

By Senator Hays

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1                   A bill to be entitled  
2           An act relating to instructional materials for K-12  
3           public education; amending s. 1006.28, F.S.; revising  
4           the term "adequate instructional materials" and  
5           defining the term "instructional materials"; requiring  
6           instructional materials to meet certain standards;  
7           requiring each district school board to adopt a  
8           process allowing a taxpayer to object to the use of  
9           specific instructional materials based on specified  
10          criteria; requiring the process to include a  
11          taxpayer's right to appeal a school district decision  
12          and a district school board decision; specifying the  
13          appeal process; providing for damages, injunctive  
14          relief, and attorney fees and costs; authorizing a  
15          parent or taxpayer to further appeal a decision of the  
16          district school board to the circuit court and to seek  
17          damages or injunctive relief; deleting a provision  
18          relating to the finality of the school board's  
19          decision under certain circumstances; revising the  
20          standards for instructional materials to include  
21          standards that are equivalent to or better than  
22          applicable state standards; requiring parents and  
23          taxpayers to have full access to certain services;  
24          amending s. 1006.283, F.S.; revising the requirement  
25          that the district school superintendent certify that  
26          all instructional materials used by the district for  
27          core courses meet certain standards; revising the  
28          requirements for school boards that adopt rules for  
29          the implementation of the district's instructional

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30 materials program; conforming provisions to changes  
31 made by the act; amending s. 1006.31, F.S.; revising  
32 the standards that an instructional materials reviewer  
33 shall use to include instructional materials standards  
34 that are equivalent to or better than applicable state  
35 standards; amending s. 1006.40, F.S.; revising the use  
36 of a portion of the district school board annual  
37 allocation; revising the portion of the district  
38 school board annual allocation which may be used for  
39 instructional materials; revising the types of  
40 instructional materials for which a district school  
41 board is responsible; revising applicability; amending  
42 ss. 1002.20 and 1006.42, F.S.; conforming cross-  
43 references; providing an effective date.

44  
45 Be It Enacted by the Legislature of the State of Florida:

46  
47 Section 1. Present subsections (1), (2), and (3) of section  
48 1006.28, Florida Statutes, are redesignated as subsection (2),  
49 (3), and (4), respectively, a new subsection (1) is added to  
50 that section, and present subsection (1) and paragraph (a) of  
51 present subsection (2) are amended, to read:

52 1006.28 Duties of district school board, district school  
53 superintendent; and school principal regarding K-12  
54 instructional materials.—

55 (1) DEFINITIONS.—As used in this section, the term:

56 (a) "Adequate instructional materials" means instructional  
57 materials that meet the requirements of this section and have a  
58 sufficient number of student or site licenses or sets of

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59 materials that are available in bound, unbound, kit, or package  
60 form and may consist of hardbacked or softbacked textbooks,  
61 electronic content, consumables, learning laboratories,  
62 manipulatives, electronic media, and computer courseware or  
63 software to serve as the basis for instruction for each student  
64 in the core subject areas of mathematics, language arts, social  
65 studies, science, reading, and literature.

66 (b) "Instructional materials" means systematically arranged  
67 content in text, digital, braille and large print, or audio  
68 format which may be used within the state curriculum framework  
69 for courses of study by a student in a public school. The term  
70 includes textbooks, workbooks and worksheets, handouts, computer  
71 software, online or Internet courses, CDs or DVDs, and multiple  
72 forms of communication and electronic media. Instructional  
73 materials may be used by a student or teacher as principal  
74 sources of study to cover any portion of the course.

75 Instructional materials:

- 76 1. Must be designated for student use;
- 77 2. May contain or be accompanied by teaching guides and  
78 study helps; and
- 79 3. Must include all textbooks, workbooks, and student  
80 materials and supplements necessary for a student to fully  
81 participate in coursework.

82 (2)-(1) DISTRICT SCHOOL BOARD.—The district school board has  
83 the constitutional duty and responsibility to select and provide  
84 adequate instructional materials for all students in accordance  
85 with the requirements of this part. ~~The term "adequate~~  
86 ~~instructional materials" means a sufficient number of student or~~  
87 ~~site licenses or sets of materials that are available in bound,~~

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88 unbound, ~~kit, or package form and may consist of hardbacked or~~  
89 ~~softbacked textbooks, electronic content, consumables, learning~~  
90 ~~laboratories, manipulatives, electronic media, and computer~~  
91 ~~courseware or software that serve as the basis for instruction~~  
92 ~~for each student in the core subject areas of mathematics,~~  
93 ~~language arts, social studies, science, reading, and literature.~~  
94 The district school board also has the following specific duties  
95 and responsibilities:

96 (a) *Courses of study; adoption.*—Adopt courses of study,  
97 including instructional materials, for use in the schools of the  
98 district.

99 1. Each district school board is responsible for the  
100 content of all instructional materials used in a classroom,  
101 whether adopted and purchased from the state-adopted  
102 instructional materials list or, ~~adopted and purchased through a~~  
103 ~~district instructional materials program under s. 1006.283, ~~or~~~~  
104 ~~otherwise purchased or made available in the classroom.~~ Each  
105 district school board shall ensure that all instructional  
106 materials used in the classroom meet the following criteria:

107 a. Be of high quality, research-based, and proven to be  
108 effective in supporting student learning;

109 b. Provide a noninflammatory, objective, and balanced  
110 viewpoint on issues;

111 c. Be appropriate to the students' ages and varying levels  
112 of learning;

113 d. Be accurate and factual; and

114 e. Be of acceptable technical quality.

115 2. Each district school board shall ~~must~~ adopt a policy  
116 regarding a parent's or taxpayer's objection to the ~~his or her~~

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117 ~~child's~~ use of a specific instructional material based on the  
118 criteria specified in subparagraph 1.7 which clearly describes a  
119 process to handle all objections and provides for resolutions  
120 that shall be applied and enforced on a districtwide basis to  
121 eliminate the use of objectionable instructional materials in  
122 all schools within the district. The process must also include a  
123 right to timely appeal any district decision to the district  
124 school board and to seek damages, injunctive relief, and  
125 attorney fees and costs arising from or related to an appeal of  
126 a district school board decision, as provided under subparagraph  
127 3 resolution.

128       3. Each district school board shall ~~must~~ establish a  
129 process by which the parent of a public school student or the  
130 taxpayer may contest the district school board's adoption of a  
131 specific instructional material directly to the school board  
132 based on the instructional materials requirements under this  
133 section and the requirements of a district instructional  
134 materials program under s. 1006.283 or the requirements of  
135 instructional materials purchased from the list of state-adopted  
136 materials, as applicable. The parent or taxpayer shall ~~must~~ file  
137 a petition, on a form provided by the school board, within 30  
138 calendar days after the adoption of the material by the school  
139 board. The school board shall ~~must~~ make the form available to  
140 the public and publish the form on the school district's  
141 website. The form shall ~~must~~ be signed by the parent or  
142 taxpayer, include the required contact information, and state  
143 the objection to the instructional material. Within 30 days  
144 after the 30-day period has expired, the school board shall ~~must~~  
145 conduct at least one open public hearing on all petitions timely

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146 received and provide the petitioner written notification of the  
147 date and time of the hearing at least 7 days before the hearing.  
148 The school board shall make all contested instructional  
149 ~~materials contested must be made~~ accessible online to the public  
150 at least 7 days before a public hearing. A parent or taxpayer  
151 may further appeal the decision of the district school board to  
152 the circuit court and seek damages or injunctive relief, or  
153 both. The circuit court has original and exclusive jurisdiction  
154 of all proceedings against a district school board by a parent  
155 or taxpayer brought under this section. In any circuit court  
156 proceeding brought under this section, the prevailing party is  
157 entitled to reasonable attorney fees and costs ~~The school~~  
158 ~~board's decision after convening a hearing is final and not~~  
159 ~~subject to further petition or review.~~

160 (b) *Instructional materials.*—Provide for proper  
161 requisitioning, distribution, accounting, storage, care, and use  
162 of all instructional materials and furnish such other  
163 instructional materials as may be needed. Instructional  
164 materials used must be consistent with the district goals and  
165 objectives and the course descriptions established in rule of  
166 the State Board of Education, ~~as well as~~ with the applicable  
167 Next Generation Sunshine State Standards provided for in s.  
168 1003.41, with standards that are equivalent to or better than  
169 the applicable state standards, or with courses offered in the  
170 district pursuant to s. 1003.4282(1).

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

174 (d) *School library media services; establishment and*

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175 maintenance.—Establish and maintain a program of school library  
176 media services for all public schools in the district, including  
177 school library media centers, or school library media centers  
178 open to the public, and, in addition such traveling or  
179 circulating libraries as may be needed for the proper operation  
180 of the district school system. Parents and taxpayers shall have  
181 full access to all school library media services.

182 (3)~~(2)~~ DISTRICT SCHOOL SUPERINTENDENT.—

183 (a) The district school superintendent has the duty to  
184 recommend such plans for improving, providing, distributing,  
185 accounting for, and caring for instructional materials and other  
186 instructional aids as will result in general improvement of the  
187 district school system, as prescribed in this part, in  
188 accordance with adopted district school board rules prescribing  
189 the duties and responsibilities of the district school  
190 superintendent regarding the requisition, purchase, receipt,  
191 storage, distribution, use, conservation, records, and reports  
192 of, and management practices and property accountability  
193 concerning, instructional materials, and providing for an  
194 evaluation of any instructional materials to be requisitioned  
195 that have not been used previously in the district's schools.  
196 The district school superintendent shall ~~must~~ keep adequate  
197 records and accounts for all financial transactions for funds  
198 collected pursuant to subsection (4) ~~(3)~~.

199 Section 2. Subsections (1), (2), and (4) of section  
200 1006.283, Florida Statutes, are amended to read:

201 1006.283 District school board instructional materials  
202 review process.—

203 (1) A district school board or consortium of school

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204 districts may implement an instructional materials program that  
205 includes the review, recommendation, adoption, and purchase of  
206 instructional materials pursuant to the requirements of this  
207 section. The district school superintendent shall certify to the  
208 department by March 31 of each year that all instructional  
209 materials for core courses used by the district are aligned with  
210 applicable state standards, aligned with standards that are  
211 equivalent to or better than the applicable state standards, or  
212 aligned with courses offered in the district pursuant to s.  
213 1003.4282(1). A list of the core instructional materials that  
214 will be used or purchased for use by the school district shall  
215 be included in the certification.

216 (2) (a) If a district school board chooses to implement its  
217 own instructional materials program, the school board shall  
218 adopt rules implementing the district's instructional materials  
219 program which must include its processes, criteria, and  
220 requirements for the following:

221 1. Selection of reviewers, at least one-third of whom shall  
222 ~~one or more of whom must~~ be parents with children in public  
223 schools.

224 2. Review of instructional materials.

225 3. Selection of instructional materials, including a  
226 thorough review of curriculum content.

227 4. Reviewer recommendations.

228 5. District school board adoption.

229 6. Purchase of instructional materials.

230 7. Use of an instructional materials review committee that  
231 is subject to s. 286.011 and that is selected by and reports  
232 directly to the district school board.



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- 233 (b) District school board rules shall ~~must~~ also:
- 234 1. Identify, by subject area, a review cycle for
- 235 instructional materials.
- 236 2. Specify the qualifications for an instructional
- 237 materials reviewer and the process for selecting reviewers; list
- 238 a reviewer's duties and responsibilities, including compliance
- 239 with the requirements of s. 1006.31; and provide that all
- 240 instructional materials recommended by a reviewer be accompanied
- 241 by the reviewer's statement that the materials align with the
- 242 state standards pursuant to s. 1003.41, align with standards
- 243 that are equivalent to or better than the applicable state
- 244 standards, or otherwise align with courses offered in the
- 245 district pursuant to s. 1003.4282(1) and the requirements of s.
- 246 1006.31.
- 247 3. State the requirements for an affidavit to be made by
- 248 each district instructional materials reviewer which
- 249 substantially meet the requirements of s. 1006.30.
- 250 4. Comply with s. 1006.32, relating to prohibited acts.
- 251 5. Establish a process that certifies the accuracy of
- 252 instructional materials.
- 253 6. Incorporate applicable requirements of s. 1006.31, which
- 254 relates to the duties of instructional materials reviewers.
- 255 7. Incorporate applicable requirements of s. 1006.38,
- 256 relating to the duties, responsibilities, and requirements of
- 257 publishers of instructional materials.
- 258 8. Establish the process by which instructional materials
- 259 are adopted by the district school board, which shall ~~must~~
- 260 include:
- 261 a. A process to allow student and teacher editions of

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262 recommended instructional materials to be accessed and viewed  
263 online by the public at least 20 calendar days before the school  
264 board hearing and public meeting as specified in this  
265 subparagraph. This process must include reasonable safeguards  
266 against the unauthorized use, reproduction, and distribution of  
267 instructional materials considered for adoption.

268 b. An open, noticed school board hearing to receive public  
269 comment on the recommended instructional materials.

270 c. An open, noticed public meeting to approve an annual  
271 instructional materials plan to identify any instructional  
272 materials that will be purchased through the district school  
273 board instructional materials review process pursuant to this  
274 section. The district school board shall hold this public  
275 meeting ~~must be held~~ on a different date than the school board  
276 hearing.

277 d. Notice requirements for the school board hearing and the  
278 public meeting that shall ~~must~~ specifically state which  
279 instructional materials are being reviewed and the manner in  
280 which the instructional materials can be accessed for public  
281 review.

282 9. Establish the process by which the district school board  
283 shall receive public comment on, and review, the recommended  
284 instructional materials.

285 10. Establish the process by which instructional materials  
286 will be purchased, including advertising, bidding, and  
287 purchasing requirements.

288 11. Establish the process by which the school district will  
289 notify parents and taxpayers of their ability to access ~~their~~  
290 ~~children's~~ instructional materials through the district's local

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291 instructional improvement system and by which the school  
292 district will encourage parents and taxpayers to access the  
293 system. This notification shall ~~must~~ be displayed prominently on  
294 the school district's website and provided annually in written  
295 format to all parents of enrolled students.

296 (4) Instructional materials that have been reviewed by the  
297 district instructional materials reviewers and approved shall be  
298 ~~must have been~~ determined to align with all applicable state  
299 standards pursuant to s. 1003.41, align with standards that are  
300 equivalent to or better than the applicable state standards, or  
301 otherwise align with courses offered in the district pursuant to  
302 s. 1003.4282(1) and the requirements in s. 1006.31. The district  
303 school superintendent shall annually certify to the department  
304 that all instructional materials for core courses used by the  
305 district are aligned with all applicable state standards, are  
306 aligned with standards that are equivalent to or better than the  
307 applicable state standards, or are aligned with courses offered  
308 in the district pursuant to s. 1003.4282(1) and have been  
309 reviewed, selected, and adopted by the district school board in  
310 accordance with ~~the school board hearing and public meeting~~  
311 ~~requirements~~ of this section.

312 Section 3. Subsection (2) of section 1006.31, Florida  
313 Statutes, is amended to read:

314 1006.31 Duties of the Department of Education and school  
315 district instructional materials reviewer.—The duties of the  
316 instructional materials reviewer are:

317 (2) EVALUATION OF INSTRUCTIONAL MATERIALS.—To use the  
318 selection criteria listed in s. 1006.34(2)(b) for instructional  
319 materials reviewers under a state approval process or to use the

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320 selection criteria listed in s. 1006.28(2)(a)1. for  
321 instructional materials reviewers under a district approval  
322 process under s. 1006.283 and recommend for adoption only those  
323 instructional materials that are aligned with the Next  
324 Generation Sunshine State Standards provided for in s. 1003.41,  
325 that are aligned with standards that are equivalent to or better  
326 than applicable state standards, or that are aligned with  
327 courses offered in the district pursuant to s. 1003.4282(1).

328 Instructional materials recommended by each reviewer shall be,  
329 to the satisfaction of each reviewer, accurate, objective,  
330 balanced, noninflammatory, ~~current~~, and suited to student needs  
331 and their ability to comprehend the material presented.

332 Reviewers shall consider for recommendation materials developed  
333 for academically talented students, such as students enrolled in  
334 advanced placement courses. When recommending instructional  
335 materials, each reviewer shall:

336 (a) Include only instructional materials that accurately  
337 portray the ethnic, socioeconomic, cultural, religious,  
338 physical, and racial diversity of our society, including men and  
339 women in professional, career, and executive roles, and the role  
340 and contributions of the entrepreneur and labor in the total  
341 development of this state and the United States.

342 (b) Include only materials that accurately portray,  
343 whenever appropriate, humankind's place in ecological systems,  
344 including the necessity for the protection of our environment  
345 and conservation of our natural resources and the effects on the  
346 human system of the use of tobacco, alcohol, controlled  
347 substances, and other dangerous substances.

348 (c) Include materials that encourage thrift, fire

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349 prevention, and humane treatment of people and animals.

350 (d) Require, when appropriate to the comprehension of  
351 students, that materials for social science, history, or civics  
352 classes contain the Declaration of Independence and the  
353 Constitution of the United States. A reviewer may not recommend  
354 any instructional materials that contain any matter reflecting  
355 unfairly upon persons because of their race, color, creed,  
356 national origin, ancestry, gender, religion, disability,  
357 socioeconomic status, or occupation.

358 Section 4. Subsections (3), (5), and (8) of section  
359 1006.40, Florida Statutes, are amended to read:

360 1006.40 Use of instructional materials allocation;  
361 instructional materials, library books, and reference books;  
362 repair of books.—

363 (3) (a) Beginning with the 2016-2017 ~~2015-2016~~ fiscal year  
364 and except as otherwise authorized in paragraphs (b) and (c),  
365 each district school board shall use at least 50 percent of the  
366 annual allocation for the purchase of ~~digital or electronic~~  
367 instructional materials that meet the requirements of s.  
368 1006.31, and that are consistent with district goals and  
369 objectives and the course descriptions adopted in rule by the  
370 State Board of Education, align with state standards provided in  
371 s. 1003.41, align with standards that are equivalent to or  
372 better than applicable state standards, or align with courses  
373 offered in the district pursuant to s. 1003.4282(1) ~~included on~~  
374 the state-adopted list, except as otherwise authorized in  
375 paragraphs (b) and (c).

376 (b) All ~~Up to 50 percent~~ of the annual allocation may be  
377 used for the purchase of instructional materials, including

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378 library and reference books and nonprint materials, not included  
379 on the state-adopted list and for the repair and renovation of  
380 textbooks and library books if a district school board  
381 implements an instructional materials program pursuant to s.  
382 1006.283.

383 (c) If a district school board does not implement an  
384 instructional materials program pursuant to s. 1006.283, it  
385 ~~boards~~ may use 100 percent of that portion of the annual  
386 allocation designated for the purchase of instructional  
387 materials for kindergarten, and 75 percent of that portion of  
388 the annual allocation designated for the purchase of  
389 instructional materials for first grade, to purchase materials  
390 not on the state-adopted list.

391 (5) Each district school board is responsible for the  
392 content of all instructional materials used in a classroom,  
393 whether purchased from the state-adopted instructional materials  
394 list or purchased through a district instructional materials  
395 program under s. 1006.283 ~~an adoption process or otherwise~~  
396 ~~purchased or made available in the classroom.~~ Each district  
397 school board shall adopt rules, and each district school  
398 superintendent shall implement procedures, which ~~that~~:

399 (a) Maximize student use of the district-approved  
400 instructional materials, whether purchased from the state-  
401 adopted instructional materials list or purchased through a  
402 district instructional materials program under s. 1006.283.

403 (b) If purchased from the state-adopted instructional  
404 materials list, provide a process for public review of, public  
405 comment on, and the adoption of instructional materials which  
406 ~~that~~ satisfies the requirements of s. 1006.283(2)(b)8., 9., and

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407 11; or, if purchased through a district instructional materials  
 408 program, implement a program that fully complies with s.  
 409 1006.283.

410 (8) Subsections ~~(3)~~, (4), and (6) do not apply to a  
 411 district school board or a consortium of school districts which  
 412 ~~that~~ implements an instructional materials program pursuant to  
 413 s. 1006.283 except that, by the 2015-2016 fiscal year, each  
 414 district school board shall use at least 50 percent of the  
 415 annual instructional materials allocation for the purchase of  
 416 ~~digital or electronic~~ instructional materials that are aligned  
 417 ~~align~~ with state standards adopted by the State Board of  
 418 Education pursuant to s. 1003.41, aligned with standards that  
 419 are equivalent to or better than applicable state standards, or  
 420 aligned with courses offered in the district pursuant to s.  
 421 1003.4282(1).

422 Section 5. Paragraphs (b) and (c) of subsection (19) of  
 423 section 1002.20, Florida Statutes, are amended to read:

424 1002.20 K-12 student and parent rights.—Parents of public  
 425 school students shall ~~must~~ receive accurate and timely  
 426 information regarding their child's academic progress and shall  
 427 ~~must~~ be informed of ways they can help their child to succeed in  
 428 school. K-12 students and their parents are afforded numerous  
 429 statutory rights including, but not limited to, the following:

430 (19) INSTRUCTIONAL MATERIALS.—

431 (b) *Curricular objectives*.—The parent of each public school  
 432 student has the right to receive effective communication from  
 433 the school principal as to the manner in which instructional  
 434 materials are used to implement the school's curricular  
 435 objectives, in accordance with s. 1006.28(4)(a) ~~the provisions~~

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436 of ~~s. 1006.28(3)(a)~~.

437 (c) *Sale of instructional materials.*—Upon request of the  
438 parent of a public school student, the school principal shall  
439 ~~must~~ sell to the parent any instructional materials used in the  
440 school, in accordance with s. 1006.28(4)(c) ~~the provisions of s.~~  
441 ~~1006.28(3)(e)~~.

442 Section 6. Section 1006.42, Florida Statutes, is amended to  
443 read:

444 1006.42 Responsibility of students and parents for  
445 instructional materials.—All instructional materials purchased  
446 under ~~the provisions of~~ this part are the property of the  
447 district school board. When distributed to the students, these  
448 instructional materials are on loan to the students while they  
449 are pursuing their courses of study and are to be returned at  
450 the direction of the school principal or the teacher in charge.  
451 Each parent of a student to whom or for whom instructional  
452 materials have been issued, is liable for any loss or  
453 destruction of, or unnecessary damage to, the instructional  
454 materials or for failure of the student to return the  
455 instructional materials when directed by the school principal or  
456 the teacher in charge, and shall pay for such loss, destruction,  
457 or unnecessary damage as provided under s. 1006.28(4) ~~s.~~  
458 ~~1006.28(3)~~.

459 Section 7. This act shall take effect upon becoming a law.