

**Report of the State Board of Education
Committee of the Full Board
January 27, 2016**

The State Board of Education Committee of the Full Board met at 9:12 a.m. on Wednesday, January 27, 2016, in the State Board of Education Room, #1-104, of the William B. Travis Building, 1701 N. Congress Avenue, Austin, Texas. All members of the committee were present, as follows:

Presiding: Donna Bahorich, chair; Lawrence A. Allen, Jr.; Erika Beltran; David Bradley; Barbara Cargill; Ruben Cortez, Jr.; Martha M. Dominguez; Pat Hardy; Tom Maynard; Sue Melton-Malone; Ken Mercer; Geraldine “Tincy” Miller; Marisa B. Perez; Thomas Ratliff; Marty Rowley

Public Testimony

This item provides an opportunity for the public to present testimony at the time the related item comes up for committee discussion or action. The procedures for registering and taking public testimony at State Board of Education committee meetings and general board meetings are provided at [http://tea.texas.gov/About/TEA/Leadership/State Board of Education/SBOE Meetings/SBOE Operating Rules Amended 4-17-15/](http://tea.texas.gov/About/TEA/Leadership/State_Board_of_Education/SBOE_Meetings/SBOE_Operating_Rules_Amended_4-17-15/) or in the information section (yellow pages) of the agenda.

The Committee of the Full Board heard public testimony on agenda items #3, #8, and #11. Information regarding the individuals who presented public testimony is included in the discussion of that item.

The Committee of the Full Board considered items in the following order: Items number 1, 3, 5, 6, 8, 9, 4, 11, 2, 7, 10 and 12.

ACTION ITEMS

1. **Adoption of Review of 19 TAC Chapter 66, State Adoption and Distribution of Instructional Materials, Subchapter A, General Provisions, Subchapter B, State Adoption of Instructional Materials, and Subchapter C, Local Operations**
(Adoption of Review)
(Board agenda page I-1)
[Official agenda item #3]

Kelly Callaway, instructional materials and educational technology division director, explained this item presented the opportunity for the State Board of Education to adopt the review of Chapter 66 rules that establish procedures for the adoption and distribution of instructional materials.

MOTION AND VOTE: *It was moved by Mr. Maynard, seconded by Ms. Hardy, and carried unanimously to recommend that the State Board of Education adopt the review of 19 TAC Chapter 66, State Adoption and Distribution of Instructional Materials, Subchapter A, General Provisions, Subchapter B, State Adoption of Instructional Materials, and Subchapter C, Local Operations. (Mr. Bradley, Mr. Mercer, and Mr. Rowley were absent for the vote.)*

2. **Proposed Revisions to 19 TAC Chapter 66, State Adoption and Distribution of Instructional Materials, Subchapter A, General Provisions, Subchapter B, State Adoption of Instructional Materials, and Subchapter C, Local Operations**

(Second Reading and Final Adoption)

(Board agenda page I-27)

[Official agenda item #4]

Monica Martinez, associate commissioner for standards and programs, explained that the proposed revisions would update and clarify the process for the review, adoption, and distribution of instructional materials.

MOTION: *It was moved by Mr. Maynard and seconded by Mr. Ratliff to recommend that the State Board of Education by an affirmative vote of two-thirds of the members of the board, approve for second reading and final adoption proposed revisions to 19 TAC Chapter 66, State Adoption and Distribution of Instructional Materials, Subchapter A, General Provisions, Subchapter B, State Adoption of Instructional Materials, and Subchapter C, Local Operations, with an effective date of 20 days after filing as adopted with the Texas Register.*

MOTION AND VOTE: *It was moved by Mr. Ratliff, seconded by Ms. Hardy, and carried unanimously to recommend that the State Board of Education amend proposed §66.10(a), to read as follows:*

“An official complaint alleging a violation of the Texas Education Code (TEC), §31.151, or a rule implementing that section, for an instructional material adopted by the SBOE shall be filed with the commissioner of education. An official complaint shall be made on a form prescribed by the commissioner of education.”

(Ms. Perez was absent for the vote.)

MOTION AND VOTE: *It was moved by Mr. Ratliff, seconded by Ms. Hardy, and carried to recommend that the State Board of Education amend proposed §66.15(a), to read as follows:*

“Under the Texas Education Code (TEC), §31.151(b), the State Board of Education (SBOE) may assess a reasonable administrative penalty against a publisher or manufacturer found in violation of a provision of the TEC, §31.151(a). The SBOE shall assess an administrative penalty under this section only for a violation based upon an instructional material adopted by the SBOE. An administrative penalty shall be assessed only after the SBOE has granted the publisher or manufacturer a hearing in accordance with the TEC, §31.151; the Administrative Procedure Act; Chapter 157, Subchapter A, of this title (relating to General Provisions for Hearings Before the State Board of Education); and this chapter.

(Ms. Perez was absent for the vote.)

MOTION AND VOTE: *It was moved by Mr. Ratliff, seconded by Ms. Hardy, and carried unanimously to recommend that the State Board of Education amend proposed §66.15(f)(1), to read as follows:*

“an administrative penalty for selling instructional materials with factual errors. The SBOE may assess an administrative penalty against a publisher or manufacturer of instructional materials who sells instructional materials that have been adopted by the SBOE [with] and

contain factual errors unless within 60 days of knowledge of the factual error, the publisher or manufacturer corrects the factual error, including revising web-based instructional materials, providing corrective materials to public schools who have received material containing the factual error, and ensuring no future distribution of materials occurs without correction of the error.”

(Ms. Perez was absent for the vote.)

MOTION AND VOTE: *It was moved by Mr. Ratliff, seconded by Mr. Maynard, and carried unanimously to recommend that the State Board of Education amend proposed §66.15(j) to read as follows:*

- “(2) a penalty for failure to deliver adopted instructional materials, including teacher components, in accordance with provisions in the contracts if the failure extends beyond 45 days.
- (3) ~~no publisher shall be subject to a fine if the publisher delivers the adopted instructional materials within 45 days of the date of order, or if the order was placed by the school district or open enrollment charter school less than 45 days prior to the date of expected delivery.”~~

(Ms. Perez was absent for the vote.)

MOTION AND VOTE: *It was moved by Mr. Ratliff, seconded by Ms. Hardy, and carried unanimously to recommend that the State Board of Education amend proposed §66.21(a), to read as follows:*

“The State Board of Education (SBOE) shall adopt a review and adoption cycle for instructional materials for prekindergarten, and for elementary and secondary elementary grade levels, including prekindergarten and secondary grade levels for each subject in the required curriculum.”

(Ms. Perez was absent for the vote.)

MOTION AND VOTE: *It was moved by Mrs. Cargill, seconded by Ms. Hardy and carried unanimously to recommend that the State Board of Education amend proposed §66.28(d)(3) to read as follows:*

“The official bid filed by a publisher shall include separate prices for each item included in an instructional materials submission. A publisher shall guarantee that individual items included in the student and/or teacher component are available for local purchase at the individual prices listed for the entire contract period. Individual component prices are listed to show school districts the replacement costs of components and not to reflect publisher's bid prices for these components.”

(Ms. Perez was absent for the vote.)

MOTION AND VOTE: *It was moved by Mr. Maynard seconded by Mr. Cortez, and carried unanimously to recommend that the State Board of Education amend proposed §66.28(d)(5) to read as follows:*

“Each instructional material or ancillary material that is offered as part of a bundle must also be available for purchase individually ~~must be available for purchase individually or as part of a bundle.~~”

(Ms. Perez was absent for the vote.)

MOTION AND VOTE: *It was moved by Mrs. Melton-Malone, seconded by Ms. Hardy, and carried unanimously to recommend that the State Board of Education amend proposed §66.29(f) to read as follows:*

“The publisher may not add any Internet links to the materials without the approval of the commissioner of education, will not redirect any user accessing the web-based or online instructional materials to other Internet or electronic sites that are not directly related to the content, and may not collect any information about the user or computer accessing the materials that would allow determination of personal information, including email addresses, without a fully executed data-sharing agreement between the publisher and the local school district that protects user data and limits its use to permitted educational purposes only.”

(Ms. Perez was absent for the vote.)

MOTION: *It was moved by Mrs. Cargill and seconded by Mr. Ratliff to recommend that the State Board of Education substitute proposed §66.30, State Review Panels: Eligibility and Appointment, with the following:*

- “(a) The commissioner of education shall determine the number of review panels needed to review instructional materials under consideration for adoption, the number of persons to serve on each panel, and, subject to this section, the process for selecting panel members.
- (b) As determined by this section, panel members shall serve with the advice and consent of the member from whose district the panel member resides.
- (c) The commissioner of education shall solicit nominations for possible appointees to state review panels from the State Board of Education (SBOE), school districts, open-enrollment charter schools, and educational organizations in the state. Nominations may be accepted from any Texas resident. Nominations shall not be made by or accepted from any publishers; hardware or software providers; authors; depositories; agents for publishers, hardware or software providers, authors, or depositories; or any person who holds any official position with a publisher, hardware or software provider, author, depository, or agent.
- (d) A person nominated to serve on a state review panel shall disclose in any nomination or application, in a manner designated by the commissioner of education, his or her residence and whether currently or at any time in the 36 months preceding the appointment the person:
 - (1) was employed by or received funds from any individual or entity affiliated with a publishing company involved in or connected to the adoption of instructional materials;

- (2) owned or controlled any interest valued at more than \$5,000 in a privately owned publishing company or an entity receiving funds from a publishing company involved in or connected to the adoption of instructional materials or had direct ownership of stock of a publicly traded company involved in or connected to the adoption of instructional materials; or
 - (3) was employed by an institution of higher education that has submitted open-source instructional materials or is a publisher of instructional materials.
- (e) The commissioner of education shall propose appointments to state review panels that, to the extent possible, as determined by the commissioner, include the following:
 - (1) individuals nominated by SBOE members;
 - (2) individuals representing a diverse mixture of gender, race, and SBOE districts;
 - (3) a majority of members with content expertise and experience;
 - (4) academic experts in each subject area for which instructional materials are being considered, giving priority to content-relevant educators and professors; and
 - (5) educators, parents, business and industry representatives, and employers.
- (f) The commissioner of education shall notify the SBOE of the proposed appointments. The commissioner shall assign each appointee to the SBOE district in which he or she resides.
- (g) An SBOE member may reject the proposed appointment of a panel member representing that member's SBOE district by notifying the commissioner via electronic mail within seven days of receiving the proposed appointment list. Failure to reject a proposed appointment within seven days constitutes consent for the appointment.
- (h) After close of the seven-day period under subsection (g) of this section, the commissioner may propose additional members if necessary. The commissioner shall provide to the SBOE member who represents the district of residence for each additional proposed panel member the opportunity for review of additional members in accordance with the time period and rejection rules under subsection (g) of this section. The SBOE shall be notified of finalized appointments made by the commissioner of education to state review panels.
- (i) The commissioner of education shall inform nominees who are not appointed to a state review panel that all members of the public may review instructional materials and give input during the public comment period.
- (j) The role of each appointee shall be designated by the commissioner of education and disclosed to all appointees on each panel.
- (k) Members of a state review panel may be removed at the discretion of the commissioner of education at any time prior to the completion of the review.

MOTION AND VOTE: *It was moved by Mr. Ratliff, seconded by Mr. Cortez, and carried to add new subsection (f) to the substitute text of §66.30 to read as follows:*

- “(f) For purposes of this section, an “academic expert” is a person who:
- (1) is a public school teacher with at least ten years of classroom teaching experience, or
 - (2) has at least a master’s degree in the subject area, or

(3) is a professor at an accredited four-year institution of higher education in Texas.”

(Ms. Dominguez and Ms. Perez were absent for the vote.)

MOTION AND VOTE: *It was moved by Mr. Ratliff, seconded by Ms. Hardy, and carried unanimously to amend the substitute text of §66.30(h) to read as follows:*

“(h) After close of the seven-day period under subsection (g) of this section, the commissioner may propose additional members if necessary. The commissioner shall provide to the SBOE member who represents the district of residence for each additional proposed panel member the opportunity for review of additional members in accordance with the time period and rejection rules under subsection (g) of this section. The SBOE shall be notified of finalized appointments made by the commissioner of education to state review panels. The final list of appointees, their roles, and who nominated them shall be given to each member of the SBOE no later than the first public meeting following the finalization of the panels.

(Ms. Perez was absent for the vote.)

VOTE: *A vote was taken on the motion to recommend that the State Board of Education substitute the new language as amended for proposed §66.30, State Review Panels: Eligibility and Appointment. The motion carried. (Ms. Perez was absent for the vote.)*

MOTION AND VOTE: *It was moved by Mr. Ratliff, seconded by Mr. Maynard, and carried unanimously to recommend that the State Board of Education amend §66.104 to read as follows:*

“(a) Each local board of trustees of a school district or governing body of an open-enrollment charter school shall ~~select~~ adopt a policy for selecting instructional materials in an open meeting as required by Texas Government Code, Chapter 551, including public notice ~~to include procedures for providing: Final selections must be recorded in the minutes of the board of trustees or governing body.~~

(1) ~~public notice to parents and members of the public of instructional materials under consideration certifying 100% Texas essential knowledge and skills (TEKS) coverage;~~

(2) ~~public access to parents and members of the public who wish to review material described in paragraph (1) of this subsection prior to being chosen and, to the extent possible, doing so through an avenue (including online if possible) that gives interested parties a comment period; and~~

(3) ~~public input to include at least one public meeting that allows for public comment before materials used to certify 100% TEKS coverage are adopted.~~

(b) ~~Final selections must be made in a public meeting and recorded in the minutes of the board of trustees or governing body meeting in which instructional materials are selected.~~

(Ms. Perez was absent for the vote.)

MOTION AND VOTE: *It was moved by Mr. Maynard, seconded by Mr. Ratliff, and carried unanimously to recommend that the State Board of Education amend §66.105(a) to read as follows:*

“Prior to the beginning of each school year, each school district and open-enrollment charter school shall submit to the State Board of Education (SBOE) and commissioner of education certification that for each subject in the required curriculum under the Texas Education Code, §28.002, other than physical education, and each grade level, the district or charter school provides each student with instructional materials that cover all elements of the essential knowledge and skills adopted by the SBOE. The certification shall be submitted in a format approved by the commissioner of education and can be based on both state-adopted and non-state-adopted materials. ~~Upon request by the commissioner of education, the certification shall include supporting documentation describing the instructional materials on which the certificate is based.~~”

(Mr. Allen and Ms. Perez were absent for the vote.)

VOTE: *A vote was taken on the motion to recommend that the State Board of Education by an affirmative vote of two-thirds of the members of the board, approve for second reading and final adoption proposed revisions to 19 TAC Chapter 66, State Adoption and Distribution of Instructional Materials, Subchapter A, General Provisions, Subchapter B, State Adoption of Instructional Materials, and Subchapter C, Local Operations, as amended, with an effective date of 20 days after filing with the Texas Register. The motion carried unanimously. (Mr. Allen, Ms. Beltran, Mrs. Melton-Malone, and Ms. Perez were absent for the vote.)*

Mrs. Cargill requested that the Local Instructional Materials Adoption Processes resolution adopted by the State Board of Education on July 17, 2015, be filed with the Texas Register.

3. Proposed Amendments to 19 TAC Chapter 74, Curriculum Requirements, Subchapter B, Graduation Requirements

(Second Reading and Final Adoption)

(Board agenda page I-75)

[Official agenda item #5]

Public testimony was provided by the following individuals:

NAME: Hal Speed

AFFILIATION: Self

NAME: Marissa Morris

AFFILIATION: YES Prep Public Schools

NAME: Sarah Gudenkauf

AFFILIATION: KIPP Austin Public Schools

Ms. Martinez provided an overview of the public comments related to the proposed revisions to the graduation requirements. Ms. Martinez explained that this action would update the rules and align with recent legislative changes.

MOTION AND VOTE: *It was moved by Mr. Maynard, seconded by Ms. Hardy, and carried unanimously to recommend that the State Board of Education approve for second reading and final adoption proposed amendments to 19 TAC Chapter 74, Curriculum Requirements, Subchapter B, Graduation Requirements. (Mr. Rowley was absent for the vote.)*

DISCUSSION ITEM

4. Commissioner's Comments
(Board agenda page I-183)

Newly-appointed Commissioner of Education Mike Morath introduced himself to board members and told them about his background as a school board member, entrepreneur and family man. He said his three priorities for the Texas Education Agency are to support educators, improve student outcomes, and make the agency more helpful to school districts and charters. Board members thanked the commissioner for personally reaching out to them prior to the meeting.

ACTION ITEMS

5. Proposed New 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter C, High School, §113.49, Personal Financial Literacy (One-Half Credit), Adopted 2016
(Second Reading and Final Adoption)
(Board agenda page I-101)
[Official agenda item #6]

Shelly Ramos, curriculum division director, explained that a number of public comments had been received regarding the proposed Personal Financial Literacy TEKS that were generally positive. There were no changes recommended since first reading.

MOTION AND VOTE: *It was moved by Mr. Maynard, seconded by Ms. Hardy, and carried unanimously to recommend that the State Board of Education approve for second reading and final adoption proposed new 19 TAC Chapter 113, Texas Essential Knowledge and Skills for Social Studies, Subchapter C, High School, §113.49, Personal Financial Literacy (One-Half Credit), Adopted 2016. (Mr. Rowley was absent for the vote.)*

6. Proposed New 19 TAC Chapter 74, Curriculum Requirements, Subchapter A, Required Curriculum, §74.6, College and Career Readiness and Texas Essential Knowledge and Skills Alignment
(Second Reading and Final Adoption)
(Board agenda page I-113)
[Official agenda item #7]

Ms. Ramos explained that House Bill 1613, 84th Texas Legislature, Regular Session, 2015, requires the board to, by rule, adopt a document that shows the alignment between the Texas College and Career Readiness Standards and the Texas Essential Knowledge and Skills (TEKS). Ms. Ramos explained that the English language arts and reading alignment chart will be completed following the adoption of revisions to the English and Spanish language arts and reading TEKS.

MOTION AND VOTE: *It was moved by Mrs. Melton-Malone, seconded by Ms. Hardy, and carried unanimously to recommend that the State Board of Education, by an affirmative vote of two-thirds of the members of the board, approve for second reading and final adoption proposed new 19 TAC Chapter 74, Curriculum Requirements, Subchapter A, Required Curriculum, §74.6, College and Career Readiness and Texas Essential Knowledge and Skills Alignment, with an effective date of 20 days after filing as adopted with the Texas Register. (Mr. Rowley was absent for the vote.)*

7. Discussion of Texas Certificate of High School Equivalency

(Board agenda page I-163)

[Official agenda item #8]

Ms. Perez reported that she was recusing herself from any discussion, and would not cast a vote, on this item.

Ms. Martinez provided an overview of the process for the Request for Proposals that was issued to solicit a test provider(s) for the Texas Certificate of High School Equivalency. Ms. Martinez explained the three proposals received were ranked as follows:

1. GED Testing Service
2. Educational Testing Service
3. Data Recognition Corporation

Christine Hoang, assistant counsel, contracts and procurement, reviewed rules the board must follow to balance adherence to both the open meetings act and state procurement laws.

The following proposers were invited to present to the committee:

NAME: David Seitter, Pat Roschewski, and Mike Johnson
AFFILIATION: Data Recognition Corporation

NAME: John Oswald and Amy Riker
AFFILIATION: Educational Testing Service

NAME: Vicki Greene, Martin Kehe, and Brian Smith
AFFILIATION: GED Testing Services

MOTION AND VOTE: *It was moved by Mr. Maynard, seconded by Mr. Rowley, and carried to recommend that the State Board of Education approve all three vendors--GED Testing Service, Educational Testing Service, and Data Recognition Corporation--as test providers for the Texas Certificate of High School Equivalency. (Mr. Allen was absent for the vote.)*

8. Proposed Approval of Process for Streamlining Texas Essential Knowledge and Skills (TEKS)
(Board agenda page I-167)
[Official agenda item #9]

Public testimony was provided by the following individuals:

NAME: George Hademenos
AFFILIATION: Science Teachers Association of Texas

NAME: Kevin Fisher
AFFILIATION: Self

NAME: Matthew D. Wells (testimony read by Chuck Hempstead)
AFFILIATION: Science Teachers Association of Texas

NAME: Sandra West
AFFILIATION: Science Teachers Association of Texas

Ms. Martinez explained that this item provided the opportunity for the committee to review and approve a process to be used by the board in streamlining the Texas Essential Knowledge and Skills (TEKS) for science and social studies.

MOTION AND VOTE: *It was moved by Mrs. Cargill, seconded by Ms. Hardy, and carried unanimously to recommend that the State Board of Education amend step three to read as follows:*

“TEA notifies SBOE members of the placement of nominees on a TEKS streamlining committee and notifies TEKS streamlining committee members of their appointment. There will be representation from all board members who submit nominations by the agreed upon deadline.”

(Mr. Bradley was absent for the vote.)

MOTION AND VOTE: *It was moved by Mrs. Cargill, seconded by Ms. Hardy, and carried unanimously to recommend that the State Board of Education amend the last sentence of step five to read as follows:*

“Copies of working drafts may be kept for a committee member’s personal use between meetings, but may not be distributed to others outside of the committee.”

MOTION AND VOTE: *It was moved by Mr. Ratliff, seconded by Ms. Hardy, and carried unanimously to recommend that the State Board of Education amend the first and last bulleted items of step five to read as follows:*

“- to begin by determining an estimate of the amount of time necessary for students to develop mastery of the content in the current standards;

“- to carefully consider an estimate of the amount of time necessary for students to develop mastery of the content and ensure that all remaining student expectations reasonably can be taught within the amount of time typically allotted for the subject or course prior to the end

of the school year or a state end-of-course assessment required by TEC, §39.023, as applicable”

MOTION AND VOTE: *It was moved by Mr. Rowley, seconded by Mrs. Melton-Malone, and carried unanimously to recommend that the State Board of Education approve the process for streamlining of the Texas Essential Knowledge and Skills (TEKS), as amended.*

DISCUSSION ITEMS

9. Update on Texas Commission on Next Generation Assessments and Accountability (Board agenda page I-185)

Erika Beltran, an appointee to the Texas Commission on Next Generation Assessments and Accountability, provided a recap of the commission’s first meeting, which was held on January 20, 2016. She noted that the day’s presentations and materials are available online at <http://tea.texas.gov/2804commission.aspx>. Ms. Beltran said the commission plans to hold five more meetings before issuing its recommendations for future testing and accountability systems.

Mrs. Bahorich provided an update on the community conversations she and other state board members are holding around the state with their constituents to get their input about how the current testing and accountability systems are functioning and to obtain recommendations for possible changes. To date, meetings have been held in Houston, San Antonio and Austin with more planned over the next three months.

10. Update on the Public School Network Capabilities Study (Board agenda page I-187)

Ms. Martinez explained that HB 1926, 83rd Texas Legislature, Regular Session, 2013, required the agency to complete a public school network capabilities study. She highlighted findings from the executive summary and explained that the entire report was available on the TEA website.

11. Discussion of Item Development for the Texas Assessment Program (Board agenda page I-191)

NAME: John Pendergraff
AFFILIATION: Self

NAME: Randy Houchins
AFFILIATION: Self

Board members and agency staff discussed how and why certain test items are included on the state assessments and why state assessments assess certain Texas Essential Knowledge and Skills curriculum standards. The discussion concluded with various members commenting on the relationships between the curriculum standards and the adequacy of professional development when significant changes are made to the curriculum standards for a specific subject.

12. Discussion of Pending Litigation
(Board agenda page I-193)

The committee did not discuss pending litigation; therefore, no executive session was held.

Mrs. Bahorich adjourned the meeting at 8:35 p.m.