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Sequence Number: 02-13-16  
 Rule ID(s): 6124  
 File Date: 2/12/16  
 Effective Date: 5/12/16

## Proposed Rule(s) Filing Form

*Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.*

*Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).*

<b>Agency/Board/Commission:</b>	State Textbook and Instructional Materials Quality Commission
<b>Division:</b>	
<b>Contact Person:</b>	Joanna Collins
<b>Address:</b>	Andrew Johnson Tower, 9 <sup>th</sup> Floor 710 James Robertson Parkway Nashville, TN
<b>Zip:</b>	37243
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<b>Email:</b>	<a href="mailto:joanna.collins@tn.gov">joanna.collins@tn.gov</a>

**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)**

Chapter Number	Chapter Title
0520-05-01	Supplement to Contract – Policies of Tennessee State Textbook Commission
Rule Number	Rule Title
0520-05-01-.01	Definition
0520-05-01-.02	Staggered Adoption
0520-05-01-.03	Manufacturing Standards for Non-Consumable Books
0520-05-01-.04	Submitting of Sample Textbooks and Instructional Materials
0520-05-01-.05	Condition of Sample Textbooks and Instructional Materials
0520-05-01-.06	Online Access to Sample Textbooks and Instructional Materials

0520-05-01-.07	Substitutions
0520-05-01-.08	Amount of Performance Bond Required
0520-05-01-.09	Publisher Corrective Action Plans
0520-05-01-.10	State Advisory Panels

Textbook and Instructional Materials Quality Commission – Textbook Commission Rule Proposal

RULES OF TENNESSEE DEPARTMENT OF EDUCATION  
STATE TEXTBOOK COMMISSION

CHAPTER 0520-05-01  
SUPPLEMENT TO CONTRACT-POLICIES OF TENNESSEE STATE TEXTBOOK COMMISSION  
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0520-05-01-.05	Condition of Sample Textbooks and Instructional Materials
0520-05-01-.06	Online Access to Sample Textbooks and Instructional Materials
0520-05-01-.07	Substitutions
0520-05-01-.08	Amount of Performance Bond Required
0520-05-01-.09	Corrective Action
0520-05-01-.10	State Advisory Panels

**NEW RULES:**

**0520-05-01-.06 ONLINE ACCESS TO SAMPLE TEXTBOOKS AND INSTRUCTIONAL MATERIALS.**

- (1) In addition to the finished textbooks and instructional materials required to be filed with the Tennessee Department of Education, publishers shall make all textbooks and instructional materials proposed for adoption available for inspection online by LEAs and the public. The online inspection shall allow inspection of both the textbook or instructional materials and all accompanying manuals, workbooks and other supplemental materials.
- (2) The content, including pictures and graphs, of the textbooks, instructional materials, and supplementary materials that are made available for online inspection shall be in finished form and shall be the same as what would be distributed to public schools; however, the platform and format does not have to be in finished form. If the online textbooks and instructional materials are the same as the samples submitted to the Commission as required by Rule 0520-05-01-.04, then the online textbooks and instructional materials shall be in finished form.
- (3) Publishers shall agree in the bid documents to provide access to complete online copies of the textbooks or instructional materials, including all supplementary materials, bid during the review process by the advisory panels, at the time specified by the Commission in the textbook adoption schedule, but in no case shall the textbooks or instructional materials be available for less than ninety (90) days.
- (4) Publishers that submit textbooks and instructional materials for adoption shall provide the Tennessee Department of Education with instructions for how the public and state advisory panel members can access the textbooks and materials. The department shall post the instructions submitted by publishers on the department's website along with instructions for how the public can submit comments on the textbooks and instructional materials.

Authority: T.C.A. § 49-6-2203(a) and (d)(3).

**0520-05-01-.08 AMOUNT OF PERFORMANCE BOND REQUIRED.** Publishers shall file with the textbook contract a good and sufficient bond with a surety company authorized to do business in this state in the sum of \$10,000 and conditioned upon the faithful performance of all conditions of the contract and TCA Title 49, Chapter 6, Part 22.

Authority: T.C.A. § 49-6-2203(a) and (j).

**0520-05-01-.09 PUBLISHER CORRECTIVE ACTION PLANS.** Publishers submitting textbooks or instructional materials for possible state approval shall execute an agreement to correct all factual and editing errors found in a textbook or instructional materials, at the publisher's expense.

The publisher shall submit a corrective action plan to the department, for review and approval by the state board, within thirty (30) days of the department's notification of the existence of errors in the textbook or instructional materials.

Factual errors only apply to information that is inaccurate at the time of state approval of the textbook or instructional material.

The department shall submit corrective action plans to the board for approval at least once per year.

Authority: T.C.A. §§ 49-6-2202(c) and -2203(a).

#### **0520-05-01-.10 STATE ADVISORY PANELS**

##### (1) Appointment of State Advisory Panels

The Chair of the Commission may recruit and appoint members to an advisory panel of expert teachers and other experts. The Chair shall present the list of members of the advisory panel to the Commission at the next regular meeting.

The department shall post the names of the reviewers, their positions, employers and the panels on which they serve on the department's web site.

##### (2) Qualifications of State Advisory Panel Members

At least one (1) teacher shall be appointed to each advisory panel. Teachers appointed to the advisory panels shall possess a license to teach with an endorsement in the subject area or grade level for which they shall review textbooks or instructional materials.

Experts, who are not public school teachers, may include college professors and credentialed subject matter specialists.

All members of advisory panels shall have a specific knowledge of and expertise in the content of the subject matter contained in the textbooks or instructional materials they review.

##### (3) Training for Advisory Panel Members

The Department of Education shall assist the Commission by providing mandatory training to members of advisory panels on the review process and the completion of their assigned tasks. The mandatory training shall include, at a minimum, the components outlined in T.C.A. § 49-6-2201(n)(2).

##### (4) Review Rubric for Advisory Panel Members

The Tennessee Department of Education may develop a review instrument/ rubric to be used by state advisory panels to review textbook and instructional materials submitted for adoption. The review instrument shall include an examination as to whether the textbooks or instructional materials:

- (a) Conform to the standards for their subject areas or grade levels;
- (b) Are free of any clear, substantive, factual or grammatical errors;
- (c) Comply with and reflect the values expressed in § 49-6-1028(b), if the textbook or instructional materials are being considered for adoption as a textbook or instructional materials for education of students in general studies and specifically in United States history and this nation's republican form of government; and
- (d) Nothing in this part shall prohibit the use of or apply to supplemental instructional materials.

The Textbook Commission shall approve any review instrument / rubric used by state advisory panels.

#### (5) Panel Review Process

The department shall develop a process for state advisory panels to review textbooks and instructional materials. The process shall align with the review timeline outlined in the textbook adoption schedule approved by the Commission.

Each textbook or any instructional materials proposed for approval shall be reviewed by multiple members of the panel.

#### (6) Panel Recommendations to the Commission

The advisory panelists shall individually make their recommendations to the Commission. The reviews of the members of an advisory panel shall be posted on the department's web site without any information that would identify the reviewers.

Before issuing a recommendation on a textbook or on instructional materials, each advisory panelist shall review the public comments on the textbook or instructional materials posted on department's web site, pursuant to § 49-6-2203(d)(4), that are received by the date set by the Commission. Each advisory panelist shall consider the public comments in making the panelist's recommendation.

Authority: T.C.A. § 49-6-2201(n).

#### **AMENDED RULES:**

Rule 0520-05-01-.01 Definition is amended to include "instructional materials" so that, as amended, the rule shall read:

**0520-05-01-.01 DEFINITION.** Textbook and instructional materials shall be defined as any medium or manual of instruction which contains a systematic presentation of the principles of a subject and which constitutes a major instructional vehicle for that subject.

Authority: T.C.A. §§ 49-3-310(2), 49-6-2203(a)

Rule 0520-05-01-.02 Staggered Adoption is amended by deleting the text of the rule in its entirety and by substituting instead the following language so that, as amended, the rule in its entirety shall read:

**0520-05-01-.02 STAGGERED ADOPTION.** The Textbook Commission shall determine the adoption cycle of textbooks in Tennessee. The Textbook Commission shall approve the state textbook review and approval process and timeline for each textbook adoption cycle.

Authority: T.C.A. § 49-6-2203(a)

Rule 0520-05-01-.03 Manufacturing Standards and Specification is amended by renaming the rule to be "Manufacturing Standards for Non-Consumable Books" and by deleting the text of the rule in its entirety and by substituting instead the following language so that, as amended, the rule in its entirety shall read:

**0520-05-01-.03 MANUFACTURING STANDARDS FOR NON-CONSUMABLE BOOKS.** The Commission may adopt physical standards and specifications that assure suitable durability of the textbooks, instructional materials and supplemental materials. Any non-consumable student book submitted as a textbook or as part of a textbook must meet the specific criteria identified in the Minimum Manufacturing Standards and Specifications for Textbooks ("Standards") as developed by the State Instructional Materials Review Association ("SIMRA"), in consultation with the Association of American Publishers and the Book Manufacturers' Institute. The SIMRA Standards shall be Tennessee's official minimum standards and specifications for non-consumable student books. The Commission may consider for recommendation textbooks that do not meet the SIMRA Standards if there are limited Learning Resources of quality submitted for a specific state-funded course.

Authority: T.C.A. § 49-6-2203(a)

Rule 0520-05-01-.04 Submitting of Sample Textbooks is amended by renaming the rule to be "Submitting of Sample Textbooks and Instructional Materials" and by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule in its entirety shall read:

**0520-05-01-.04 SUBMITTING OF SAMPLE TEXTBOOKS AND INSTRUCTIONAL MATERIALS.**

(1) At least one (1) set of all textbooks and instructional materials bid, including all supplementary materials, shall be filed with the secretary of the Textbook Commission on or before a date specified by the Commission in the state adoption schedule for each cycle, but no later than the date of the start of the review by the advisory panels.

(2) If requested by Commission members, publishing companies may send sample textbooks to the Commission members as individuals only, but these companies are not to send samples to them as members of the Textbook Commission before the start of the textbook review of the state advisory panels on the date set by the Commission.

(3) If requested by the Commission members, publishers shall send Commission members one set of samples.

Authority: T.C.A. § 49-6-2203(a)

Rule 0520-05-01-.05 Condition of Sample Textbooks is amended by renaming the rule to be "Condition of Sample Textbooks and Instructional Materials" and by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule in its entirety shall read:

**0520-05-01-.05 CONDITION OF SAMPLE TEXTBOOKS AND INSTRUCTIONAL MATERIALS.**

(1) A publisher shall not submit draft copies of textbooks, instructional materials or other supplemental materials. All textbooks, instructional materials and accompanying manuals, workbooks and other supplemental materials shall be submitted in finished form at the date set by

the Commission, but no later than the start of the review period. If a complete copy of any textbooks, instructional materials or any of their supplemental materials is not filed prior to the date specified by the Commission, then the textbook or instructional materials shall not be considered for adoption. The textbooks and instructional materials shall be accompanied by a list stating the edition, title and author of each textbook or any instructional materials offered.

(2) 'Finished form' is defined as the final form of the book or instructional material that would be distributed to public schools, if purchased. Textbooks and instructional materials must meet the minimum manufacturing standards and specifications for textbooks and instructional materials set by the Commission in order to be considered in 'finished form.' Textbooks and instructional materials in beta version, and/or with missing pictures, charts, graphs, or other content will not be considered to be in 'finished form.' No gallery proofs or page proofs may be submitted for review.

Authority: T.C.A. § 49-6-2203(a)

Rule 0520-05-01-.06 Submitting of Books is amended (as approved at the Commission's October 6, 2014 meeting) to designate it as Rule 0520-05-01-.07 Substitutions and to add language to subsection (2)(b) that samples shall be submitted to each member of the Commission if requested by the Commission members. This rule is further amended (as approved at the Commission's September 28, 2015 meeting) by adding a new subsection (3), so that, as amended, the rule shall read:

**0520-05-01-.07 SUBSTITUTIONS.** At the first regular meeting of each calendar year, the Commission will consider:

- (1) The substitution of the revised edition of a textbook for the edition previously listed; and
- (2) The substitution of a textbook that contains content revisions made since the previous official listing of the book, provided that each book:
  - (a) Will be sold at the same price as the book originally listed; and
  - (b) Can be used with the book originally listed. When these books are offered for substitution, the same sampling and bidding procedures shall be followed as in the case of the original texts which they are to replace, except that no additional bond or contract will be required. Samples of each book shall be submitted by the publishing company representatives to each member of the Commission, if requested by the Commission members, together with a brief setting forth in detail the differences between the book originally listed and the newer book. Every textbook to be submitted accordingly to Policy No. 06 shall be presented to the members of the Commission at least 30 days prior to the first regular meeting of the calendar year.
- (3) Substitution requests shall not be submitted for textbooks and instructional materials within one (1) year of the expiration of the approved contract date for the official listing of the book.

Authority: T.C.A. § 49-6-2203(a)

\* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

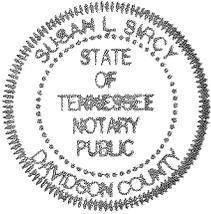
October 6, 2014:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Dr. Craig Hammond, Chairman	X				
Ms. Shannon Streett	X				
Mr. Cory Concus	X				
Dr. Jason Robinson	X				
Mr. Lewis Moorer	X				
Dr. Verna Ruffin	X				

Vote on final version of 0520-05-01-.07 SUBSTITUTIONS, contained herein, on September 28, 2015.

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Ms. Cynthia Bryant	X				
Ms. Susan Bunch	X				
Dr. Bill Campbell	X				
Ms. Kelsey Cruze	X				
Mr. Kyle Mallory	X				
Mr. Jason Vance	X				
Dr. Vicki Kirk, Commissioner of Education's designee	X				
Dr. Craig Hammond, Chairman	X				

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the State Textbook and Instructional Materials Quality Commission on 10/06/2014 and 9/28/15 and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.



MY COMMISSION EXPIRES:  
October 18, 2016

Date: 1/19/16

Signature: Joanna Collins

Name of Officer: Joanna Collins

Title of Officer: Director of Contracts and Staff Attorney, TDOE

Subscribed and sworn to before me on: 1-19-2016

Notary Public Signature: Susan L. Sircy

My commission expires on: 10-18-2016

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III  
Herbert H. Slatery III  
Attorney General and Reporter  
2/5/2016  
Date

**Department of State Use Only**

Filed with the Department of State on: 2/12/16

Effective on: 5/12/16

Tre Hargett  
Tre Hargett  
Secretary of State

Date: Not Applicable

Signature: Not Applicable

Name of Officer: Not Applicable

Title of Officer: Not Applicable

Subscribed and sworn to before me on: Not Applicable

Notary Public Signature: Not Applicable

My commission expires on: Not Applicable

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## Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

### Regulatory Flexibility Analysis - Methods of Reducing Impact of Rules on Small Businesses:

**(1) The extent to which the rule may overlap, duplicate, or conflict with other Federal, State, and local governmental rules:**

There is no overlap, duplication, or conflict with other federal, state, or local governmental rules.

**(2) Clarity, conciseness, and lack of ambiguity in the rule:**

The rules are clear, concise, and unambiguous.

**(3) The establishment of flexible compliance and reporting requirements for small businesses:**

These rules do not have any impact on compliance and reporting requirements for small businesses.

**(4) The establishment of friendly schedules or deadlines for compliance and reporting requirements for small businesses:**

These rules have no impact on compliance and reporting requirements for small businesses.

**(5) The consolidation or simplification of compliance or reporting requirements for small businesses:**

These rules do not complicate compliance or reporting requirements for small businesses in any respect.

**(6) The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule:**

There are no performance standards for small businesses as a result of these rules.

**(7) The unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs:**

These rules do not result in the unnecessary creation of entry barriers or other effects that will stifle entrepreneurial activity, curb innovation, or increase costs. In fact, the adopted changes to Rule 0520-05-01-.07 lower the performance bond required for publishers to do business with the State, which eases entry into the marketplace for smaller publishers.

In accordance with Tenn. Code Ann. § 4-5-403, please find the attached Economic Impact Statement, labeled "Addendum A."

### **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The proposed rules to be promulgated will not have a projected impact on local governments.

**Addendum A: Economic Impact Statement for Rule 0520-5-1-.07**

- (1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule;

These rule revisions will impact textbook publishing companies that bid to contract with the Textbook and Instructional Materials Quality Commission. In particular, they will have a positive impact for smaller publishers by opening up the potential market to smaller businesses. While we are unable to estimate the number of small publishers that could be affected by these rules, the Commission's intent is to have requirements that foster an open marketplace and competitive contracting with the State.

- (2) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record;

N/A – The Director of Content for the Department of Education manages Textbook Commission matters.

- (3) A statement of the probable effect on impacted small businesses and consumers;

The proposed rule revisions will have a positive impact for smaller publishers by opening up the potential market to smaller businesses. In particular, two rules will positively impact small publishers: (1) Rule 0520-5-1-.06 Online Access to Sample Textbooks and Instructional Materials helps small businesses by allowing them to have their materials in digital form rather than having to go to the expense of printing and distributing hard copies; (2) Rule 0520-5-1-.07 Amount of Performance Bond Required lowers the bond amount required to do business with the State, which opens the potential field to smaller publishers.

- (4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business;

N/A

- (5) A comparison of the proposed rule with any federal or state counterparts; and

N/A

- (6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

N/A

**Additional Information Required by Joint Government Operations Committee**

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

0520-05-01-.01 Definition Rule:

Added "instructional materials" to the definition

0520-05-01-.02 Staggered Adoption Rule:

Added that the Commission shall determine the adoption cycle of textbooks rather than having staggered adoption on a 6 year cycle. The intention was to give the Commission flexibility to stagger "light" and "heavy" adoption years to ease the burden on LEAs.

0520-05-01-.03 Manufacturing Standards for Non-Consumable Books Rule:

Added that the State Instructional Materials Review Association (SIMRA) standards shall be Tennessee's official minimum standards for non-consumable student books.

0520-05-01-.04 Submitting of Sample Textbooks and Instructional Materials Rule:

Cleaned up the rule to establish that samples shall be submitted "if requested by the Commission members".

0520-05-01-.05 Condition of Sample Textbooks and Instructional Materials Rule: Added definition of 'finished form' as relates to textbook samples, and new language clarifying the content and format of sample textbooks and the process for publishers to submit online samples.

0520-05-01-.06 Online Access to Sample Textbooks and Instructional Materials:

Established that publishers are required to make all textbooks and instructional materials proposed for adoption available for inspection online by LEAs and the public.

0520-05-01-.07 Substitutions Rule:

Established time limits for substitutions to guard against publishers substituting new editions during the final year of a contract.

0520-05-01-.08 Publisher Corrective Action Plans Rule:

Added new language clarifying what constitutes factual errors, and added new language about the process for submitting corrective action plans.

0520-05-01-.09 State Advisory Panels Rule:

Added that the department shall develop a process for state advisory panels to review textbooks and instructional materials

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Public Chapter Number 981 (April 2014) effected changes to the state textbook review and approval process. The Commission adopted changes to its rules to align with the new law.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Textbook publishers and manufacturers, Local Education Agencies. Tennessee Department of Education

staff urged adoption to comply with statute and no written or verbal comments were received at the time of rulemaking.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

Attorney General Opinion No. 15-26 makes it clear that publisher corrective action is the remedy in cases of factual errors in textbooks - <http://attorneygeneral.tn.gov/op/2015/op15-26.pdf>. This is also reflected in Rule 0520-05-01-.08, which requires publishers to submit a corrective action plan in cases of factual errors.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

N/A

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Alison Gower, Director of Content, Department of Education and Joanna Collins, Staff Attorney and Director of Contracts, Department of Education.

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Alison Gower, Director of Content, Department of Education and Joanna Collins, Staff Attorney and Director of Contracts, Department of Education.

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Andrew Johnson Tower, 12<sup>th</sup> floor, 710 James Robertson Parkway, Nashville, TN 37243

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

N/A

**Textbook and Instructional Materials Quality Commission – Textbook  
Commission Rule Proposal**

**CHAPTER 0520-05-01**  
**SUPPLEMENT TO CONTRACT-POLICIES OF TENNESSEE STATE TEXTBOOK**  
**COMMISSION**  
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0520-05-01-.08 Amount of Performance Bond Required.

0520-05-01-.09 Corrective Action.

0520-05-01-.10 State Advisory Panels.

0520-05-01-.01 DEFINITION. ~~Textbook means and instructional materials shall be defined as~~ any medium or manual of instruction that contains a systematic presentation of the principles of a subject and that constitutes a major instructional vehicle for that subject.

0520-05-01-.02 STAGGERED ADOPTION. ~~There shall be a staggered adoption of textbooks in Tennessee with a period of six (6) years required to complete adoptions in all subject areas. The Textbook Commission shall determine the adoption cycle of textbooks in Tennessee. The Textbook Commission shall approve the state textbook review and approval process and timeline for each textbook adoption cycle.~~

0520-05-01-.03 ~~MINIMUM STANDARDS AND SPECIFICATION. MANUFACTURING STANDARDS FOR NON-CONSUMABLE BOOKS.~~ The Official “Manufacturing Standards and Specifications for Textbooks” adopted by the National Association of State Textbook Administrators and available from the Advisory Commission on Textbook Specifications of Stamford, Connecticut, shall be Tennessee’s official minimum standards and specifications for textbooks. ~~The Commission may adopt physical standards and specifications that assure suitable durability of the textbooks, instructional materials and supplemental materials. Any non-~~

consumable student book submitted as a textbook or as part of a textbook must meet the specific criteria identified in the Minimum Manufacturing Standards and Specifications for Textbooks ("Standards") as developed by the State Instructional Materials Review Association ("SIMRA"), in consultation with the Association of American Publishers and the Book Manufacturers' Institute. The SIMRA Standards shall be Tennessee's official minimum standards and specifications for non-consumable student books. The Commission may consider for recommendation textbooks that do not meet the SIMRA Standards if there are limited Learning Resources of quality submitted for a specific state-funded course.

0520-05-01-.04 SUBMITTING OF SAMPLE TEXTBOOKS AND INSTRUCTIONAL MATERIALS.

(1) At least one (1) set of all textbooks and instructional materials bid, including all supplementary materials, shall be filed with the secretary of the Textbook Commission on or before a date specified by the Commission in the state adoption schedule for each cycle, but no later than the date of the start of the review by the advisory panels.

(2) If requested by Commission members, publishing companies may at any time send sample textbooks to the Commission members as individuals only, but these companies are not to send samples to them as members of the Textbook Commission before the first regular meeting of each calendar year start of the textbook review of the state advisory panels on the date set by the Commission.

(32) Each member of the Commission shall receive only one set of samples. If requested by the Commission members, publishers shall send Commission members one set of samples.

(3) Each publishing company shall submit with each sample textbook a brief not to exceed one typewritten page.

0520-05-01-.05 CONDITION OF SAMPLE TEXTBOOKS AND INSTRUCTIONAL MATERIALS. Sample textbooks shall be submitted in the form in which they will be distributed to the public schools. No gallery proofs or page proofs of textbooks will be submitted in the form in which they will be distributed to the public schools. No gallery proofs or page proofs of textbooks will be considered by the Commission after the deadline for the delivery of Official Sample.

(1) A publisher shall not submit draft copies of textbooks, instructional materials or other supplemental materials. All textbooks, instructional materials and accompanying manuals, workbooks and other supplemental materials shall be submitted in finished form at the date set by the Commission, but no later than the start of the review period. If a complete

copy of any textbooks, instructional materials or any of their supplemental materials is not filed prior to the date specified by the Commission, then the textbook or instructional materials shall not be considered for adoption. The textbooks and instructional materials shall be accompanied by a list stating the edition, title and author of each textbook or any instructional materials offered.

- (2) 'Finished form' is defined as the final form of the book or instructional material that would be distributed to public schools, if purchased. Textbooks and instructional materials must meet the minimum manufacturing standards and specifications for textbooks and instructional materials set by the Commission in order to be considered in 'finished form.' Textbooks and instructional materials in beta version, and/or with missing pictures, charts, graphs, or other content will not be considered to be in 'finished form.' No gallery proofs or page proofs may be submitted for review.

0520-05-01-.06 ONLINE ACCESS TO SAMPLE TEXTBOOKS AND INSTRUCTIONAL MATERIALS.

- (1) In addition to the finished textbooks and instructional materials required to be filed with the Tennessee Department of Education, publishers shall make all textbooks and instructional materials proposed for adoption available for inspection online by LEAs and the public. The online inspection shall allow inspection of both the textbook or instructional materials and all accompanying manuals, workbooks and other supplemental materials.
- (2) The content, including pictures and graphs, of the textbooks, instructional materials, and supplementary materials that are made available for online inspection shall be in finished form and shall be the same as what would be distributed to public schools; however, the platform and format does not have to be in finished form. If the online textbooks and instructional materials are the same as the samples submitted to the Commission as required by Rule 0520-05-01-.04, then the online textbooks and instructional materials shall be in finished form.
- (3) Publishers shall agree in the bid documents to provide access to complete online copies of the textbooks or instructional materials, including all supplementary materials, bid during the review process by the advisory panels, at the time specified by the Commission in the textbook adoption schedule, but in no case shall the textbooks or instructional materials be available for less than ninety (90) days.

(4) Publishers that submit textbooks and instructional materials for adoption shall provide the Tennessee Department of Education with instructions for how the public and state advisory panel members can access the textbooks and materials. The department shall post the instructions submitted by publishers on the department's website along with instructions for how the public can submit comments on the textbooks and instructional materials.

0520-05-01-.076 SUBMITTING OF BOOKS/SUBSTITUTIONS. At the first regular meeting of each calendar year, the Commission will consider:

(1) The substitution of the revised edition of a textbook for the edition previously listed; and

(2) The substitution of a textbook which bears the same copyright date, but contains content revisions made since the previous official listing of the book, provided that each book:

(a) Will be sold at the same price as the book originally listed; and

(b) Can be used with the book originally listed. When these books are offered for substitution, the same sampling and bidding procedures shall be followed as in the case of the original texts which they are to replace, except that no additional bond or contract will be required. Samples of each book shall be submitted by the publishing company representatives to each member of the Commission, if requested by the Commission members, together with a brief setting forth in detail the together, with a brief setting forth in detail the differences between the book originally listed and the newer book. Every textbook to be submitted accordingly to Policy No. 06 shall be presented to the members of the Commission at least thirty (30) days prior to the first regular meeting of the calendar year.

(3) Substitution requests shall not be submitted for textbooks and instructional materials within one (1) year of the expiration of the approved contract date for the official listing of the book.

0520-05-01-.08 AMOUNT OF PERFORMANCE BOND REQUIRED. Publishers shall file with the textbook contract a good and sufficient bond with a surety company authorized to do business in this state in the sum of ten thousand dollars (\$10,000) and conditioned upon the faithful performance of all conditions of the contract and T.C.A. Title 49, Chapter 6, Part 22.

0520-05-01-.09 PUBLISHER CORRECTIVE ACTION PLANS. Publishers submitting textbooks or instructional materials for possible state approval shall

executed an agreement to correct all factual and editing errors found in a textbook or instructional materials, at the publisher's expense.

The publisher shall submit a corrective action plan to the department, for review and approval by the state board, within thirty (30) days of the department's notification of the existence of errors in the textbook or instructional materials.

Factual errors only apply to information that is inaccurate at the time of state approval of the textbook or instructional material.

The department shall submit corrective action plans to the board for approval at least once per year.

#### 0520-05-01-.10 STATE ADVISORY PANELS

(1) APPOINTMENT OF STATE ADVISORY PANELS. The Chair of the Commission may recruit and appoint members to an advisory panel of expert teachers and other experts. The Chair shall present the list of members of the advisory panel to the Commission at the next regular meeting.

The department shall post the names of the reviewers, their positions, employers and the panels on which they serve on the department's web site.

(2) QUALIFICATIONS OF STATE ADVISORY PANEL MEMBERS. At least one (1) teacher shall be appointed to each advisory panel. Teachers appointed to the advisory panels shall possess a license to teach with an endorsement in the subject area or grade level for which they shall review textbooks or instructional materials.

Experts, who are not public school teachers, may include college professors and credentialed subject matter specialists.

All members of advisory panels shall have a specific knowledge of and expertise in the content of the subject matter contained in the textbooks or instructional materials they review.

(3) TRAINING FOR ADVISORY PANEL MEMBERS. The Department of Education shall assist the Commission by providing mandatory training to members of advisory panels on the review process and the completion of their assigned tasks. The mandatory training shall include, at a minimum, the components outlined in T.C.A. § 49-6-2201(n)(2).

(4) REVIEW RUBRIC FOR ADVISORY PANEL MEMBERS. The Tennessee Department of Education may develop a review instrument/rubric to be

used by state advisory panels to review textbook and instructional materials submitted for adoption.

The review instrument shall include an examination as to whether the textbooks or instructional materials:

(a) Conform to the standards for their subject areas or grade levels;

(b) Are free of any clear, substantive, factual or grammatical errors;

(c) Comply with and reflect the values expressed in § 49-6-1028(b), if the textbook or instructional materials are being considered for adoption as a textbook or instructional materials for education of students in general studies and specifically in United States history and this nation's republican form of government; and

(d) Nothing in this part shall prohibit the use of or apply to supplemental instructional materials.

The Textbook Commission shall approve any review instrument/rubric used by state advisory panels.

(5) PANEL REVIEW PROCESS. The department shall develop a process for state advisory panels to review textbooks and instructional materials. The process shall align with the review timeline outlined in the textbook adoption schedule approved by the Commission.

Each textbook or any instructional materials proposed for approval shall be reviewed by multiple members of the panel.

(6) PANEL RECOMMENDATIONS TO THE COMMISSION. The advisory panelists shall individually make their recommendations to the Commission. The reviews of the members of an advisory panel shall be posted on the department's web site without any information that would identify the reviewers.

Before issuing a recommendation on a textbook or on instructional materials, each advisory panelist shall review the public comments on the textbook or instructional materials posted on department's web site, pursuant to § 49-6-2203(d)(4), that are received by the date set by the Commission. Each advisory panelist shall consider the public comments in making the panelist's recommendation.

Authority: Tennessee Code Annotated section 49-6-2201(n).