



HOUSE BILL 315: Instructional Material Selection.

2019-2020 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	Date:	April 1, 2019
Introduced by:	Reps. Elmore, Arp, Johnson	Prepared by:	Samantha Yarborough* Staff Attorney
Analysis of:	Second Edition		

OVERVIEW: *HB 315 would repeal the current process for textbook selection by the State Board of Education and would replace it with a process for local boards of education to select instructional materials. HB 315 would also create a process for individuals to challenge instructional materials as unfit, which could be appealed to the State Board of Education.*

CURRENT LAW: Part 3 of Article 8 of Chapter 115C of the General Statutes requires the State Board of Education (SBOE) to select and adopt textbooks that align to the standard course of study. A 23 member Textbook Commission, appointed by the Governor, evaluates proposed textbooks and reports to the SBOE on those textbooks. The Textbook Commission is composed of parents, teachers, principals, and superintendents, and members serve 4 year terms.

Following review by the Textbook Commission, the SBOE selects textbooks and requests sealed bids from publishers of those textbooks. Once received, the SBOE adopts textbooks and enters into a contract with publishers. The contracts must contain a clause that requires the publisher to match the price of the textbook to the lowest price offered anywhere else in the United States throughout the life of the contract, and must allow conversion of the materials into formats accessible to students with disabilities.

Local boards of education (local boards) also have authority to select and adopt textbooks and supplemental instructional materials for use within the local school administrative unit (LEA). Local boards may establish community media advisory committees to investigate and evaluate challenges to textbooks and supplementary instructional materials on the grounds that are educationally unsuitable, pervasively vulgar, or inappropriate to the age, maturity, or grade level of students.

Local boards may not charge rental fees but may charge damage fees to parents or legal guardians. Parents have the right to purchase copies of textbooks and materials from the local board or SBOE.

G.S. 115C-81.30 allows parents the opportunity to review objectives and materials before students participate in a program that includes information on sexually transmitted diseases, avoidance of out-of-wedlock pregnancy, or reproductive health and safety programs.

BILL ANALYSIS: The 2nd Edition of HB 315 would repeal the current statutes governing selection and adoption of textbooks and create a new process for local boards to adopt instructional materials as follows:

Revision of Terms

- Eliminate the term "textbooks" and replaces it throughout the statutes with the term "instructional materials," defined to include both instructional materials in print and digital resources.

Selection and Use of Instructional Materials

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

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- Requires local boards to adopt instructional materials aligned with the standard course of study. Local boards may require experts employed by the local board of education and certified in the discipline in which the instructional material would be used to evaluate materials being considered for adoption. Local boards may also select supplemental materials for a grade, course, or general education needs at a school or throughout the entire local school administrative unit.
- Local boards will use allocated funds to purchase, lease, or rent of instructional or supplemental materials and hardware, software, or other equipment necessary for the use of the instructional or supplemental materials. The local board of education will hold title to the materials and equipment. Local boards are encouraged to partner to jointly purchase materials. The contracts must contain a clause that allows conversion of the materials into formats accessible to students with disabilities. The local board must publish on its Web site the title, author, and publisher of all instructional and supplemental materials purchased by the local board of education.
- Local boards must provide instructional materials to students for free and may not charge a rental fee for the use of instructional materials or for hardware, software, or other equipment necessary for the use of the materials. Local boards may charge a damage fees for abuse or loss of materials or equipment necessary for the use of those materials. Damage fees must be used for the purchase of materials. Parents have the right to purchase any instructional material from the local board, and local boards have the right to dispose of discontinued instructional or supplemental materials.

Health and Safety Programs

- Defines a health and safety program as instruction on reproductive health and safety, mental and emotional health, growth and development, or anti-bullying or anti-harassment. Requires a local board, when adopting, modifying, or amending materials for health and safety programs, to provide both electronic and written notice to all parents of students in the LEA of the opportunity to review those materials in the program repository. The parental notice must include a detailed description of the program's objectives and any proposed changes, written and audio materials that will be used, and a link or information on how to access the program repository.

Materials Repository

- Local boards must maintain a continuous repository of current instructional and supplemental materials purchased by the local board, but are not require to include classroom materials developed by teachers. The repository must be maintained at a central location for in-person review by parents and the public upon request.
- Additionally, a continuous repository of current objectives, entire curricula, texts, and all other materials used in any health and safety program must be maintained at a central location for in-person review by parents and the public upon request. Electronic copies and links of the current objectives, and names of curricula, texts, or any other materials used in any health and safety program must be posted to the LEA Web site for review by parents and the public, and the local board must add any items proposed for adoption, amendment, or modification to the health and safety program to the repository, and clearly indicate that status while the materials are under consideration.
- At least 14 days before students participate in a health and safety program, a local board must give both written and electronic notice to parents of students participating in that program of the right to review the items in the program repository. The notice must also inform parents of the local

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board's policy for participation in reproductive health and safety programs, when applicable, and provide a form that allows parents to exercise parental rights under that policy.

Local Community Advisory Committees

- Local boards must establish a local community media advisory committee (local committee) to investigate and evaluate challenges from parents, teachers, and members of the public to instructional materials and supplemental materials on the grounds that they are unfit materials. Unfit materials are defined as materials that are (i) obscene, (ii) inappropriate to the age, maturity, or grade level of the students, or (iii) not aligned with the standard course of study. Challenges do not apply to optional supplemental materials available through the school library.
- Local committees must include, at a minimum, a principal, teacher, and parent each from a high school, middle school, and elementary school, respectively.
- Challenges must be made in writing to the local board, and specify the grounds for the challenge of the material as unfit. Within two weeks of the filing of the challenge, the local committee must hold a hearing and provide the challengers an opportunity to present their concerns. The local committee may request additional information at the hearing from experts on the subject matter employed by the LEA.
- Within two weeks of the hearing, the local committee must make a recommendation to the local board on whether the challenge has merit and whether the challenged material should be retained or removed as an unfit material. The local committee's determination is limited to considerations of whether the material is unfit.
- At the next meeting of the local board after the recommendation is received, the local board must determine whether the challenge has merit and whether the challenged material should be retained or removed as unfit material. If the local board determines that the challenged material should be retained, a challenger may appeal the local board's decision to the State Community Media Advisory Committee within 2 weeks.

State Community Media Advisory Committee

- The SBOE must establish a State Community Media Advisory Committee (State Committee) to review appealed challenges from local committees. The SBOE will designate the form and manner of the appeals, and provide the local board a notice and a copy of any appeals made.
- The State Committee must include, as a minimum, the State Superintendent of Public Instruction, or designee, one superintendent of a local school administrative unit, and a principal, teacher, and parent, each, from a high school, middle school, and elementary school, respectively.
- Within four weeks of the filing of the appeal, the State Committee must hold a hearing and provide the appellants an opportunity to present concerns to the State Committee, as well as the local board of education an opportunity to rebut those concerns. The State Committee may request additional information at the hearing from experts on the subject matter employed by the SBOE.
- Within two weeks of the hearing, the State Committee must make a recommendation to the SBOE on whether the appealed challenge has merit and whether the challenged material should be retained or removed as unfit material. The State Committee's determination is limited to considerations of whether the material is unfit.
- At the next meeting of the SBOE after the State Committee's recommendation is received, the State Board must determine whether the appealed challenge has merit and whether the challenged

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material should be retained or removed as unfit material. If the State Board of Education determines that challenged material must be removed, the local board must remove the material.

- The decision of the State Board of Education is final, and is not subject to appeal by the local board of education or challenger.

Instructional Materials Funding Allotment

- Effective July 1, 2019, the existing Textbooks and Digital Resources funding allotment in the State Public School Fund would be designated as the Instructional Materials funding allotment in the State Public School Fund. The funds must be used to acquire instructional or supplemental materials and to acquire hardware, software, or other equipment necessary for the use of the instructional or supplemental materials.

Implementation

- The SBOE may not enter into any new contracts or renew any existing contracts for textbooks or instructional materials. The SBOE must make available for purchase any textbooks or instructional materials available through existing contracts to local boards.
- Local boards may, by resolution, continue use of previously adopted State textbooks for a standard course of study until that standard course of study is revised by the State Board of Education.
- Local boards must establish a program repository of current health and safety programs, for access to parents prior to the start of the 2019-2020 school year, and may not implement any program until that program is included in the repository.

EFFECTIVE DATE: HB 315 becomes effective July 1, 2019, and applies beginning with the 2019-2020 school year.

**Kara McCraw, Staff Attorney, substantially contributed to this summary.*