

ATTACHMENT  
Text of Proposed New 19 TAC

**Chapter 67. State Review and Approval of Instructional Materials**

**Subchapter B. State Review and Approval**

**§67.21. Proclamations, Public Notice, and Requests for Instructional Materials for Review.**

- (a) Upon the adoption of revised Texas Essential Knowledge and Skills (TEKS) or Texas Prekindergarten Guidelines (TPG), the State Board of Education (SBOE) shall determine if the extent of the revisions have created a need to remove instructional materials from the list approved under Texas Education Code, §31.022.
- (b) The SBOE shall issue a proclamation calling for instructional materials if the determination in subsection (a) of this section results in a decision that a proclamation is necessary. The proclamation shall serve as notice to:
  - (1) all publishers to submit instructional material for review for the subject and grade level or course(s); and
  - (2) all publishers with approved instructional materials for the subject and grade level or course(s) that to remain on the list of approved materials, the publisher must submit new or revised materials or new information demonstrating alignment of current instructional materials to the revised TEKS or TPG.
- (c) The Texas Education Agency shall issue an annual request for instructional materials to notify all publishers and the public that submissions of instructional materials aligned to quality rubrics and the suitability rubric approved by the SBOE are being invited for review.
- (d) Each proclamation and annual request for instructional materials for review shall contain the following:
  - (1) information about and reference to applicable TEKS in each subject for which submissions are being invited;
  - (2) the student enrollment of the courses or grade levels called for, to the extent that it is available, for the school year prior to the year in which the proclamation or annual request for instructional materials is issued;
  - (3) the requirement that a publisher grant electronic access to the instructional materials being submitted that complies to the specifications in the proclamation or annual request for instructional materials for review and may not submit a print copy;
  - (4) specifications for providing computerized files to produce accessible formats of approved instructional materials;
  - (5) specifications for ensuring that electronic instructional materials are fully accessible to students with disabilities; and
  - (6) a schedule of instructional materials review and approval procedures.

**§67.23. Requirements for Publisher Participation in Instructional Materials Review and Approval (IMRA).**

- (a) A publisher with approved materials shall comply with product standards and specifications.
- (b) Publishers participating in the adoption process are responsible for all expenses incurred by their participation.
- (c) A publisher may not submit instructional materials for review that have been authored or contributed to by a current employee of the Texas Education Agency (TEA). This does not apply to open education resource instructional materials as developed by TEA in accordance with Texas Education Code, Chapter 31, Subchapter B-1.

- (d) On or before the deadline established in the schedule of approval procedures, publishers shall submit correlations of instructional materials submitted for review in a format designated by the commissioner of education. Correlations shall be provided for materials designed for student use and materials designed for teacher use and include:
  - (1) evidence of coverage of each student expectation, in the context of the lesson, of the Texas Essential Knowledge and Skills required by the proclamation or the request for instructional materials for review; and
  - (2) evidence of alignment to the quality rubric indicators.
- (e) On or before the deadline established in the schedule of approval procedures, publishers shall certify that after exercising reasonable efforts, the submitted material complies with suitability standards and all applicable state laws.
- (f) A publisher that intends to offer instructional materials for review and approval shall comply with additional requirements included in a proclamation or the annual request for instructional materials for review.

#### **§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) 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 TEKS;
- (2) materials have been reviewed through the process required by TEC, §31.023;
- (3) 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;
- (4) 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;
- (5) 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;
- (6) materials are compliant with the suitability standards adopted by the SBOE and are compliant with all applicable state laws; and
- (7) materials provide access to a parent portal as required by TEC, §31.154.

### **Subchapter D. Duties of Publishers and Manufacturers**

#### **§67.81. Instructional Materials Contracts.**

- (a) The state contract for materials placed on the list of approved materials shall not be changed or modified without the approval of Texas Education Agency (TEA) legal counsel.

- (b) Contracts shall be sent to publishers for signature. Signed contracts returned by publishers shall be signed by the chair of the State Board of Education (SBOE) and attested to by the commissioner of education. Properly signed and attested contracts shall be filed with TEA.
- (c) The publisher of instructional materials approved by the SBOE shall:
  - (1) enter into a contract with the SBOE for a term not to exceed an initial term of eight years; and
  - (2) commit to provide the instructional materials in the manner specified by the publisher in the official bid specified in §67.23 of this title (relating to Requirements for Publisher Participation in Instructional Materials Review and Approval (IMRA)).
- (d) The commissioner shall annually review contracts for instructional materials and present to the SBOE those contracts that are eligible for renewal.
- (e) The SBOE shall renew existing contracts upon determining that the renewal would be in the best interest of the state and after considering the following factors:
  - (1) placement of subject areas in the Texas Essential Knowledge and Skills review schedule;
  - (2) willingness of publishers to renew contracts; and
  - (3) cost of instructional materials under a renewal contract.
- (f) Publishers awarded new contracts shall be prepared to make the approved instructional materials available for at least one contract renewal period of not more than four years at prices that are mutually agreeable to publishers and to the commissioner. The SBOE may consider refusing to award future contracts to a publisher that, after receiving written notice to do so, refuses to rebid instructional materials at least once. Failure of a publisher to negotiate an acceptable price for an extended contract shall not be considered failure to rebid instructional materials.
- (g) Contracts with publishers are subject to all provisions of Texas Education Code (TEC), Chapter 31.
- (h) This section does not apply to open education resource instructional material.

### **§67.83. Publisher Parent Portal.**

- (a) Standards under this section apply to any publisher that supplies instructional materials that are reviewed by a review panel under Texas Education Code (TEC), §31.022 and §31.023, and placed on the list of approved instructional materials by the State Board of Education (SBOE) as outlined in TEC, §31.022.
- (b) Standards under this section apply to any instructional materials, including:
  - (1) full-subject tier one instructional material;
  - (2) open education resource instructional material;
  - (3) partial-subject tier one instructional material; and
  - (4) supplemental instructional material.
- (c) A publisher hosting an instructional materials parent portal must:
  - (1) include in the portal all components placed on the list of instructional materials approved by the SBOE, including teacher- and student-facing materials;
  - (2) for each school district or open-enrollment charter school that purchases the instructional materials, make the parent portal interoperable with any learning management system or online learning portal used by the district or charter school to assign, distribute, present, or make available instructional materials as defined by TEC, §31.002, to students;
  - (3) for instructional materials not available in a digital format, contain the instructional materials component International Standard Book Number (ISBN) or part number, title, edition, and author to allow a parent to locate a physical copy of the material;

- (4) allow access beginning not later than 30 days before the school year begins and concluding not earlier than 30 days after the school year ends;
  - (5) optimize the portal for viewing on large monitors, laptops, tablets, and smartphone devices; and
  - (6) meet Web Content Accessibility Guidelines (WCAG) identified in the associated proclamation or annual request for instructional materials for review and any technical standards required by the Federal Rehabilitation Act, Section 508.
- (d) A publisher hosting an instructional materials parent portal may not:
- (1) include any instructional materials as defined by TEC, §31.002, that were not reviewed and placed on the approved materials list; or
  - (2) include any instructional materials on the portal that would undermine, subvert, or impede any local education agency or open-enrollment charter school from complying with TEC, §31.1011.