

EDUCATION CODE

CHAPTER 31. TEXTBOOKS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 31.001. FREE TEXTBOOKS. Textbooks selected for use in the public schools shall be furnished without cost to the students attending those schools.

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

Sec. 31.002. DEFINITIONS. In this chapter:

(1) "Electronic textbook" means computer software, interactive videodisc, magnetic media, CD-ROM, computer courseware, on-line services, an electronic medium, or other means of conveying information to the student or otherwise contributing to the learning process through electronic means.

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

(3) "Textbook" means a book, a system of instructional materials, or a combination of a book and supplementary instructional materials that conveys information to the student or otherwise contributes to the learning process, or an electronic textbook.

(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 an electronic textbook; or

(B) professional use by a classroom teacher.

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

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

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

SUBCHAPTER B. STATE FUNDING, ADOPTION, AND PURCHASE

Sec. 31.021. STATE TEXTBOOK FUND. (a) The state textbook fund

consists of:

(1) an amount set aside by the State Board of Education from the available school fund;

(2) all funds accruing from the state's sale of disused textbooks; and

(3) all amounts lawfully paid into the fund from any other source.

(b) The State Board of Education shall annually set aside out of the available school fund of the state an amount sufficient for the board, school districts, and open-enrollment charter schools to purchase and distribute the necessary textbooks for the use of the students of this state for the following school year. The board shall determine the amount of the available school fund to set aside for the state textbook fund based on:

(1) a report by the commissioner issued on July 1 or, if that date is a Saturday or Sunday, on the following Monday, stating the amount of unobligated money in the fund;

(2) the commissioner's estimate, based on textbooks selected under Section 31.101 and on attendance reports submitted under Section 31.103 by school districts and open-enrollment charter schools, of the amount of funds, in addition to funds reported under Subdivision (1), that will be necessary for purchase and distribution of textbooks for the following school year; and

(3) any amount the board determines should be set aside for emergency purposes caused by unexpected increases in attendance.

(c) This subsection applies only if the pilot project established under Section 54.2161 is implemented, and expires August 15, 2009. In addition to the amount set aside under Subsection (b), the State Board of Education shall annually set aside out of the available school fund an amount sufficient for each school district with one or more students entitled to free

textbooks under the pilot project established under Section 54.2161 to pay the costs of those textbooks as required by Section 31.031 for the following school year. The board shall determine the amount of the available school fund to set aside for the state textbook fund for purposes of this subsection based on the commissioner's estimate of the amount that will be necessary to pay the costs of textbooks as required under Section 31.031.

(d) Money transferred to the state textbook fund remains in the fund until spent and does not lapse to the state at the end of the fiscal year.

(e) All necessary expenses incurred under this chapter shall be paid from the state textbook fund on invoices approved by the commissioner.

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; Acts 2005, 79th Leg., ch. 1339, Sec. 2, eff. June 18, 2005.

Sec. 31.022. TEXTBOOK REVIEW AND ADOPTION. (a) The State Board of Education shall adopt a review and adoption cycle for textbooks for elementary grade levels, including prekindergarten, and secondary grade levels, for each subject in the required curriculum under Section 28.002.

(b) The board shall organize the cycle for subjects in the foundation curriculum so that not more than one-sixth of the textbooks for subjects in the foundation curriculum are reviewed each year. The board shall adopt rules to provide for a full and complete investigation of textbooks for each subject in the foundation curriculum at least every six years. The adoption of textbooks for a subject in the foundation curriculum may be extended beyond the six-year period only if the content of textbooks for a subject is sufficiently current.

(c) The board shall adopt rules to provide for a full and

complete investigation of textbooks for each subject in the enrichment curriculum on a cycle the board considers appropriate.

(d) At least 24 months before the beginning of the school year for which textbooks for a particular subject and grade level will be purchased under the review and adoption cycle adopted by the board, the board shall publish notice of the review and adoption cycle for those textbooks.

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

Sec. 31.023. TEXTBOOK LISTS. (a) For each subject and grade level, the State Board of Education shall adopt two lists of textbooks. The conforming list includes each textbook submitted for the subject and grade level that meets applicable physical specifications adopted by the State Board of Education and contains material covering each element of the essential knowledge and skills of the subject and grade level as determined by the State Board of Education under Section 28.002 and adopted under Section 31.024. The nonconforming list includes each textbook submitted for the subject and grade level that:

(1) meets applicable physical specifications adopted by the State Board of Education;

(2) contains material covering at least half, but not all, of the elements of the essential knowledge and skills of the subject and grade level; and

(3) is adopted under Section 31.024.

(b) Each textbook on a conforming or nonconforming list must be free from factual errors.

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

Sec. 31.024. ADOPTION BY STATE BOARD OF EDUCATION. (a) By majority vote, the State Board of Education shall:

(1) place each submitted textbook on a conforming or nonconforming list; or

(2) reject a textbook submitted for placement on a

conforming or nonconforming list.

(b) Not later than December 1 of the year preceding the school year for which the textbooks for a particular subject and grade level will be purchased under the cycle adopted by the board under Section 31.022, the board shall provide the lists of adopted textbooks to each school district. Each nonconforming list must include the reasons an adopted textbook is not eligible for the conforming list.

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

Sec. 31.025. LIMITATION ON COST. (a) The State Board of Education shall set a limit on the cost that may be paid from the state textbook fund for a textbook placed on the conforming or nonconforming list for a particular subject and grade level. The board may not reject a textbook for placement on the conforming or nonconforming list because the textbook's price exceeds the limit established under this subsection.

(b) Subject to Section 31.151, if a school district or open-enrollment charter school selects a textbook from a conforming or nonconforming list that exceeds the limit established under Subsection (a):

(1) the state shall pay the publisher an amount equal to the limit established under Subsection (a) multiplied by the number of textbooks the district or school requisitions; and

(2) the district or school is responsible for the remainder of the cost.

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

Sec. 31.026. CONTRACT; PRICE. (a) The State Board of Education shall execute a contract:

(1) for the purchase of each adopted textbook other than an electronic textbook; and

(2) for the purchase or licensing of each adopted electronic textbook.

(b) A contract must require the publisher to provide the number of textbooks required by school districts in this state for the term of the contract, which must coincide with the board's adoption cycle.

(c) As applicable, a contract must provide for the purchase or licensing of a textbook 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.

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

Sec. 31.027. INFORMATION TO SCHOOL DISTRICTS; SAMPLE COPIES.

(a) A publisher shall provide each school district and open-enrollment charter school with information that fully describes each of the publisher's adopted textbooks. On request of a school district, a publisher shall provide a sample copy of an adopted textbook.

(b) A publisher shall provide at least two sample copies of each adopted textbook to be maintained at each regional education service center.

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

Sec. 31.028. SPECIAL TEXTBOOKS. (a) The State Board of Education may purchase special textbooks for the education of blind and visually impaired students in public schools. In addition, for a teacher who is blind or visually impaired, the board shall provide a teacher's edition in Braille or large type, as requested by the teacher, for each textbook the teacher uses in the instruction of students. The teacher edition must be available at the same time the student textbooks become available.

(b) The publisher of an adopted textbook shall provide the agency with computerized textbook files for the production of Braille textbooks or other versions of textbooks to be used by students with disabilities, on request of the State Board of

Education. A publisher shall arrange computerized textbook files in one of several optional formats specified by the State Board of Education.

(c) The board may also enter into agreements providing for the acceptance, requisition, and distribution of special textbooks 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 print in a regularly adopted textbook used in the student's class.

(2) "Special textbook" means a textbook 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.

Sec. 31.029. BILINGUAL TEXTBOOKS. The board shall purchase or otherwise acquire textbooks for use in bilingual education classes. Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 31.030. USED TEXTBOOKS. The State Board of Education shall adopt rules to ensure that used textbooks 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 textbooks who knowingly violates this section.

Added by Acts 2001, 77th Leg., ch. 805, Sec. 2, eff. June 14, 2001.

Sec. 31.031. TEXTBOOKS FOR STUDENTS ENROLLED IN JUNIOR COLLEGE

COURSES FOR CONCURRENT HIGH SCHOOL AND HIGHER EDUCATION ACADEMIC CREDIT UNDER PILOT PROJECT.

Text of section effective until August 15, 2009

(a) This section applies only if the pilot project established under Section 54.2161 is implemented.

(b) From the amount set aside by the State Board of Education under Section 31.021(c), the school district that a student entitled to free textbooks under the pilot project established by Section 54.2161 attends shall pay the costs of each textbook the student requires for a course described by Section 54.2161(b)(2).

(c) The State Board of Education shall adopt rules in accordance with which a school district shall pay the costs of textbooks under this section. The rules shall provide for a school district to reimburse an institution of higher education for the costs of textbooks that the institution provides to a student under Section 54.2161.

(d) Section 31.102(c) does not apply to a textbook provided under this section, except that the board of trustees of the school district in which a student is enrolled is the legal custodian of a textbook provided under this section.

(e) This section expires August 15, 2009.

Added by Acts 2005, 79th Leg., ch. 1339, Sec. 3, eff. June 18, 2005.

SUBCHAPTER C. LOCAL OPERATIONS

Sec. 31.101. SELECTION AND PURCHASE OF TEXTBOOKS BY SCHOOL DISTRICTS. (a) Each year, during a period established by the State Board of Education, the board of trustees of each school district and the governing body of each open-enrollment charter school shall:

(1) for a subject in the foundation curriculum, notify the State Board of Education of the textbooks selected by the board of trustees or governing body for the following school year from

among the textbooks on the appropriate conforming or nonconforming list; or

(2) for a subject in the enrichment curriculum:

(A) notify the State Board of Education of each textbook selected by the board of trustees or governing body for the following school year from among the textbooks on the appropriate conforming or nonconforming list; or

(B) notify the State Board of Education that the board of trustees or governing body has selected a textbook that is not on the conforming or nonconforming list.

(b) If a school district or open-enrollment charter school selects a textbook for a particular subject in the enrichment curriculum and grade level that is not on the conforming or nonconforming list, the state shall pay to the district or school an amount equal to the lesser of:

(1) 70 percent of the cost to the district of the textbook, multiplied by the number of textbooks the district or school needs for that subject and grade level; or

(2) 70 percent of the limitation established under Section 31.025 for a textbook for that subject and grade level, multiplied by the number of textbooks the district or school needs for that subject and grade level.

(c) A school district or open-enrollment charter school that selects a textbook that is not on the conforming or nonconforming list:

(1) is responsible for the portion of the cost of the textbook that is not paid by the state under Subsection (b); and

(2) may use funds received from the state under Subsection (b) only for purchasing the textbook for which the funds were received.

(d) For a textbook that is not on the conforming or nonconforming list, a school district or open-enrollment charter

school must use the textbook for the period of the review and adoption cycle the State Board of Education has established for the subject and grade level for which the textbook is used.

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

Sec. 31.102. TITLE AND CUSTODY. (a) Each textbook purchased as provided by this chapter is the property of this state.

(b) Subsection (a) applies to an electronic textbook 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 is the legal custodian of textbooks purchased as provided by this chapter for the district or school. The board of trustees shall distribute textbooks to students in the manner that the board or governing body determines is most effective and economical.

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

Sec. 31.103. TEXTBOOK REQUISITIONS. (a) Not later than the seventh day after the first school day in April, each principal shall report the maximum attendance for the school to the superintendent. Not later than April 25, the superintendent of a school district or the chief operating officer of an open-enrollment charter school shall report the district's or school's maximum attendance to the commissioner.

(b) A requisition for textbooks for the following school year shall be based on the maximum attendance reports under Subsection (a), plus an additional 10 percent, except as otherwise provided. A school district or open-enrollment charter school shall make a requisition for a textbook on the conforming or nonconforming list through the commissioner to the state depository designated by the publisher or as provided by State Board of Education rule, as applicable, not later than June 1 of each year. The designated state depository or, if the publisher or manufacturer does not have a designated textbook depository in this state under Section

31.151(a)(6)(B), the publisher or manufacturer shall fill a requisition approved by the agency at any other time in the case of an emergency. As made necessary by available funds, the commissioner shall reduce the additional percentage of attendance for which a district or school may requisition textbooks. The commissioner may, on application of a district or school that is experiencing high enrollment growth, increase the additional percentage of attendance for which the district or school may requisition textbooks.

(c) In making a requisition under this section, a school district or open-enrollment charter school may requisition textbooks on the conforming or nonconforming list for grades above the grade level in which a student is enrolled, except that the total quantity of textbooks requisitioned under this section may not exceed the limit prescribed by Subsection (b).

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.

Sec. 31.1031. SHORTAGE OF REQUISITIONED TEXTBOOKS. If a school district or open-enrollment charter school does not have a sufficient number of copies of a textbook used by the district or school for use during the following school year, and a sufficient number of additional copies will not be available from the depository or the publisher within the time specified by Section 31.151(a)(8), the district or school is entitled to:

(1) be reimbursed from the state textbook fund, at a rate and in the manner provided by State Board of Education rule, for the purchase of a sufficient number of used adopted textbooks; or

(2) return currently used textbooks to the commissioner in exchange for sufficient copies, if available, of other textbooks

on the conforming or nonconforming list to be used during the following school year.

Added by Acts 2001, 77th Leg., ch. 805, Sec. 5, eff. June 14, 2001.

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 textbooks 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 textbooks that have been lost or damaged directly from:

(1) the textbook depository; or

(2) the textbook publisher or manufacturer if the textbook publisher or manufacturer does not have a designated textbook depository in this state under Section 31.151(a)(6)(B).

(c) Each textbook must state that the textbook is the property of or is licensed to this state, as appropriate. Each textbook, other than an electronic textbook, must be covered by the student under the direction of the teacher. A student must return all textbooks 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 each textbook not returned by the student. A student who fails to return all textbooks forfeits the right to free textbooks until each textbook previously issued but not returned is 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 textbooks at school during each school day. If a textbook is not

returned 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.

(e) The board of trustees of a school district may not require an employee of the district to pay for a textbook or instructional technology that is stolen, misplaced, or not returned by a student.

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.

Sec. 31.105. SALE OF TEXTBOOKS. The board of trustees of a school district or governing body of an open-enrollment charter school may sell textbooks, other than electronic textbooks, to a student or another school at the state contract price. The district shall send money from the sale of textbooks to the commissioner as required by the commissioner. The commissioner shall deposit the money in the state textbook fund.

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

Sec. 31.106. USE OF LOCAL FUNDS. In addition to any textbook selected under this chapter, a school district or open-enrollment charter school may use local funds to purchase any textbooks.

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

SUBCHAPTER D. ADMINISTRATIVE PENALTIES AND PENAL PROVISIONS

Sec. 31.151. DUTIES OF PUBLISHERS AND MANUFACTURERS. (a) A publisher or manufacturer of textbooks:

(1) shall furnish any textbook the publisher or manufacturer offers in this state, at a price that does not exceed the lowest price at which the publisher offers that textbook for adoption or sale to any state, public school, or school district in the United States;

(2) shall automatically reduce the price of a textbook 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 textbook or ancillary item free of charge in this state to the same extent that the publisher or manufacturer provides the textbook 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 a textbook sold in this state is at least equal in quality to copies of that textbook 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 textbooks or enter into any understanding or combination to control prices or restrict competition in the sale of textbooks for use in this state;

(6) shall:

(A) maintain a depository in this state or arrange with a depository in this state to receive and fill orders for textbooks, other than on-line textbooks or on-line textbook components, consistent with State Board of Education rules; or

(B) deliver textbooks to a school district or open-enrollment charter school without a delivery charge to the school district, open-enrollment charter school, or state, if:

(i) the publisher or manufacturer does not maintain or arrange with a depository in this state under Paragraph (A) and the publisher's or manufacturer's textbooks and related products are warehoused or otherwise stored less than 300 miles from a border of this state; or

(ii) the textbooks are on-line textbooks or on-line textbook components;

(7) shall, at the time an order for textbooks is acknowledged, provide to school districts or open-enrollment charter schools an accurate shipping date for textbooks that are back-ordered;

(8) shall guarantee delivery of textbooks at least 10 business days before the opening day of school of the year for which the textbooks are ordered if the textbooks are ordered by a date specified in the sales contract; and

(9) shall submit to the State Board of Education an affidavit certifying any textbook 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.

(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 textbook fund.

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.

Sec. 31.152. ACCEPTING REBATE ON TEXTBOOKS. (a) A school

trustee, administrator, or teacher commits an offense if that person receives any commission or rebate on any textbooks 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 a textbook; and
- (3) could not be lawfully purchased with funds from the state textbook fund.

(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) instructional 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.

Sec. 31.153. VIOLATION OF FREE TEXTBOOK LAW. (a) A person commits an offense if the person knowingly violates any law providing for the purchase or distribution of free textbooks 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.

SUBCHAPTER E. DISPOSITION OF TEXTBOOKS

Sec. 31.201. DISPOSITION OF TEXTBOOKS. (a) The commissioner, with the approval of the State Board of Education, may provide for the disposition of:

(1) textbooks, other than electronic textbooks, that are no longer in acceptable condition to be used for instructional purposes; or

(2) discontinued textbooks, other than electronic textbooks.

(b) The commissioner, as provided by rules adopted by the State Board of Education, shall make available on request copies of discontinued textbooks, other than electronic textbooks, for use in libraries maintained in municipal and county jails and facilities of the institutional division of the Texas Department of Criminal Justice and other state agencies.

(c) The State Board of Education shall adopt rules under which a school district or open-enrollment charter school may donate discontinued textbooks, other than electronic textbooks, to a student, to an adult education program, or to a nonprofit organization.

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