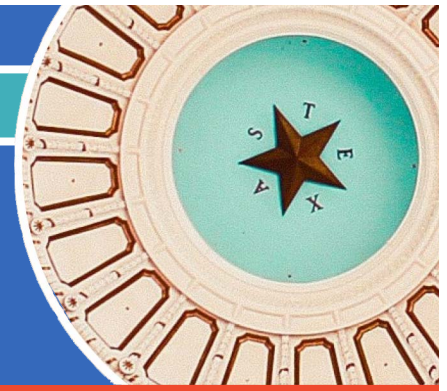


HB 900

Relating to the regulation of library materials sold to or included in public school libraries.

Author: Representative Jared Patterson
Sponsor: Senator Angela Paxton



General Description:

[House Bill 900](#) (HB 900) establishes regulatory authority for preventing the sale of library materials that are deemed to contain sexually relevant or sexually explicit content. Additionally, this legislation requires library material vendors to self-report any materials that may have sexually relevant or sexually explicit content. TEA is required to publish a list of books that vendors report have sexually relevant or sexually explicit material and any library material vendors that fail to comply with the legislation.

By January 1, 2024, the Texas State Library and Archives Commission (TSLAC), in consultation with the State Board of Education (SBOE), must adopt voluntary standards for library services, other than collection development, that a school district must consider in developing, implementing, or expanding library services. TSLAC, with the approval of the SBOE, must adopt standards for school library collection development that a school district must adhere to in developing or implementing the district's library collection development policies. These standards must include a collection development policy that

- prohibits the possession, acquisition, and purchase of harmful material, as defined by Texas Penal Code §43.24; library material rated sexually explicit by the vendor; or library material that is pervasively vulgar or educationally unsuitable as referenced in *Pico v. Board of Education*, 457 U.S. 853 (1982);
- recognizes that obscene content is not protected by the First Amendment to the United States Constitution;
- is required for all library materials available for use or display, including material contained in school libraries, classroom libraries, and online catalogs;
- recognizes that parents are the primary decision makers regarding a student's access to library material;
- encourages schools to provide library catalog transparency;
- recommends schools communicate effectively with parents regarding library collection development; and
- prohibits the removal of material based solely on the ideas contained in the material, or personal background of the author of the material or characters in the material.

The standards adopted by TSLAC must be reviewed and updated every 5 years.

HB 900 prohibits a library material vendor from selling library materials to a school district or charter school unless the vendor has issued appropriate ratings regarding sexually explicit material and sexually relevant material previously sold to a district or school. A library material vendor is required to perform a contextual analysis of the material to **39**

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Impact of Legislation

Effective Date

- September 1, 2023

Rulemaking

- The State Board of Education must consult on the TSLAC voluntary standards for library services and must approve TSLAC's standards for school library collection development.
- The Commissioner of Education may adopt rules to implement the new requirements of this legislation.

Other Actions Required

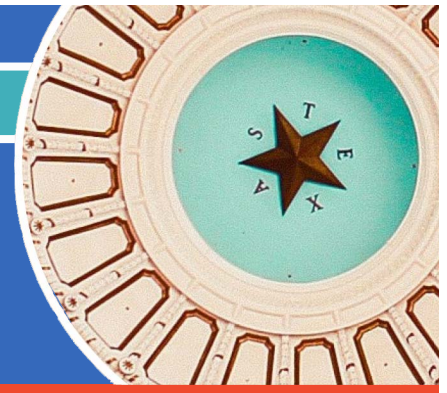
- TEA will post on the agency's website a report from library materials vendors that lists books that contain sexually relevant and sexually explicit material.
- TEA will post on the agency's website a list of vendors that fail to comply with reporting books that are rated as sexually explicit or sexually relevant.

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determine whether it describes, depicts, or portrays sexual conduct in a way that is patently offensive. Vendors may not sell any books with sexually explicit content going forward and must issue a recall for all copies of library materials sold to a district or open-enrollment charter school that are rated as sexually explicit and in active use. No later than April 1, 2024, each library material vendor must develop and submit to TEA a list of materials rated as sexually explicit or sexually relevant sold by the vendor to a school district or open-enrollment charter school that are still in active use. Each library material vendor must submit an updated list to TEA by September 1st of each year.

TEA must post each list submitted by a library material vendor in a conspicuous place on the agency's website as soon as practicable. HB 900 permits TEA to review each library material sold by a vendor that is not rated or that is incorrectly rated by the vendor, as sexually explicit material, or sexually relevant material, or not rated. If TEA determines that the library material is required to be rated as sexually explicit or sexually relevant material, or to receive no rating at all, the agency is required to notify the vendor in writing. The notice must include information regarding the library material vendor's duty and provide the corrected rating. A library material vendor, no later than 60 days after receiving a written notice from TEA, is required to rate the library material according to the agency's corrected rating and notify the agency of the action taken. TEA must post on the agency's website a list of library material vendors that fail to comply with requirements to correct ratings. A school district or open-enrollment charter school is prohibited from purchasing library materials from a library material vendor that is on TEA's posted list of noncompliance. A library material vendor placed on the list of noncompliance may petition TEA for removal from the list. TEA is permitted to remove a vendor from the list, only if the agency is satisfied that the vendor has taken appropriate action to correct a library material's rating. Furthermore, HB 900 establishes that a school district, open-enrollment charter school, teacher, librarian, or other staff member is not liable for any claim or damage resulting from a library material vendor's violation of this statute.

This legislation requires each school district and open-enrollment charter school, not later than January 1st of every odd-numbered year, to

- review the content of each library material in the catalog of a district or school library that is rated as sexually relevant material by the library material vendor;
- determine, in accordance with the district's or school's policies regarding the approval, review, and reconsideration of school library materials, whether to retain each library material reviewed in the school library catalog; and
- either post a report in a conspicuous place on the district or school's website or provide physical copies of a report at the central administrative building.

The report must include the title of each library material reviewed, the district's or school's decision regarding the library material, and the school or campus where the library material is currently located.