

Chapter 66. State Adoption and Distribution of Instructional Materials

Subchapter C. Local Operations

§66.101. Sample Copies of Instructional Materials for School Districts.

(a) A publisher shall provide each school district and open-enrollment charter school with information that fully describes adopted instructional material. Descriptive information provided to each school district or open-enrollment charter school shall be identical.

(b) Upon request by the textbook coordinator of a school district or open-enrollment charter school, a publisher shall provide one complete sample of adopted instructional materials. Samples of learning systems and electronic, visual, or auditory media may be provided in demonstration or representative format, provided that identical samples are provided to each school district or open-enrollment charter school. Samples of instructional materials provided to school districts shall be labeled, "Sample Copy - Not for Classroom Use."

(c) Samples supplied to school districts shall be provided and distributed at the expense of the publisher. No state or local funds shall be expended to purchase, distribute, or ship sample materials. Publishers may make arrangements with school districts or open-enrollment charter schools to retrieve samples after local selections are completed, but the state does not guarantee return of sample instructional materials.

Source: The provisions of this §66.101 adopted to be effective September 1, 1996, 21 TexReg 7236; amended to be effective February 7, 2002, 27 TexReg 746.

§66.104. Selection of Instructional Materials by School Districts.

(a) Each local board of trustees of a school district or governing body of an open-enrollment charter school shall adopt a policy for selecting instructional materials. Final selections must be recorded in the minutes of the board of trustees or governing body.

(b) If instructional materials priced above the maximum cost to the state established in the proclamation are selected by a school district or open-enrollment charter school, the school district or open-enrollment charter school is responsible for paying to the publisher the portion of the cost above the state maximum.

(c) If instructional materials for subjects in the enrichment curriculum that are not on the conforming or nonconforming lists adopted by the State Board of Education (SBOE) are selected by a school district or open-enrollment charter school, the state shall be responsible for paying the district an amount equal to the lesser of:

(1) 70% of the cost to the district of the instructional materials. The applicable quota for adopted materials in the subject shall be the basis for determining instructional materials needed by the district; or

(2) 70% of the maximum cost to the state established for the subject. The applicable quota for adopted materials in the subject shall be the basis for determining instructional materials needed by the district.

(d) A school district or open-enrollment charter school that selects non-adopted instructional materials for enrichment subjects is responsible for the portion of the cost of the materials not eligible for payment by the state under subsection (c) of this section. The minutes of the board of trustees or governing body meeting at which such a selection is ratified shall reflect the agreement of the school district or open-enrollment charter school to bear responsibility for the portion of the cost not eligible for payment by the state. A school district or open-enrollment charter school that selects non-adopted instructional materials for enrichment subjects also bears responsibility for providing braille and/or large type versions of the non-adopted instructional materials.

(e) Funds paid by the state under subsection (c) of this section shall be used only for purchasing the non-adopted instructional materials selected and ratified by the board of trustees or governing body.

(f) Non-adopted instructional materials selected and purchased under subsection (c) of this section shall be used by the school district or open-enrollment charter school during the contract period for conforming and nonconforming instructional materials adopted by the SBOE in the subject area.

(g) A report listing instructional materials selected for use in a school district or open-enrollment charter school shall be transmitted to the Texas Education Agency (TEA) no later than April 1 each year.

(h) Only instructional materials ratified by the board of trustees or governing body shall be furnished by the state for use in any school district or open-enrollment charter school. Selections certified to the TEA shall be final and, therefore, shall not be subject to reconsideration during the

original contract period or readoption contract periods covering the instructional materials selected.

(i) Except as otherwise provided by statute, requisitions submitted before the first day of school shall be approved based on the maximum number of students enrolled in the district or open-enrollment charter school during the previous school year and/or registered to attend the district during the next school year. Requisitions submitted after the first day of school shall be approved based on the actual number of students enrolled in the district when the requisition is submitted. If two or more titles are selected in a subject, requisitions may be made for a combined total of the selected titles.

(j) Instructional materials requisitioned by, and delivered to, a school district or an open-enrollment charter school shall be continued in use during the contract period or periods of the materials. A school district may not return copies of one title to secure copies of another title in the same subject.

(k) 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 publisher's depository or the publisher within ten business days prior to the opening day of school, the school district or school is entitled to:

(1) be reimbursed from the state textbook fund at a rate not to exceed the actual cost of the used textbooks, or the state maximum cost, whichever is less, for the purchase of a sufficient number of used adopted textbooks; or

(2) return currently used textbooks to the commissioner of education in exchange for sufficient copies, if available from the state textbook depository, of other textbooks on the conforming or nonconforming list to be used during the following school year.

(l) In making a requisition, a school district or open-enrollment charter school may requisition textbooks on the conforming and nonconforming list for grades above the grade level in which the student is enrolled, except that the total quantity of textbooks requisitioned may not exceed a school district's eligibility quota for that subject.

(m) Adopted instructional materials shall be supplied to a pupil in special education classes as appropriate to the level of the pupil's ability and without regard to the grade for which the instructional material is adopted or the grade in which the pupil is enrolled.

(n) A school district or open-enrollment charter school may order replacements for textbooks that

have been lost or damaged directly from the textbook depository or the textbook publisher or manufacturer if the textbook publisher or manufacturer does not have a designated textbook depository in this state, in accordance with §66.78(a) of this title (relating to Delivery of Adopted Instructional Materials).

(o) School districts or open-enrollment charter schools shall not be reimbursed from state funds for expenses incurred in local handling of textbooks.

(p) Selection and use of ancillary materials provided by publishers under §66.69 of this title (relating to Ancillary Materials) is at the discretion of each local board of trustees or governing body.

Source: The provisions of this §66.104 adopted to be effective September 1, 1996, 21 TexReg 7236; amended to be effective March 4, 2001, 26 TexReg 1706; amended to be effective February 7, 2002, 27 TexReg 746.

§66.107. Local Accountability.

(a) Each school district or open-enrollment charter school shall conduct an annual physical inventory of all currently adopted instructional materials that have been requisitioned by, and delivered to, the district. The results of the inventory shall be recorded in the district's files. Reimbursement and/or replacement shall be made for all instructional materials determined to be lost.

(b) Each textbook, other than an electronic textbook, must be covered by the student under the direction of the teacher.

(c) After the beginning of every school year, each school district or open-enrollment charter school shall determine if it has surplus instructional materials for any subject area/grade level, based on its current enrollment for the subject area/grade level. Instructional materials determined by the school district or open-enrollment charter school to be surplus-to-quota shall be returned to the State Textbook Depository in accordance with instructions provided by the Texas Education Agency. A school district or open-enrollment charter school is entitled to retain surplus-to-quota instructional materials only when data approved by the Texas Education Agency indicate that students will be enrolled in the subject and a need for the surplus-to-quota instructional materials exists.

(d) When placing orders for instructional materials, school districts and open-enrollment charter

schools shall report enrollments as follows:

(1) Annual orders for instructional materials. Enrollments shall be reported based on the maximum number of students enrolled in the district or open-enrollment charter school during the previous school year and/or registered to attend the district during the next school year; and

(2) Supplemental orders for instructional materials. Enrollments shall be reported based on the actual number of students enrolled in the district when the order is submitted.

(e) The Texas Education Agency assumes that enrollments reported by a school district or open-enrollment charter school at the time an order for instructional materials is placed are accurate.

(f) A school district or open-enrollment charter school that orders instructional materials in excess of its eligibility by reporting enrollments above enrollments described in subsection (c)(1) and (2) of this section enters into a contract with the state to purchase the instructional materials supplied that exceed the school district or open-enrollment charter school's eligibility for the subject area/grade level. A school district or open-enrollment charter school may cancel the contract to purchase instructional materials supplied in excess of its eligibility by immediately returning the excess instructional materials to the State Textbook Depository. If prior approval is received, excess instructional materials may also be returned to the publisher's approved depository. A school district or open-enrollment charter school that retains excess instructional materials for more than six months after the beginning of the school year shall reimburse the state at the full price for the excess instructional materials.

(g) All textbooks must be turned in at the end of the school year or when the student withdraws from school.

Source: The provisions of this §66.107 adopted to be effective September 1, 1996, 21 TexReg 7236; amended to be effective September 1, 1998, 24 TexReg 7779; amended to be effective February 7, 2002, 27 TexReg 746.