Note: For provisions regarding selection and adoption of instructional materials, see EFAA.

INSTRUCTIONAL MATERIALS

Instructional materials selected for use in the public schools shall be furnished without cost to the students attending those schools. Except as provided by Education Code 31.104(d), the District may not charge a student for instructional material or technological equipment purchased by the District with the District's instructional materials allotment. All instructional materials, including electronic instructional material to the extent of any applicable licensing agreement, purchased in accordance with Education Code Chapter 31 for the District are the property of the District. *Education Code 31.001, .102(a)–(b)*

DELEGATION OF POWER

The Board may delegate to an employee the power to requisition, distribute, and manage the inventory of instructional materials, consistent with Education Code Chapter 31. *Education Code 31.104(a)*

FUNDING

The District is entitled to an annual allotment from the state instructional materials fund for each student enrolled in the District on a date during the preceding school year specified by the Commissioner. The Commissioner shall determine the amount of the allotment per student each year on the basis of the amount of money available in the state instructional materials fund to fund the allotment. The allotment shall be transferred from the state instructional materials fund to the credit of the District's instructional materials account as provided by Education Code 31.0212. *Education Code 31.0211(a)*

ALLOTMENT ADJUSTMENT

CHANGE IN ENROLLMENT

Not later than May 31 of each school year, the District may request that the Commissioner adjust the number of students for which the District is entitled to receive an allotment on the grounds that the number of students attending school in the District will increase or decrease during the school year for which the allotment is provided. The Commissioner may also adjust the number of students for which the District is entitled to receive an allotment, without a request by the District, if the Commissioner determines a different number of students is a more accurate reflection of students who will be attending school in the District. The Commissioner's determination is final. *Education Code 31.0211(e)*

HIGH ENROLLMENT GROWTH

Each year the Commissioner shall adjust the instructional materials allotment of districts experiencing high enrollment growth. *Education Code 31.0214*

PERMITTED EXPENDITURES

Funds allotted under this section may be used to purchase:

1. Materials on the list adopted by the Commissioner;
2. Instructional materials, regardless of whether the instructional materials are on the list adopted by the State Board of Education (SBOE) under Education Code 31.024;
3. Consumable instructional materials, including workbooks;
4. Instructional materials for use in bilingual education classes, as provided by Education Code 31.029;
5. Supplemental instructional materials, as provided by Education Code 31.035;
6. State-developed open-source instructional materials, as provided by Education Code Chapter 31, Subchapter B-1;
7. Instructional materials and technological equipment under any continuing contracts of the District in effect on September 1, 2011; and
8. Technological equipment necessary to support the use of materials included on the list adopted by the Commissioner or any instructional materials purchased with an allotment.

The funds can also be used to pay for training educational personnel directly involved in student learning in the appropriate use of instructional materials and for providing for access to technological equipment for instructional use, and the salary and other expenses of an employee who provides technical support for the use of technological equipment directly involved in student learning.

Education Code 31.0211(c)

ORDER OF PURCHASE

Each year the District shall use the District's allotment to purchase, in the following order:

1. Instructional materials necessary to permit the District to certify that the District has instructional materials that cover all elements of the essential knowledge and skills of the required curriculum, other than physical education, for each grade level.
2. Any other instructional materials or technological equipment as determined by the District.

Notwithstanding the order of purchase requirement, for the state fiscal biennium beginning September 1, 2011, the District shall use an instructional materials allotment to purchase instructional materials that will assist the District in satisfying performance standards

under Education Code 39.0241, as added by Chapter 895 (House Bill 3), Acts of the 81st Legislature, Regular Session, 2009, on assessment instruments adopted under Education Code 39.023(a) and (c) [grade advancement testing and end-of-course exams, see EKB]. This exception to the order of purchase requirement expires August 31, 2013.

Education Code 31.0211(d)–(d-2)

CERTIFICATION OF ALLOTMENT USE

The District shall annually certify to the Commissioner that the District's instructional materials allotment has been used only for permitted expenses. *Education Code 31.0213*

INSTRUCTIONAL MATERIALS ACCOUNT

The Commissioner shall maintain an instructional materials account for the District, in which the Commissioner shall annually deposit the District's instructional materials allotment. The Commissioner shall pay the cost of instructional materials requisitioned by the District under Education Code 31.103 using funds from the District's instructional materials account.

The District may also use funds in the District's account to purchase electronic instructional materials or technological equipment. The District shall submit to the Commissioner a request for funds for this purpose from the District's account in accordance with the Commissioner's rules.

Money deposited in the District's instructional materials account during each state fiscal biennium remains in the account and available for use by the District for the entire biennium. At the end of each biennium, if there is unused money in the District's account, the District may carry forward any remaining balance to the next biennium.

Education Code 31.0212

ONLINE REQUISITION SYSTEM

The Commissioner shall maintain an online requisition system for the District to requisition instructional materials to be purchased with the District's instructional materials allotment. *Education Code 31.101(f)*

LOCAL FUNDS

The District may use local funds to purchase any instructional materials in addition to those selected under Education Code Chapter 31. *Education Code 31.106*

REQUISITIONS, USE, AND DISTRIBUTION

The District shall make a requisition for instructional material using the online requisition program maintained by the Commissioner not later than June 1 of each year. The District may requisition instructional materials on the SBOE instructional materials list for grades above the grade level in which a student is enrolled. *Education Code 31.103(b)–(c)*

DURATION OF SELECTION

Once instructional materials have been selected, the District must use the material for the length of time described by Education Code 31.101. *Education Code 31.101* [See EFAA]

DISTRIBUTION

The Board shall distribute printed instructional materials to students as it may deem most effective and economical. *Education Code 31.102(c)*

TIME FOR DELIVERY

At the time an order for instructional materials is acknowledged, a publisher or manufacturer shall provide to the District an accurate shipping date for instructional materials that are back-ordered, and shall guarantee delivery of instructional materials at least ten business days before the opening day of the school year for which the instructional materials are ordered if they are ordered by a date specified in the sales contract. *Education Code 31.151(a)(7)–(8)*

SUPPLEMENTAL INSTRUCTIONAL MATERIALS

The District may requisition supplemental instructional material only if the District requisitions the supplemental instructional material along with other supplemental instructional materials or instructional materials on the SBOE instructional materials list that in combination cover each element of the essential knowledge and skills for the course for which the District is requisitioning the supplemental instructional materials. *Education Code 31.035(d)*

AVAILABILITY OF OPEN-SOURCE INSTRUCTIONAL MATERIALS

If the District selects open-source instructional material, the District shall requisition a sufficient number of printed copies for use by students unable to access the instructional material electronically unless the District or school provides to each student:

1. Electronic access to the instructional material at no cost to the student; or
2. Printed copies of the portion of the instructional material that will be used in the course.

Education Code 31.103(d)

BILINGUAL INSTRUCTIONAL MATERIALS

The District shall purchase with the District's instructional materials allotment or otherwise acquire instructional materials for use in bilingual education classes, in accordance with the Commissioner's rules. *Education Code 31.029*

CERTIFICATION

The District shall annually certify to the SBOE and the Commissioner that, for each subject in the foundation and enrichment curriculum other than physical education, and each grade level, the District provides each student instructional materials that cover all elements of the essential knowledge and skills adopted by the SBOE for that subject and grade level. To determine whether each student has instructional materials that cover all elements of the essential knowledge and skills, the District may consider:

1. Instructional materials adopted by the SBOE;
2. Materials adopted or purchased by the Commissioner under Education Code 31.0231 or Education Code Chapter 31, Subchapter B-1;
3. Open-source instructional materials submitted by eligible institutions and adopted by the SBOE;
4. Open-source instructional materials made available by other public schools; and
5. Instructional materials developed or purchased by the District.

Education Code 31.004

OWNERSHIP

A student must return all instructional materials to the teacher at the end of the school year or when the student withdraws from school, unless the instructional material is open-source instructional material that the District does not intend to use for another student. The printed copy of the open-source instructional material becomes the property of the student to whom it is distributed.

This section does not apply to an electronic copy of open-source instructional material.

Education Code 31.104(c), (g)–(h)

RESPONSIBILITY FOR INSTRUCTIONAL MATERIALS AND EQUIPMENT

Each student or his or her parent or guardian shall be responsible for all instructional material and technological equipment not returned in an acceptable condition by the student. A student who fails to return in an acceptable condition all instructional materials and technological equipment shall forfeit the right to free instructional materials and technological equipment until the instructional materials and technological equipment previously issued but not returned in an acceptable condition are paid for by the student, parent, or guardian.

Under circumstances determined by the Board, the District may waive or reduce the payment required if the student is from a low-income family. The District shall allow students to use instructional materials and technological equipment at school during each school day.

If instructional materials or technological equipment is not returned in an acceptable condition and payment is not made, the District may withhold the student's records, but shall not prevent the student from graduating, participating in a graduation ceremony, or receiving a diploma. However, in accordance with policies FL and GBA, students have a right to copies of any and all District records that pertain to them.

This section does not apply to an electronic copy of open-source instructional material. *Education Code 31.104(d), (h); 20 U.S.C. 1232g; Gov't Code 552.114(b)(2)* [See also EF]

ACCEPTABLE CONDITION

A printed textbook is considered to be in acceptable condition if:

1. The cover, binding, pages, spine, and all integral components of the textbook are wholly intact and the textbook is fully usable by other students; and

2. All components of the textbook are not soiled, torn, or damaged—whether intentionally or by lack of appropriate care—such that any portion of the content is too disfigured or obscured to be fully accessible to other students.

19 TAC 66.1201

An electronic textbook is considered to be in acceptable condition if:

1. All components or applications that are a part of the electronic textbook are returned;

2. The electronic textbook does not contain computer code (bug, virus, worm, or similar malicious software) that has been designed to self-replicate, damage, change, or otherwise hinder the performance of any computer's memory, file system, or software; and

3. The electronic textbook has not been installed with plug-ins, snap-ins, or add-ins without the prior approval of the District.

19 TAC 66.1203

Technological equipment is considered to be in acceptable condition if:

1. The equipment is returned with the software and hardware in their original condition unless the District authorized changes; and

2. The physical condition of the equipment has been cared for appropriately such that the equipment is not broken or damaged beyond cost-effective replacement or repair.

19 TAC 66.1205

SALE OR DISPOSAL

The Board may sell printed instructional materials on the date the instructional material is discontinued for use in the public schools by the SBOE or the Commissioner. The Board may also sell electronic instructional materials and technological equipment owned by the District. Any funds received by the District from the autho-

rized sale must be used to purchase instructional materials and technological equipment allowed under Education Code 31.0211.

The Board shall determine how the District will dispose of discontinued printed instructional materials, electronic instructional materials, and technological equipment. The Board may dispose of printed instructional material before the date the instructional material is discontinued for use in the public schools by the SBOE if the Board determines that the instructional material is not needed by the District and the Board does not reasonably expect that the instructional material will be needed. The District must notify the Commissioner if the District disposes of any instructional material.

Education Code 31.105

ANNUAL INVENTORY

The District 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. *19 TAC 66.107(a)*

LOCAL HANDLING EXPENSES

The District shall not be reimbursed from state funds for expenses incurred in local handling of textbooks. *19 TAC 66.104(o)*

OUT-OF-ADOPTION INSTRUCTIONAL MATERIALS

The District may retain out-of-adoption instructional materials.

The District shall make out-of-adoption instructional materials (other than electronic instructional materials) available to libraries maintained by city and county jails, institutions within the Department of Corrections, and other state agency institutions. District officials may donate out-of-adoption instructional materials (other than electronic instructional materials) to students, adult education programs, and nonprofit organizations. Individuals and organizations making such requests shall be responsible for transporting the materials.

After all efforts to donate out-of-adoption instructional materials (other than electronic instructional materials) to organizations listed above have been exhausted, the District may donate those materials for recycling locally. Recycling means removing the bindings and shredding the textbooks for the purpose of producing new products from the processed materials.

Under no circumstances shall the District sell out-of-adoption instructional materials.

19 TAC 66.131