CMD (LEGAL)

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 (IMA). All instructional materials, including electronic or online 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); 19 TAC 66.1315(a), (c)

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. The allotment allocated to the District is considered revenue and must be coded by the District in a manner required by TEA. *Education Code* 31.0211(a); 19 TAC 66.1315(d)

NO APPEAL

The amount of the IMA determined by the Commissioner is final and may not be appealed. 19 TAC 66.1307

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)

DATE ISSUED: 5/31/2013 UPDATE 97

CMD (LEGAL)

HIGH ENROLLMENT GROWTH

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

The Commissioner's calculation for high-enrollment growth will be adjusted automatically for the biennium based on current Public Education Information Management System (PEIMS) enrollment data before the Educational Materials (EMAT) system opens in the spring.

A district that experiences a minimum enrollment growth of ten percent over the previous five-year period for which the IMA amount is being determined is eligible to receive an adjustment to accommodate high-enrollment growth.

A district that is experiencing a student population growth that is not reflected in the state calculation may submit an application to be considered for additional funding if the district experienced:

- 1. A net increase of 3,500 students over the last five years; or
- 2. An unexpected enrollment growth due to unforeseen circumstances.

The District may request additional funding for its IMA for high enrollment once during each school year.

19 TAC 66.1309

PERMITTED EXPENDITURES

Funds allotted under this section may be used to purchase:

- 1. Instructional materials on the list adopted by the Commissioner under Education Code 31.0231;
- Instructional materials on the list adopted by the State Board of Education (SBOE) under Education Code 31.024;
- 3. Non-adopted instructional materials;
- 4. Consumable instructional materials, including workbooks;
- 5. Instructional materials for use in bilingual education classes, as provided by Education Code 31.029;
- 6. Supplemental instructional materials, as provided by Education Code 31.035;
- 7. State-developed open-source instructional materials, as provided by Education Code Chapter 31, Subchapter B-1;
- 8. Instructional materials and technological equipment under any continuing contracts of the District in effect on September 1, 2011; and

CMD (LEGAL)

 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, providing 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.

The funds may not be used to purchase services for installation, the physical conduit that transmits data such as cabling and wiring or electricity, or office and school supplies; or to pay for travel expenses.

Education Code 31.0211(c); 19 TAC 66.1307

ORDER OF PURCHASE

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

- 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 IMA 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 IMA 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 IMA. The Commissioner shall pay the cost of

DATE ISSUED: 5/31/2013 UPDATE 97

CMD (LEGAL)

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 (EMAT)

The Commissioner shall maintain an online requisition system (EMAT) for the District to requisition instructional materials to be purchased with the District's IMA. *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 (EMAT) 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]

VALUE

Current instructional materials in the District's inventory are considered assets and a value must be determined by the District. 19 TAC 66.1315(e)

DISTRIBUTION

The Board shall distribute or provide access to instructional materials to students as it may deem most effective and economical. Education Code 31.102(c); 19 TAC 66.1315(f)

SUPPLEMENTAL INSTRUCTIONAL MATERIALS The District may requisition supplemental instructional material adopted by the SBOE but not on the instructional material list under Education Code 31.023 only if the District requisitions the supplemental instructional material along with other supplemental in-

DATE ISSUED: 5/31/2013

CMD (LEGAL)

structional 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:

- 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)

BRAILLE AND LARGE-TYPE MATERIALS

All laws and rules applying to instructional materials provided to students with no visual impairments that do not conflict with Education Code 31.028 apply to the distribution and control of Braille and large-type instructional materials, including but not limited to the following:

- 1. A requisition for special instructional materials shall be based on actual student enrollment to meet individual student needs.
- The District shall conduct an annual physical inventory of all currently adopted accessible 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 and made available to TEA upon request.

Reimbursement and/or replacement shall be made for all volumes of Braille and large-type instructional materials determined to be lost.

FOR TEACHERS

Copies of adopted instructional materials in Braille and large type needed by a teacher who is blind or visually impaired shall be furnished by the state without cost. The materials are to be loaned to the District as long as needed and are to be returned to the state when they are no longer needed. Materials in the medium needed by the teacher may be requisitioned by an instructional materials coordinator after the Superintendent has certified the following to the Commissioner:

- 1. The name of the teacher;
- 2. The grade or subject taught; and

DATE ISSUED: 5/31/2013 UPDATE 97 CMD(LEGAL)-P

CMD (LEGAL)

3. The fact of the teacher's visual impairment.

FOR STUDENTS

Non-adopted instructional materials purchased by the District shall be made available and provided in the specified format needed to students who are blind and visually impaired at the District's expense.

FOR PARENTS

Copies of adopted instructional materials in Braille, large type, or an electronic file that are requested by a parent who is blind or visually impaired shall be furnished without cost by the state. Materials in the medium needed by the parent may be requisitioned by an instructional materials coordinator. Requests for electronic files will be filled by TEA after the parent signs and TEA receives a statement, through the District, promising that the parent will safeguard the security of the files and observe all current copyright laws. All Braille and large-type instructional materials and electronic files with educational content that have been provided to parents who are blind or visually impaired must be returned to the District at the end of the school year for reuse.

19 TAC 66.1311, .1319(e)

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

CERTIFICATION OF INSTRUCTIONAL MATERIALS Prior to the beginning of each school year, the District shall certify to the Commissioner in a format approved by 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 both state- and Commissioner-adopted instructional materials and non-adopted instructional materials, including:

- 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;

DATE ISSUED: 5/31/2013 UPDATE 97 CMD(LEGAL)-P

CMD (LEGAL)

- 4. Open-source instructional materials made available by other public schools; and
- 5. Instructional materials developed or purchased by the District.

Upon request by the Commissioner, the certification shall include supporting documentation describing the instructional materials on which the certification is based.

The certifications shall be ratified by the Board in a public meeting.

The District may not submit a requisition or request for disbursement through the EMAT system for the next school year until the required annual certification has been received by the Commissioner for the current school year.

Education Code 31.004; 19 TAC 66.1305

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

Education Code 31.104(c), (g)–(h); 19 TAC 66.107(b)

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 quardian.

The Board may not require an employee of the District to pay for instructional materials or technological equipment that is stolen, misplaced, or not returned by a student. [See DG(LEGAL)]

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.

DATE ISSUED: 5/31/2013 UPDATE 97

CMD (LEGAL)

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.

These provisions do not apply to an electronic copy of open-source instructional material.

Education Code 31.104(d), (e), (h); 20 U.S.C. 1232g; Gov't Code 552.114(b)(2); 19 TAC 66.107(c), .1319(d) [See also EF]

ACCEPTABLE CONDITION

Printed instructional materials are considered to be in acceptable condition if:

- 1. The cover, binding, pages, spine, and all integral components of the instructional materials are wholly intact and the instructional materials are fully usable by other students; and
- All components of the instructional materials 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

Electronic instructional materials are considered to be in acceptable condition if:

- 1. All components or applications that are a part of the electronic instructional materials are returned;
- The electronic instructional materials do 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 instructional materials have 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:

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

CMD (LEGAL)

 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

LOST, DAMAGED, OR WORN OUT INSTRUCTIONAL MATERIALS The District is fiscally responsible for lost, damaged, or worn out instructional materials.

The District may use the IMA or other available funds to replace lost, damaged, or worn out instructional materials.

Worn out or damaged instructional materials must be declared by the District as unsuitable for student use and the District must document the method of disposal.

A district declaring worn out instructional materials must follow the Commissioner-approved standards for worn out instructional materials.

Recycling funds received from the disposal of worn out instructional materials must be:

- 1. Reported to TEA through procedures established by the Commissioner; and
- 2. Used to purchase instructional materials and technological equipment allowed under Education Code 31.0211.

The District must adjust its inventory for lost, damaged, or worn out instructional materials and replacements through the EMAT system and document all transactions in the District annual inventory.

19 TAC 66.1321

SALE OR DISPOSAL

The Board must notify TEA of its intent to sell or dispose of instructional materials or technological equipment by a process established by the Commissioner.

SALE AFTER DISCONTINUED FOR USE The Board may sell any printed or electronic instructional materials purchased with the District's IMA on the date the instructional material is discontinued for use in the public schools. The Board may only sell or dispose of online or electronic instructional materials in compliance with the terms of any applicable licensing agreement.

TECHNOLOGICAL EQUIPMENT

The Board may sell technological equipment owned by the District that was purchased with the District's IMA.

REPORT TO COMMISSIONER

The Board must report to the Commissioner the amount of funds to be received from the sale of the instructional materials and technological equipment, identify the purchaser, and identify the instructional materials and/or technological equipment to be sold.

DATE ISSUED: 5/31/2013 UPDATE 97

CMD (LEGAL)

USE OF PROCEEDS OF SALE

Funds received by the District from a sale of instructional materials or technological equipment purchased with the IMA must be used to purchase instructional materials and technological equipment allowed under Education Code 31.0211. The Board must certify to the Commissioner that the new instructional materials acquired from the sale of discontinued instructional materials will cover the Texas essential knowledge and skills and be made available to students and/or teachers.

DISPOSAL

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 Board shall determine how the District will dispose of discontinued printed instructional materials and technological equipment and must notify the Commissioner prior to the disposal of any instructional materials, identifying the instructional materials to be disposed and the method of disposal.

Education Code 31.105; 19 TAC 66.1317

ANNUAL INVENTORY

The District shall conduct an annual physical inventory of:

- 1. All currently adopted instructional materials that have been requisitioned by and delivered to the District;
- 2. All non-adopted instructional materials purchased with funds from the IMA; and
- 3. All technological equipment purchased with funds from the IMA.

The results of the inventory shall be recorded in the District's files and in the EMAT system. 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 instructional materials. 19 TAC 66.104(f)

DATE ISSUED: 5/31/2013 UPDATE 97 CMD(LEGAL)-P