

PREAMBLE

The Texas State Library and Archives Commission (commission) proposes new §4.0, Purpose and Scope, and new §4.2, School Library Programs: Collection Development Standards.

BACKGROUND. House Bill 900, 88th R.S. (2023) (HB 900) amended Education Code, §33.021, to require the commission, with approval by majority vote of the State Board of Education (SBOE), to adopt standards for school library collection development that a school district shall adhere to in developing or implementing the district's library collection development policies. HB 900 specifies that the standards must be reviewed and updated at least once every five years and includes certain requirements that must be included in the standards. Section 33.021 also requires the commission to adopt voluntary standards for school library services, other than collection development standards, that a school district shall consider in developing, implementing, or expanding library services. The voluntary standards are codified in §4.1 (relating to School Library Programs: Standards and Guidelines for Texas). Proposed new §4.0 and §4.2 are necessary to implement HB 900.

School library programs provide vital learning opportunities and support for students. Grounded in the nation's commitment to ensure an informed citizenry, school libraries foster an essential exchange of ideas and support reading skills and engagement, the basis for almost all learning activities. The work of administering school library programs and curating collections of resources for the specific K-12 environment requires the professional expertise of librarians along with consistent practices that meet both state requirements and address the specific needs of the local student population they serve. Unlike instructional materials, school library materials are instructional resources that broadly support curriculum but are not individually required. Students voluntarily select reading materials, and the proposed rules ensure their school libraries benefit from sound collection development policies that support parental involvement.

The commission developed these standards as a baseline for consistent practices statewide. These standards establish the essential elements of an effective policy for building and maintaining school library collections but allow for further specification and guidelines by local educational agencies to address local needs. These standards were also developed in recognition that resources vary widely among school districts, and some districts, particularly those in rural communities, may lack resources to fully implement every aspect of the standards. To accommodate the variations in local capacity, the rules provide several means to achieve a successful collection development policy that meets the goals of HB 900. For instance, the use of professional journals and similar resources to aid in the evaluation process is particularly important for districts without professional school library staff or that lack dedicated librarians on each campus. To ensure that collection development evaluation is conducted well and fulfills the needs of the local district, at least two methods of evaluation must be used. However, districts may opt for additional evaluation methods and do not have to rely on any one method noted. Additionally, districts may further specify the types of review resources to be consulted.

ANALYSIS OF PROPOSED NEW SECTIONS. Proposed new §4.0 outlines the purpose and scope of the subchapter, which is to establish both the voluntary and the mandatory standards required under Education Code, §33.021.

Proposed new §4.2 establishes the mandatory collection development standards. The SBOE Committee on Instruction considered these standards at its August 30, 2023, meeting and provided feedback. Staff considered this feedback and made changes to the standards based on that feedback.

Proposed §4.2(a) would require each public school district board or governing body to approve and institute a collection development policy that describes the processes and standards by which a school library acquires, maintains, and withdraws materials.

Proposed §4.2(b) provides that school library collections should include a range of materials that are age appropriate and suitable to the campus and students the library serves, offering guidance on the overall goals of a school library's collection. Under this guidance, a collection should enrich and support the Texas Essential Knowledge and Skills (TEKS), incorporated into the rule by reference to the statute, Education Code, §28.002. By referencing the statute, future amendments to the TEKS will be automatically incorporated into the rule. Additional guidance for collections under the proposed rule includes fostering growth and an enjoyment of reading in broad areas and representation of Texas and the people who live here.

Proposed §4.2(c) sets forth multiple requirements for a school library collection development policy, including the requirements stated in HB 900.

Proposed §4.2(d) describes "evaluation of materials" as used within the proposed new rule to guide librarians in the process. Under the proposed rule, evaluation would include consideration of the factors proposed to guide library collections generally in subsection (b), which includes that the materials are age appropriate and suitable to the campus and students the library serves, local priorities and school district standards, and at least two additional factors, such as recommendations from parents, guardians, and local community members; consultation with educators and library staff; an extensive review of the text; the context of a work; or authoritative reviews. The commission recognizes the importance of authoritative reviews by well-established professional education, publishing, and learning groups to aid district staff and librarians in evaluating materials for possible inclusion in a collection. Many librarians, particularly those in smaller and rural districts with staffing limitations, may not have the capacity or support to perform two extensive item level reviews of each potential library material. The option of combining a review of an item with another evaluation process provides districts with additional flexibility.

Proposed §4.2(e) describes "reconsideration process" as referenced in the proposed new rule. The rule would require that a reconsideration process ensure that any parent or guardian or school district employee may request the reconsideration of a specific item in the library catalog. The rule would further require that a reconsideration process begin with the requestor contacting the school librarian to discuss the item of concern. Many concerns may be handled satisfactorily through this first step. If not, however, the reconsideration process should direct the requestor to submit an official request for reconsideration by using a form available on the school's website. The process should also include a reasonable timeframe, approved by the school board, for the review and decision, during which time the material should remain available. Lastly, the process should ensure sufficient levels of review and any necessary appeal(s).

These rules in no way inhibit a district from making choices regarding the availability of and access to library materials during the reconsideration process they determine are necessary to protect students. The commission notes the intentional use of the word “should” rather than “shall” in proposed §4.2(e)(4). While districts make the determination about the handling of materials under reconsideration, the rule recommends items remain available during a reconsideration process for the following reasons: (1) removing or limiting access to materials without following an established reconsideration process may carry legal implications for the local education agency and its governing board; (2) a reconsideration process that requires removal of items from circulation before a decision is made may serve to undercut the processes for collection development and collection evaluation established by these rules, which serve to implement the standards required by HB 900; (3) keeping items available during a reconsideration process avoids burdening a student’s ability to gain access to material that may in fact be appropriate for the collection; and (4) keeping the item available may protect the school community from potential abuse of the reconsideration process if used to force removal of items, potentially in large numbers, that may be questioned for reasons beyond the parameters established in HB 900. These rules consider the need for legal protection for districts and local school boards while recognizing districts’ discretion to make decisions to best serve their students.

Proposed §4.2(f) encourages a school district to ensure a certified professional librarian or other dedicated professional library staff trained on proper collection development standards is responsible for the selection and acquisition of library materials. Proposed §4.2(g) encourages a school district to develop collection assessment and evaluation procedures to periodically appraise the quality of library materials in the school library to ensure the library’s goals, objectives, and information needs are serving its community. Proposed §4.2(h) recommends school districts review their collection development policies at least every two years, a practice that will ensure the policy remains up-to-date and consistent with current district priorities. Proposed §4.2(i) allows school districts to add procedures to the minimum requirements to satisfy local needs so long as the added procedures do not conflict with the minimum requirements. The commission recognizes that school districts across the state have different goals, priorities, and resources and proposes these rules as a baseline of minimum requirements upon which school districts are encouraged to build. Lastly, proposed §4.2(j) provides that school districts are responsible for ensuring their school libraries implement and adhere to these collection development standards. The commission has no enforcement authority with respect to school libraries.

FISCAL IMPACT. Sarah Karnes, Director, Library Development and Networking, has determined that for each of the first five years the proposed amendments and new section are in effect, there are no reasonably foreseeable fiscal implications for the state or local governments as a result of enforcing or administering the rules, as proposed.

PUBLIC BENEFIT AND COSTS. Ms. Karnes has determined that for each of the first five years the proposed new sections are in effect, the anticipated public benefit will be increased transparency in a public school library’s collection development policies and processes and consistency across the state. There are no anticipated economic costs to persons required to comply with the proposed new sections.

LOCAL EMPLOYMENT IMPACT STATEMENT. The proposal has no impact on local economy; therefore, no local employment impact statement under Government Code, §2001.022 is required.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT STATEMENT. There will be no adverse economic effect on small businesses, micro-businesses, or rural communities; therefore, a regulatory flexibility analysis under Government Code, §2006.002 is not required.

COST INCREASE TO REGULATED PERSONS. The proposed amendments do not impose or increase a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the commission is not required to take any further action under Government Code, §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT. In compliance with Government Code, §2001.0221, the commission provides the following government growth impact statement. For each year of the first five years the proposed new sections will be in effect, the commission has determined the following:

1. The proposed new sections will not create or eliminate a government program;
2. Implementation of the proposed new sections will not require the creation of new employee positions or the elimination of existing employee positions;
3. Implementation of the proposed new sections will not require an increase or decrease in future legislative appropriations to the commission;
4. The proposed new sections will not require an increase or decrease in fees paid to the commission;
5. The proposal will create a new regulation as required by HB 900;
6. The proposal will not expand or repeal an existing regulation;
7. The proposed new sections will not increase the number of individuals subject to the proposal's applicability; and
8. The proposed new sections will not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT. No private real property interests are affected by this proposal, and the proposal does not restrict or limit an owner's right to their property that would otherwise exist in the absence of government action. Therefore, the proposed amendments and new section do not constitute a taking under Government Code, §2007.043.

REQUEST FOR PUBLIC COMMENT. Written comments on the proposed new sections may be submitted to Sarah Karnes, Director, Library Development and Networking Division, Texas State Library and Archives Commission, P.O. Box 12927, Austin, Texas, 78711, or via email at rules@tsl.texas.gov. To be considered, a written comment must be received no later than 30 days from the date of publication in the *Texas Register*.

STATUTORY AUTHORITY. The amendments are proposed under Education Code, §33.021, which requires the commission to adopt standards for school library collection development that a school district shall adhere to in developing or implementing the district's library collection development policies.

CROSS REFERENCE TO STATUTE. Government Code, Chapter 441.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

<rule>

§4.0. Purpose and Scope.

Education Code, §33.021(a) charges the commission with adopting voluntary standards for school library services, other than collection development, that a school district must consider in developing, implementing, or expanding library services. Education Code, §33.021(b) charges the commission with adopting school library collection development standards a school district shall adhere to in developing or implementing the district's library collection development policies. The purpose of this subchapter is to establish both the voluntary standards for services other than collection development and the mandatory minimum standards for a district's collection development policy, which is a primary tool to ensure students benefit from a robust learning environment with opportunities for voluntary inquiry and selection of library materials.

§4.2. School Library Programs: Collection Development Standards.

- (a) Each Texas public school district board or governing body must approve and institute a collection development policy that describes the processes and standards by which a school library acquires, maintains, and withdraws materials.
- (b) A school library collection should include materials that are age appropriate and suitable to the campus and students it serves and include a range of materials. A school library collection should:
 - (1) Enrich and support the Texas Essential Knowledge and Skills (TEKS) and curriculum established by Education Code, §28.002 (relating to Required Curriculum), while taking into consideration students' varied interests, abilities, and learning styles;
 - (2) Foster growth in factual knowledge, literary appreciation, aesthetic values, and societal standards;
 - (3) Encourage the enjoyment of reading to foster thinking skills, personal learning, and encourage discussion based on rational analysis; and
 - (4) Represent the ethnic, religious, and cultural groups of the state and their contribution to Texas, the nation, and the world.
- (c) A school library collection development policy must:
 - (1) Describe the purpose and collection development goals;
 - (2) Designate the responsibility for collection development;
 - (3) Establish procedures for the evaluation, selection, acquisition, reconsideration, and deselection of materials;
 - (4) Consider the distinct age groups, grade levels, and possible access to materials by all students within a campus;
 - (5) Include a process to determine and administer student access to material rated by library material vendors as "sexually relevant" as defined by Education Code, §35.001 consistent with any policies adopted by the Texas Education Agency and local school board requirements;
 - (6) Include an access plan that, at a minimum, allows efficient parental access to the school district's library and online library catalog; and
 - (7) Comply with all applicable local, state, and federal laws and regulations. Specifically, a collection development policy must:
 - (A) Prohibit the possession, acquisition, and purchase of harmful material, as defined by Penal Code, §43.24, library material rated sexually explicit material by the selling library material vendor under Education Code, §35.002, or library material that is pervasively vulgar or educationally unsuitable as referenced in *Pico v. Board of Education*, 457 U.S. 853 (1982);

- (B) Recognize that obscene content is not protected by the First Amendment to the United States Constitution;
 - (C) Apply to all library materials available for use or display, including material contained in school libraries, classroom libraries, and online catalogs;
 - (D) Recognize that parents are the primary decision makers regarding their student's access to library material;
 - (E) Encourage schools to provide library catalog transparency, including, but not limited to:
 - (i) Online catalogs that are publicly available; and
 - (ii) Information about titles and how and where material can be accessed;
 - (F) Recommend schools communicate effectively with parents regarding collection development, including, but not limited to:
 - (i) Access to district/campus policies relating to school libraries;
 - (ii) Consistent access to library resources; and
 - (iii) Opportunities for students, parents, educators, and community members to provide feedback on library materials and services; and
 - (G) Prohibit the removal of material based solely on the ideas contained in the material or the personal background of the author of the material or characters in the material.
- (d) Evaluation of materials as referenced in this section includes a consideration of the factors described in subsection (b), consideration of local priorities and school district standards, and at least two of the following:
- (1) Consideration of recommendations from parents, guardians, and local community members;
 - (2) Consultation with the school district's educators and library staff and/or consultation with library staff of similarly situated school districts and their collections and collection development policies;
 - (3) An extensive review of the text of item;
 - (4) The context of a work, including consideration of the contextual characteristics, overall fit within existing school library collection, and potential support of the school curriculum; or
 - (5) Consideration of authoritative reviews of the items from sources such as professional journals in library science, recognized professional education or content journals with book reviews, national and state award recognition lists, library science field experts, and highly acclaimed author and literacy expert recommendations.
- (e) A reconsideration process as referenced in this section should ensure that any parent or guardian or school district employee may request the reconsideration of a specific item in the library catalog. A reconsideration process should:
- (1) Require a person requesting reconsideration to begin the process by contacting the school librarian to discuss the item of concern. If the concern is not resolved satisfactorily, the reconsideration process should direct the requestor to submit an official request for reconsideration;
 - (2) Require a school district to include a form to request a reconsideration of an item on the school's website;
 - (3) Require that the completed request for reconsideration form be distributed to both the campus administrator and school librarian at the time of submission;

- (4) Include a reasonable timeframe, approved by the school board, for the review and decision, during which time the material should remain available. A reasonable timeframe should take into account:
 - (A) The time necessary to convene a committee to meet and review the item;
 - (B) Flexibility that may be necessary depending on the number of pending reconsideration requests; and
 - (C) Other factors relevant to a fair and consistent process, including informing the requester on the progress of the review in a timely fashion; and
- (5) Ensure sufficient levels of review and any necessary appeal(s).
- (f) School districts should ensure a certified professional librarian or other dedicated professional library staff trained on proper collection development standards is responsible for the selection and acquisition of library materials.
- (g) A school district should develop collection assessment and evaluation procedures to periodically appraise the quality of library materials in the school library to ensure the library's goals, objectives, and information needs are serving its community and should stipulate the means to weed or update the collection.
- (h) A school district's collection development policy should be reviewed at least every two years and updated as necessary.
- (i) School districts may add procedures to these minimum requirements to satisfy local needs so long as the added procedures do not conflict with these minimum requirements.
- (j) School districts are responsible for ensuring their school libraries implement and adhere to these collection development standards.