

# Florida Statutes K-20 Education Code

## Excerpts Pertaining to Instructional Materials

<i>Number</i>	<i>Statute description</i>	<i>Page</i>
1006.28	Duties of district school board, district school superintendent; and school principal regarding K-12 instructional materials.	2
1006.29	State instructional materials committees.	4
1006.30	Affidavit of state instructional materials committee members.	5
1006.31	Duties of each state instructional materials committee.	6
1006.32	Prohibited acts.	7
1006.33	Bids or proposals; advertisement and its contents.	8
1006.34	Powers and duties of the commissioner and the department in selecting and adopting instructional materials.	10
1006.35	Accuracy of instructional materials.	12
1006.36	Term of adoption for instructional materials.	13
1006.37	Requisition of instructional materials from publisher's depository.	13
1006.38	Duties, responsibilities, and requirements of instructional materials publishers and manufacturers.	13
1006.39	Production and dissemination of educational materials and products by department.	15
1006.40	Use of instructional materials allocation; instructional materials, library books, and reference books; repair of books.	16
1006.41	Disposal of instructional materials.	17
1006.42	Responsibility of students and parents for instructional materials.	18
1006.43	Expenses; budget request.	18

**Title XLVIII K-20 EDUCATION CODE  
Chapter 1006  
SUPPORT FOR LEARNING**

**F. Instructional Materials for K-12 Public Education**

**1006.28 Duties of district school board, district school superintendent; and school principal regarding K-12 instructional materials.—**

(1) DISTRICT SCHOOL BOARD.--The district school board has the duty to provide adequate instructional materials for all students in accordance with the requirements of this part. The term "adequate instructional materials" means a sufficient number of textbooks or sets of materials that are available in bound, unbound, kit, or package form and may consist of hard-backed or soft-backed textbooks, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software that serve as the basis for instruction for each student in the core courses of mathematics, language arts, social studies, science, reading, and literature, except for instruction for which the school advisory council approves the use of a program that does not include a textbook as a major tool of instruction. The district school board has the following specific duties:

(a) *Courses of study; adoption.*--Adopt courses of study for use in the schools of the district.

(b) *Textbooks.*--Provide for proper requisitioning, distribution, accounting, storage, care, and use of all instructional materials furnished by the state and furnish such other instructional materials as may be needed. The district school board shall assure that instructional materials used in the district are consistent with the district goals and objectives and the curriculum frameworks adopted by rule of the State Board of Education, as well as with the state and district performance standards provided for in s. 1001.03(1).

(c) *Other instructional materials.*--Provide such other teaching accessories and aids as are needed for the school district's educational program.

(d) *School library media services; establishment and maintenance.*--Establish and maintain a program of school library media services for all public schools in the district, including school library media centers, or school library media centers open to the public, and, in addition such traveling or circulating libraries as may be needed for the proper operation of the district school system.

(2) DISTRICT SCHOOL SUPERINTENDENT.—

(a) The district school superintendent has the duty to recommend such plans for improving, providing, distributing, accounting for, and caring for textbooks and other instructional aids as will result in general improvement of the district school system, as prescribed in this part, in accordance with adopted district school board rules prescribing the duties and responsibilities of the district school superintendent regarding the requisition, purchase, receipt, storage, distribution, use, conservation, records, and reports of, and management practices and property accountability concerning, instructional materials, and providing for an evaluation of any instructional materials to be requisitioned that have not been used

previously in the district's schools. The district school superintendent must keep adequate records and accounts for all financial transactions for funds collected pursuant to subsection (3), as a component of the educational service delivery scope in a school district best financial management practices review under s. 1008.35.

(b) Each district school superintendent shall notify the department by April 1 of each year the state-adopted instructional materials that will be requisitioned for use in his or her school district. The notification shall include a district school board plan for instructional materials use to assist in determining if adequate instructional materials have been requisitioned.

(3) SCHOOL PRINCIPAL.--The school principal has the following duties for the management and care of instructional materials at the school:

(a) *Proper use of instructional materials.*--The principal shall assure that instructional materials are used to provide instruction to students enrolled at the grade level or levels for which the materials are designed, pursuant to adopted district school board rule. The school principal shall communicate to parents the manner in which instructional materials are used to implement the curricular objectives of the school.

(b) *Money collected for lost or damaged books; enforcement.*--The school principal shall collect from each student or the student's parent the purchase price of any instructional material the student has lost, destroyed, or unnecessarily damaged and to report and transmit the money collected to the district school superintendent. The failure to collect such sum upon reasonable effort by the school principal may result in the suspension of the student from participation in extracurricular activities or satisfaction of the debt by the student through community service activities at the school site as determined by the school principal, pursuant to policies adopted by district school board rule.

(c) *Sale of instructional materials.*--The school principal, upon request of the parent of a student in the school, shall sell to the parent any instructional materials used in the school. All such sales shall be made pursuant to rule adopted by the district school board, and the principal shall annually provide information to parents that they may purchase instructional materials and how to purchase the materials.

(d) *Disposition of funds.*--All money collected from the sale, exchange, loss, or damage of instructional materials shall be transmitted to the district school superintendent to be deposited in the district school board fund and added to the district appropriation for instructional materials.

(e) *Accounting for textbooks.*--Principals shall see that all books are fully and properly accounted for as prescribed by adopted rules of the district school board.

**History.**--s. 303, ch. 2002-387; s. 18, ch. 2009-59; s. 1, ch. 2009-222.

**1006.29 State instructional materials committees.--**

(1) Each school year, not later than April 15, the commissioner shall appoint state instructional materials committees composed of persons actively engaged in teaching or in the supervision of teaching in the public elementary, middle, or high schools and representing the major fields and levels in which instructional materials are used in the public schools and, in addition, lay citizens not professionally connected with education. Committee members shall receive training pursuant to subsection (5) in competencies related to the evaluation and selection of instructional materials.

(a) There shall be 10 or more members on each committee: At least 50 percent of the members shall be classroom teachers who are certified in an area directly related to the academic area or level being considered for adoption, 2 shall be laypersons, 1 shall be a district school board member, and 2 shall be supervisors of teachers. The committee must have the capacity or expertise to address the broad racial, ethnic, socioeconomic, and cultural diversity of the state's student population. Personnel selected as teachers of the year at the school, district, regional, or state level are encouraged to serve on instructional materials committees.

(b) The membership of each committee must reflect the broad racial, ethnic, socioeconomic, and cultural diversity of the state, including a balanced representation from the state's geographic regions.

(c) The commissioner shall determine annually the areas in which instructional materials shall be submitted for adoption, taking into consideration the desires of the district school boards. The commissioner shall also determine the number of titles to be adopted in each area.

(2)(a) All appointments shall be as prescribed in this section. No member shall serve more than two consecutive terms on any committee. All appointments shall be for 18-month terms. All vacancies shall be filled in the manner of the original appointment for only the time remaining in the unexpired term. At no time may a district school board have more than one representative on a committee. The commissioner and a member of the department whom he or she shall designate shall be additional and ex officio members of each committee.

(b) The names and mailing addresses of the members of the state instructional materials committees shall be made public when appointments are made.

(c) The district school board shall be reimbursed for the actual cost of substitute teachers for each workday that a member of its instructional staff is absent from his or her assigned duties for the purpose of rendering service to the state instructional materials committee. In addition, committee members shall be reimbursed for travel expenses and per diem in accordance with s. 112.061 for actual service in meetings of committees called by the commissioner. Payment of such travel expenses shall be made from the appropriation for the administration of the instructional materials program, on warrants to be drawn by the Chief Financial Officer upon requisition approved by the commissioner.

(d) Any member of a committee may be removed by the commissioner for cause.

(3) All references in the law to the state instructional materials committee shall apply to each committee created by this section.

(4) For purposes of state adoption, "instructional materials" means items having intellectual content that by design serve as a major tool for assisting in the instruction of a subject or course. These items may be available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software. The term does not include electronic or computer hardware even if such hardware is bundled with software or other electronic media, nor does it include equipment or supplies.

(5) The department shall develop a training program for persons selected to serve on state instructional materials committees. The program shall be structured to assist committee members in developing the skills necessary to make valid, culturally sensitive, and objective decisions regarding the content and rigor of instructional materials. All persons serving on instructional materials committees must complete the training program prior to beginning the review and selection process.

**History.**--s. 304, ch. 2002-387; s. 1950, ch. 2003-261.

**1006.30 Affidavit of state instructional materials committee members.**--Before transacting any business, each member of a state committee shall make an affidavit, to be filed with the commissioner, that:

(1) The member will faithfully discharge the duties imposed upon him or her as a member of the committee.

(2) The member has no interest, and while a member of the committee he or she will assume no interest, in any publishing or manufacturing organization which produces or sells instructional materials.

(3) The member is in no way connected, and while a member of the committee he or she will assume no connection, with the distribution of the instructional materials.

(4) The member is not pecuniarily interested, and while a member of the committee he or she will assume no pecuniary interest, directly or indirectly, in the business or profits of any person engaged in manufacturing, publishing, or selling instructional materials designed for use in the public schools.

(5) The member will not accept any emolument or promise of future reward of any kind from any publisher or manufacturer of instructional materials or his or her agent or anyone interested in, or intending to bias his or her judgment in any way in, the selection of any materials to be adopted.

(6) It is unlawful for any member of a state instructional materials committee to discuss matters relating to instructional materials submitted for adoption with any agent of a publisher or manufacturer of instructional materials, either directly or indirectly, except during the period when the committee has been called into session for the purpose of evaluating instructional materials submitted for adoption. Such discussions shall be limited

to official meetings of the committee and in accordance with procedures prescribed by the commissioner for that purpose.

**History.**--s. 305, ch. 2002-387.

**1006.31 Duties of each state instructional materials committee.**--The duties of each state instructional materials committee are:

(1) PLACE AND TIME OF MEETING.--To meet at the call of the commissioner, at a place in the state designated by him or her, for the purpose of evaluating and recommending instructional materials for adoption by the state. All meetings of state instructional materials committees shall be announced publicly in the Florida Administrative Weekly at least 2 weeks prior to the date of convening. All meetings of the committees shall be open to the public.

(2) ORGANIZATION.--To elect a chair and vice chair for each adoption. An employee of the department shall serve as secretary to the committee and keep an accurate record of its proceedings. All records of committee motions and votes, and summaries of committee debate shall be incorporated into a publishable document and shall be available for public inspection and duplication.

(3) PROCEDURES.--To adhere to procedures prescribed by the commissioner for evaluating instructional materials submitted by publishers and manufacturers in each adoption.

(4) EVALUATION OF INSTRUCTIONAL MATERIALS.--To evaluate carefully all instructional materials submitted, to ascertain which instructional materials, if any, submitted for consideration best implement the selection criteria developed by the commissioner and those curricular objectives included within applicable performance standards provided for in s. 1001.03(1).

(a) When recommending instructional materials for use in the schools, each committee shall include only instructional materials that accurately portray the ethnic, socioeconomic, cultural, and racial diversity of our society, including men and women in professional, career, and executive roles, and the role and contributions of the entrepreneur and labor in the total development of this state and the United States.

(b) When recommending instructional materials for use in the schools, each committee shall include only materials which accurately portray, whenever appropriate, humankind's place in ecological systems, including the necessity for the protection of our environment and conservation of our natural resources and the effects on the human system of the use of tobacco, alcohol, controlled substances, and other dangerous substances.

(c) When recommending instructional materials for use in the schools, each committee shall require such materials as it deems necessary and proper to encourage thrift, fire prevention, and humane treatment of people and animals.

(d) When recommending instructional materials for use in the schools, each committee shall require, when appropriate to the comprehension of students, that materials for social

science, history, or civics classes contain the Declaration of Independence and the Constitution of the United States. No instructional materials shall be recommended by any committee for use in the schools which contain any matter reflecting unfairly upon persons because of their race, color, creed, national origin, ancestry, gender, or occupation.

(e) All instructional materials recommended by each committee for use in the schools shall be, to the satisfaction of each committee, accurate, objective, and current and suited to the needs and comprehension of students at their respective grade levels. Instructional materials committees shall consider for adoption materials developed for academically talented students such as those enrolled in advanced placement courses.

(5) REPORT OF COMMITTEE.--Each committee, after a thorough study of all data submitted on each instructional material, and after each member has carefully evaluated each instructional material, shall present a written report to the commissioner. Such report shall be made public, and shall include:

(a) A description of the procedures used in determining the instructional materials to be recommended to the commissioner.

(b) Recommendations of instructional materials for each grade and subject field in the curriculum of public elementary, middle, and high schools in which adoptions are to be made. If deemed advisable, the committee may include such other information, expression of opinion, or recommendation as would be helpful to the commissioner. If there is a difference of opinion among the members of the committee as to the merits of any instructional materials, any member may file an expression of his or her individual opinion.

The findings of the committees, including the evaluation of instructional materials, shall be in sessions open to the public. All decisions leading to determinations of the committees shall be by roll call vote, and at no time will a secret ballot be permitted.

**History.**--s. 306, ch. 2002-387; s. 103, ch. 2004-357.

### **1006.32 Prohibited acts.—**

(1) No publisher or manufacturer of instructional material, or any representative thereof, shall offer to give any emolument, money, or other valuable thing, or any inducement, to any district school board official or member of a state-level instructional materials committee to directly or indirectly introduce, recommend, vote for, or otherwise influence the adoption or purchase of any instructional materials.

(2) No district school board official or member of a state instructional materials committee shall solicit or accept any emolument, money, or other valuable thing, or any inducement, to directly or indirectly introduce, recommend, vote for, or otherwise influence the adoption or purchase of any instructional material.

(3) No district school board or publisher may participate in a pilot program of materials being considered for adoption during the 18-month period before the official adoption of the materials by the commissioner. Any pilot program during the first 2 years of the adoption period must have the prior approval of the commissioner.

(4) Any publisher or manufacturer of instructional materials or representative thereof or any district school board official or state instructional materials committee member, who violates any provision of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Any representative of a publisher or manufacturer who violates any provision of this section, in addition to any other penalty, shall be banned from practicing business in the state for a period of 1 calendar year. Any district school board official or state instructional materials committee member who violates any provision of this section, in addition to any other penalty, shall be removed from his or her official position.

(5) Nothing in this section shall be construed to prevent any publisher, manufacturer, or agent from supplying, for purposes of examination, necessary sample copies of instructional materials to any district school board official or instructional materials committee member.

(6) Nothing in this section shall be construed to prevent a district school board official or instructional materials committee member from receiving sample copies of instructional materials.

(7) Nothing contained in this section shall be construed to prohibit or restrict a district school board official from receiving royalties or other compensation, other than compensation paid to him or her as commission for negotiating sales to district school boards, from the publisher or manufacturer of instructional materials written, designed, or prepared by such district school board official, and adopted by the commissioner or purchased by any district school board. No district school board official shall be allowed to receive royalties on any materials not on the state-adopted list purchased for use by his or her district school board.

(8) No district school superintendent, district school board member, teacher, or other person officially connected with the government or direction of public schools shall receive during the months actually engaged in performing duties under his or her contract any private fee, gratuity, donation, or compensation, in any manner whatsoever, for promoting the sale or exchange of any school book, map, or chart in any public school, or be an agent for the sale or the publisher of any school textbook or reference work, or be directly or indirectly pecuniarily interested in the introduction of any such textbook, and any such agency or interest shall disqualify any person so acting or interested from holding any district school board employment whatsoever, and the person commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083; provided that this subsection shall not be construed as preventing the adoption of any book written in whole or in part by a Florida author.

**History.**--s. 307, ch. 2002-387.

### **1006.33 Bids or proposals; advertisement and its contents.—**

(1)(a) Beginning on or before May 15 of any year in which an instructional materials adoption is to be initiated, the department shall advertise in the Florida Administrative Weekly 4 weeks preceding the date on which the bids shall be received, that at a certain designated time, not later than June 15, sealed bids or proposals to be deposited with the department will be received from publishers or manufacturers for the furnishing of instructional materials proposed to be adopted as listed in the advertisement beginning April 1 following the adoption.



(b) The advertisement shall state that each bidder shall furnish specimen copies of all instructional materials submitted, at a time designated by the department, which specimen copies shall be identical with the copies approved and accepted by the members of the state instructional materials committee, as prescribed in this section, and with the copies furnished to the department and district school superintendents, as provided in this part.

(c) The advertisement shall state that a contract covering the adoption of the instructional materials shall be for a definite term.

(d) The advertisement shall fix the time within which the required contract must be executed and shall state that the department reserves the right to reject any or all bids.

(e) The advertisement shall give information as to how specifications which have been adopted by the department in regard to paper, binding, cover boards, and mechanical makeup can be secured. In adopting specifications, the department shall make an exception for instructional materials that are college-level texts and that do not meet department physical specifications for secondary materials, if the publisher guarantees replacement during the term of the contract.

(2) The bids submitted shall be for furnishing the designated materials in accordance with specifications of the department. The bid shall state the lowest wholesale price at which the materials will be furnished, at the time the adoption period provided in the contract begins, delivered f.o.b. to the Florida depository of the publisher, manufacturer, or bidder.

(3) The department shall require each publisher or manufacturer of instructional materials who submits a bid under this part to deposit with the department such sum of money or certified check as may be determined by the department, the amount to be not less than \$500 and not more than \$2,500, according to the number of instructional materials covered by the bid, which deposit shall be forfeited to the state and placed in the General Revenue Fund if the bidder making the deposit fails or refuses to execute the contract and bond within 30 days after receipt of the contract in case his or her bid or proposal is accepted. The commissioner shall, upon determining that the deposit is correct and proper, transmit the deposit to the Chief Financial Officer, who shall deposit the funds for credit to the Textbook Bid Trust Fund and issue his or her official receipt.

(4) Specimen copies of all instructional materials that have been made the bases of contracts under this part shall, upon request for the purpose of public inspection, be made available by the publisher to the department and the district school superintendent of each district school board that adopts the instructional materials from the state list upon request for the purpose of public inspection. All contracts and bonds executed under this part shall be signed in triplicate. One copy of each contract and an original of each bid, whether accepted or rejected, shall be preserved with the department for at least 3 years after termination of the contract.

**History.**--s. 308, ch. 2002-387; s. 1951, ch. 2003-261.

**1006.34 Powers and duties of the commissioner and the department in selecting and adopting instructional materials.—**

(1) PROCEDURES FOR EVALUATING INSTRUCTIONAL MATERIALS.--The commissioner shall prescribe the procedures by which the department shall evaluate instructional materials submitted by publishers and manufacturers in each adoption. Included in these procedures shall be provisions which afford each publisher or manufacturer or his or her representative an opportunity to present to members of the state instructional materials committees the merits of each instructional material submitted in each adoption.

(2) SELECTION AND ADOPTION OF INSTRUCTIONAL MATERIALS.—

(a) The department shall notify all publishers and manufacturers of instructional materials who have submitted bids that within 3 weeks after the deadline for receiving bids, at a designated time and place, it will open the bids submitted and deposited with it. At the time and place designated, the bids shall be opened, read, and tabulated in the presence of the bidders or their representatives. No one may revise his or her bid after the bids have been filed. When all bids have been carefully considered, the commissioner shall, from the list of suitable, usable, and desirable instructional materials reported by the state instructional materials committee, select and adopt instructional materials for each grade and subject field in the curriculum of public elementary, middle, and high schools in which adoptions are made and in the subject areas designated in the advertisement. The adoption shall continue for the period specified in the advertisement, beginning on the ensuing April 1. The adoption shall not prevent the extension of a contract as provided in subsection (3). The commissioner shall always reserve the right to reject any and all bids. The commissioner may ask for new sealed bids from publishers or manufacturers whose instructional materials were recommended by the state instructional materials committee as suitable, usable, and desirable; specify the dates for filing such bids and the date on which they shall be opened; and proceed in all matters regarding the opening of bids and the awarding of contracts as required by this part. In all cases, bids shall be accompanied by a cash deposit or certified check of from \$500 to \$2,500, as the commissioner may direct. The department, in adopting instructional materials, shall give due consideration both to the prices bid for furnishing instructional materials and to the report and recommendations of the state instructional materials committee. When the commissioner has finished with the report of the state instructional materials committee, the report shall be filed and preserved with the department and shall be available at all times for public inspection.

(b) In the selection of instructional materials, library books, and other reading material used in the public school system, the standards used to determine the propriety of the material shall include:

1. The age of the students who normally could be expected to have access to the material.
2. The educational purpose to be served by the material. In considering instructional materials for classroom use, priority shall be given to the selection of materials which encompass the state and district school board performance standards provided for in s. 1001.03(1) and which include the instructional objectives contained within the curriculum frameworks approved by rule of the State Board of Education.

3. The degree to which the material would be supplemented and explained by mature classroom instruction as part of a normal classroom instructional program.

4. The consideration of the broad racial, ethnic, socioeconomic, and cultural diversity of the students of this state. No book or other material containing hard-core pornography or otherwise prohibited by s. 847.012 shall be used or available within any public school district.

(3) CONTRACT WITH PUBLISHERS OR MANUFACTURERS; BOND.--As soon as practicable after the commissioner has adopted any instructional materials and all bidders that have secured the adoption of any instructional materials have been notified thereof by registered letter, the Department of Legal Affairs shall prepare a contract in proper form with every bidder awarded the adoption of any instructional materials. Each contract shall be executed by the Governor and Secretary of State under the seal of the state, one copy to be kept by the contractor, one copy to be filed with the Department of State, and one copy to be filed with the department. After giving due consideration to comments by the district school boards, the commissioner, with the agreement of the publisher, may extend or shorten a contract period for a period not to exceed 2 years; and the terms of any such contract shall remain the same as in the original contract.

Any publisher or manufacturer to whom any contract is let under this part must give bond in such amount as the commissioner requires, payable to the state, conditioned for the faithful, honest, and exact performance of the contract. The bond must provide for the payment of reasonable attorney's fees in case of recovery in any suit thereon. The surety on the bond must be a guaranty or surety company lawfully authorized to do business in the state; however, the bond shall not be exhausted by a single recovery but may be sued upon from time to time until the full amount thereof is recovered, and the department may at any time, after giving 30 days' notice, require additional security or additional bond. The form of any bond or bonds or contract or contracts under this part shall be prepared and approved by the Department of Legal Affairs. At the discretion of the commissioner, a publisher or manufacturer to whom any contract is let under this part may be allowed a cash deposit in lieu of a bond, conditioned for the faithful, honest, and exact performance of the contract. The cash deposit, payable to the department, shall be placed in the Textbook Bid Trust Fund. The department may recover damages on the cash deposit given by the contractor for failure to furnish instructional materials, the sum recovered to inure to the General Revenue Fund.

(4) REGULATIONS GOVERNING THE CONTRACT.--The department may, from time to time, take any necessary actions, consistent with this part, to secure the prompt and faithful performance of all instructional materials contracts; and if any contractor fails or refuses to furnish instructional materials as provided in this part or otherwise breaks his or her contract, the department may sue on the required bond in the name of the state, in the courts of the state having jurisdiction, and recover damages on the bond given by the contractor for failure to furnish instructional materials, the sum recovered to inure to the General Revenue Fund.

(5) RETURN OF DEPOSITS.—

(a) The successful bidder shall be notified by registered mail of the award of contract and shall, within 30 days after receipt of the contract, execute the proper contract and post the

required bond. When the bond and contract have been executed, the department shall notify the Chief Financial Officer and request that a warrant be issued against the Textbook Bid Trust Fund payable to the successful bidder in the amount deposited pursuant to this part. The Chief Financial Officer shall issue and forward the warrant to the department for distribution to the bidder.

(b) At the same time or prior thereto, the department shall inform the Chief Financial Officer of the names of the unsuccessful bidders. Upon receipt of such notice, the Chief Financial Officer shall issue warrants against the Textbook Bid Trust Fund payable to the unsuccessful bidders in the amounts deposited pursuant to this part and shall forward the warrants to the department for distribution to the unsuccessful bidders.

(c) One copy of each contract and an original of each bid, whether accepted or rejected, shall be preserved with the department for at least 3 years after the termination of the contract.

(6) DEPOSITS FORFEITED.--If any successful bidder fails or refuses to execute contract and bond within 30 days after receipt of the contract, the cash deposit shall be forfeited to the state and placed by the Chief Financial Officer in the General Revenue Fund.

(7) FORFEITURE OF CONTRACT AND BOND.--If any publisher or manufacturer of instructional materials fails or refuses to furnish a book, or books, or other instructional materials as provided in the contract, his or her bond is forfeited and the department shall make another contract on such terms as it may find desirable, after giving due consideration to the recommendations of the commissioner.

**History.**--s. 309, ch. 2002-387; s. 1952, ch. 2003-261.

### **1006.35 Accuracy of instructional materials.—**

(1) In addition to relying on statements of publishers or manufacturers of instructional materials, the commissioner may conduct or cause to be conducted an independent investigation to determine the accuracy of state-adopted instructional materials.

(2) When errors in state-adopted materials are confirmed, the publisher of the materials shall provide to each district school board that has purchased the materials the corrections in a format approved by the commissioner.

(3) The commissioner may remove materials from the list of state-adopted materials if he or she finds that the content is in error and the publisher refuses to correct the error when notified by the department.

(4) The commissioner may remove materials from the list of state-adopted materials at the request of the publisher if, in his or her opinion, there is no material impact on the state's education goals.

**History.**--s. 310, ch. 2002-387.

### **1006.36 Term of adoption for instructional materials.--**

(1) The term of adoption of any instructional materials must be a 6-year period beginning on April 1 following the adoption, except that the commissioner may approve terms of adoption of less than 6 years for materials in content areas which require more frequent revision. Any contract for instructional materials may be extended as prescribed in s. 1006.34(3).

(2) The department shall publish annually an official schedule of subject areas to be called for adoption for each of the succeeding 2 years, and a tentative schedule for years 3, 4, 5, and 6. If extenuating circumstances warrant, the commissioner may order the department to add one or more subject areas to the official schedule, in which event the commissioner shall develop criteria for such additional subject area or areas and make them available to publishers as soon as practicable before the date on which bids are due. The schedule shall be developed so as to promote balance among the subject areas so that the required expenditure for new instructional materials is approximately the same each year in order to maintain curricular consistency.

**History.**--s. 311, ch. 2002-387.

### **1006.37 Requisition of instructional materials from publisher's depository.-**

(1) The district school superintendent shall requisition adopted instructional materials from the depository of the publisher with whom a contract has been made. However, the superintendent shall requisition current instructional materials to provide each student with a textbook or other materials as a major tool of instruction in core courses of the subject areas specified in s. 1006.40(2). These materials must be requisitioned within the first 2 years of the adoption cycle, except for instructional materials related to growth of student membership or instructional materials maintenance needs. The superintendent may requisition instructional materials in the core subject areas specified in s. 1006.40(2) that are related to growth of student membership or instructional materials maintenance needs during the 3rd, 4th, 5th, and 6th years of the original contract period.

(2) The district school superintendent shall verify that the requisition is complete and accurate and order the depository to forward to him or her the adopted instructional materials shown by the requisition. The depository shall prepare an invoice of the materials shipped, including shipping charges, and mail it to the superintendent to whom the shipment is being made. The superintendent shall pay the depository within 60 days after receipt of the requisitioned materials from the appropriation for the purchase of adopted instructional materials.

**History.**--s. 312, ch. 2002-387.

**1006.38 Duties, responsibilities, and requirements of instructional materials publishers and manufacturers.--**Publishers and manufacturers of instructional materials, or their representatives, shall:

(1) Comply with all provisions of this part.

(2) Deliver fully developed specimen copies of all instructional materials upon which bids are based to each member of a state instructional materials committee. At the conclusion of the review process, manufacturers submitting samples of instructional materials are entitled to the return thereof, at the expense of the manufacturers; or, in the alternative, the manufacturers are entitled to reimbursement by the individual committee members for the retail value of the samples.

(3) Submit, at a time designated in s. 1006.33, the following information:

(a) Detailed specifications of the physical characteristics of the instructional materials. The publisher or manufacturer shall comply with these specifications if the instructional materials are adopted and purchased in completed form.

(b) Written proof that the publisher has provided written correlations to appropriate curricular objectives included within applicable performance standards provided for in s. 1001.03(1).

(4) Make available for purchase by any district school board any diagnostic, criterion-referenced, or other tests that they may develop.

(5) Furnish the instructional materials offered by them at a price in the state which, including all costs of transportation to their depositories, shall not exceed the lowest price at which they offer such instructional materials for adoption or sale to any state or school district in the United States.

(6) Reduce automatically the price of the instructional materials to any district school board to the extent that reductions are made elsewhere in the United States.

(7) Provide any instructional materials free of charge in the state to the same extent as they are provided free of charge to any state or school district in the United States.

(8) Guarantee that all copies of any instructional materials sold in this state will be at least equal in quality to the copies of such instructional materials that are sold elsewhere in the United States and will be kept revised, free from all errors, and up-to-date as may be required by the department.

(9) Agree that any supplementary material developed at the district or state level does not violate the author's or publisher's copyright, provided such material is developed in accordance with the doctrine of fair use.

(10) Not in any way, directly or indirectly, become associated or connected with any combination in restraint of trade in instructional materials, nor enter into any understanding, agreement, or combination to control prices or restrict competition in the sale of instructional materials for use in the state.

(11) Maintain or contract with a depository in the state.

(12) For the core subject areas specified in s. 1006.40(2), maintain in the depository for the first 2 years of the contract an inventory of instructional materials sufficient to receive and fill orders.

(13) For the core subject areas specified in s. 1006.40(2), ensure the availability of an inventory sufficient to receive and fill orders for instructional materials for growth, including the opening of a new school, and replacement during the 3rd and subsequent years of the original contract period.

(14) For all other subject areas, maintain in the depository an inventory of instructional materials sufficient to receive and fill orders.

(15) Accurately and fully disclose only the names of those persons who actually authored the instructional materials. In addition to the penalties provided in subsection (17), the commissioner may remove from the list of state-adopted instructional materials those instructional materials whose publisher or manufacturer misleads the purchaser by falsely representing genuine authorship.

(16) Grant, without prior written request, for any copyright held by the publisher or its agencies automatic permission to the department or its agencies for the reproduction of textbooks and supplementary materials in braille or large print or in the form of sound recordings, for use by visually impaired students or other students with disabilities that would benefit from use of the materials.

(17) Upon the willful failure of the publisher or manufacturer to comply with the requirements of this section, be liable to the department in the amount of 3 times the total sum which the publisher or manufacturer was paid in excess of the price required under subsections (5) and (6) and in the amount of 3 times the total value of the instructional materials and services which the district school board is entitled to receive free of charge under subsection (7).

**History.**--s. 313, ch. 2002-387.

### **1006.39 Production and dissemination of educational materials and products by department.—**

(1) Educational materials and products developed by or under the direction of the department, through research and development or other efforts, including those subject to copyright, patent, or trademark, shall be made available for use by teachers, students, administrators, and other appropriate persons in the state system of education at the earliest practicable date and in the most economical and efficient manner possible.

(2) To accomplish this objective, the department may publish, produce, or have produced educational materials and products and make them readily available for appropriate use in the state system of education. The department may charge

an amount adequate to cover the essential cost of producing and disseminating such materials and products in the state system of education and may sell copies for educational use to private schools in the state and to the public.

(3) All proceeds from the sale of educational materials and products shall be remitted to the Chief Financial Officer and shall be kept in a separate fund to be known as the "Educational Media and Technology Trust Fund" and, when properly budgeted as approved by the

Legislature and the Executive Office of the Governor, used to pay the cost of producing and disseminating educational materials and products.

(4) In cases in which the educational materials or products are of such nature, or the circumstances are such, that it is not practicable or feasible for the department to produce or have produced materials and products so developed, it may, after review and approval by the Department of State, license, lease, assign, sell, or otherwise give written consent to any person, firm or corporation for the manufacture or use thereof, on a royalty basis, or for such other consideration as the department finds proper and in the best interest of the state. The department shall protect educational materials and products against improper or unlawful use or infringement and enforce the collection of any sums due for the manufacture or use thereof by any other party.

(5) The department shall not enter into the business of producing or publishing textbooks, or the contents therein, for general use in classrooms.

**History.**--s. 314, ch. 2002-387; s. 1953, ch. 2003-261.

**1006.40 Use of instructional materials allocation; instructional materials, library books, and reference books; repair of books.—**

(1) On or before July 1 each year, the commissioner shall certify to each district school superintendent the estimated allocation of state funds for instructional materials, computed pursuant to the provisions of s. 1011.67 for the ensuing fiscal year.

(2)(a) Each district school board must purchase current instructional materials to provide each student with a textbook or other instructional materials as a major tool of instruction in core courses of the appropriate subject areas of mathematics, language arts, science, social studies, reading, and literature for kindergarten through grade 12. Such purchase must be made within the first 2 years after the effective date of the adoption cycle; however, this requirement is waived for the adoption cycle occurring in the 2008-2009 academic year for schools within the district which are identified in the top four categories of schools pursuant to s. 1008.33, as amended by chapter 2009-144, Laws of Florida. The Commissioner of Education may provide a waiver of this requirement for the adoption cycle occurring in the 2008-2009 academic year if the district demonstrates that it has intervention and support strategies to address the particular needs of schools in the lowest two categories. Unless specifically provided for in the General Appropriations Act, the cost of instructional materials purchases required by this paragraph shall not exceed the amount of the district's allocation for instructional materials, pursuant to s. 1011.67, for the previous 2 years.

(b) The requirement in paragraph (a) does not apply to contracts in existence before April 1, 2000, or to a purchase related to growth of student membership in the district or for instructional materials maintenance needs.

(3)(a) Each district school board shall use the annual allocation for the purchase of instructional materials included on the state-adopted list, except as otherwise authorized in paragraphs (b) and (c). No less than 50 percent of the annual allocation shall be used to



purchase items which will be used to provide instruction to students at the level or levels for which the materials are designed.

(b) Up to 50 percent of the annual allocation may be used for the purchase of instructional materials, including library and reference books and nonprint materials, not included on the state-adopted list and for the repair and renovation of textbooks and library books.

(c) District school boards may use 100 percent of that portion of the annual allocation designated for the purchase of instructional materials for kindergarten, and 75 percent of that portion of the annual allocation designated for the purchase of instructional materials for first grade, to purchase materials not on the state-adopted list.

(4) The funds described in subsection (3) which district school boards may use to purchase materials not on the state-adopted list shall be used for the purchase of instructional materials or other items having intellectual content which assist in the instruction of a subject or course. These items may be available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, replacements for items which were part of previously purchased instructional materials, consumables, learning laboratories, manipulatives, electronic media, computer courseware or software, and other commonly accepted instructional tools as prescribed by district school board rule. The funds available to district school boards for the purchase of materials not on the state-adopted list may not be used to purchase electronic or computer hardware even if such hardware is bundled with software or other electronic media, nor may such funds be used to purchase equipment or supplies. However, when authorized to do so in the General Appropriations Act, a school or district school board may use a portion of the funds available to it for the purchase of materials not on the state-adopted list to purchase science laboratory materials and supplies.

(5) Each district school board shall adopt rules, and each district school superintendent shall implement procedures, that will assure the maximum use by the students of the authorized instructional materials.

(6) District school boards may issue purchase orders subsequent to February 1 in an aggregate amount which does not exceed 20 percent of the current year's allocation, and subsequent to April 1 in an aggregate amount which does not exceed 90 percent of the current year's allocation, for the purpose of expediting the delivery of instructional materials which are to be paid for from the ensuing year's allocation.

(7) In any year in which the total instructional materials allocation for a school district has not been expended or obligated prior to June 30, the district school board shall carry forward the unobligated amount and shall add it to the next year's allocation.

**History.**--s. 315, ch. 2002-387; s. 10, ch. 2009-3; s. 19, ch. 2009-59.

#### **1006.41 Disposal of instructional materials.—**

(1) Instructional materials that have become unserviceable or surplus or are no longer on state contract may be disposed of, under adopted rule of the district school board, by:

(a) Giving or lending the materials to other public education programs within the district or state, to the teachers to use in developing supplementary teaching materials, to students or others, or to any charitable organization, governmental agency, home education students, private school, or state.

(b) Selling the materials to used book dealers, recycling plants, pulp mills, or other persons, firms, or corporations upon such terms as are most economically advantageous to the district school board.

(2) The district school board may prescribe by rule the manner for destroying instructional materials that cannot be disposed of as provided in subsection (1).

(3) All moneys received for the sale, exchange, or other disposition of instructional materials shall be deposited in the district school fund and added to the district appropriation for instructional materials.

(4) Instructional materials which have been sold, exchanged, lost, destroyed, or damaged and for which proper charges have been assessed and collected, and instructional materials which have been destroyed by fire or storm damage or by order of a competent health officer or the district school superintendent, shall be dropped from the record of instructional materials for which, as provided by law, district school boards are held responsible.

**History.**--s. 316, ch. 2002-387.

#### **1006.42 Responsibility of students and parents for instructional materials.-**

(1) All instructional materials purchased under the provisions of this part are the property of the district school board. When distributed to the students, these instructional materials are on loan to the students while they are pursuing their courses of study and are to be returned at the direction of the school principal or the teacher in charge. Each parent of a student to whom or for whom instructional materials have been issued, is liable for any loss or destruction of, or unnecessary damage to, the instructional materials or for failure of the student to return the instructional materials when directed by the school principal or the teacher in charge, and shall pay for such loss, destruction, or unnecessary damage as provided by law.

(2) Nothing in this part shall be construed to prohibit parents from exercising their right to purchase instructional materials from the district school board.

**History.**--s. 317, ch. 2002-387.

#### **1006.43 Expenses; budget request.—**

(1) The commissioner shall include in the department's annual legislative budget a request for funds in an amount sufficient to provide the necessary expense for:

(a) The instructional materials committees.

(b) Instructional materials for use by partially sighted students.

(c) Other specific and necessary state expenses with regard to the instructional materials program.

(2) The department may arrange for distribution adopted textbooks which are prepared in various media for the use of partially sighted children enrolled in the Florida schools.

**History.**--s. 318, ch. 2002-387.