

CHAPTER 43.

STATE BOARD OF EDUCATION

(Statutory Authority: S.C. Code Ann. Sections 59-5-60 (1990), 59-5-65 (Supp. 2002), 59-18-110 (Supp. 2002), 59-18-300 (Supp. 2002), 59-18-310(B) (Supp. 2002) and 59-18-320(C) (Supp. 2002), 59-29-10, et seq. (1990 and Supp. 2002), 59-29-200 (1990), 59-33-30 (1990), 59-53-1810 (1990), 20 U.S.C. Section 1232(g), and 20 U.S.C. Section 6301 et seq. (2001))

43-71. Free Textbooks.

(Statutory Authority: 1976 Code Sections 59-5-60 and 59-31-360)

Section 1. Free Basal Textbook Enabling Act. Pursuant to Section 59-31-360 to provide “free basal textbooks” in Grades 1 through 12, S. C. State Board of Education does hereby set forth procedures for ordering instructional materials.

Section 2. Requisition for Free Instructional Materials. Requisitions for free instructional materials shall be made only to the South Carolina Department of Education (SCDE), in accordance with “Instructional Materials Management Procedures for Schools”, by completing the official current order form or on internet using the ordering system on the South Carolina Instructional Materials Central Depository website.

Section 3. Provisions for Requisitioning and Distributing Free Instructional Materials.

A. Acquisition of Free Instructional Materials on Levels of Achievement. Any pupil who is a member of any grade within the free instructional materials program may be assigned free instructional materials on the appropriate achievement level as indicated by tests and other evaluations.

B. Allocation of Instructional Materials to Schools. The SCDE shall provide a schedule of instructional materials allocation formulas to the State Board of Education for information annually. The formulas shall be based on available funding provided by the General Assembly for the Instructional Materials program; the average cost of adopted instructional materials; and the prescribed percentage of total membership used in calculating materials allocations.

C. Educable Mentally Handicapped (Special Education) Reading Primary classes shall be eligible for necessary reading materials not to exceed two pre-readiness readers and/or readiness programs and one beginning reading program.

Section 4. Changing to New Titles or Series. A school may change to a new title or series in a subject area only when new material on the same level is adopted by the State Board of Education. Schools shall not return materials presently on the state adopted list to be exchanged for other titles or series, except limited changes that are justified by variations in student achievements. Any books materials exchanged must be on different levels of difficulty. Provided, that the Board shall have the authority to limit or postpone the acquisition of titles or series for such period of time as may be deemed advisable.

Section 5. Property of the State. Title to all materials issued to schools and depositories under the Free Textbook Act shall be vested in the State. (Legislative Provision).

Section 6. Responsible Parties. The district board of trustees shall be responsible for the proper custody of all materials in its schools and depositories and shall be responsible for the administration of the Instructional Materials Management Procedures for Schools in those schools and depositories.

Section 7. Distribution to Schools. The county or district board of trustees shall elect from the procedures listed below the system of distribution to be used.

A. County Depository: A county depository may be established through which all materials in the county will be distributed.

B. District Depository: A district depository may be established through which all materials in the district will be distributed.

C. School Depository: A school depository may be established through which all materials in the school will be distributed.

The board of trustees may designate an agent to operate the depository, maintain adequate records and make necessary reports and remittances to the responsible office at the SCDE; however, such designation does not relieve the board of its responsibilities.

Section 8. Shipping of Instructional Materials. Each school or depository will be sent a Shipment Advisory listing the materials shipped to it. The school or depository agent shall verify the materials received with the materials listed on the Shipment Advisory. If the title(s) and number of materials received do not agree with the title(s) and number of materials on the Shipment Advisory, a report must be made promptly to the responsible office at the SCDE showing: (1) the name of the school and county, (2) the number and date of the Shipment Advisory, (3) a complete itemized list of the differences between Shipment Advisory and books received, both over and short.

Section 9. Records and Reports. Each school and depository shall maintain a separate and complete file for instructional material records, correspondence, and forms. Each school and depository shall maintain an accurate record of the number of materials on hand, materials received and materials returned. They, also, shall keep an accurate record of sales, lost materials, and damage fees and report same to the SCDE and remit all funds collected and pay promptly all amounts due. The Department will issue an official receipt covering each remittance.

Each school and depository shall furnish the responsible office at the SCDE with membership reports, anticipated membership reports, inventory reports, and other reports as may be requested. Each school shall maintain a record of materials issued to each pupil.

Section 10. Storage. Each school and depository shall provide for instructional materials adequate places of storage which are safe, clean, dry, well arranged, and free of insects. Care must be taken to see that materials do not mold while in storage. Materials should not be stored on floors and should be at least one inch from walls to allow proper ventilation and protection from termites.

Section 11. Distribution Within the School. Materials may be distributed directly to the pupils from the central bookroom or delivered from the bookroom to each teacher to be issued to the pupils. Materials as determined by the responsible office at the SCDE shall be distributed and circulated using the online state textbook manager.

Section 12. Inspection. All materials and materials records shall be subject at any time to inspection by authorized agents of the county and/or district board of trustees and the SCDE. It shall be the duty of each teacher to inspect frequently the materials issued to pupils and to emphasize the proper care and handling of materials.

Section 13. Stamping or Labeling Instructional Materials. Free Instructional materials issued to pupils shall have a barcode label properly affixed marked "Property State of SC". New materials shall not be stamped or labeled or have a barcode affixed or otherwise marked until issued to pupils.

Section 14. Issuing Used Instructional Materials. All used materials of each title shall be issued before any new materials of the same title are issued.

Section 15. Marking in Instructional Materials. Pupil's name may be written below the property stamp impression or on the property label. Pupils may appropriately mark lesson assignments, otherwise they shall not mark or write in instructional materials. Pupils shall not remove, deface, or damage barcodes on state-owned materials. (See Section 20 - Damaged Instructional Materials)

Section 16. No Deposits Charged on Instructional Materials. No board or agent thereof shall require a pupil to pay a deposit on any free materials issued by the SCDE.

Section 17. Instructional Materials to be Returned by Pupils. Materials shall be turned in to the school by the pupil, parents or guardians under the following circumstances:

- A. When appropriately requested by a teacher or school official.
- B. When the course is completed or discontinued by the school or pupil.
- C. When the pupil withdraws from school.
- D. At the end of the school year.

Section 18. Transfer Students. A school from which a pupil transfers shall make an appropriate notation on the pupil's transcript records as to whether all his or her materials were returned to the school and whether any damage or lost materials fees are unpaid. (See Sections 17, 19, and 20)

Section 19. Lost Instructional Materials. Schools may require pupils, parents or guardians to pay for instructional materials lost and the pupil, parent or guardian may be denied further benefits of the Free Instructional Materials Program until in compliance with this requirement. This requirement may be waived in instances where the judgment of the principal and/or responsible officials believe that the child is a victim of unusual circumstances. The school district shall be responsible for the cost. The report of lost instructional materials paid for and sales should be itemized by titles on an appropriate form sent to each school at the end of the school year. The schedule of charges shall be determined by the State Board of Education upon the recommendation of the SCDE. Fees collected for lost materials shall be remitted to the SCDE.

Section 20. Damaged Instructional Materials. Schools are required to collect appropriate damage fees from any pupil, parent or guardian for abuse or improper care of instructional materials and the pupil, parent or guardian may be denied further benefits of the Free Instructional Materials Program until in compliance with this requirement. This requirement may be waived in instances where the judgment of the principal and/or responsible officials believe that the child is a victim of unusual circumstances. The school or district shall be responsible for the cost. The amount to be charged in such cases shall be determined by the agent in charge of materials. In no case, shall the cost exceed the amount of charge applicable had the material been lost, provided that the pupil, parent, guardian shall have the option of paying the damage fee or purchasing the material according to the schedule in Section 19 above.

Materials on which only a damage fee is collected shall remain the property of the state and shall remain with the school for further use.

Materials damage fees collected should be reported in a lump sum in the space provided on the annual instructional materials inventory form sent each school at the end of the school year. Fees collected for damaged materials shall be remitted to the SCDE.

Section 21. Fire Loss. Materials destroyed or damaged beyond further use by fire in school buildings or private homes shall not be charged to the individual or school provided an official of the school furnishes the SCDE a certified list of the materials destroyed and the place and date of the fire.

Section 22. Contagious Diseases. Materials issued to a pupil having a contagious disease such as scarlet fever, diphtheria, etc., shall be burned by the local agent provided such destruction has been recommended by the physician attending the child. The local agent shall provide the SCDE with a certified list of the materials destroyed.

Section 23. Returning Instructional Materials to Central Depository. Schools or depositories shall not return used free instructional materials except when requested or authorized to do so by the SCDE. New instructional materials (materials which never have been put in use or tagged, stamped, or labeled) may be returned at any time. (See instructions below)

A. Address all shipments to:

Central Depository

301 Greystone Blvd.

Columbia, South Carolina 29210

B. Return instructional materials by completing the Return Form.

C. When preparing the Return Form, list the instructional materials and follow the instructions on the form.

Section 24. Defective Instructional Materials. Defective materials should be clearly marked "DEFECT" on the outside of the front cover and the defect identified on the inside of the front cover or in a visible place on the outside of a non-book item. Return the defective materials as soon as possible to the Instructional Materials Central Depository and notify the responsible office at the SCDE whether a replacement or an inventory credit is desired.

Section 25. Disposition of Out-of-Adoption Instructional Materials.

A. Out-of-adoption instructional materials are those for which the contracts with the publishers have expired.

B. Schools shall return all new out-of-adoption instructional materials to the Instructional Materials Central Depository promptly after the expiration of the contract.

C. Schools may continue to use a title on which the contract has expired as long as the title is available from stock owned by the state. Schools should continue to use such materials until they have carefully evaluated all newly adopted materials and selected those best suited to their needs. Schools may continue to use the old title for some grade sections and new titles for other grade sections if they wish.

D. Schools which change to new titles may be requested to return all or a portion of the titles that are being discontinued. The remaining copies may be used or disposed of by the school. Maximum use should be made of these materials, such as additional text material including assignments for classroom work or consigned for home study.

E. Out-of-adoption materials will be removed from the inventory of books charged to the school before the second year after the expiration of the contract with the publisher. Districts should attempt to dispose of out-of-adoption materials locally. Districts may dispose of those materials in any manner, including selling materials for the purpose of recycle or resale. Funds received by the sale of used materials must be used for the purchase of instructional materials or supplies.

Section 26. Consumable Instructional Materials.

A. The SCDE will publish annually a listing of consumable instructional materials. Any materials not on the listing shall be considered non-consumable. Schools using non-consumable materials as consumable shall be responsible for the cost of replacement.

B. Instructional materials such as workbooks, lab manuals, and test booklets that provide space for written comments and answers shall be classified as one-year consumables and considered consumed once issued to a student and used for instruction. One-year consumable materials issued to a student and used for instruction will be removed from inventory annually.

C. Funds to replace consumable materials will be provided annually to the extent that an Appropriation is provided by the General Assembly for instructional materials with replacement of non-consumable materials having first priority.

Section 27. Accounts Must Be Settled. Fees for lost and damaged textbooks for the prior school year are due no later than December 1 of the current school year when invoiced by the SCDE. The SCDE may withhold textbook funding from schools that have not paid lost and damaged textbook fees by the payment deadline.

Section 28. Special Adoptions. Instructional materials, textbooks, or series not currently available from the SCDE that are subsequently added as a special adoption or a district adoption under Section 59-31-45 may be purchased with the district's existing allocation. The SCDE may limit the exchange of instructional materials replaced by special and district adoptions.

Section 29. Most Favored Purchaser. Pursuant to South Carolina Code, if publishers sell materials to any other person or entity at a lower price than the price offered to South Carolina, that reduced price automatically becomes the contract price for South Carolina. At the end of each calendar year, publishers shall submit a certified list of all contracts made with other entities during the calendar year just closed on all instructional materials for which the publisher has a contract in South Carolina. That list must include the contract price for those materials. The SCDE may direct the Central Depository to withhold payment for instructional materials purchased from non-responsive publishers or assess non-responsive publishers liquidated damages in an amount equal to 5 percent of the contract price of all instructional materials under contract with the publisher, not to exceed \$5,000.