

CIRCULAR OF INFORMATION ANNOUNCING THE UPCOMING ADOPTION OF INSTRUCTIONAL MATERIALS IN OREGON

2017 Adoption

Contract Effective

February 2018–June 2024

Category 1: Health Education (Grades K-5)

Category 2: Health Education (Grades 6-8)

Category 3: Health Education (Grades 9-12)

Category 4: Physical Education (Grades K-5)

Category 5: Physical Education (Grades 6-8)

Category 6: Physical Education (Grades 9-12)



A circular of information pertaining to the adoption of instructional materials in Oregon. Issued at the direction of Salam Noor, Deputy Superintendent of Public Instruction, Salem, Oregon 97310

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CIRCULAR OF INFORMATION

January 2017

TO	Publishers of Instructional Materials
FROM	Salam Noor, Deputy Superintendent of Public Instruction, Oregon Department of Education, Salem, Oregon 97310
SUBJECT	Information pertaining to the forthcoming adoption of instructional materials in Oregon. In compliance with the laws of Oregon, now in force, covering the adoption of instructional materials for the schools of Oregon, I am directed by the State Board of Education to issue this circular in accordance with the provisions of the aforesaid laws.
MEETING DATE AND PLACE	October 2017 State Board of Education Oregon Department of Education 255 Capitol Street NE Salem, Oregon 97310
SUBJECT CATEGORIES FOR BASAL ADOPTIONS*	Category 1: Health Education (Grades K-5) Category 2: Health Education (Grades 6-8) Category 3: Health Education (Grades 9-12) Category 4: Physical Education (Grades K-5) Category 5: Physical Education (Grades 6-8) Category 6: Physical Education (Grades 9-12)
OREGON INSTRUCTIONAL MATERIALS SUMMARY FORM	All publishers are required to prepare Oregon instructional materials Summary Form which includes documentation and analysis on their submitted instructional materials showing how they conform to the criteria adopted by the State Board of Education for the review and selection of instructional materials. Forms for preparing such summary forms are available from the State Instructional Materials Services, Department of Education. Completed summary forms must be submitted to appropriate evaluation committee members and Department of Education staff as directed by the State Instructional Materials Services. (OAR 581-011-0095-2) The proposal shall include documentation and analysis on each textbook showing how it conforms to the guidelines and criteria adopted by the State Board of Education for the review and adoption of textbooks. (ORS 337.060-2)
SUBMISSION FEES	ORS 337.065 requires the Department of Education to collect from each publisher or supplier who submits a proposal a fee equal to the retail price, or \$50, whichever is the greater, for each textbook title or item of instructional material proposed by the publisher or supplier for review and adoption by the board. Fees are payable prior to consideration of the proposal.
SUBMISSION FORMS	In order for the Department of Education to assess the proper fee, publishers or suppliers are required to complete a "Submission Form" listing the retail price of each item and the required fee. Submission forms and instructions for completing the forms may be obtained from the State Instructional Materials Services, Department of Education, 255 Capitol Street NE, Salem, Oregon 97310.

***BASAL ADOPTIONS**

Basal instructional programs may be adopted by the State Board of Education. (OAR 581-011-0050-3)

Instructional material for purposes of Oregon law is defined "...as any organized system which constitutes the major instructional vehicle for a given course of study or any part thereof. A major instructional vehicle may include such instructional items as a hardbound or softbound book or books, or sets or kits of print and non-print materials, including electronic and internet or web-based materials or media." (OAR 581-011-0050)

**PROPOSAL
(BID)
FORMS**

Proposals must be submitted on forms supplied by the State Instructional Materials Services, Department of Education. These forms and instructions for completing them will be sent to those submitting materials in the adoption.

The general form of proposals is substantially as follows:

INSTRUCTIONAL MATERIALS PROPOSAL

This proposal is an agreement between the Oregon Department of Education and Publishing Companies for the distribution and handling of the instructional materials proposed in the Health and Physical Adoption.

In compliance with the laws of the State of Oregon governing the adoption of instructional materials by the State Board of Education, we submit our proposal for the supply of the instructional materials, which will be listed on the bid sheets for the Health and Physical Education Adoption and further agree to comply with the current contract.

337.060 Submission of proposals by publishers. (1) The proposals of each publisher shall be submitted to the Department of Education in writing and shall be responsive to the requirements of ORS 337.030 (2) and (3), and such other information relating to the terms and conditions under which the publisher proposes to furnish textbooks or instructional materials as the State Board of Education may require. (2) In addition to the material required under subsection (1) of this section, the proposal shall include documentation and analysis on each textbook or instructional material showing how it conforms to the guidelines and criteria adopted by the State Board of Education for the review and adoption of textbooks and instructional materials.

Oregon Laws pertaining to the review and adoption of instructional materials are available at

<http://www.oregon.gov/ode/educator-resources/teachingcontent/instructional-materials>

The publisher further agrees:

1. To comply with all laws of the State of Oregon and rules of the Board for the distribution and handling of adopted instructional materials during the life of the contract.
2. To maintain the type, binding, paper, general mechanical execution and other material aspects of the instructional materials to a quality that is equal to or better than the sample submitted to the Board with this proposal.
3. To reduce in Oregon the wholesale or retail price of the instructional materials named in this proposal if there is a reduction in the wholesale or the retail price of the instructional materials during the life of the contract in any other state or territory in the United States.
4. To establish and maintain a depository(s) at a place or places designated by the Board where school districts and patrons may be continually supplied with instructional materials that are adopted by the Board.
5. To provide the instructional materials on the bid sheet(s) at the prices listed, specify the subject, category, and company name and shall list the author and exact title of each item of instructional material (including series title, if any), grade level, date of copyright, and prices.
6. That in this proposal the wholesale price f.o.b. at publisher represents a discount from the retail list price of __% and the same discount from the retail list price and that no greater discount is allowed wholesale at publisher or wholesale state depository than at any other point in the United States by our company or any of its agents.
7. To enter into a contract in conformance with this proposal and to execute a bond or an irrevocable letter of credit issued by a commercial bank in such sum as the Board may designate to secure the full and faithful performance of this contract by the publisher.

***EXPLANATION OF PRICE COLUMNS IN BOTH PROPOSAL AND CONTRACT FORMS**

1. *The wholesale price at depository is the price at which the instructional materials will be furnished to the State Board of Education and to school districts at the wholesale depository, or wholesale depositories, maintained in the state.*
2. *The retail price (list price) is the price at which the instructional materials will be furnished to the general public.*
3. *The wholesale price at publishers is the price at which the instructional materials will be furnished to the State Board of Education and to school districts f.o.b. at the place of publication.*
4. *On both the proposal and contract the wholesale at publisher price and the wholesale at depository price shall be the same thus requiring the publisher or the supplier to pay the freight to transport the contracted materials to the Oregon depository.*

**INSTRUCTIONAL
MATERIALS
CONTRACT
FORM**

The general form of contracts is substantially as follows:

THIS CONTRACT is entered into on the ____ day of _____, 20__, between the State Board of Education of the State of Oregon (“the Board”) and _____ (“the publisher”).

PURSUANT to ORS Chapter 337, the Board had a meeting on the ___ day of October 20__, and adopted the instructional materials described below for use in all public school districts in Oregon, except as provided under ORS 337.141, for six years beginning on the first day of February, 2018.

THE BOARD agrees to authorize the instructional materials for use in public school districts in the State of Oregon.

THE BOARD agrees to include the instructional materials in the list of instructional materials circulated by the Superintendent of Public Instruction under ORS 337.030.

THE PUBLISHER agrees to make available for sale in the State of Oregon during the term of this contract the attached instructional materials to Oregon public school districts in sufficient quantity, as needed, and of a quality of type, binding, paper, general mechanical execution and other material aspects equal to or better than the sample submitted to the Board by the publisher with the publisher’s written proposal.

THE PUBLISHER agrees to prepare and submit, on or before February 1, 2018, National Instructional Materials Accessibility Standards (NIMAS) file sets to the National Instructional Materials Accessibility Center (NIMAC) of those print instructional materials required by the Individuals with Disabilities Reauthorization Act of 2004 and shall comply with the terms and procedures set forth by NIMAC. Should the vendor be a distributor of the materials and not the publisher, the distributor agrees to immediately notify the publisher of its obligation to submit NIMAS file sets of the purchased products to NIMAC. The NIMAS file sets will be used for the production and use of alternate formats as permitted under Federal and State law.

THE PUBLISHER agrees to establish and maintain during the period of this contract in the State of Oregon a book depository at the Northwest Textbook Depository (“State Depository”) located at 17970 SW McEwan Road, Portland, Oregon 97224-7218.

THE PUBLISHER agrees to comply with the laws of the State of Oregon and the rules of the Board relating to the adoption, place of deposit, and the sale of instructional materials in Oregon public school districts.

THE PUBLISHER agrees not to charge or sell these instructional materials in Oregon during the term of this contract at a price greater than is charged for such instructional materials in any other state or territory of the United States. For purposes of this Contract, “price” means F.O.B. wholesale at publisher and F.O.B. wholesale at State Depository. If the publisher reduces the price of the instructional materials in any other state or territory, it shall provide a corresponding reduction in the price offered to Oregon public school districts.

THE PUBLISHER agrees that the instructional materials furnished under this contract shall at all times be equal in all respects to the specimen copies furnished with the bid and the provisions of ORS 337.060, as to the content, paper, print, and binding, and no material alteration in said instructional materials shall, during the life of this Contract, including any extension thereof as herein provided, be made without the consent in writing of the Oregon Department of Education. Provided, any typographical errors that may be found in such instructional materials, or errors of fact, shall be corrected by the Publisher. Publisher may provide software updates that add new content, substitute replacement content and enhance the functionality, performance, or accuracy of the instructional materials, but in no case shall any change be made in any instructional material that would result in a change in how it conforms to the guidelines and criteria adopted by the State Board of Education. If such a change is made, it must be submitted for review by the State Board of Education as indicated in OAR 581-011-0086 and 581-011-0087. Any revised instructional materials must be sold at the same or lower price as those instructional materials previously approved.

UPON EXECUTION of this contract, the publisher agrees to furnish a good and sufficient surety bond or irrevocable letter of credit issued by a commercial bank in the sum of \$10,000, payable to the State of Oregon for the full and faithful performance of the publisher’s obligations under this contract. The publisher’s execution of a surety bond or irrevocable letter of credit shall not limit the publisher’s liability to the State of Oregon, any public school district or any other person for failure of the publisher to comply with any terms of this contract.

THE BOARD may terminate this contract in whole or in part by written notice of default (including breach of contract) to the publisher if the publisher fails to perform any of the publisher's obligations under this contract in accordance with its terms, and after receipt of written notice from the State Superintendent of Public Instruction, fails to correct such failures with 10 days or such longer periods as the State Superintendent may authorize. The rights and remedies of the Board provided in this paragraph relating to defaults by the publisher shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

THE PUBLISHER shall defend, save and hold harmless the State of Oregon, the Board, the Department of Education, its officers, agents and employees, from all claims, suits or actions resulting from or arising out of the activities of the publisher or its subcontractors, agents or employees under this contract.

THE STATE BOARD OF EDUCATION and the publisher hereto have caused the contract to be executed the day and date first written above.

OREGON REVISED STATUTES (ORS) RELATING TO ADOPTION OF INSTRUCTIONAL MATERIALS*

337.030 Annual circular to school textbook publishers.

The Superintendent of Public Instruction shall, under the direction of the State Board of Education, mail a copy of a circular to all the leading school textbook publishers in the United States. The circular shall contain:

- (1) The name and post office address of the State Board of Education.
- (2) The time and place of meeting of the board to review and adopt textbooks.
- (3) The general form of the proposal to be followed by publishers in submitting textbooks for review and adoption.
- (4) The general form of contract to be entered into between the board and a publisher whose textbooks may be adopted.
- (5) The branches of study for which textbooks are to be adopted.
- (6) The statutory provisions relating to the review and adoption of textbooks.
- (7) Such additional information as may be considered useful.

337.035 Establishment of guidelines and criteria for review and selection of textbooks and instructional materials; rules.

The State Board of Education by rule shall establish guidelines and criteria for the review and selection of textbooks and other instructional materials to be placed on the list adopted under ORS 337.050.

337.050 List of textbooks and instructional materials.

- (1) The State Board of Education shall review and adopt, for periods established by the board, a list of textbooks and other instructional materials for use by school districts. The list shall contain, whenever possible:
 - (a) More than one textbook selection for each grade and subject field in the standard curriculum for which, in its judgment, textbooks are required; and
 - (b) More than one instructional material selection for each grade and subject field in the standard curriculum for which, in its judgment, instructional materials are required.
- (2) The State Board of Education shall consider the best educational interests of the students as well as the most economical method of purchasing textbooks and instructional materials in setting periods for textbook and instructional materials review and adoption.
- (3) The board shall refrain from adopting any textbook or instructional materials in a subject field whenever it finds that no textbook or instructional materials can be documented as meeting, to the degree determined by the board, the guidelines and criteria established by the board for textbooks and instructional materials.

(4) The board may approve the request of a publisher to substitute a more recent edition of any officially adopted textbook or item of instructional material in lieu of the edition or item adopted by the board.

337.060 Submission of proposals by publishers.

- (1) The proposals of each publisher shall be submitted to the Department of Education in writing and shall be responsive to the requirements of ORS 337.030 (3) and (4), and such other information relating to the terms and conditions under which the publisher proposes to furnish textbooks as the State Board of Education may require.
- (2) In addition to the material required under subsection (1) of this section, the proposal shall include documentation and analysis on each textbook showing how it conforms to the guidelines and criteria adopted by the State Board of Education for the review and adoption of textbooks.

337.065 Publisher fee.

- (1) The Department of Education shall collect from each publisher or other supplier who submits a proposal under ORS 337.060 a fee equal to the retail price, or \$50, whichever is the greater, for each textbook title or item of instructional material proposed by the publisher or supplier for review and adoption by the board. Fees are payable prior to consideration of the proposal.
- (2) The moneys received under subsection (1) of this section shall be paid into the State Treasury and placed to the credit of the Department of Education. The moneys are continuously appropriated to meet expenses incurred under this chapter.

337.075 Adoption or rejection of proposals.

- (1) The State Board of Education may adopt or reject any textbook contained in any proposal. If the terms and conditions for furnishing a textbook in all proposals relating to that textbook are considered by the board to be unreasonable or the textbook is considered to be unsuitable pursuant to guidelines and criteria established by the board, the board may reject the textbook.
- (2) At the same or subsequent sessions, the board may receive new proposals for a textbook previously rejected and adopt the textbook in the same manner as other textbooks are required to be adopted. No proposal shall be considered unless the publisher has delivered without charge two copies of each textbook contained in the proposal to the Department of Education at least 60 days before the meeting.

337.080 Report of textbook and instructional materials adoptions.

The State Board of Education shall immediately report to the public the textbooks and instructional materials that have been adopted and placed on the list under

**INSTRUCTIONAL MATERIALS/TEXTBOOKS – The 1953 Legislature amended the textbook law to make it possible for instructional materials other than textbooks to be adopted if the need should arise. In this pamphlet, where the word “textbook” is used, it may be construed to mean “textbooks and instructional materials.”*

ORS 337.050. The report shall be signed by the chairperson of the board.

337.090 Contract with publisher, terms; security breach; remedies.

(1) The State Board of Education, as soon as practicable, shall enter into a written contract with each publisher the textbook of which has been adopted. The contract shall require the publisher to maintain at least one depository to be designated by the board, where such textbooks may be purchased and to furnish such textbooks according to law and the conditions named in the proposal.

(2) The board shall take from each publisher entering into a contract a good and sufficient bond, or an irrevocable letter of credit issued by an insured institution, as defined in ORS 706.008, in such sum as stipulated damages as the board may determine, payable to the State of Oregon for the benefit of the Common School Fund, executed by the publisher as obligor together with a surety company authorized to do business in this state as surety and approved by the board, for the full and faithful performance of the contract.

(3) If any publisher fails to carry out the provisions of the contract on the part of the publisher, or, with intent to evade the provisions of the contract, sells any of the textbooks in this state at prices higher than specified in the contract of the publisher, the board may, on behalf of the state, rescind the contract and notify the publisher thereof, or bring the appropriate action or suit to enforce the provision of the publisher's bond or letter of credit.

337.100 Circular of adopted textbooks and instructional materials.

The Superintendent of Public Instruction shall, under the direction of the State Board of Education, issue a circular giving the full title of each textbook and a description of the instructional materials adopted by the board and placed on the list under ORS 337.050. The circular may include such other information as the board may consider useful.

337.110 Selection of substitute or additional textbooks and instructional materials.

If at any time during the period for which a textbook or other instructional materials is on the approved list adopted under ORS 337.050, it becomes necessary for the State Board of Education to adopt any textbook or other instructional material instead of those regularly adopted, the chairperson of the board may call a special session of the board. It may, upon convening adopt such textbook or other instructional material in the same manner as other textbooks or other instructional materials are required to be adopted; except the Superintendent of Public Instruction need not in such case cause circulars described in ORS 337.030 to be sent to publishers.

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337.120 School board adoption and use of approved textbooks and instructional materials.

(1) Except as otherwise provided by ORS 337.141, the district school board, with the assistance of teachers and administrators of the district, shall adopt textbooks and other instructional materials for each grade and subject field for which instruction is provided by the district school board from the approved list. The district school board shall involve parents and citizens in the process.

(2) The district school board shall cause the books or materials, according to titles, so adopted to be used in its schools at the beginning of the next school year following the state adoption, except when, pursuant to rules of the State Board of Education, the district school board is authorized by the Superintendent of Public Instruction to postpone such use for a reasonable period of time.

337.141 Textbook and instructional materials adoption and use by school boards.

Upon prior notice to the State Board of Education, the district school board of any school district may adopt and use textbooks or other instructional materials in place of or in addition to those adopted by the State Board of Education provided they meet the guidelines and criteria established by the State Board of Education.

337.150 School board and charter school duty to provide textbooks

(1) Subject to ORS 339.155, each district school board shall provide textbooks, prescribed or authorized by law, for free use by all resident public school pupils enrolled in kindergarten through grade 12.

(2) Subject to ORS 339.155, each public charter school as defined in ORS 338.005 shall provide textbooks, prescribed or authorized by law, for free use by all pupils enrolled in the public charter school.

337.260 Textbooks on American history and government.

Every district school board, the State Board of Education and every committee or officer responsible for the adoption of textbooks for use in the public schools shall adopt textbooks on American history and government which adequately stress the services rendered by those who achieved our national independence, who established our form of constitutional government and who preserved our federal union. Respect for all people, regardless of race, color, creed, national origin, age, sex, or disability, and their contributions to our history and system of government shall be reflected in the textbooks adopted by the State Board of Education.