



# NEBRASKA

## DEPARTMENT OF EDUCATION

### Textbook Loan Program (TLP)

### Rule 4 Guidance

November 14, 2016

Textbook Loan Program Updated to Include Digital Materials, Write-in Work Texts, Others

Effective October 3rd, 2016, the state’s Textbook Loan Program (TLP) under Rule 4 now requires that school districts include digital and electronic materials, certain write-in work texts, as well as multiple texts on their annual list of textbooks available to students attending nonpublic schools. These changes reflect the modern ways by which students are learning today, and they are consistent with the meaning of “textbook” as interpreted by the Attorney General’s Office earlier this year. Following are some key points to be aware of as you compile and administer your textbook lists for the 2017-2018 school year, which are due annually by November 15.

#### **The meaning of “textbook”:**

In the revised TLP, “textbook” has been updated to mean any “instructional material” designated for use by individual students as the principal source of study material in grades K through 12 of a public school district. The revised TLP includes three new categories of “instructional material[s]”:

1. **Multiple texts:** that is, where a single class uses multiple textbooks as its *principal* source of instruction, that come as a package or bundle, those works are to be treated as a single textbook for students attending nonpublic schools.
  - **Example:** In an English Literature class where students are to read, as their *principal* source of study material, “To Kill a Mockingbird,” “Tale of Two Cities,” and “Romeo and Juliet,” these classics would constitute one “textbook” for purposes of the TLP.
2. **Electronic and digital subscriptions:** this includes textbooks available via online, web-based programs, as well as textbooks in which a physical text is “bundled” with a digital subscription or license to constitute the *principal* source of “instructional material” for the class.
  - **Example:** *Century 21 Accounting: Advanced*, published by Cengage South-Western (2014), featuring both hardbound text and online working papers along with automated accounting online programs, pursuant to a digital license for each student.
3. **Write-in work texts if accessible by students pursuant to a multi-year subscription entered into by the school district:** i.e., “hybrid” works that include both the primary instructional material *and* write-in work problems or exercises within the same book (rather than the traditional primary textbook with a *supplementary* workbook); these can also include interactive work texts that are “bundled” with a digital subscription or license to constitute the principal source of “instructional material” for the class.

- **Example:** *Glencoe Math – 9-12 math, algebra1, algebra 2, geometry, pre-calculus*, as published by McGraw Hill (2015), in which the physical, write-in text is “bundled” with a digital subscription for a period of years and which allows the student to access web-based programming where they can complete lessons, view resources, and take exams online.

### **The “loaning” of “consumables”:**

Now that the TLP program includes digitally-licensed materials and hard-bound, write-in work texts that cannot always be reused, the question arises whether such “textbooks” can actually be “loaned.” For that reason, Rule 4 has been amended to stipulate that “**loan**” means “the provision of instructional material in such a manner that title (i.e., ownership) to the instructional material remains with the school district providing such instructional material.” (92 NAC §4.002.07). In other words, even a *consumable* “textbook” can be loaned to the extent ownership remains with the public school district.

For that reason, the rule has been updated to ensure that only textbooks “*that can be returned to an inventory site and loaned anew to another private school student*” are actually subject to the rule’s traditional requirement that textbooks be returned to an inventory site within 15 days after the close of the public school year. (92 NAC §4.003.01) (emphasis added).

However, because ownership of digital and consumable “textbooks” remains with the public school districts, Rule 4 now requires that “access” to such materials cease within 15 days of the close of the public school year, in keeping with the nature of the TLP as a *loan* program.

### **Implementation guidance:**

- *Supplementary materials*

The revised rule specifically states that “hard-copy supplemental workbooks” are *not* “textbooks” under the TLP. Rather, the rule change ensures that hard-copy, write-in work texts that serve as a student’s *principal* source of instruction are available to students attending nonpublic schools.

- *Teacher’s editions*

“Teacher’s editions” remain *excluded* from the meaning of “textbook” under the TLP. Thus, districts are not to expend TLP appropriations for the “teacher’s edition” of a textbook. However, the Department advises during the implementation process:

First, digital licenses or subscriptions that are directed through an individual teacher and distributed to his or her students as their principal source of instruction are *not* “teacher’s editions” excluded from the TLP; that is, even if students receive *their* individual instructional materials through a teacher’s subscription, the materials are still “textbooks” available to students attending nonpublic schools.

Second, teacher’s editions that are provided *complementary with* a digital or write-in *student* subscription are not to be excluded from the materials available under the TLP; such editions are available without cost and are thus not purchased with TLP funds. Indeed, it is generally *more* costly for publishers to provide digital or write-in student subscriptions *apart from* intrinsically connected and freely-provided teacher editions simply to comply with an unnecessary reading of Rule 4. Thus, such materials should remain available under the TLP.

- *Inventory*

“Tangible” textbooks are to be inventoried in the same manner as always under Rule 4. (*see* 92 NAC §4.004.07). However, the revised rule states that “[a]ny unexpired subscriptions and license agreements” purchased pursuant to the TLP “shall be maintained separately in the form of documentation.” Thus, districts must ensure that unexpired subscriptions and licenses purchased under the TLP are recorded and categorized apart from traditional textbooks, and that such records are maintained under their custody or the custody of an alternative site designated by the school district and the authorized parent representative(s) responsible for such textbooks.

- *Hardware devices & subscription support*

The public schools will not provide technical support to nonpublic schools receiving online content, nor will laptops or other devices be purchased with TLP funds.

**What to include on the November 15 list:**

The requirements for making available by November 15 a list of the public school district’s available textbooks have not changed in significant part. However, following are several notes to keep in mind when completing the mandatory list:

- *The “type” of textbook:*

The revised rule states: “As applicable, the lists shall indicate if a textbook is multiple texts, a non-tangible electronic or digital format, e.g., web-based (on-line) material, accessible by students through a subscription or license agreement; or a hard-copy, write-in work text accessible by students pursuant to a multi-year subscription[.]”

In other words, the school must provide, “as applicable,” whether an available textbook is or includes (a) multiple texts, (b) a digital or electronic subscription or license, or (c) a hard-bound, write-in work text pursuant to a multi-year subscription.

As usual, the November 15 list must include all “textbooks” designated for use in a public school during the *current* school year (2016-2017), along with those they have determined by November 15 will be available the *following* school year (2017-2018). (*see* 92 NAC §4.004.01A).

- All of the district’s available “textbooks”

Public school districts must include *all* available “textbooks” designated for use in the current school year and *all* those they have determined will be used in the following school year – regardless of the technological and administrative capacities of *other, nonpublic schools*.

In other words, the current capacities of nonpublic schools to implement or utilize materials available under the revised rule do not impact the obligations of public school districts to include a comprehensive list of all *their* available textbooks by November 15.

It is expected that parents of students attending nonpublic schools do not request “textbooks” for which their schools lack the capacity to implement and administer. At the same time, it is also expected that public and nonpublic schools work together to the extent necessary and proper to ensure maximum access under the revised TLP.