

Amend SB 6 to Democratize Texas Approval of Electronic Textbooks and Instructional Materials

In 2009, HB-4294 expanded Texas' approval of electronic textbooks and instructional materials for public schools. But HB-4294 undemocratically delegated power to approve those submissions to the *appointed* Commissioner of Education instead of to the *elected* State Board of Education (SBOE). To repair that flaw, revise TEC Section 31.0231(a), (c), (e), (f), (g), and (h) by replacing the distant *appointed* Commissioner with the popularly *elected* SBOE.

REVISE THE TEXAS EDUCATION CODE THUS:	REASONS TO REVISE
<p style="text-align: center;">Sec. 31.0231. ELECTRONIC TEXTBOOK AND INSTRUCTIONAL MATERIAL LIST.</p> <p>(a) The commissioner <u>State Board of Education</u> shall adopt a list of:</p> <p style="padding-left: 40px;">(1) electronic textbooks; and</p> <p style="padding-left: 40px;">(2) instructional material that conveys information to the student or otherwise contributes to the learning process, including tools, models, and investigative materials designed for use as part of the foundation curriculum for science in kindergarten through grade five.</p> <p>(b) A school district may select an electronic textbook or instructional material on the list adopted under Subsection (a) to be funded by the state textbook fund under Section 31.021.</p> <p>(c) Before the commissioner places an electronic textbook or instructional material on the list adopted under Subsection (a), the State Board of Education must be given an opportunity to comment on the electronic textbook or instructional material. An electronic</p>	<p style="text-align: center;">Substituting "the State Board of Education" for "the commissioner" throughout this Section is necessary and proper on grounds of:</p> <ul style="list-style-type: none"> • CONSISTENCY It extends to their electronic analogs, the long-established precedent that the State Board of Education (SBOE) is the logical entity to approve printed submissions. SBOE competence on the one means equal SBOE capability on the other. • DEMOCRACY Vesting approval of electronic submissions in the elected SBOE, which is more responsive to the people – instead of in the more remote commissioner – upholds popular sovereignty established in SBOE approval of printed submissions. • PRIORITY The SBOE, not the commissioner, approves the TEKS. The SBOE therefore, not the commissioner, has the same superior standing to interpret and apply them in evaluating electronic submissions as it has for printed submissions. • ACCOUNTABILITY Electronic submissions should meet the same democratic interpretation of the TEKS by the elected SBOE that printed submissions do, because public money funds both and captive student populations use both. • CONSTITUTIONALITY The elected SBOE tends to be more sensitive than appointed commissioners to citizens' First Amendment rights to effective exercise of free speech on textbook concerns and to successful petition for redress of curricular grievances. • EFFICIENCY The SBOE textbook approval process sometimes finds – at no cost to the state – hundreds of 2+2=5-type factual errors that TEA missed, such as 249 factual errors overlooked by the state review panel in four 2003-copyright U.S. History texts. • SIMPLICITY HB-4294's purpose in 2009 was to facilitate approval of electronic textbooks. But it inexplicably and unnecessarily duplicated that function by arbitrarily and unjustifiably entrusting it to the commissioner instead of to the SBOE. • CONTINGENCY However receptive the present commissioner may be to SBOE input into the electronic textbook approval process, a future hostile appointee could lawfully deny such a voice to the people as the TEC now stands, unless SB 6 prevents it.

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textbook or instructional material placed on the list adopted under Subsection (a):

(1) must be reviewed and recommended to the ~~commissioner~~ State Board of Education by a panel of recognized experts in the subject area of the electronic textbook or instructional material and experts in education technology;

(2) must satisfy criteria adopted for the purpose by ~~commissioner~~ State Board of Education rule; and

(3) must meet the National Instructional Materials Accessibility Standard, to the extent practicable as determined by the ~~commissioner~~ State Board of Education.

(d) The criteria adopted under Subsection (c) (2) must:

(1) include evidence of alignment with current research in the subject for which the electronic textbook or instructional material is intended to be used;

(2) include coverage of the essential knowledge and skills identified under Section 28.002 for the subject for which the electronic textbook or instructional material is intended to be used and identify:

(A) each of the essential knowledge and skills for the subject and grade level or levels covered by the electronic textbook or instructional material; and

(B) the percentage of the essential knowledge and skills for the subject and grade level or levels covered by the electronic textbook or instructional material; and

(3) include appropriate training for teachers.

(e) The ~~commissioner~~ State Board of Education shall update, as necessary, the list adopted under Subsection (a). Before the ~~commissioner~~ State Board of Education places an electronic textbook or instructional material on the updated list, the requirements of Subsection (c) must be met. Before the ~~commissioner~~ State Board of Education removes an electronic textbook or instructional material from the updated list, the removal must be recommended by a panel of recognized experts in the subject area of the electronic textbook or instructional material and experts in education technology.

Please see above.

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<p>(f) After notice to the commissioner <u>State Board of Education</u> explaining in detail the changes, the provider of an electronic textbook or instructional material on the list adopted under Subsection (a) may update the navigational features or management system related to the electronic textbook or instructional material.</p> <p>(g) After notice to the commissioner <u>State Board of Education</u> and a review by the commissioner <u>State Board of Education</u>, the provider of an electronic textbook or instructional material on the list adopted under Subsection (a) may update the content of the electronic textbook or instructional material if needed to accurately reflect current knowledge or information.</p> <p>(h) The commissioner <u>State Board of Education</u> shall adopt rules as necessary to implement this section. The rules must:</p> <p>(1) be consistent with Section 31.151 regarding the duties of publishers and manufacturers, as appropriate, and the imposition of a reasonable administrative penalty; and</p> <p>(2) require public notice of an opportunity for the submission of an electronic textbook or instructional material.</p>	<p>Please see above.</p>