



AGENDA ITEM ACTION SHEET

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House Bill 900 (HB 900) Overview

RECOMMENDED ACTION

For Presentation/Discussion only.

RATIONALE

House Bill (HB) 900, relating to the regulation of library materials sold to or included in public school libraries, was signed by the Governor on June 13, 2023. The law makes several changes with implementation timelines effective over the next several years. Generally, HB 900 makes amendments to the authority of the Texas State Library and Archives Commission (TSLAC), the requirements of school library vendors, and the definitions of what is considered sexually relevant or sexually explicit material. Additionally, the bill creates requirements for the Texas Education Agency (TEA) and local school districts regarding their enforcement of these provisions.

It is important to note that Lake Travis ISD’s obligations under the bill are primarily dependent on actions that must first be completed by TSLAC, TEA and library book vendors. The first independent action required of LTISD is due no later than January 1, 2025.

Below is a detailed summary of HB 900. The district's obligations are highlighted in **yellow**.

Definitions: HB 900 defines “sexually explicit material” as any communication, language, or material, including a written description, illustration, photographic image, video image, or audio file, other than library material directly related to kindergarten through twelfth grade curriculum, that describes, depicts, or portrays sexual conduct in a way that is patently offensive.

The bill defines “sexually relevant material” as any communication, language, or material, including a written description, illustration, photographic image, video image, or audio file, other than library material directly related to kindergarten through twelfth grade curriculum, that describes, depicts, or portrays sexual conduct.

The bill defines a “library material vendor” to include any entity that sells library materials to a public primary or secondary school in Texas.



Library standards: HB 900 amends the Education Code, requiring the TSLAC, in consultation with the State Board of Education, to adopt voluntary standards for school library services, other than collection development, for a school to consider in developing, implementing, or expanding library services.

The bill requires TSLAC, with approval by majority vote of the State Board of Education, to adopt standards for school library collection development that a school district would adhere to in developing or implementing the district's library collection development policies. The standards are required to be

adopted not later than January 1, 2024, and would be reviewed and updated annually and include a collection development policy that:

- prohibits the possession, acquisition, and purchase of harmful material, library material rated sexually explicit material by the selling library material vendor, or library material that is pervasively vulgar or educationally unsuitable as established in constitutional precedent;
- recognizes that obscene content is not protected by the First Amendment;
- is required for all library materials available for use or display, including material contained in school libraries, classroom libraries, and online categories;
- 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 collection development; and
- prohibits the removal of material based solely on the ideas contained in the material, or the personal background of the author of the material or the characters in the material.

Ratings required: The bill prohibits a library material vendor from selling library materials to a district unless the vendor has issued appropriate ratings regarding sexually explicit material and sexually relevant material previously sold to a district or school. A vendor could not sell library material rated sexually explicit material and would issue a recall for all copies sold to a district that was rated sexually explicit and in active use by the district.

No later than April 1, 2024, each library material vendor must develop and submit to TEA a list of library material rated sexually explicit or sexually relevant sold by the vendor to a district before that date and still in active use by the district. No later than September 1 of each year, each vendor will be required to submit to TEA an updated list of such library materials sold during the preceding year and still in active use by a district. TEA is required to post each list in a conspicuous place on the agency's website.



Rating Guidelines: Requires a library material vendor, for purposes of determining whether a library material is sexually explicit, to perform a contextual analysis of the material to determine whether the material describes, depicts, or portrays sexual conduct in a way that is patently offensive. Requires a library material vendor to consider the following three principal factors with respect to the material:

1. the explicitness or graphic nature of a description or depiction of sexual conduct contained in the material;
2. whether the material consists predominantly of or contains multiple repetitions of depictions of sexual or excretory organs or activities; and
3. whether a reasonable person would find that the material intentionally panders to, titillates, or shocks the reader.

Requires a library material vendor to determine whether a description, depiction, or portrayal of sexual conduct contained in a material is patently offensive, to consider the full context in which the description, depiction, or portrayal of sexual conduct appears, to the extent possible, recognizing that contextual

determinations are necessarily highly fact-specific and require the consideration of contextual characteristics that may exacerbate or mitigate the offensiveness of the material.

TEA review and school/staff liability: The bill allows TEA to review library material sold by a vendor that was not rated or incorrectly rated by the vendor as sexually explicit material, sexually relevant material, or no rating. TEA would be required to provide written notice to the vendor if the agency determined the library material was required to be rated as sexually explicit or sexually relevant. The notice would include information regarding the vendor's rating duty and provide the corrected rating required for the library material. No later than the 60th day after the date the vendor received notice regarding such material, the vendor would be required to rate the library material according to the TEA-corrected rating and notify TEA of the updated rating.

TEA is required to post and maintain a list of vendors who failed to update the rating and notify TEA on its website. **The bill prohibits a district or school from purchasing library material from a vendor on the list.** A vendor on the list could petition TEA for removal from the list. TEA could remove the vendor from the list only if TEA was satisfied that the vendor had taken appropriate actions to update the rating and notify TEA.

A district or school or a teacher, librarian, or other staff member of a school or district would not be liable for any claim or damage resulting from a vendor's violation of the bill's provisions.



Review and reporting of library materials: No later than January 1 of every odd-numbered year, HB 900 requires each district to:

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

The bill requires the report to include the title of each relevant reviewed library material, the district’s decision regarding the library material, and the school or campus where the library material is currently located.

Parental consent: The bill prohibits a district from allowing a student to reserve, check out, or otherwise use outside the school library any library material the vendor had rated as sexually relevant material unless the district or school first obtained consent from the student’s parent or guardian.

Other provisions: The bill requires each library material vendor to submit the required initial list no later than April 1, 2024. The bill also requires each school district to conduct the initial content review and submit the required initial report no later than January 1, 2025.

BUDGET PROVISIONS

None

RESOURCE PERSONNEL

Allyson Collins - General Counsel

ATTACHMENTS

None

MEETING DATE

July 19, 2023