

The State Board of Education (SBOE) proposes §§ 67.27, 67.29, 67.31, 67.33, 67.39, 67.41, 67.61, and 67.63, concerning state review and approval of instructional materials. The proposed new sections would implement House

materials prior to delivery of the materials to school districts. However, these rules are necessary to implement legislation and, therefore, are not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would create new regulations regarding the procedures and policies for the selection, appointment, training, and duties of IMRA reviewers; outline the procedures for IMRA public access and public comment; and specify procedures for materials to be updated or revised following approval by the board.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not expand, limit, or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Davis has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal ~~will include~~ the procedures and policies for the selection, appointment, training, and duties of IMRA reviewers; ~~and~~ outlining procedures for IMRA public access and public comment; and ~~specifying~~ procedures for materials to be updated or revised following approval by the board. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no data reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins December 20, 2024, and ends at 5:00 p.m. on January 21, 2025. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in January 2025 in accordance with the SBOE board operating policies and procedures. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days ~~after the~~ proposal has been published in the *Texas Register* on December 20, 2024.

STATUTORY AUTHORITY. The new sections ~~are~~ proposed under Texas Education Code (TEC), §31.003(a), 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 House Bill (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~~ §31.023, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, 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~~ TE in consultation with and approved by the SBOE.

§67.27. IMRA Reviewers: Eligibility and Appointment.

- (3) School district size: large, midsize, and small school districts.
- (4) Demographicsmultiple and different racial and ethnic groups and males and females.
- (5) School district/charter schoolvariety of local education agencies are represented, including openenrollment charter schools.
- (6) Expertiseif a work group is assigned a grade band, at least one reviewer with experience teaching for each grade level will be prioritized.
- (n) TEA staff shall maintain a database of individuals who have served on an IMRA review panel during the review process.
- (o) Applicants are exempt from subsection (a) of this section if they have previously served as an IMRA quality reviewer and received an acceptable performance rating.
- (p) Texas residency is a minimum requirement for any IMRA suitability reviewer.
- (q) Each SBOE member shall annually nominate a minimum of 20 applicants to serve as suitability reviewers and rank them from most preferred to least preferred.
- (r) A panel for suitability review consists of three reviewers and shall reflect the political affiliation of the SBOE No more than one suitability reviewer per panel may be from any one SBOE district.
- (s) TEA staff shall build suitability review panels using top candidates identified from each SBOE district. As final selections are made, TEAay consider the following characteristics to ensure that each individual review panel is balanced and has the necessary qualifications.
 - (1) Experiencesuccessful participation as a quality or suitability reviewer in a past review.
 - (2) Demographicsmultiple and different racial and ethnic groups and males and females.
- (t) If an individual invited to serve on a review panel declines the invitation, the relevant SBOE member will select an alternate from the list of candidates within one week. To the extent a member fails to select an alternate within one week, the top ranked applicant is deemed selected.
- (u) T mB02.8 Am [((u)-2.1 (.373 0 Tc 0 Tw 1.169 0 Td ()Tj 0.0.25c -0.003 (t)2.8 (i)2.9 t)2.9 (-2.4 (acw 1.1vi)6q)-4.1 4.2 ((

- (b) IMRA reviewers shall not accept meals, entertainment, gifts, or gratuities in any form from State Board of Education (SBOE) members; publishers, authors, or depositories; agents for publishers, authors, or depositories; any person who holds any official position with publishers, authors, depositories, or agents; or any person or organization interested in influencing the selection of instructional materials.
- (c) IMRA reviewers shall be afforded the opportunity to collaborate with other panel members during the official virtual and fact-to-face reviews to discuss coverage of TEKS or TPG, errors, components, or any other aspect of instructional materials being evaluated. Reviewers shall not discuss with other reviewers of the panel the instructional materials being reviewed, except during official virtual and fact-to-face reviews.
- (d) IMRA reviewers shall not discuss instructional materials being evaluated with a member of the SBOE unions, organizations, or associations with any party having a financial interest in the approval of instructional materials prior to the conclusion of the review. The review is considered to have concluded on the date that the final list of instructional materials recommended for approval is posted on the SBOE website
- (e) SBOE members may attend review panel meetings but may not discuss materials under review with state review panel members.
- (f) IMRA reviewers shall observe a no-contact period that shall begin with the initial communication regarding possible appointment to a state review panel and end when they are released from their duties. During this period, IMRA reviewers shall not have direct or indirect communication with any person having an interest in the approval process regarding content of instructional materials under evaluation by the panel.
- (g) The restrictions in subsections ~~(c)~~ of this section are not intended to prohibit IMRA reviewers from

~~(3) certify that the updates do not affect the production coverage of Texas Education Code, §28.002(h), as it relates to that specific subject and grade level or course(s) understanding the importance of patriotism and functioning productively in a free enterprise society with appreciate1.6 ()Tetisietiri~~

STATUTORY AUTHORITY. The new sections proposed under Texas Education Code (TEC), §31.003(a), 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 House Bill (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, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, 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 TE in consultation with and approved by the SBOE

CROSS REFERENCE TO STATUTE. The new sections implement Texas Education Code, §31.003(a); and §31.022 and §31.023, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023.

<rule>

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

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

§67.63. Selection and Local Adoption 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 select instructional materials in an open meeting as required by Texas Government Code, Chapter 551, including public notice.
- (b) A school district or an open enrollment charter school may requisition instructional materials on the list approved under 6 ()6.9 (C)81.7 h)1.7 (e)4.2 (xa)4.2 (s)9.5 (G)5.1 (o)4.2 (of)6.9 (r.2 (l)6.9 (u)6.9 (e)4.28(ona)4.2 (l