specified in the request for state-developed open-source instructional materials.
- (e) The state must be given access to digital files necessary for content modification of the state-developed open-source instructional materials.
- (f) Publishers of state-developed open-source instructional materials shall submit to the Texas Education Agency (TEA) a signed affidavit, including the following:
 - (1) certification that each individual whose name is listed as an author or contributor of a state-developed open-source instructional material contributed to the development of the material; and
 - (2) a general description of each author's or contributor's involvement in the development of the material.
- (g) Publishers may not submit state-developed open-source instructional materials that have been authored by a current employee of the TEA.
- (h) Following the revision of Texas essential knowledge and skills (TEKS) by the State Board of Education (SBOE), the commissioner shall require the revision of state-developed open-source instructional materials relating to those TEKS. The commissioner shall use a competitive process to request proposals to revise state-developed open-source instructional materials.
- (i) The commissioner may, at any time, require the revision of a state-developed open-source instructional material for a period not to exceed the period under the TEC, §31.022, for which an instructional material for that subject and grade level may be adopted.
- (j) The review of revised state-developed open-source instructional materials shall have the same requirements and occur according to the same process as new state-developed open-source instructional materials.
- (k) Notwithstanding Subchapter A of this chapter (relating to General Provisions), the SBOE may assess an administrative penalty under the TEC, §31.151, for a violation based upon an instructional material adopted by the commissioner under this subchapter.
- (l) A publisher of instructional materials under this subchapter shall file a register of contacts in the same manner provided under §66.4 of this title (relating to Requirement for Registers) for a publisher of instructional materials adopted through a proclamation.

Statutory Authority: The provisions of this §66.1113 issued under the Texas Education Code, §§31.0211, 31.0212, 31.0214, 31.0215, 31.0231, 31.029, 31.031, 31.076, and 31.104.

Source: The provisions of this §66.1113 adopted to be effective November 21, 2010, 35 TexReg 10220; amended to be effective July 23, 2012, 37 TexReg 5413; amended to be effective May 8, 2017, 42 TexReg 2405.

§66.1115. Cost and Distribution of State-Developed Open-Source Instructional Materials.

- (a) State-developed open-source instructional materials shall be provided free of cost to Texas public schools and open-enrollment charter schools.
- (b) The commissioner of education may choose to provide a license to use state-developed open-source instructional material to entities other than Texas public schools and open-enrollment charter schools.
- (c) The commissioner shall determine the cost to an entity other than a Texas school district or an open-enrollment charter school for state-developed open-source instructional materials. In determining that cost, the commissioner shall consider state expenses associated with the instructional materials, including expenses incurred by the state in soliciting, evaluating, revising, and purchasing the open-source instructional materials.
- (d) State-developed open-source instructional materials shall be distributed electronically to school districts, open-enrollment charter schools, and entities that choose to purchase them in a manner to be determined by the commissioner.

Statutory Authority: The provisions of this §66.1115 issued under the Texas Education Code, §§31.0211, 31.0212, 31.0214, 31.0215, 31.0231, 31.029, 31.031, 31.076, and 31.104.

Source: The provisions of this §66.1115 adopted to be effective May 8, 2017, 42 TexReg 2405.