

## Chapter 66. State Adoption and Distribution of Instructional Materials

### Subchapter DD. Instructional Materials Portal

#### §66.1401. Definitions.

For purposes of this subchapter, the following words and terms shall have the following meanings.

- (1) Classroom set--This term refers to the components of an instructional material, including, but not limited to, the Texas Essential Knowledge and Skills-bearing components sufficient for use by a teacher and 25 students.
- (2) Inclusion--This term means the presentation or display of instructional materials, open education resources (OERs), and related information in the instructional materials portal or on other websites where information is publicly available to which the instructional materials portal links.
- (3) Instructional materials--This term has the meaning assigned by Texas Education Code (TEC), §31.002(1), and §66.27(a) of this title (relating to Proclamation, Public Notice, and Schedule for Adopting Instructional Materials).
- (4) Open education resource--This term has the meaning assigned by TEC, §31.002(1-a) and §31.083.
- (5) Open education resource submission form--This term refers to a document generated and approved by the Texas Education Agency (TEA) on which an OER licensor, a publisher, or TEA records information required for submission of OERs to the repository.
- (6) Open education resource submission process--This term refers to the procedures followed by an OER licensor, a publisher, or TEA when submitting OERs to the OER repository in the instructional materials portal.
- (7) OER licensor--This term means the individual or entity that offers an OER under the terms of an intellectual property license as specified in TEC, §31.083. Publishers and TEA may be OER licensors.
- (8) Professional development services--This term means the training and instruction provided by a publisher or its designee or an OER licensor for the purpose of teaching teachers and other educators how to use the publisher's or OER licensor's instructional materials.
- (9) Publisher--This term means the developer or distributor of instructional materials and has the meaning assigned by TEC, §31.002(2).
- (10) Evaluation of quality--This term refers to the independent analysis of instructional materials based on their quality. This includes the option to assign a summative quality rating to the materials for publication in the instructional materials portal.
- (11) Evaluation of quality submission form--This term refers to a document generated and approved by TEA in which publishers record information required for submission of instructional materials for an evaluation of quality (EoQ).
- (12) Evaluation of quality submission process--This term refers to the procedures followed by publishers when submitting instructional materials for an EoQ.

*Statutory Authority: The provisions of this §66.1401 issued under Texas Education Code, §§31.023, 31.081, 31.082, 31.083, and 31.084.*

*Source: The provisions of this §66.1401 adopted to be effective September 10, 2019, 44 TexReg 4857.*

#### §66.1403. Instructional Materials to be Included in the Instructional Materials Portal.

- (a) Instructional materials may be included in the evaluation of quality (EoQ) process if:

- (1) a publisher or an open education resource (OER) licensor submits instructional materials through the EoQ submission process;
  - (2) the State Board of Education nominates an instructional material for inclusion in an EoQ; or
  - (3) more than 10% of local education agencies request in a format determined by the Texas Education Agency (TEA) that an instructional material be included in an EoQ.
- (b) The following instructional materials may be included in the instructional materials web portal:
- (1) instructional materials submitted by TEA; and
  - (2) OERs submitted directly to TEA through the OER submission process for inclusion in the OER repository. OER materials may not be included in the repository unless:
    - (A) a publisher or other OER licensor submits such materials through the EoQ submission process;
    - (B) TEA submits such materials for which TEA is the OER licensor for the purposes of being reviewed for quality; or
    - (C) the materials are submitted in accordance with subsection (a)(2) or (3) of this section.
- (c) Instructional materials included in the EoQ process shall be included in the instructional materials portal.
- (d) TEA may determine the sequence and scheduling of quality reviews based on the following considerations:
- (1) the availability and allocation of resources for completion of quality reviews;
  - (2) the needs of public schools in Texas;
  - (3) the timing of submission to TEA; and
  - (4) other factors deemed relevant by TEA to maximize the effectiveness of the quality review process.
- (e) TEA may exclude from the quality review process a submission that does not constitute an instructional material.

*Statutory Authority: The provisions of this §66.1403 issued under Texas Education Code, §§31.023, 31.081, 31.082, 31.083, and 31.084.*

*Source: The provisions of this §66.1403 adopted to be effective September 10, 2019, 44 TexReg 4857; amended to be effective May 31, 2020, 45 TexReg 3439.*

**§66.1405. Procedures for Publishers and Open Education Resource Licensors to Submit Instructional Materials for Inclusion in the Instructional Materials Portal.**

- (a) A publisher or an open education resource (OER) licensor that submits instructional materials for an evaluation of quality (EoQ) shall:
- (1) submit a completed Texas Education Agency (TEA)-generated EoQ submission form by the deadline stated in the submission form. TEA may adapt the submission form, as it deems necessary, to develop and maintain the instructional materials web portal;
  - (2) sign a set of assurances at the time of submission assuring compliance with the requirements listed in this subchapter;
  - (3) submit instructional materials that are:
    - (A) in electronic format;
    - (B) complete and include all content to be used in the final product; and
    - (C) fully functional for review purposes;
  - (4) ensure submitted instructional materials remain final and unchanged throughout the quality review process, unless otherwise specified by TEA;

- (5) make submitted instructional materials available for reviewers for the duration of a review period to be determined by TEA and made known to publishers and OER licensors;
  - (6) include information required for reviewers to complete electronic reviews of instructional materials, including, but not limited to:
    - (A) computer hardware and system requirements for the review of any item included in an instructional material submission; and
    - (B) information for online products, including internet location, keycodes, passwords, and other login information required to ensure access to the materials being reviewed throughout the review period;
  - (7) provide specialized computer hardware or other equipment necessary to use an instructional material as intended by a student and/or teacher. Such equipment will be returned to the publisher or OER licensor at the conclusion of the review period. Such equipment must be provided:
    - (A) for the duration of the review period; and
    - (B) in a quantity to be determined by TEA and communicated to the publisher or OER licensor at the time the materials are submitted for review;
  - (8) provide the following information in a format determined by TEA and communicated to publishers or OER licensors by way of the EoQ submission form regarding the instructional materials submitted:
    - (A) computer hardware and system requirements for use of the materials;
    - (B) availability and description of professional development services;
    - (C) a report for each electronic component that verifies that the component complies with §66.28(a)(2) of this title (relating to Requirements for Publisher Participation), which can be satisfied by a report prepared for submission to the SBOE; and
    - (D) a complete description of all student and teacher components;
  - (9) provide accurate and up-to-date pricing information for each instructional material in a form and format to be determined by TEA and communicated to publishers and OER licensors in the application for submission of materials;
  - (10) make samples of instructional materials available for public review during a review period determined by TEA, as deemed necessary by TEA and made known to publishers or OER licensors by TEA;
  - (11) assume responsibility for all expenses incurred by participation in the review process, as TEA does not guarantee return of sample instructional materials;
  - (12) acknowledge that TEA and its designee have final authority for determining all quality ratings;
  - (13) with the exception of OER licensors, provide evidence in the form of an identification number provided by the Texas Secretary of State proving that the publisher is approved to conduct business in the state of Texas;
  - (14) verify that the publisher or OER licensor is the copyright owner of the instructional materials; and
  - (15) verify that the individual submitting the materials is legally authorized to act on behalf of the publisher or OER licensor.
- (b) TEA may not include materials in the quality evaluation process if:
- (1) materials have been authored by a current employee of TEA, unless those materials are open education resources;
  - (2) materials have been authored by the TEA's designated independent evaluator; or
  - (3) reviewers lack capacity to evaluate all submitted materials.

- (c) Publishers or OER licensors that submit materials for quality evaluation may not withdraw those materials from the review process after the review process is underway as communicated by TEA.
- (d) This section does not apply to or otherwise limit the submission of instructional materials by TEA for inclusion in the instructional materials portal.
- (e) Publishers or OER licensors that submit materials for quality evaluation may not directly or indirectly contact reviewers before or during the review process if such contact or solicitation relates to the EoQ process.
- (f) The TEA may satisfy the requirement set forth in Texas Education Code (TEC), §31.082(a)(2), by:
  - (1) conducting Texas Essential Knowledge and Skills (TEKS) coverage reviews and English Language Proficiency Standards (ELPS) coverage reviews, for subject areas in which ELPS exist, of instructional materials that have been submitted for an EoQ; or
  - (2) using the results of TEKS coverage reviews and ELPS coverage reviews, for subject areas in which ELPS exist, of materials under consideration for adoption under a current proclamation or adopted in a previous proclamation as authorized by TEC, §31.022, and 19 TAC Chapter 66, Subchapter B, of this title (relating to State Adoption of Instructional Materials).

*Statutory Authority: The provisions of this §66.1405 issued under Texas Education Code, §§31.023, 31.081, 31.082, 31.083, and 31.084.*

*Source: The provisions of this §66.1405 adopted to be effective September 10, 2019, 44 TexReg 4857.*

**§66.1407. Procedures for Open Education Resource Licensors to Submit Materials for Inclusion in the Open Education Resource Repository.**

An open education resource (OER) licensor that submits OERs for inclusion in the OER repository shall:

- (1) submit a completed Texas Education Agency (TEA)-generated OER submission form, which TEA may adapt, as it deems necessary, to develop and maintain the OER repository; and
- (2) sign a set of assurances at the time of submission assuring compliance with the requirements in this subchapter.

*Statutory Authority: The provisions of this §66.1407 issued under Texas Education Code, §§31.023, 31.081, 31.082, 31.083, and 31.084.*

*Source: The provisions of this §66.1407 adopted to be effective September 10, 2019, 44 TexReg 4857.*