

Date of Hearing: June 12, 2024

ASSEMBLY COMMITTEE ON EDUCATION
Al Muratsuchi, Chair
SB 1412 (Ochoa Bogh) – As Amended June 3, 2024

SENATE VOTE: 39-0

SUBJECT: Instructional Quality Commission: qualifications: prohibited communications

SUMMARY: Prohibits publishers, distributors, and retailers of instructional materials or professional development materials, and their representatives, from being eligible for appointment to the Instructional Quality Commission (IQC) or selected to serve on any committee, subcommittee, or working group of the IQC, and codifies and expands the existing prohibition on communications between publishers, distributors, and retailers of instructional materials or professional development materials, and their representatives, and members of the IQC, as specified. Specifically, **this bill:**

- 1) Prohibits publishers, distributors, and retailers of instructional materials or professional development materials, and their representatives, from being eligible for appointment to the IQC or selected to serve on any committee, subcommittee, or working group of the IQC, including, but not limited to, Curriculum Framework and Evaluation Committees, Subject Matter Expertise Committees (SME), and curriculum framework writing teams.
- 2) Prohibits publishers, distributors, and retailers of instructional materials or professional development materials, and their representatives, from being selected to serve as facilitators, Instructional Material Reviewers (IMR), or Content Reviewer Experts (CRE).
- 3) States the intent of the Legislature to codify and expand the prohibitions in Section 9514 of Title 5 of the California Code of Regulations (CCR).
- 4) Prohibits publishers, distributors, and retailers of instructional materials or professional development materials, and their representatives, from communicating with facilitators, IMRs, CREs, during their tenure, and facilitators, from communicating with publishers, distributors, and retailers of instructional materials or professional development materials, and their representatives, about anything related to the evaluation or adoption of instructional materials submitted for adoption, other than when publishers, distributors, or retailers of instructional materials or professional development materials, or their representatives, are making presentations or providing public comment in open publicly noticed meetings.
- 5) Permits facilitators, IMRs, CREs, and members of the IQC to contact publishers, distributors, or retailers of instructional materials or professional development materials, or their representatives, for technical assistance in using electronic instructional materials and allows publishers, distributors, and retailers of instructional materials or professional development materials, and their representatives to communicate with the chair of the IQC, or the chair's designee, or the chair of the subject matter committee, or the chair's designee, involved in the adoption during the time set forth for deliberations.

- 6) Permits the SBE to take corrective action, including disqualification of the publisher, facilitator, IMR, or CRE from further participation in the adoption at issue if a publisher, distributor, or retailer of instructional materials or professional development materials, or their representative, or a facilitator, instructional materials reviewer, or content review expert makes a prohibited communication.
- 7) Prohibits publishers, distributors, or retailers of instructional materials or professional development materials, or their representatives, from communicating with members of the IQC about anything related to the evaluation or adoption of instructional materials other than during the times for public comment in open publicly noticed meetings or through written submissions addressed to all members of the IQC in care of the executive director of the IQC, between the date set forth in the schedule of significant events when instructional materials are delivered to IMRs, CREs, and learning resources display centers (LRDCs) and the date when the State Board of Education (SBE) takes action to adopt.
- 8) Authorizes facilitators, IMRs, CREs, and members of the IQC to contact publishers, distributors, or retailers of instructional materials or professional development materials, or their representatives, for technical assistance in using electronic instructional materials and allows publishers, distributors, and retailers of instructional materials or professional development materials, and their representatives to communicate with the chair of the IQC, or the chair's designee, or the chair of the SME, or the chair's designee, involved in the adoption during the time set forth for deliberations.
- 9) Permits the SBE to take corrective action, including disqualification of the publisher and the member of the IQC from further participation in the adoption at issue, if a publisher, distributor, or retailer of instructional materials or professional development materials, or their representative, or members of the IQC make a prohibited communication.

EXISTING LAW:

California Code of Regulations (CCR):

- 1) Prohibits publishers or their representatives from communicating with facilitators, IMR, CRE, and facilitators, during their tenure, from communicating with publishers or their representatives, about anything related to the evaluation or adoption of instructional materials submitted for adoption, other than when publishers are making presentations or public comment in open publicly-noticed meetings.
- 2) Allows facilitators, IMRs, CREs, and Commissioners to communicate with publishers for technical assistance in using electronic instructional materials and allows publishers or their representatives to communicate with the chairperson, or designee, of the Commission or the chairperson, or designee, of the SMC involved in the adoption during the time set forth for deliberations. When publishers or their representatives, or facilitators, IMRs or CREs, make a prohibited communication, the SBE may take corrective action, including disqualification of the publisher, facilitator and IMR or CRE from further participation in the adoption. (CCR Title 5 9514 (a))
- 3) Prohibits a publisher from communicating with members of the IQC about anything related to the evaluation or adoption of instructional materials other than during the times for public

comment in open publicly noticed meetings or through written submissions addressed to all commissioners in care of the Executive Director of the IQC, between the date set forth in the Schedule of Significant Events when instructional materials are delivered to IMRs, CREs and LRDCs and the date when the SBE takes action to adopt, but allows publishers or their representatives to communicate with the chairperson, or designee, of the Commission or the chairperson, or designee, of the Subject Matter Committee involved in the adoption during the time set forth for deliberations. When publishers, their representatives, or commissioners make a prohibited communication, the SBE may take corrective action, including disqualification of the publisher and the Commissioner from further participation in the adoption. (CCR Title 5 9514 (b))

Education Code (EC):

- 4) Establishes the IQC, consisting of a Member of the Assembly appointed by the Speaker of the Assembly, a Member of the Senate appointed by the Senate Committee on Rules, one public member appointed by the Speaker of the Assembly, one public member appointed by the Senate Committee on Rules, one public member appointed by the Governor, and 13 public members appointed by the SBE upon the recommendation of the Superintendent of Public Instruction (SPI) or the members of the SBE, with at least 7 of the 13 public members who, because they have taught, written, or lectured on the subject matter fields in the course of public or private employment, have become recognized authorities or experienced practitioners in those fields. (EC 33530)
- 5) Requires the IQC to perform all of the following duties:
 - a) Recommend curriculum frameworks to the SBE;
 - b) Develop criteria for evaluating instructional materials submitted for adoption so that the materials adopted shall adequately cover the subjects in the indicated grade or grades and comply with the Fair, Accurate, Inclusive and Respectful (FAIR) Act, and consistent with the model instructional materials, as specified;
 - c) Study and evaluate instructional materials submitted for adoption;
 - d) Recommend instructional materials for adoption to the SBE;
 - e) Recommend to the SBE policies and activities to assist the California Department of Education (CDE) and school districts in the use of the curriculum framework and other available model curriculum materials for the purpose of guiding and strengthening the quality of instruction in public schools; and
 - f) Advise and make recommendations to the SBE, including, but not limited to, what policies and activities are needed to implement the state's academic content standards, and bring the state's curriculum frameworks, instructional materials, professional development programs, pupil assessments, and academic accountability systems into alignment with those standards. (EC 60204)
- 6) Requires the SBE to adopt basic instructional materials for use in kindergarten through grade 8. Requires the SBE to adopt at least five sets of basic materials in the subject of language

arts, mathematics, science, social science, bilingual or bicultural subjects, and any other discipline which it determines is necessary or desirable. (EC 60200)

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

Need for the bill. According to the author, “SB 1412 would codify the Board of Education’s regulations pertaining to prohibited communications, and equally apply these regulations to representatives of organizations that create curricula and instructional materials at the high school level, or provide professional development in the use of such products in grades K-12. This will close a loophole in state regulations that currently only apply to the state approval of materials adopted for K-8 students. By prohibiting communications between representatives of potentially conflicted organizations and various curriculum committees, commissions, and boards, all levels of K-12 curriculum development and materials adoption will be better protected from conflicts of interest.”

Major provisions of this bill. This bill:

- 1) Prohibits publishers, distributors, and retailers of instructional materials or professional development materials, and their representatives, from being appointed to the IQC or being selected to serve as facilitators, IMRs, or CREs;
- 2) Codifies existing regulations which prohibit communication between publishers and the IQC and its committees, and expands the individuals subject to the prohibitions on communication to include distributors and retailers of instructional materials or professional development materials, and their representatives;
- 3) Adds professional development materials to the materials about which this communication is prohibited.

Existing prohibitions on communication between publishers and the IQC. CCR Title 5 Section 9514 currently prohibits publishers or their representatives from communicating with members, facilitators, IMRs, and CREs during their tenure and facilitators, IMRs, and CREs during their tenure about anything related to the evaluation or adoption of instructional materials submitted for adoption, other than when publishers are making presentations or public comment in open, publicly-noticed meetings. The regulations still allow facilitators, IMRs, CREs, and Commissioners to contact publishers for technical assistance in using electronic instructional materials.

These regulations also prohibit communication with the IQC about anything related to the evaluation or adoption of instructional materials other than during the times for public comment in open publicly-noticed meetings, or other than through written submissions addressed to all Commissioners in care of the Executive Director of the Commission, between the date set forth in the Schedule of Significant Events when instructional materials are delivered to IMRs, CREs and LRDCs and the date when the SBE takes action to adopt but still allows publishers or their representatives to communicate with the chairperson, or designee, of the IQC or the chairperson, or designee, of the SME involved in the adoption during the time set forth for deliberations.

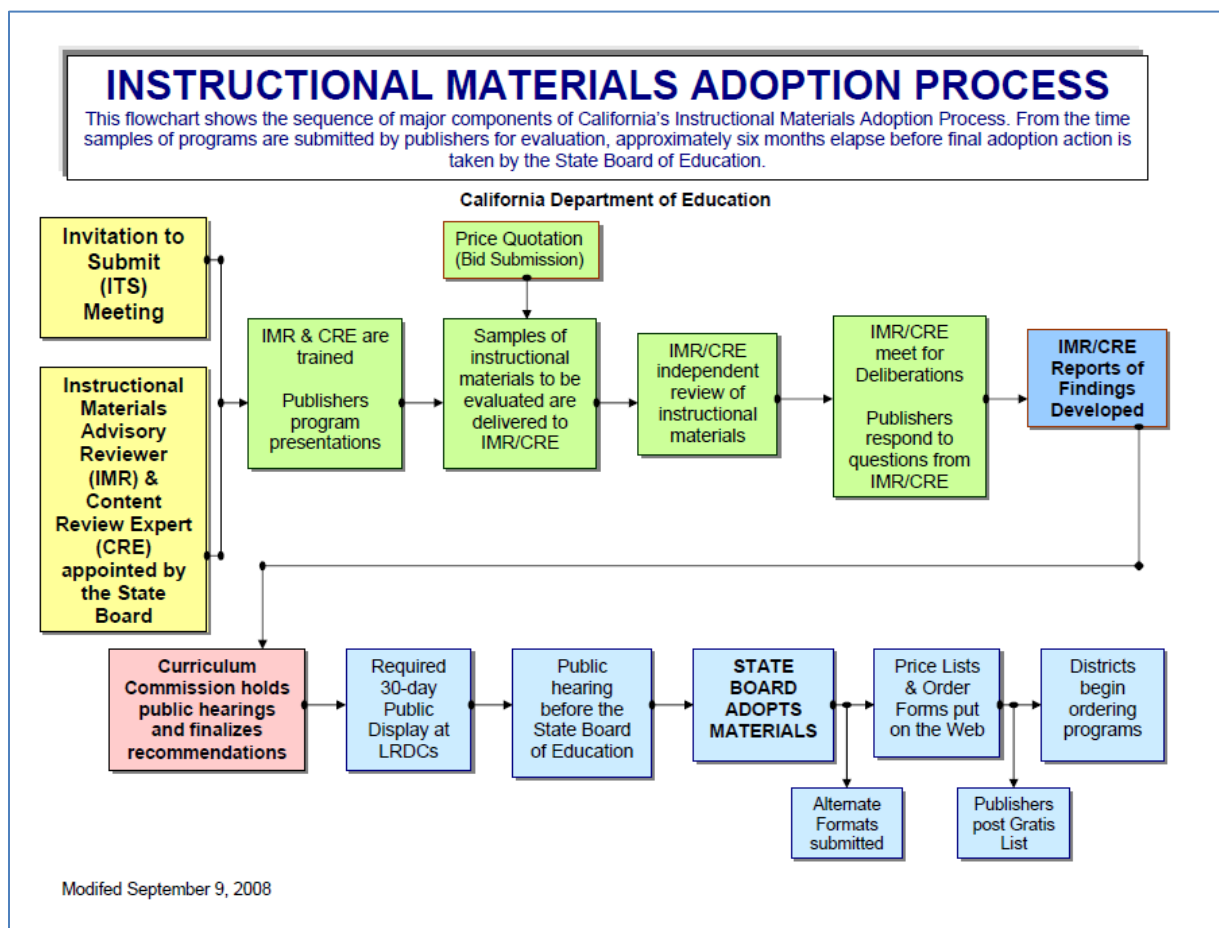
If there is any prohibited communication, as specified above, the SBE may take corrective action, including disqualification of the publisher from further participation in the adoption.

Standards, frameworks, instructional materials, local adoption. The Legislature has vested the IQC and SBE with the authority to develop and adopt state curriculum and instructional materials. The IQC develops content standards and curriculum frameworks in each subject by convening expert panels, developing drafts, and holding public hearings to solicit input. Changes are frequently made in response to public comment. The SBE then adopts the frameworks in a public meeting.

The SBE also adopts, in a public process, instructional materials aligned to those frameworks for grades K-8. School district governing boards and charter schools adopt instructional materials aligned to these standards and frameworks. Local adoption of new curricula involves significant local cost and investment of resources and professional development.

These existing processes involve practitioners and experts who have an in-depth understanding of curriculum and instruction, including the full scope and sequence of the curriculum in each subject and at each grade level, constraints on instructional time and resources, and the relationship of curriculum to state assessments and other measures of student progress.

Instructional materials adoption process. This bill is intended to reduce conflicts of interest between the state entities responsible for the development of curriculum and adoption of instructional materials. The chart below, published by the CDE in 2008, displays the process of the adoption of instructional materials (note that the process may have changed since then).



The CDE describes the process of instructional materials adoption as follows:

- 1) The SBE schedules each new instructional materials adoption after adopting a new or revised curriculum framework, each containing a chapter describing the criteria for evaluation of instructional materials.
- 2) The adoption process is designed to ensure broad public participation. The adoption process involves three concurrent steps:
 - Social content review;
 - Public review and comment; and
 - Education content review
- 3) The education content review is based on the associated SBE-adopted framework and the content standards it embodies. Evaluation criteria are developed by the IQC and adopted by the SBE and included within each curriculum framework. After a statewide recruitment and application process, the IQC recommends and the SBE appoints reviewers for the programs to be submitted by publishers.
- 4) These reviewers include both IMRs and CREs. The IMRs consist of classroom teachers (but may also include administrators, curriculum specialists, university faculty, and parents); CREs are subject-matter experts, typically university professors. Members of the IQC and CDE staff train reviewers in the use of the evaluation criteria and establish review panels of approximately 7–12 reviewers assigned to evaluate submitted programs. Reviewers apply this training knowledge, utilizing associated review tools, during an independent review of programs, then convene to review in panel deliberations sessions. Review panels reach consensus on submitted programs and prepare a Report of Findings detailing the program alignment with specific evaluation criteria. Members of the IQC consider these Reports of Findings and conduct their own review of submitted programs. The IQC subsequently develops an *Instructional Quality Commission Advisory Report* containing recommendations on each submission.
- 5) In its final adoption action, the SBE considers the review panels' Reports of Findings, the IQC Advisory Report, and all public comments prior to adopting or not adopting each publisher-submitted instructional materials program.

Appointments to the Instructional Quality Commission. The IQC consists of 18 members:

- Thirteen public members appointed by the State Board of Education;
- One public member appointed by the Governor;
- One public member appointed by the Speaker of the Assembly;

- One public member appointed by the Senate Rules Committee;
- One Assemblymember appointed by the Speaker of the Assembly; and
- One Senator appointed by the Senate Rules Committee.

Current law also specifies that at least seven of the 13 public members appointed by the State Board shall be recognized authorities in specific subject matter fields and be current K–12 classroom teachers, mentor teachers, or both.

Related Legislation. SB 1411 (Ochoa Bogh) of the 2023-24 Session would add to the IQC, 6 public members appointed by the Intersegmental Committee of the Academic Senates (ICAS) as specified.

SB 1410 (Ochoa Bogh) of the 2023-24 Session would require the state board, in adopting any revised mathematics curriculum framework on or after January 1, 2025, to include a requirement that grade 8 pupils be offered the opportunity to take an algebra course.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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