

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 315
Committee Substitute Favorable 3/26/19

Short Title: Instructional Material Selection.

(Public)

Sponsors:

Referred to:

March 11, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO MODERNIZE THE SELECTION OF INSTRUCTIONAL MATERIALS FOR
3 NORTH CAROLINA PUBLIC SCHOOLS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Part 3 of Article 8 of Chapter 115C is repealed.

6 **SECTION 2.** Article 8 of Chapter 115C of the General Statutes is amended by adding
7 a new Part to read:

8 "Part 3C. Selection of Instructional Material.

9 **"§ 115C-102.20. Definition of instructional materials.**

10 The following definitions apply in this Part:

11 (1) Health and safety programs. – Any instruction, curricula, or materials intended
12 to impart information or promote discussion or understanding regarding any
13 of the following:

14 a. Reproductive health and safety, as provided in
15 G.S. 115C-81.30(a)(1)-(13).

16 b. Mental and emotional health, as provided in G.S. 115C-81.25(c)(1).

17 c. Growth and development, as provided in G.S. 115C-81.25(c)(9).

18 d. Anti-bullying or anti-harassment.

19 (2) Instructional materials. – Systematically organized material comprehensive
20 enough to cover the primary objectives outlined in the standard course of
21 study for a grade or course. Formats for instructional materials may be print
22 or nonprint, including hardbound books, softbound books, activity-oriented
23 programs, classroom kits, or digital resources that require the use of electronic
24 equipment in order to be used in the learning process.

25 (3) Local committee. – A local community media advisory committee.

26 (4) Parent. – A student's parent or legal guardian.

27 (5) State Committee. – The State Community Media Advisory Committee.

28 (6) Supplemental materials. – Educational materials that supplement specific
29 instruction for the standard course of study selected and procured by a local
30 board of education for a grade or course or general education needs of the
31 school. Supplemental materials may include textbooks, library books,
32 periodicals, audiovisual materials, and other supplemental instructional
33 materials needed for instructional purposes in the local school administrative
34 unit. Supplemental materials may be print or nonprint, including hardbound
35 books, softbound books, activity-oriented programs, classroom kits, or digital



resources that require the use of electronic equipment in order to be used in the learning process.

- (7) Unfit materials. – Instructional or supplemental materials determined to be inappropriate for use in an elementary or secondary school because the material is either (i) obscene, (ii) inappropriate to the age, maturity, or grade level of the students, or (iii) not aligned with the standard course of study.

"§ 115C-102.25. Selection of instructional materials.

(a) Local Board Adoption. – Local boards of education shall select and adopt instructional materials for each standard course of study at each instructional level in the elementary school and the secondary school adopted by the State Board of Education, as provided in Part 1 of Article 8 of this Chapter.

(b) Evaluation of Instructional Materials Prior to Adoption. – For each standard course of study, the local board of education may require experts employed by the local board of education and certified in the discipline in which the instructional material would be used to offer evaluation reports to the local board on materials being considered for adoption. Such evaluation reports should give special consideration to the suitability of the instructional materials to the instructional level for which it is offered, the content or subject matter, whether the instructional materials are aligned with the standard course of study, and other criteria prescribed by the local board.

"§ 115C-102.30. Selection of supplemental materials.

(a) Local boards of education shall adopt written policies concerning the procedures to be followed in their local school administrative units for the selection and procurement of supplemental materials for a grade or course or for general education needs at a school or throughout the entire local school administrative unit. Local boards of education shall have sole authority to select and procure supplemental materials, whether or not the materials contain commercial advertising, to determine if the materials are related to and within the limits of the prescribed curriculum, and to determine when the materials may be presented to students during the school day.

(b) Supplemental materials shall neither displace nor be used to the exclusion of instructional materials.

"§ 115C-102.35. Selection of health and safety instructional and supplemental materials.

(a) When adopting, modifying, or amending a health and safety program and the instructional and supplemental materials for that program, a local board of education shall provide both electronic and written notice to all parents of students in the local school administrative unit of the opportunity to review those materials in the program repository, as provided in G.S. 115C-102.50.

(b) The notice to parents provided for in subsection (a) of this section shall include the following in both written and electronic form:

- (1) A detailed description of the program's objectives and any proposed changes, including any topics that the local board of education determines that a reasonable parent in that community may wish to examine as to the age appropriateness of the topics.
- (2) All written and audio materials that will be used.
- (3) A link to, or information on how to access, the program repository on the local school administrative unit's Web site, as provided in G.S. 115C-102.50.

"§ 115C-102.40. Purchase of instructional and supplemental materials.

(a) Funds allocated by the State Board of Education or appropriated in the current expense or capital outlay budgets of the local school administrative units shall be used by the local board of education for purchase, lease, or rental of instructional or supplemental materials and for hardware, software, or other equipment necessary for the use of the instructional or

1 supplemental materials. The title of those materials and equipment shall be vested in the local
2 board of education.

3 (b) Local boards of education are encouraged to partner with other local boards of
4 education and other public schools to jointly purchase instructional and supplemental materials.

5 (c) All instructional materials purchased with State funds shall include a clause granting
6 to the local board of education the license to produce braille, large print, and audio recording
7 copies of the instructional materials for use in the local school administrative unit.

8 (d) The local board of education shall publish on the Web site of the local school
9 administrative unit the title, author, and publisher of all instructional and supplemental materials
10 purchased by the local board of education.

11 **"§ 115C-102.45. Provision and maintenance of instructional and supplemental materials.**

12 (a) The students of the public elementary and secondary schools of the State shall be
13 provided with free instructional materials within the appropriation of the General Assembly for
14 that purpose. The local board shall provide for the free use by students, with proper care and
15 return, of elementary and secondary instructional materials. No local board of education may
16 charge any pupil a rental fee for the use of instructional materials or for hardware, software, or
17 other equipment necessary for the use of the instructional or supplemental materials.

18 (b) Local boards of education shall provide adequate and safe storage facilities for the
19 proper care of instructional and supplemental materials and emphasize to all students the
20 necessity for proper care of instructional and supplemental materials and equipment necessary
21 for the use of the instructional materials.

22 (c) A pupil's parents or legal guardians may be charged damage fees for abuse or loss of
23 instructional or supplemental materials or equipment necessary for the use of those materials
24 under rules adopted by the local board of education. Damage fees collected under this subsection
25 shall be used by the local board of education for purchase of instructional and supplemental
26 materials as provided in G.S. 115C-102.40.

27 **"§ 115C-102.50. Instructional materials repository.**

28 (a) A local board of education shall maintain a continuous repository of current
29 instructional and supplemental materials that have been selected and purchased by the local board
30 of education pursuant to this Article. The repository shall not be required to include classroom
31 materials developed by teachers. The materials shall be maintained at a central location for
32 in-person review by parents and the public upon request, and the names of all those materials
33 shall be posted to the local school administrative unit's Web site for review by parents and the
34 public.

35 (b) In addition to the requirements of subsection (a) of this section, a local board of
36 education shall also maintain a continuous repository of current objectives, entire curricula, texts,
37 and all other materials used in any health and safety program as follows:

38 (1) The current objectives, entire curricula, texts, and all other materials used in
39 any health and safety program shall be maintained at a central location for
40 in-person review by parents and the public upon request.

41 (2) Electronic copies of the current objectives, and names of curricula, texts, or
42 any other materials used in any health and safety program shall be posted to
43 the local school administrative unit's Web site for review by parents and the
44 public. The Web site shall also include the curricula, texts, and any other
45 materials used in the health and safety program, including links to any
46 materials available on the publisher's Web site.

47 (3) The local board of education shall add to the central location and electronic
48 repository any objectives, curricula, texts, and other materials that may be
49 proposed for adoption, amendment, or modification to the health and safety
50 program and shall clearly indicate that status while the materials are under
51 consideration.

1 (c) Each school year, at least 14 days before students participate in a health and safety
2 program, a local board of education shall give both written and electronic notice to parents of
3 students participating in that program of the right of parents to review the objectives, complete
4 materials, and entire curriculum of that program in the program repository maintained by the
5 local board of education, as provided in subsection (b) of this section. The notice shall include
6 the same information provided under G.S. 115C-102.35(b). The notice shall also inform parents
7 of the local board's policy for participation in reproductive health and safety programs, as
8 established in G.S. 115C-81.30(c), when applicable, and provide a form that allows parents to
9 exercise parental rights under that policy.

10 **"§ 115C-102.55. Right to purchase; disposal of textbooks and materials.**

11 (a) Any parent, guardian, or person in loco parentis may purchase any instructional
12 material needed for any student in the public schools of the State from the board of education of
13 the local school administrative unit in which the child is enrolled.

14 (b) Notwithstanding Article 3A of Chapter 143 of the General Statutes, G.S. 143-49(4),
15 or any other provision of law, a local board of education may dispose of discontinued
16 instructional or supplemental materials.

17 **"§ 115C-102.60. Local community media advisory committee.**

18 (a) A local board of education shall establish a local community media advisory
19 committee to investigate and evaluate challenges from parents, teachers, and members of the
20 public to instructional materials and supplemental materials on the grounds that they are unfit
21 materials. This section does not apply to optional supplemental materials available through the
22 school library.

23 (b) The local committee shall, at a minimum, include the following:

24 (1) A principal from a high school, middle school, and elementary school,
25 respectively.

26 (2) A teacher from a high school, middle school, and elementary school,
27 respectively.

28 (3) A parent of a student in high school, middle school, and elementary school,
29 respectively.

30 (c) Individuals challenging unfit materials shall make challenges in writing to the local
31 board of education and shall specify whether the materials are being challenged on the grounds
32 of being (i) obscene, (ii) inappropriate to the age, maturity, or grade level of the students, or (iii)
33 not aligned with the standard course of study.

34 (d) Within two weeks of the filing of the challenge, the local committee shall hold a
35 hearing and provide the challengers an opportunity to present their concerns to the local
36 committee. The local committee may, in the local committee's discretion, request additional
37 information at the hearing from experts on the subject matter employed by the local school
38 administrative unit. Within two weeks of the hearing, the local committee shall make a
39 recommendation to the local board of education on whether the challenge has merit and whether
40 the challenged material should be retained or removed as unfit material. The local committee's
41 determination shall be limited to considerations of whether the material is unfit on the specific
42 grounds of the material being (i) obscene, (ii) inappropriate to the age, maturity, or grade level
43 of the students, or (iii) not aligned with the standard course of study.

44 (e) At the next meeting of the local board of education after the local committee's
45 recommendation is received, the local board shall determine whether the challenge has merit and
46 whether the challenged material should be retained or removed as unfit material.

47 (f) If the local board of education determines that the challenged material shall be
48 retained, a challenger may appeal the local board's decision to the State Community Media
49 Advisory Committee. The challenger must make the appeal in the form and manner designated
50 by the State Board of Education within two weeks of the local board's decision.

51 **"§ 115C-102.65. State Community Media Advisory Committee.**

1 (a) The State Board of Education shall establish a State Community Media Advisory
2 Committee to review challenges to instructional and supplemental materials appealed under
3 G.S. 115C-102.55.

4 (b) The State Committee shall, at a minimum, include the following:

5 (1) The State Superintendent of Public Instruction, or designee.

6 (2) One superintendent of a local school administrative unit.

7 (3) A principal from a high school, middle school, and elementary school,
8 respectively.

9 (4) A teacher from a high school, middle school, and elementary school,
10 respectively.

11 (5) A parent of a student in high school, middle school, and elementary school,
12 respectively.

13 (c) A member of the State Committee may be recused from any challenge to materials
14 used in the local school administrative unit in which the member is employed or in which the
15 member's child is enrolled.

16 (d) The State Board of Education shall designate the form and manner for appeals to be
17 made to the State Committee. Upon receipt of an appeal, notice and a copy of the appeal shall be
18 provided to the local board of education.

19 (e) Within four weeks of the filing of the appeal, the State Committee shall hold a hearing
20 and provide the appellants an opportunity to present concerns to the State Committee as well as
21 the local board of education an opportunity to rebut those concerns. The State Committee may,
22 in the State Committee's discretion, request additional information at the hearing from experts on
23 the subject matter employed by the State Board of Education. Within two weeks of the hearing,
24 the State Committee shall make a recommendation to the State Board of Education on whether
25 the appealed challenge has merit and whether the challenged material should be retained or
26 removed as unfit material. The State Committee's determination shall be limited to considerations
27 of whether the material is unfit on the specific grounds of the material being (i) obscene, (ii)
28 inappropriate to the age, maturity, or grade level of the students, or (iii) not aligned with the
29 standard course of study.

30 (f) At the next meeting of the State Board of Education after the State Committee's
31 recommendation is received, the State Board shall determine whether the appealed challenge has
32 merit and whether the challenged material should be retained or removed as unfit material. If the
33 State Board of Education determines that challenged material shall be removed, the local board
34 of education shall remove the material. The decision of the State Board of Education is final, and
35 is not subject to appeal by the local board of education or challenger."

36 **SECTION 3.(a)** G.S. 115C-11(d) reads as rewritten:

37 "(d) Voting. – No voting by proxy shall be permitted. ~~Except in voting on textbook~~
38 ~~adoptions, a~~ A majority of those present and voting shall be necessary to carry a motion and a
39 roll call vote shall be had on each motion. A record of all such votes shall be kept in the minute
40 book."

41 **SECTION 3.(b)** G.S. 115C-11(e) is repealed.

42 **SECTION 3.(c)** G.S. 115C-12(9)b. is repealed.

43 **SECTION 3.(d)** G.S. 115C-12(9c)c. reads as rewritten:

44 "c. The Board also shall develop and implement an ongoing process to
45 align State programs and support materials with the revised academic
46 content standards for each core academic area on a regular basis.
47 Alignment shall include revising ~~textbook criteria,~~ support materials,
48 State tests, teacher and school administrator preparation, and ongoing
49 professional development programs to be compatible with content
50 standards. The Board shall develop and make available to teachers and
51 parents support materials, including teacher and parent guides, for

1 academic content standards. The State Board of Education shall work
2 in collaboration with the Board of Governors of The University of
3 North Carolina to ensure that teacher and school administrator degree
4 programs, ongoing professional development, and other university
5 activity in the State's public schools align with the State Board's
6 priorities."

7 **SECTION 3.(e)** G.S. 115C-12(18)d. reads as rewritten:

8 "d. The State Board of Education shall modify the Uniform Education
9 Reporting System to provide clear, accurate, and standard information
10 on the use of funds at the unit and school level. The plan shall provide
11 information that will enable the General Assembly to determine State,
12 local, and federal expenditures for personnel at the unit and school
13 level. The plan also shall allow the tracking of expenditures for
14 ~~textbooks,~~ instructional materials, educational supplies and
15 equipment, capital outlay, at-risk students, and other purposes."

16 **SECTION 3.(f)** G.S. 115C-47(6) reads as rewritten:

17 "(6) To Regulate Fees, Charges and Solicitations. – Local boards of education shall
18 adopt rules and regulations governing solicitations of, sales to, and
19 fund-raising activities conducted by, the students and faculty members in
20 schools under their jurisdiction, and no fees, charges, or costs shall be
21 collected from students and school personnel without approval of the board of
22 education as recorded in the minutes of said ~~board;~~ provided, this subdivision
23 ~~shall not apply to such textbooks fees as are determined and established by the~~
24 ~~State Board of Education.~~ board. All schedules of fees, charges and
25 solicitations approved by local boards of education shall be reported to the
26 Superintendent of Public Instruction."

27 **SECTION 3.(g)** G.S. 115C-47(33) reads as rewritten:

28 "(33) To Approve and Use Supplemental Materials. – Local boards of education
29 shall have sole authority to select and procure ~~supplementary instructional~~
30 supplemental materials, whether or not the materials contain commercial
31 advertising, pursuant to the provisions of ~~G.S. 115C-98(b).~~ Part 3C of Article
32 8 of this Chapter."

33 **SECTION 3.(h)** G.S. 115C-47(33a) reads as rewritten:

34 "(33a) To Approve and Use ~~Textbooks Not Adopted by State Board of Education.~~
35 Instructional Materials. – Local boards of education shall have the sole
36 authority to select, procure, and use ~~textbooks not adopted by the State Board~~
37 ~~of Education instructional materials~~ as provided in ~~G.S. 115C-98(b1).~~ Part 3C
38 of Article 8 of this Chapter."

39 **SECTION 3.(i)** G.S. 115C-75.10(c) reads as rewritten:

40 "(c) Funding Memorandum of Understanding. – The IS operator, in consultation with the
41 ISD Superintendent, may enter into a funding memorandum of understanding with the local
42 board of education of the local school administrative unit where the innovative school is located
43 for all student support and operational services and instructional services to be provided by the
44 local board of education in the same manner and degree as in the prior school year or funding in
45 an amount equivalent to the amount the local board of education would have expended on those
46 services if provided. For the purposes of this subsection, student support and operational services
47 include cafeteria services, custodial services, broadband and utilities, and student information
48 services, and instructional services include alternative education, special education services, test
49 administration services, ~~textbooks,~~ instructional materials, technology, media resources,
50 instructional equipment, and other resources. The IS operator and local board of education shall
51 finalize the funding memorandum of understanding within 30 days of the initial request for the

1 memorandum by the IS operator. If the parties have not completed the funding memorandum of
2 understanding within 30 days, the State Board of Education shall resolve any issues in dispute."

3 **SECTION 3.(j)** G.S. 115C-81.5(b)(3) is repealed.

4 **SECTION 3.(k)** G.S. 115C-81.25(b)(3) is repealed.

5 **SECTION 3.(l)** G.S. 115C-81.25(d) reads as rewritten:

6 "(d) Parental Review. – The State Board of Education shall make available to all local
7 school administrative units for review by the parents and legal guardians of students enrolled at
8 those units any State-developed objectives for instruction ~~any approved textbooks~~, the list of
9 reviewed materials, and any other State-developed or approved materials that pertain to or are
10 intended to impart information or promote discussion or understanding in regard to the
11 prevention of sexually transmitted diseases, including HIV/AIDS, to the avoidance of
12 out-of-wedlock pregnancy, or to the reproductive health and safety education curriculum. The
13 review period shall extend for at least 60 days before use."

14 **SECTION 3.(m)** G.S. 115C-242(3) reads as rewritten:

15 "(3) The board of education of any local school administrative unit may operate
16 the school buses of such unit one day prior to the opening of the regular school
17 term for the transportation of pupils and employees to and from the school to
18 which such pupils are assigned or in which they are enrolled and such
19 employees are employed, for the purposes of the registration of students, the
20 organization of classes, the distribution of ~~textbooks~~, instructional materials,
21 and such other purposes as will, in the opinion of the superintendent of the
22 schools of such unit, promote the efficient organization and operation of such
23 public schools."

24 **SECTION 3.(n)** G.S. 115C-271(d)(2) reads as rewritten:

25 "(2) Local funds appropriated for teachers, ~~textbooks~~, instructional materials, or
26 classroom materials, supplies, and equipment are not transferred or used for
27 this purpose."

28 **SECTION 3.(o)** G.S. 115C-384(c) reads as rewritten:

29 "(c) Rental Fees for ~~Textbooks~~ Instructional Materials Prohibited; Damage Fees
30 Authorized. – No rental fees are permitted for the use of ~~textbooks~~, instructional materials, but
31 damage fees may be collected pursuant to the provisions of ~~G.S. 115C-100~~ G.S. 115C-102.45."

32 **SECTION 3.(p)** G.S. 115C-390.2(l)(1) reads as rewritten:

33 "(1) The opportunity to take ~~textbooks~~ instructional materials and school-furnished
34 digital devices home for the duration of the absence."

35 **SECTION 3.(q)** G.S. 115C-390.5(c)(1) reads as rewritten:

36 "(1) The opportunity to take ~~textbooks~~ instructional materials home for the
37 duration of the suspension."

38 **SECTION 3.(r)** G.S. 115C-398 reads as rewritten:

39 **"§ 115C-398. Damage to school buildings, furnishings, textbooks.**

40 Students and their parents or legal guardians may be liable for damage to school buildings,
41 furnishings and ~~textbooks~~ instructional materials pursuant to the provisions of G.S. 115C-523,
42 115C-100 and 14-132."

43 **SECTION 3.(s)** G.S. 143A-48 is repealed.

44 **SECTION 3.(t)** G.S. 143C-9-7(b) reads as rewritten:

45 "(b) Upon appropriation by the General Assembly, funds received in the Indian Gaming
46 Education Revenue Fund shall be allocated quarterly by the State Board of Education to local
47 school administrative units, charter schools, and regional schools on the basis of allotted average
48 daily membership. The funds allotted by the State Board of Education pursuant to this section
49 shall be nonreverting. Funds received pursuant to this section by local school administrative units
50 shall be expended for classroom teachers, teacher assistants, classroom materials or supplies, or
51 ~~textbooks~~ instructional materials."

1 **SECTION 4.(a)** Effective July 1, 2019, the existing Textbooks and Digital
2 Resources funding allotment in the State Public School Fund shall be designated as the
3 Instructional Materials funding allotment in the State Public School Fund. The State Board of
4 Education shall establish the purposes for which the funds within the new Instructional Materials
5 funding allotment may be used as follows: (i) to acquire instructional or supplemental materials
6 as defined in G.S. 115C-102.20, as enacted by this act, and (ii) to acquire hardware, software, or
7 other equipment necessary for the use of the instructional or supplemental materials.

8 **SECTION 4.(b)** G.S. 115C-105.25(b)(12) reads as rewritten:

9 "(12) Funds allotted for ~~textbooks and digital resources~~ instructional materials may
10 only be used for the purchase of ~~textbooks and digital resources~~ instructional
11 and supplemental materials, as defined in G.S. 115C-102.20, and to acquire
12 hardware, software, or other equipment necessary for the use of the
13 instructional or supplemental materials. These funds shall not be transferred
14 out of the allotment for any other purpose."

15 **SECTION 5.** G.S. 115C-81.30(c) reads as rewritten:

16 "(c) Parental Review and Consent. – Each school year, before students may participate in
17 any portion of (i) a program that pertains to or is intended to impart information or promote
18 discussion or understanding in regard to the prevention of sexually transmitted diseases,
19 including HIV/AIDS, or to the avoidance of out-of-wedlock pregnancy or (ii) a reproductive
20 health and safety education program, whether developed by the State or by the local board of
21 education, the parents and legal guardians of those students shall be given an opportunity to
22 review the objectives and materials in the instructional materials repository, as provided in
23 ~~G.S. 115C-81.25(d)~~ G.S. 115C-102.50. Local boards of education shall adopt policies to provide
24 opportunities either for parents and legal guardians to consent or for parents and legal guardians
25 to withhold their consent to the students' participation in any or all of these programs."

26 **SECTION 6.** The State Board of Education shall not enter into any new contracts
27 for textbooks or instructional materials and shall not renew any existing contracts for textbooks
28 or instructional materials. The State Board of Education shall make available for purchase any
29 textbooks or instructional materials available through existing contracts to local boards of
30 education.

31 **SECTION 7.** Notwithstanding G.S. 115C-102.25, as enacted by this act, a local
32 board of education may, by resolution, continue use of previously adopted State textbooks for a
33 standard course of study until that standard course of study is revised by the State Board of
34 Education.

35 **SECTION 8.** All local boards of education shall establish a program repository of
36 current health and safety programs, as required by G.S. 115C-102.50, as enacted by this act, for
37 access to parents prior to the start of the 2019-2020 school year, and shall not implement any
38 program until that program is included in the repository.

39 **SECTION 9.** This act becomes effective July 1, 2019, and applies beginning with
40 the 2019-2020 school year.