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1
2 An act relating to instructional materials; amending
3 s. 1006.28, F.S.; providing definitions; revising
4 provisions relating to a district school board's
5 responsibilities relating to instructional materials;
6 requiring a school district to maintain certain
7 information on its website; allowing a resident of a
8 county to challenge the use or adoption of
9 instructional materials; revising the requirements
10 relating to the district school board process for
11 objecting to or appealing the use or adoption of
12 instructional materials; requiring a school district
13 to discontinue use of materials under certain
14 circumstances; requiring sufficient procedural
15 protections for a public hearing relating to a
16 challenge to the adoption of instructional materials;
17 requiring a school district to provide access to
18 school library materials upon written request;
19 conforming a cross-reference; amending s. 1006.283,
20 F.S.; revising the requirements for an instructional
21 materials adoption public hearing; amending s.
22 1006.31, F.S.; revising the requirements for
23 evaluation of instructional materials to conform to
24 changes made by the act; amending s. 1006.40, F.S.;
25 revising provisions relating to the use of the

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26 | instructional materials allocation to conform to
 27 | changes made by the act; amending ss. 1002.20 and
 28 | 1006.42, F.S.; conforming cross-references; providing
 29 | an effective date.

30 |

31 | Be It Enacted by the Legislature of the State of Florida:

32 |

33 | Section 1. Paragraphs (b) and (c) of subsection (19) of
 34 | section 1002.20, Florida Statutes, are amended to read:

35 | 1002.20 K-12 student and parent rights.—Parents of public
 36 | school students must receive accurate and timely information
 37 | regarding their child's academic progress and must be informed
 38 | of ways they can help their child to succeed in school. K-12
 39 | students and their parents are afforded numerous statutory
 40 | rights including, but not limited to, the following:

41 | (19) INSTRUCTIONAL MATERIALS.—

42 | (b) Curricular objectives.—The parent of each public
 43 | school student has the right to receive effective communication
 44 | from the school principal as to the manner in which
 45 | instructional materials are used to implement the school's
 46 | curricular objectives, in accordance with the provisions of s.
 47 | 1006.28(4)(a) ~~1006.28(3)(a)~~.

48 | (c) Sale of instructional materials.—Upon request of the
 49 | parent of a public school student, the school principal must
 50 | sell to the parent any instructional materials used in the

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51 school, in accordance with the provisions of s. 1006.28(4)(c)
 52 ~~1006.28(3)(c)~~.

53 Section 2. Subsections (1), (2), and (3) of section
 54 1006.28, Florida Statutes, are renumbered as subsections (2),
 55 (3), and (4), respectively, present subsection (1) and paragraph
 56 (a) of subsection (2) are amended, and a new subsection (1) is
 57 added to that section, to read:

58 1006.28 Duties of district school board, district school
 59 superintendent; and school principal regarding K-12
 60 instructional materials.—

61 (1) DEFINITIONS.—

62 (a) As used in this section, the term:

63 1. "Adequate instructional materials" means a sufficient
 64 number of student or site licenses or sets of materials that are
 65 available in bound, unbound, kit, or package form and may
 66 consist of hardbacked or softbacked textbooks, electronic
 67 content, consumables, learning laboratories, manipulatives,
 68 electronic media, and computer courseware or software that serve
 69 as the basis for instruction for each student in the core
 70 subject areas of mathematics, language arts, social studies,
 71 science, reading, and literature.

72 2. "Instructional materials" has the same meaning as in s.
 73 1006.29(2).

74 (b) As used in this section and s. 1006.283, the term
 75 "resident" means a person who has maintained his or her

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76 residence in this state for the preceding year, has purchased a
 77 home that is occupied by him or her as his or her residence, or
 78 has established a domicile in this state pursuant to s. 222.17.

79 (c) As used in this section and ss. 1006.283, 1006.32,
 80 1006.35, 1006.37, 1006.38, 1006.40, and 1006.42, the term
 81 "purchase" includes purchase, lease, license, and acquire.

82 (2)~~(1)~~ DISTRICT SCHOOL BOARD.—The district school board
 83 has the constitutional duty and responsibility to select and
 84 provide adequate instructional materials for all students in
 85 accordance with the requirements of this part. ~~The term~~
 86 ~~"adequate instructional materials" means a sufficient number of~~
 87 ~~student or site licenses or sets of materials that are available~~
 88 ~~in bound, unbound, kit, or package form and may consist of~~
 89 ~~hardbacked or softbacked textbooks, electronic content,~~
 90 ~~consumables, learning laboratories, manipulatives, electronic~~
 91 ~~media, and computer courseware or software that serve as the~~
 92 ~~basis for instruction for each student in the core subject areas~~
 93 ~~of mathematics, language arts, social studies, science, reading,~~
 94 ~~and literature.~~ The district school board also has the following
 95 specific duties 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 and any other materials

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101 | used in a classroom, made available in a school library, or
102 | included on a reading list, whether adopted and purchased from
103 | the state-adopted instructional materials list, adopted and
104 | purchased through a district instructional materials program
105 | under s. 1006.283, or otherwise purchased or made available ~~in~~
106 | ~~the classroom.~~ Each district school board shall maintain on its
107 | website a current list of instructional materials, by grade
108 | level, purchased by the district.

109 | 2. Each district school board must adopt a policy
110 | regarding an a parent's objection by a parent or a resident of
111 | the county to the his or her child's use of a specific
112 | instructional material, which clearly describes a process to
113 | handle all objections and provides for resolution. The process
114 | must provide the parent or resident the opportunity to proffer
115 | evidence to the district school board that:

116 | a. An instructional material does not meet the criteria of
117 | s. 1006.31(2) or s. 1006.40(3)(d) if it was selected for use in
118 | a course or otherwise made available to students in the school
119 | district but was not subject to the public notice, review,
120 | comment, and hearing procedures under s. 1006.283(2)(b) 8., 9.,
121 | and 11.

122 | b. Any material used in a classroom, made available in a
123 | school library, or included on a reading list contains content
124 | that is pornographic or prohibited under s. 847.012, is not
125 | suited to student needs and their ability to comprehend the

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126 material presented, or is inappropriate for the grade level and
127 age group for which the material is used.

128
129 If the district school board finds that an instructional
130 material does not meet the criteria under sub-subparagraph a. or
131 that any other material contains prohibited content under sub-
132 subparagraph b., the school district shall discontinue use of
133 the material for any grade level or age group for which such use
134 is inappropriate or unsuitable.

135 3. Each district school board must establish a process by
136 which the parent of a public school student or a resident of the
137 county may contest the district school board's adoption of a
138 specific instructional material. The parent or resident must
139 file a petition, on a form provided by the school board, within
140 30 calendar days after the adoption of the material by the
141 school board. The school board must make the form available to
142 the public and publish the form on the school district's
143 website. The form must be signed by the parent or resident,
144 include the required contact information, and state the
145 objection to the instructional material based on the criteria of
146 s. 1006.31(2) or s. 1006.40(3)(d). Within 30 days after the 30-
147 day period has expired, the school board must, for all petitions
148 timely received, conduct at least one open public hearing before
149 an unbiased and qualified hearing officer. The hearing officer
150 may not be an employee or agent of the school district. The

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151 hearing is not subject to the provisions of chapter 120;
152 however, the hearing must provide sufficient procedural
153 protections to allow each petitioner an adequate and fair
154 opportunity to be heard and present evidence to the hearing
155 officer ~~on all petitions timely received and provide the~~
156 ~~petitioner written notification of the date and time of the~~
157 ~~hearing at least 7 days before the hearing. All instructional~~
158 ~~materials contested must be made accessible online to the public~~
159 ~~at least 7 days before a public hearing.~~

160

161 The school board's decision after convening a hearing is final
162 and not subject to further petition or review.

163 (b) *Instructional materials.*—Provide for proper
164 requisitioning, distribution, accounting, storage, care, and use
165 of all instructional materials and furnish such other
166 instructional materials as may be needed. Instructional
167 materials used must be consistent with the district goals and
168 objectives and the course descriptions established in rule of
169 the State Board of Education, as well as with the applicable
170 Next Generation Sunshine State Standards provided for in s.
171 1003.41.

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

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

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176 | *maintenance.*—Establish and maintain a program of school library
 177 | media services for all public schools in the district, including
 178 | school library media centers, or school library media centers
 179 | open to the public, and, in addition such traveling or
 180 | circulating libraries as may be needed for the proper operation
 181 | of the district school system. Upon written request, a school
 182 | district shall provide access to any material or book specified
 183 | in the request that is maintained in a district school system
 184 | library and is available for review.

185 | (3)~~(2)~~ DISTRICT SCHOOL SUPERINTENDENT.—

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

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201 pursuant to subsection (4) ~~(3)~~.

202 Section 3. Paragraph (b) of subsection (2) of section
203 1006.283, Florida Statutes, is amended to read:

204 1006.283 District school board instructional materials
205 review process.—

206 (2)

207 (b) District school board rules must also:

208 1. Identify, by subject area, a review cycle for
209 instructional materials.

210 2. Specify the qualifications for an instructional
211 materials reviewer and the process for selecting reviewers; list
212 a reviewer's duties and responsibilities, including compliance
213 with the requirements of s. 1006.31; and provide that all
214 instructional materials recommended by a reviewer be accompanied
215 by the reviewer's statement that the materials align with the
216 state standards pursuant to s. 1003.41 and the requirements of
217 s. 1006.31.

218 3. State the requirements for an affidavit to be made by
219 each district instructional materials reviewer which
220 substantially meet the requirements of s. 1006.30.

221 4. Comply with s. 1006.32, relating to prohibited acts.

222 5. Establish a process that certifies the accuracy of
223 instructional materials.

224 6. Incorporate applicable requirements of s. 1006.31,
225 which relates to the duties of instructional materials

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226 reviewers.

227 7. Incorporate applicable requirements of s. 1006.38,
 228 relating to the duties, responsibilities, and requirements of
 229 publishers of instructional materials.

230 8. Establish the process by which instructional materials
 231 are adopted by the district school board, which must include:

232 a. A process to allow student editions of recommended
 233 instructional materials to be accessed and viewed online by the
 234 public at least 20 calendar days before the school board hearing
 235 and public meeting as specified in this subparagraph. This
 236 process must include reasonable safeguards against the
 237 unauthorized use, reproduction, and distribution of
 238 instructional materials considered for adoption.

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

241 c. An open, noticed public meeting to approve an annual
 242 instructional materials plan to identify any instructional
 243 materials that will be purchased through the district school
 244 board instructional materials review process pursuant to this
 245 section. This public meeting must be held on a different date
 246 than the school board hearing.

247 d. Notice requirements for the school board hearing and
 248 the public meeting that must specifically state which
 249 instructional materials are being reviewed and the manner in
 250 which the instructional materials can be accessed for public

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251 review. The hearing must allow the parent of a public school
 252 student or a resident of the county to proffer evidence that a
 253 recommended instructional material does not meet the criteria
 254 provided in s. 1006.31(2), taking into consideration course
 255 expectations based on the district's comprehensive plan for
 256 student progression under s. 1008.25(2) and course descriptions
 257 in the course code directory.

258 9. Establish the process by which the district school
 259 board shall receive public comment on, and review, the
 260 recommended instructional materials.

261 10. Establish the process by which instructional materials
 262 will be purchased, including advertising, bidding, and
 263 purchasing requirements.

264 11. Establish the process by which the school district
 265 will notify parents of their ability to access their children's
 266 instructional materials through the district's local
 267 instructional improvement system and by which the school
 268 district will encourage parents to access the system. This
 269 notification must be displayed prominently on the school
 270 district's website and provided annually in written format to
 271 all parents of enrolled students.

272 Section 4. Subsection (2) of section 1006.31, Florida
 273 Statutes, is amended to read:

274 1006.31 Duties of the Department of Education and school
 275 district instructional materials reviewer.—The duties of the

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276 | instructional materials reviewer are:

277 | (2) EVALUATION OF INSTRUCTIONAL MATERIALS.—To use the
 278 | selection criteria listed in s. 1006.34(2)(b) and recommend for
 279 | adoption only those instructional materials aligned with the
 280 | Next Generation Sunshine State Standards provided for in s.
 281 | 1003.41. Instructional materials recommended by each reviewer
 282 | shall be, to the satisfaction of each reviewer, accurate,
 283 | objective, balanced, noninflammatory, current, free of
 284 | pornography and material prohibited under s. 847.012, and suited
 285 | to student needs and their ability to comprehend the material
 286 | presented. Reviewers shall consider for recommendation materials
 287 | developed for academically talented students, such as students
 288 | enrolled in advanced placement courses. When recommending
 289 | instructional materials, each reviewer shall:

290 | (a) Include only instructional materials that accurately
 291 | portray the ethnic, socioeconomic, cultural, religious,
 292 | physical, and racial diversity of our society, including men and
 293 | women in professional, career, and executive roles, and the role
 294 | and contributions of the entrepreneur and labor in the total
 295 | development of this state and the United States.

296 | (b) Include only materials that accurately portray,
 297 | whenever appropriate, humankind's place in ecological systems,
 298 | including the necessity for the protection of our environment
 299 | and conservation of our natural resources and the effects on the
 300 | human system of the use of tobacco, alcohol, controlled

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301 substances, and other dangerous substances.

302 (c) Include materials that encourage thrift, fire
303 prevention, and humane treatment of people and animals.

304 (d) Require, when appropriate to the comprehension of
305 students, that materials for social science, history, or civics
306 classes contain the Declaration of Independence and the
307 Constitution of the United States. A reviewer may not recommend
308 any instructional materials that contain any matter reflecting
309 unfairly upon persons because of their race, color, creed,
310 national origin, ancestry, gender, religion, disability,
311 socioeconomic status, or occupation.

312 Section 5. Subsections (3) through (8) of section 1006.40,
313 Florida Statutes, are amended to read:

314 1006.40 Use of instructional materials allocation;
315 instructional materials, library books, and reference books;
316 repair of books.—

317 (3) (a) Except for a school district or a consortium of
318 school districts that implements an instructional materials
319 program pursuant to s. 1006.283 ~~Beginning with the 2015-2016~~
320 ~~fiscal year,~~ each district school board shall use ~~at least 50~~
321 ~~percent of~~ the annual allocation only for the purchase of
322 ~~digital or electronic~~ instructional materials that align with
323 state standards and are included on the state-adopted list,
324 except as otherwise authorized in paragraphs (b) and (c).

325 (b) Up to 50 percent of the annual allocation may be used

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326 for:

327 1. The purchase of ~~instructional materials, including~~
328 library and reference books and nonprint materials, ~~not included~~
329 ~~on the state-adopted list and for the repair and renovation of~~
330 ~~textbooks and library books.~~

331 2. The purchase of other materials having intellectual
332 content which assist in the instruction of a subject or course.
333 These materials may be available in bound, unbound, kit, or
334 package form and may consist of hardbacked or softbacked
335 textbooks, novels, electronic content, consumables, learning
336 laboratories, manipulatives, electronic media, computer
337 courseware or software, and other commonly accepted
338 instructional tools as prescribed by district school board rule.

339 3. The repair and renovation of textbooks and library
340 books and replacements for items which were part of previously
341 purchased instructional materials.

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

348 (d) Any materials purchased pursuant to this section must
349 be:

350 1. Free of pornography and material prohibited under s.

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351 847.012.

352 2. Suited to student needs and their ability to comprehend
 353 the material presented.

354 3. Appropriate for the grade level and age group for which
 355 the materials are used or made available.

356 ~~(4) The funds described in subsection (3) which district~~
 357 ~~school boards may use to purchase materials not on the state-~~
 358 ~~adopted list shall be used for the purchase of instructional~~
 359 ~~materials or other items having intellectual content which~~
 360 ~~assist in the instruction of a subject or course. These items~~
 361 ~~may be available in bound, unbound, kit, or package form and may~~
 362 ~~consist of hardbacked or softbacked textbooks, electronic~~
 363 ~~content, replacements for items which were part of previously~~
 364 ~~purchased instructional materials, consumables, learning~~
 365 ~~laboratories, manipulatives, electronic media, computer~~
 366 ~~courseware or software, and other commonly accepted~~
 367 ~~instructional tools as prescribed by district school board rule.~~

368 (4)(5) Each district school board is responsible for the
 369 content of all ~~instructional~~ materials used in a classroom or
 370 otherwise made available to students, ~~whether purchased through~~
 371 ~~an adoption process or otherwise purchased or made available in~~
 372 ~~the classroom.~~ Each district school board shall adopt rules, and
 373 each district school superintendent shall implement procedures,
 374 that:

375 (a) Maximize student use of the district-approved

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376 instructional materials.

377 (b) Provide a process for public review of, public comment
 378 on, and the adoption of instructional materials that satisfies
 379 the requirements of s. 1006.283(2)(b)8., 9., and 11.

380 (5)~~(6)~~ District school boards may issue purchase orders
 381 subsequent to February 1 in an aggregate amount which does not
 382 exceed 20 percent of the current year's allocation, and
 383 subsequent to April 1 in an aggregate amount which does not
 384 exceed 90 percent of the current year's allocation, for the
 385 purpose of expediting the delivery of instructional materials
 386 which are to be paid for from the ensuing year's allocation.
 387 This subsection does not apply to a district school board or a
 388 consortium of school districts that implements an instructional
 389 materials program pursuant to s. 1006.283.

390 (6)~~(7)~~ In any year in which the total instructional
 391 materials allocation for a school district has not been expended
 392 or obligated prior to June 30, the district school board shall
 393 carry forward the unobligated amount and shall add it to the
 394 next year's allocation.

395 (7)~~(8)~~ ~~Subsections (3), (4), and (6) do not apply to A~~
 396 ~~district school board or a consortium of school districts that~~
 397 ~~implements an instructional materials program pursuant to s.~~
 398 ~~1006.283 may use the annual allocation to purchase instructional~~
 399 ~~materials not on the state-adopted list. However, except that,~~
 400 ~~by the 2015-2016 fiscal year, each district school board shall~~

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401 ~~use at least 50 percent of the annual instructional materials~~
402 ~~allocation for the purchase of digital or electronic~~
403 ~~instructional materials~~ purchased pursuant to this section which
404 are not included on the state-adopted list must meet the
405 criteria of s. 1006.31(2), ~~that~~ align with state standards
406 adopted by the State Board of Education pursuant to s. 1003.41,
407 and be consistent with course expectations based on the
408 district's comprehensive plan for student progression and course
409 descriptions adopted in state board rule.

410 Section 6. Section 1006.42, Florida Statutes, is amended
411 to read:

412 1006.42 Responsibility of students and parents for
413 instructional materials.—All instructional materials purchased
414 under the provisions of this part are the property of the
415 district school board. When distributed to the students, these
416 instructional materials are on loan to the students while they
417 are pursuing their courses of study and are to be returned at
418 the direction of the school principal or the teacher in charge.
419 Each parent of a student to whom or for whom instructional
420 materials have been issued, is liable for any loss or
421 destruction of, or unnecessary damage to, the instructional
422 materials or for failure of the student to return the
423 instructional materials when directed by the school principal or
424 the teacher in charge, and shall pay for such loss, destruction,
425 or unnecessary damage as provided under s. 1006.28(4)

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426 | ~~1006.28(3).~~

427 | Section 7. This act shall take effect July 1, 2017.