



## **Bible Curriculum in Texas Schools** *Debate over Bible Curriculum in Public Schools Shines Spotlight on Texas*

Texas Education Code section 28.011 provides that districts may offer an elective course or courses on the impact of the Old and New Testaments of the Bible to students in grades 9-12. Texas Education Code section 28.002 also states that each district that offers K-12 instruction shall offer an enrichment curriculum that includes “religious literature, including the Hebrew Scriptures (Old Testament) and New Testament, and its impact on history and literature.” Tex. Educ. Code § 28.002(a)(2)(G). This article addresses some issues that may arise when Texas public schools provide instruction on religious literature in school.

### **1. Texas’ Attorney General has ruled that *all* Texas school districts must include instruction on religious literature, including the Old and New Testaments of the Bible, in their enrichment curriculum.**

In response to a request from the commissioner of education for an interpretation of Texas Education Code sections 28.011 and 28.002, the attorney general concluded that Section 28.002(a) requires school districts and charter schools to include instruction on religious literature, including the Bible, in their enrichment curriculum. According to the attorney general, however, Section 28.002(a) does not require high schools to offer a specific course in the required enrichment curriculum. Op. Tex. Att’y Gen. No. GA-657 (2008). The subject matter might be offered in other ways, such as including it in an existing course—English or social studies, for example—in the foundation or enrichment curriculum. The attorney general observed that Section 28.002(a) sets out the overall subject matter to be offered by school districts, but the State Board of Education (SBOE) and Texas Education Agency (TEA) decide when and how curriculum subject matter will be offered to students at the various grade levels. Op. Tex. Att’y Gen. No. GA-657 (2008). TEA has provided some helpful guidance in a Frequently Asked Questions document that states that the Texas Essential Knowledge and Skills (TEKS) for the Bible literacy course may be found in Texas Administrative Code section 74.36 and that there are no state-adopted instructional materials available for the course. See Bible Literacy Frequently Asked Questions, November 2011, at [tea.texas.gov/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=2147504488&libID=2147504483](http://tea.texas.gov/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=2147504488&libID=2147504483). TEA also explains which Public Education Information Management System (PEIMS) number districts should use when reporting the class.

**2. The Bible course authorized by Section 28.011 is optional for school districts.**

In addition to the requirement in Section 28.002(a) that religious literature be part of the enrichment curriculum for public schools, Section 28.011 authorizes a Bible course to be taught as a high school elective. A Bible course offered under Section 28.011 is elective for students, but it was not clear initially whether the course would be elective for public school districts. The attorney general has opined that, taking into account Section 28.011 as a whole and considering the legislative history of the bill, a school district has discretion and authority to offer such a course, but is not required to do so. Moreover, if a school district or charter school chooses to offer a course authorized by Section 28.011, and fewer than fifteen students at a campus register to enroll in the course, the district or charter school is not required to provide the course at that campus for that semester. Op. Tex. Att’y Gen. No. GA-657 (2008).

**3. For districts that choose to offer Bible courses, the selection of content and course materials may be controversial.**

Section 28.011 further provides that a course under the section must comply with applicable law. Tex. Educ. Code § 28.011(d). To that end, the statute required the SBOE to submit its proposed TEKS to the Texas attorney general for legal review. The attorney general has approved the TEKS submitted by the SBOE; they are located in Texas Administrative Code section 74.36.

The TEKS repeat the course purpose as defined by statute: (1) to teach students knowledge of biblical content, characters, poetry, and narratives that are prerequisites to understanding contemporary society and culture, including literature, art, music, mores, oratory, and public policy; and (2) to familiarize students with, as applicable, the contents, history, and literary style of the Hebrew Scriptures or New Testament, and the influence of the Hebrew Scriptures or New Testament on law, history, government, literature, art, music, customs, morals, values, and culture. Tex. Educ. Code § 28.011(b); 19 Tex. Admin. Code § 74.36(b).

The TEKS further require that the course follow the TEKS either for independent study in English or for a special topic in social studies. 19 Tex. Admin. Code § 74.36(d). The English and social studies TEKS emphasize developing critical thinking and reading skills, as well as writing and organizational skills. Teachers teaching the Bible course must be certified in history, social studies, or language arts, with a minor in religion or biblical studies “where practical.” Tex. Educ. Code § 28.011(f). The teachers must also complete staff development, described below.

In addition, to facilitate instruction in Bible classes, local districts must select course materials. The materials may be a textbook, course guide, or other supplemental materials. The selection of course materials may be complicated by the fact that Section 28.011 provides that students may not be required to use a specific translation as the sole text of the Bible, and may use as the basic instructional material a translation different from that chosen by the school district or instructor. Tex. Educ. Code § 28.011(c). The selection of course materials should be considered carefully by the school board in consultation with the community and legal counsel.

No Texas district knows this better than Ector County ISD, which settled a lawsuit brought by the American Civil Liberties Union and People for the American Way challenging the way a Bible course was taught in the district. Before the lawsuit, the district was using a teacher guide from the National Council on Bible Curriculum in Public Schools. Following mediation, the school district settled the case by agreeing to adopt a new curriculum. The district accomplished this by appointing a committee of educators to consider the options. The committee chose to develop a homegrown curriculum based largely on the contributions of university professors who served as consulting experts.

**4. When religious literature is taught in public schools, classroom instruction must comply with the U.S. Constitution, state law, and local policy.**

Because all districts must include religious literature as part of the required curriculum, whether through a special elective course or as part of existing courses, all districts need to understand the appropriate boundaries for classroom instruction on religion. United States Supreme Court cases offer a legal framework for public school instruction on the Bible and religion. This framework is found in TASB Policies EMI(LEGAL) and (LOCAL). EMI(LEGAL) sets forth the Supreme Court’s holdings that instruction on comparative religion, the history of religion, or the study of the Bible for its literary and historical qualities is constitutional when presented objectively as part of a secular program of education.

EMI(LOCAL) goes on to state, “The inclusion of religion in the study of history, culture, literature, music, drama, and art is essential to a full and fair presentation of the curriculum . . . . The District’s approach to teaching about religion shall be academic, not devotional . . . . Such studies shall not foster any particular religious tenet nor demean any religious beliefs, but shall attempt to develop mutual respect among students and advance their knowledge and appreciation of the role that religious heritage plays in the social, cultural, and historic development of civilization.” See TASB Policy EMI(LOCAL).

Teaching the Bible, which many consider holy scripture, within this legal and policy framework is not impossible, but it is challenging. Teacher training is essential to the successful accomplishment of this requirement. Section 28.001(f) requires the completion of staff development training, and Section 21.459 requires the commissioner to make training resources available to school districts to assist teachers in developing the following: expertise in appropriate Bible course curriculum, an understanding applicable law and how to teach the subject objectively as part of a secular program of education, proficiency in instructional approaches that respect all faiths and favor none, and expertise in how to avoid devotional content or proselytizing in the classroom. Tex. Educ. Code § 21.459. The commissioner was to make these resources available through in-service training, using funds appropriated for that purpose. Unfortunately, however, the program was not funded.

**6. Proceed with caution.**

Although the issue of teaching religion in school is controversial and often monitored by watchdog groups on both sides of the issue, no major lawsuits have arisen since the Texas legislature added the requirement to include instruction on religious literature, including the Bible, to the Texas Education Code in 2007. This does not mean that districts should not exercise caution in implementing this requirement, however. As districts are constantly reminded by their students, parents, employees, and community members, people often have strong opinions regarding religion and its place in Texas public schools. School districts are wise to keep this in mind when complying with the requirement to offer instruction in religious literature and ensure that teachers are adequately trained and that course offerings are appropriate.

*This document is provided for educational purposes only and contains information to facilitate a general understanding of the law. It is neither an exhaustive treatment of the law on this subject nor is it intended to substitute for the advice of an attorney. It is important for the recipient to consult with the district's own attorney in order to apply these legal principles to specific fact situations.*

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