

Open-Source Textbooks

This Act establishes criteria by which educational institutions throughout the state can use open-source textbooks. The Act defines an “open-source textbook” as “an electronic textbook that is available for downloading from the Internet at no charge to a student and without requiring the purchase of an unlock code, membership, or other access or use charge, except for a charge to order an optional printed copy of all or part of the textbook. The term includes a state-developed open-source textbook.”

Submitted as:

Texas

[HB 2488](#)

Status: Enacted into law in 2009.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act shall be cited as “An Act to Permit Certain Educational
2 Institutions to Use Open-Source Textbooks.”

3
4 Section 2. [*Definitions.*] As used in this Act:

5 (1) “Electronic textbook” means computer software, interactive videodisc, magnetic
6 media, CD-ROM, computer courseware, on-line services, an electronic medium, or other means
7 of conveying information to the student or otherwise contributing to the learning process through
8 electronic means, including an open-source textbook.

9 (2) “Open-source textbook” means an electronic textbook that is available for
10 downloading from the Internet at no charge to a student and without requiring the purchase of an
11 unlock code, membership, or other access or use charge, except for a charge to order an optional
12 printed copy of all or part of the textbook. The term includes a state-developed open-source
13 textbook.

14
15 Section 3. [*Open-Source Textbooks.*]

16 (A) In this section, “eligible institution” means:

17 (1) a public institution of higher education that is designated as a research
18 university or emerging research university under the [higher education coordinating board’s
19 accountability system] established under [insert citation], or a private university located in this
20 state that is a member of the Association of American Universities; or

21 (2) a public technical institute, as defined by [insert citation].

22 (B) The [state board of education] shall place an open-source textbook for a secondary-
23 level course submitted for adoption by an eligible institution on a conforming or nonconforming
24 list if:

25 (1) the textbook is written, compiled, or edited primarily by faculty of the eligible
26 institution who specialize in the subject area of the textbook;

27 (2) the eligible institution identifies each contributing author;

28 (3) the appropriate department of the eligible institution certifies the textbook for
29 accuracy; and

30 (4) the eligible institution determines that the textbook qualifies for placement on

31 the conforming or nonconforming list as defined under [insert citation] based on the extent to
32 which the textbook covers the essential knowledge and skills identified under [insert citation] for
33 the subject for which the textbook is written and certifies that:

34 (a) for a textbook for a senior-level course, a student who successfully
35 completes a course based on the textbook will be prepared, without remediation, for entry into
36 the eligible institution's freshman-level course in that subject; or

37 (b) for a textbook for a junior-level and senior-level course, a student who
38 successfully completes the junior-level course based on the textbook will be prepared for entry
39 into the senior-level course.

40 (C) This section does not prohibit an eligible institution from submitting a textbook for
41 placement on a conforming or nonconforming list through any other adoption process provided
42 by [insert citation].

43
44 Section 4. [*Contracts for Printing of Open-Source Textbooks.*] The [state board of
45 education] may execute a contract to print an open-source textbook listed on the conforming or
46 nonconforming list. The contract must allow a school district to requisition printed copies of an
47 open-source textbook as provided by Section 6 of this Act.

48
49 Section 5. [*State-Developed Open-Source Textbooks.*]

50 (A) A state-developed open-source textbook is the property of the state.

51 (B) A state-developed open-source textbook must be irrevocably owned by or licensed to
52 the state for use in the applicable subject or grade level. The state must have unlimited authority
53 to modify, delete, combine, or add content to the textbook after purchase.

54 (C) A state-developed open-source textbook must be evaluated by teachers or other
55 experts, as determined by the [commissioner], before purchase; and meet the requirements for
56 inclusion on a conforming or nonconforming textbook list under [insert citation].

57 (D) The [commissioner] may issue a request for proposals for a state-developed open-
58 source textbook in accordance with the textbook review and adoption cycle under [insert
59 citation] or at any other time the [commissioner] determines a need exists for additional textbook
60 options.

61 (E) Following a curriculum revision by the [state board of education], the [commissioner]
62 shall require the revision of a state-developed open-source textbook relating to that curriculum.
63 The [commissioner] may, at any time, require an additional revision of a state-developed open-
64 source textbook or contract for ongoing revisions of a textbook for a period not to exceed the
65 period under [insert citation] for which a textbook for that subject and grade level may be
66 adopted. The [commissioner] shall use a competitive process to request proposals to revise a
67 state-developed open-source textbook under this subsection.

68 (F) The [commissioner] shall provide for special and bilingual state-developed open-
69 source textbooks in the same manner provided under [insert citation].

70 (G) The [commissioner] shall provide for the distribution of state-developed open-source
71 textbooks in a manner consistent with distribution of textbooks adopted under [insert citation].

72 (H) The [commissioner] shall purchase any state-developed open-source textbooks
73 through a competitive process and may purchase more than one state-developed open-source
74 textbook for a subject or grade level.

75 (I) The [commissioner] shall provide a license to each public school in the state,
76 including a school district, an open-enrollment charter school, and a state or local agency
77 educating students in any grade from prekindergarten through high school, to use and reproduce
78 a state-developed open-source textbook.

79 (J) The [commissioner] shall determine the cost to a school district or open-enrollment

80 charter school for a state-developed open-source textbook in an amount sufficient to cover state
81 expenses associated with the textbook, including expenses incurred by the state in soliciting,
82 evaluating, revising, and purchasing the textbook.

83 (K) If a school district or open-enrollment charter school selects a state-developed open-
84 source textbook instead of another textbook adopted under [insert citation], the difference
85 between the cost of the [state-developed open source textbook] and the maximum price for that
86 other textbook, as determined by the [state board of education] shall be allocated as follows:

87 (1) [fifty] percent of the amount shall be credited to the [state textbook fund]
88 created under [insert citation]; and

89 (2) [fifty] percent of the amount shall be credited to the school district or open-
90 enrollment charter school.

91 (L) A school district or open-enrollment charter school may adopt a state-developed
92 open-source textbook at any time, regardless of the textbook review and adoption cycle under
93 [insert citation].

94 (M) A school district or open-enrollment charter school may not be charged for selection
95 of a state-developed open-source textbook in addition to a textbook adopted under [insert
96 citation].

97 (N) The [commissioner] may provide a license to use a state-developed open-source
98 textbook to an entity not listed in Section 3 (A) of this Act. In determining the cost of a license
99 under this subsection, the [commissioner] shall seek, to the extent feasible, to recover the costs of
100 developing, revising, and distributing state-developed open-source textbooks.

101 (O) The [commissioner] may use a competitive process to contract for printing or other
102 reproduction of a state-developed open-source textbook on behalf of a school district or open-
103 enrollment charter school. The [commissioner] may not require a school district or open-
104 enrollment charter school to contract with a state-approved provider for the printing or
105 reproduction of a state-developed open-source textbook.

106 (P) The costs of administering this [Act] and purchasing state-developed open-source
107 textbooks shall be paid from the [state textbook fund] established under [insert citation], as
108 determined by the [commissioner].

109 (Q) The [commissioner] shall develop a schedule for the adoption of state-developed
110 open-source textbooks under this Act. In developing the adoption schedule under this section, the
111 [commissioner] shall consider the availability of funds; the existing textbook adoption cycles
112 under [insert citation]; and the availability of textbooks for development or purchase by the state.

113 (R) A decision by the [commissioner] regarding the purchase, revision, cost, or
114 distribution of a state-developed open-source textbook is final and may not be appealed.

115
116 Section 6. *[Providing Open-Source Textbooks to Students.]*

117 (A) A school district or open-enrollment charter school that selects an open-source
118 textbook shall requisition a sufficient number of printed copies for use by students unable to
119 access the textbook electronically unless the district or school provides to each student
120 electronic access to the textbook at no cost to the student or printed copies of the portion of the
121 textbook that will be used in the course.

122 (B) The [commissioner] may establish a list of equipment or devices that a school district
123 or open-enrollment charter school may purchase using textbook credits or textbook credits in
124 combination with other available funds to provide electronic access to open-source textbooks.

125 (C) A school district or open-enrollment charter school may order replacements for
126 textbooks that have been lost or damaged directly from any source for a printed copy of an open-
127 source textbook.

128 (D) At the end of the school year for which an open-source textbook that a school district

129 or open-enrollment charter school does not intend to use for another student is distributed, the
130 printed copy of the open-source textbook becomes the property of the student to whom it is
131 distributed.

132 (E) A publisher or manufacturer of textbooks shall deliver textbooks to a school district
133 or open-enrollment charter school without a delivery charge to the school district, open-
134 enrollment charter school, or state, if the textbooks are open-source textbooks, [on-line
135 textbooks, or on-line textbook components as defined under insert citation], and shall submit to
136 the [state board of education] an affidavit certifying any textbook the publisher or manufacturer
137 offers in this state to be free of factual errors at the time the publisher executes the contract
138 required by [insert citation].

139
140 Section 7. [*Certification of Provision of Textbooks, Electronic Textbooks, and*
141 *Instructional Materials.*] Each school district and open-enrollment charter school shall annually
142 certify to the [state board of education] and the [commissioner] that, for each subject in the
143 required curriculum and each grade level, the district provides each student with textbooks,
144 electronic textbooks, or instructional materials that cover all elements of the essential knowledge
145 and skills adopted by the [state board of education] for that subject and grade level.

146
147 Section 8. [*Rules.*] The [commissioner] may adopt rules necessary to implement this Act.

148
149 Section 9. [*Severability.*] [Insert severability clause.]

150
151 Section 10. [*Repealer.*] [Insert repealer clause.]

152
153 Section 11. [*Effective Date.*] [Insert effective date.]