

IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE

HOUGHTON MIFFLIN HARCOURT
PUBLISHING COMPANY,

Petitioner.

vs.

TENNESSEE DEPARTMENT OF
EDUCATION; TENNESSEE STATE
BOARD OF EDUCATION; TENNESSEE
TEXTBOOK AND INSTRUCTIONAL
MATERIALS QUALITY COMMISSION,

Respondents.

CIVIL ACTION NO. _____

VERIFIED PETITION FOR WRITS OF CERTIORARI AND SUPERSEDEAS,
AND, UPON ISSUANCE OF THE WRITS, QUASHAL

I. OVERVIEW

1. Pursuant to T.C.A. §§ 27-8-101, §27-8-112, 27-9-101 and 27-9-106, Petitioner Houghton Mifflin Harcourt Publishing Company (“HMH”) requests that the Court issue writs of certiorari and supersedeas to Respondents the Tennessee Department of Education (“Department”), the Tennessee State Board of Education (“Board”) and the Textbook and Instructional Materials Quality Commission (“Commission”).

2. HMH seeks judicial review of the Board’s decision, based on the Commission’s recommendation, and (in this case) with the involvement and interference of the Department, not to include HMH’s *Into Reading Tennessee*, Grade 3 (discussed below) on the list for “adoption” pursuant to T.C.A. § 49-6-2202(b)(1).

3. The consequence of Respondents' decision is that no school board may purchase or use HMH's third grade materials. T.C.A. § 49-6-2206.

4. Time is of the essence. Respondents' decision means that HMH is irrevocably deprived of access to the market, as school boards are making their purchasing decisions (from among the approved list) now.

5. Respondents' decision not only affects the particular third grade materials at issue. Without this grade level being approved, HMH is unable to effectively sell the materials in the series that have been approved for all other grade levels.

6. Upon issuance of the writ of certiorari, HMH requests that the Court enter a judgment of quashal, as Respondents acted arbitrarily.

7. No material evidence supports Respondents' decision to exclude HMH's materials from the adoption list.

8. Respondents' proffered reasons for exclusion do not hold up to any scrutiny, and Respondents treated HMH materially differently than other similarly situated publishers.

9. HMH respectfully requests that the Court grant the writ of supersedeas to stay Respondents' decision to exclude its materials from the adoption list and expedite the proceedings herein. Absent an expedited procedure, HMH will be continue to be irreparably harmed.

II. FACTS

A. Overview of the textbook adoption process

10. The Legislature established the Commission and set out statutory criteria for the Commission to apply. T.C.A. § 49-6-2201 *et seq.*

11. The Commission recommends to the Board which textbooks and instructional materials may be added to an approved list. T.C.A. § 49-6-2202(b)(1).

12. Specifically, the Commission “shall not approve a textbook or instructional materials for adoption by LEAs¹ unless the textbook or instructional materials: (i) Conform to the standards for its subject area or grade level; (ii) Are free of any clear, substantive, factual, or grammatical error; and (iii) Comply with and reflect the values expressed in § 49-6-1028(b), if the textbook or instructional materials are being considered for adoption as a textbook or instructional materials for education of students in general studies and specifically in United States history and this nation’s republican form of government.” T.C.A. § 49-6-2201(h)(9)(A).

13. The Commission, with support from the Department, recruits and appoints an advisory panel to perform a thorough review of materials and make recommendations to the Commission. T.C.A. § 49-6-2201(l)(2)(a)(i).

14. This advisory panel review is supposed to be a two-step process, with an initial review followed by a re-review.

¹ LEA stands for “local education agency.” T.C.A. § 49-1-103(2). This is defined as “any county school system, city school system, special school district, unified school system, metropolitan school system or any other local public school system or school district created or authorized by the general assembly.” *Id.*

15. Following initial review, publishers are given the opportunity to respond to and remedy any concerns raised.

16. In re-review, the panels are supposed to determine if the concerns raised upon initial review have been addressed.

17. Following the re-review process, the Commission recommends to the Board which textbooks and instructional materials should be added to the adoption list. T.C.A. § 49-6-2202(b)(1).

18. The Board then approves or rejects the Commission's recommendations. T.C.A. § 49-6-2202(d).

19. It is unlawful for any teacher or principal in any of the public schools in the State to use or permit to be used any textbooks or instructional materials unless the textbooks/instructional materials are on the list. T.C.A. § 49-6-2206.

20. The only statutory exception to this requirement is "[u]pon application of the local board of education, the commissioner of education may waive this restriction when, in the commissioner's judgment, the unique or unusual needs of the school system require it." *Id.*

21. Colloquially, this entire process is known as the "adoption" process for textbooks and instructional materials, as school districts may only "adopt" textbooks/materials for use if they are on the State's list.

B. The 2018-2020 English Language Arts adoption

22. Between September 2018 and June 2020, Respondents are undertaking an adoption process for English Language Arts (ELA) textbooks and materials. ELA

includes reading, writing, and literature. See Tennessee Textbook and Instructional Materials Adoption Schedule, Section E—ELA, available at <https://www.tn.gov/education/textbook-services/textbook-adoption-process.html>

23. The Commission's schedule included reviewers who would review the proposed textbooks, publisher responses to reviewer feedback, re-review, and an appeal process. See *id.*

24. However, the Department unilaterally altered the adoption process when it had already begun and significant steps already had been completed.

25. The original schedule was suspended when Dr. Lisa Coons became the Department's new Assistant Commissioner for Standards and Materials.

26. The Department then proposed various changes to the adoption process, and the Commission agreed to make certain changes to the re-review process in response thereto.

27. The re-review process was changed in the midst of the adoption process.

28. This improper change directly impacted HMH. As alleged below, newly installed re-reviewers failed *Into Reading Tennessee*, Grade 3 without a legitimate basis.

29. Further, the Department unfairly and improperly gave passing grades to competing programs that were failed by the re-reviewers.

C. HMH complied with the statute in submitting *Into Reading Tennessee* for adoption

30. HMH is a global learning company and a provider of Pre-K-12 content, services, and technology, serving more than 50 million students throughout the United States and in 150 countries worldwide.

31. HMH developed *Into Reading* after meeting with teachers across the nation to understand their real needs.

32. *Into Reading Tennessee* is designed specifically to align to Tennessee's academic standards and the Tennessee evaluation rubric for the Respondents' 2018-2020 ELA adoption.

33. *Into Reading Tennessee* is designed to offer a balanced approach to literacy instruction, support teachers in developing a culture of learning and growth, and help all learners. This balanced approach involves instructional materials in both digital and print formats.

34. HMH submitted *Into Reading Tennessee* for adoption as part of the Respondents' 2018-2020 ELA adoption process.

35. In so doing, HMH complied with all of the Respondents' requirements.

D. *Into Reading Tennessee* was approved at nearly all grade levels

36. HMH submitted *Into Reading Tennessee* for grade levels kindergarten through twelfth grade.

37. Upon the initial review, *Into Reading Tennessee* was approved at all grade levels except second and third grades.

38. With regard to the second and third grade materials, both grade levels passed three out of four review sections, and in the case of Grade 3, all but two criteria in that one section.

E. HMH resolved all issues raised by the Commission upon initial review

39. Because the initial team of reviewers did not provide passing scores on one review section for each of second and third grades, those grade levels of *Into Reading Tennessee* underwent a re-review process.

40. As part of the re-review process, HMH submitted additional material to address the initial reviewers' findings.

41. All issues raised by the initial reviewers were resolved by HMH.

42. Upon re-review, second grade passed.

43. Upon re-review, third grade did not pass, despite instructional similarities to second grade and the re-review materials submitted by HMH.

F. Respondents committed numerous procedural errors upon re-review

44. *Into Reading Tennessee* meets the standards and requirements for third grade, as it does for all other grade levels.

45. The reason that *Into Reading Tennessee* did not pass the re-review for third grade is not because of any deficiency in its educational content or instructional approach.

46. Rather, the reason *Into Reading Tennessee* did not pass the re-review process for third grade is because the process was flawed.

47. The re-review was conducted by an entirely different team of reviewers. It was highly irregular for the Commission and Department to replace reviewers in the middle of an adoption process.

48. In the case of *Into Reading Tennessee*, Grade 3, the new reviewers did not base their findings on whether HMH had addressed the issues raised by the initial reviewers.

49. Instead, the re-reviewers upon a cursory review of the program raised two entirely new issues not raised in the initial review. Moreover, they failed to review the relevant content. As a result, their new findings were without any support.

50. A problem with raising new issues upon re-review is that HMH had no opportunity to respond to or remedy any new issues prior to the “appeal” process.

51. As is shown below, this appeal process was to the Commission itself, which improperly abdicated its role to the reviewers and was acting under an error of law.

1. The re-reviewers did not review the relevant vocabulary materials

52. The re-reviewers found that criterion 1b was not met because vocabulary routines “could not be located.” This was not an issue raised in the initial review.

53. One of two re-reviewers noted: “While the use of vocabulary routine is indicated ex. unit 1, p T40, T144, this routine could not be located, therefore, evidence of this indicator could not be completely assessed.”

54. The second re-reviewer noted: “Teacher resource consistently references vocabulary routine, however the routine could not be located.”

55. This criterion requires that “Materials provide direct and contextual instruction for Tier 2 and Tier 3 vocabulary that supports knowledge building,” and this type of instruction can happen with or without a routine.

56. In any event, the third grade materials demonstrably do contain the required vocabulary instruction and the corresponding routines.

57. Vocabulary routines that meet the requirements of 1b were included in HMH’s submission in both digital and print formats.

58. The re-reviewers’ purported failure to locate vocabulary routines was not a valid basis on which to conclude that criterion 1b was not met, particularly since these routines were available in digital and print form.

59. HMH has computer access logs of the re-reviewers’ use of the digital review materials. These logs show that the re-reviewers did not launch any third grade digital content during the re-review period.

60. If the re-reviewers had launched third grade content, they would have found that the vocabulary instruction, and the corresponding routine, meet the requirements of criterion 1b.

61. Similarly, if the third-grade re-reviewers had reviewed the print copy of the vocabulary instruction, and corresponding routine, they would have found these meet the requirements of criterion 1b.

62. Based on statements made at the October 22, 2019 full Commission hearing (discussed below), the Commission has acknowledged that its reviewers have had problems accessing multiple websites due to technical problems internal to the Commission, and recognized the need for more tech support.

2. The re-reviewers did not review the relevant culminating tasks

63. The re-reviewers concluded that criterion 1c was not met because the program lacked projects that were adequate as culminating tasks.

64. The problem here, again, is that the re-reviewers were simply looking in the wrong place.

65. This issue would have been avoided if the re-reviewers had not raised entirely new issues without input from HMH.

66. Culminating tasks are, as the name suggests, synthesizing and culminating activities at the end of a series of lessons.

67. HMH's culminating tasks are found in two sections of the program, entitled "Performance Tasks" and "Module Wrap Ups."

68. Rather than look in either of these sections for tasks that would synthesize a student's learning, the re-reviewers looked instead at "Module Projects," which are, as the name implies, not designed to be in the nature of wrap up and synthesis but rather testing the student's performance along the way.

69. If the re-reviewers had reviewed the relevant Performance Tasks and Module Wrap-Ups rather than the Module Projects (which are not culminating tasks), they would have found two categories of culminating tasks that meet the requirements of criterion 1c.

3. The Department's troubling role in re-review

70. This flawed re-review of *Into Reading Tennessee*, Grade 3, was conducted within a larger re-review process that was irregular and deeply troubling. The conduct of the Department raises questions about the independence of the re-reviewers, the objective fairness of the process, and the equal treatment of publishers participating in the adoption.

71. The Respondents' historical practice has been to have the same reviewers who perform the initial review perform the re-review. The reason for this is that the initial reviewers are already familiar with the program and any deficiencies identified in initial review.

72. This practice avoids the issue presented here, where an entirely new issue is raised upon re-review.

73. On information and belief, Respondents initially planned for any re-reviews in this adoption to be handled by the same reviewers on the initial review.

74. Two days before re-review submissions were due, HMH received an email on behalf of Dr. Lisa Coons, the Department's new Assistant Commissioner for Standards and Materials.

75. By email dated August 14, 2019, Dr. Coons stated: "As I have transitioned into this role this week, we have had several shifts in the ELA textbook adoption oversight. With these transitions, we have determined that we have a few more steps to accomplish before we can fully launch the re-review process. For that reason, we will be delaying this process for a few weeks."

76. The Department's unilateral suspension of the re-review was unlawful because the Commission had formally adopted the ELA Adoption timetable and the Department did not have legal authority to change or depart from the timetable.

77. Shortly thereafter the Department proposed to the Commission that the adoption process be changed in ways that have not been disclosed publicly, including changes to the evaluation rubrics. The Commission declined to change the rubric but did accede to the Department's request to change the re-reviewer assignments and training.

78. The Department delayed the re-review process and, when the process resumed, had put a new team of re-reviewers in place.

79. On information and belief, the training for re-reviewers and the re-review process itself both were conducted in a hurried fashion.

80. In addition, it has been the historical practice to have reviewers and re-reviewers act independently of one another and of influences from any other source. This allows for independent review.

81. Moreover, Tennessee law requires that "advisory panelists shall individually make their recommendations and shall not be convened except upon the call of the chair of the commission." T.C.A. § 49-6-2201(1)(3).

82. For an unknown reason, the Department and Commission abandoned this historical practice here.

83. In this case, the reviewers were in the same room together. Moreover, on information and belief, Dr. Coons was present during the re-review.

84. The role of Dr. Coons is particularly problematic given her advocacy for competitors of HMH.

85. Without limitation, Dr. Coons has promoted Core Knowledge Language Arts (CKLA), which is a different approach than offered by HMH.

86. This approach is offered by HMH's competitor, Amplify.

87. Despite receiving a “failing” grade at nearly all grade levels and under multiple sections of the evaluation rubric upon initial review, Amplify was added to the recommended list submitted by the Department to the Commission and ultimately adopted by the Board. Dr. Coons had previously advocated for and endorsed Amplify.

88. Dr. Coons’ advocacy of the products offered by HMH's competitors is unusual, indeed likely unprecedented.

89. Further, the re-review process for Amplify appears to have been different than for other publishers. On information and belief, Amplify CKLA was the only program for which one of the re-reviewers was also a member of the original review team. That lone reviewer had given CKLA the most favorable review of any of the original 5 reviewers. It is unknown why only this reviewer was retained for the re-review process.

90. In addition to Amplify, the Department treated other competitors differently (and far more favorably) than HMH. This differing treatment was arbitrary.

91. In at least two cases, the Department decided that a program passed even though the initial reviewers and the re-reviewers had determined that it failed.

92. Open Up Resources' *EL Education* received a failing grade on Section IV for grades 3, 4, and 5. Section IV relates to Foundational Skills. On re-review, this program again failed Section IV at the same three grade levels, based on findings that it failed multiple criteria within Section IV.

93. Despite this failure, the Department gave *EL Education* a passing grade. On the review for this program, the Department stated: "The re-reviews determined that titles for grades 3 through 5 passed sections I through III but failed Section IV (Foundational Skills). In review of Section IV of the rubric, the Tennessee Department of Education recognized overlap with Section II. Because your materials passed Section II, you will receive a passing score for Section IV as well."

94. Similarly, Great Minds' *Wit & Wisdom* received a failing grade on Section IV for grades 3, 4, and 5. On re-review, this program again failed Section IV at the same three grade levels, based on findings that it failed multiple criteria within Section IV.

95. As it did with *EL Education*, the Department gave *Wit & Wisdom* a passing grade despite the re-reviewers' conclusion that it failed. On the review for this program, the Department again stated: "The re-reviews determined that titles for grades 3 through 5 passed sections I through III but failed Section IV (Foundational Skills). In review of Section IV of the rubric, the Tennessee

Department of Education recognized overlap with Section II. Because your materials passed Section II, you will receive a passing score for Section IV as well."

96. The Department effectively changed the evaluation criteria when it gave *EL Education* and *Wit & Wisdom* passing grades on Section IV. The Department's conduct was without legal basis and violated fundamental principles of fairness, and was accordingly arbitrary.

97. In the reviews for both *EL Education* and *Wit & Wisdom*, the Department advised the publishers of those programs: "As you work with districts during their local adoption processes, we recommend that you encourage them to find supplemental materials that focus on foundational skills support to pair with your materials."

98. The fact that the Department recommended that school districts considering these programs also seek supplemental materials for foundational skills suggests that these programs do indeed lack the educational content that Section IV was intended to measure. If *EL Education* or *Wit & Wisdom* had actually earned a passing grade then such supplemental materials would not be necessary.

99. For an unknown reason, the Department disregarded the extensive failures of *EL Education* and *Wit & Wisdom* and recommended these programs for approval by the Board, even though districts would need supplemental materials in addition to either program. This was arbitrary, capricious, and inconsistent with a fair adoption process.

100. The Department's treatment of *EL Education* and *Wit & Wisdom* stands in stark and troubling contrast with the treatment of *Into Reading Tennessee*. Two programs that failed multiple criteria on re-review were added to the list for adoption, while *Into Reading Tennessee* was subjected to a flawed re-review and left off the list.

G. The appeal process was legally and procedurally flawed

101. The Commission conducted a hearing on October 22, 2019.

102. Per the Commission's process, this was the first opportunity for HMH to address the alleged issues raised upon re-review.

103. At the hearing, the Commission made a plain legal error concerning the ability of school districts to order publishers' books/materials even if they are not on the approved list.

104. Dr. Coons was asked whether the ultimate decision of whether to order books/materials was left to the school districts and other LEAs.

105. Dr. Coons responded that this was true as long as their waiver is approved by the Commissioner of the Department.

106. Further, Dr. Coons stated that districts could pursue a waiver to use a program that was not approved, and explicitly mentioned criteria 1b and 1c, which were the bases for *Into Reading Tennessee*, Grade 3 not being approved.

107. However, the Department of Education's guidelines for the ELA adoption state that only two types of waivers are available for this adoption.

108. Type One waivers are for materials that are currently being used by districts.

109. Type Two waivers are for materials that are either Open Educational Resources (OER) or district-created curricula.

110. HMH's *Into Reading Tennessee* is a new program and so is not yet being used by districts. This program was created by HMH, and is not OER.

111. Despite the representations made at the Commission's meeting, waivers do not appear to be available for *Into Reading Tennessee*. Certainly, a district reviewing these guidelines would not understand either type of waiver to be applicable to *Into Reading Tennessee*.

112. This incorrect legal standard led the Commission to deny inclusion of *Into Reading Tennessee* on the list, on the assumption that school districts that wanted the program could obtain waivers. At least two commissioners, including the chair, mentioned on the record at the October 22 meeting the availability of waivers in explaining their vote not to approve *Into Reading Tennessee* Grade 3.

113. This is not correct legally (as discussed above) or practically.

114. The reality is that school districts, as a practical matter, may resist applying for waivers for a variety of reasons.

115. Indeed, several school districts have communicated to HMH that they will not consider textbooks and materials that require a waiver.

116. Inclusion or exclusion from the State's list is thus, as a practical matter, critical. The approved list is a gating criterion that on its own can either allow or prevent schools across the state from using or buying particular textbooks and educational materials.

H. The Commission improperly deferred to its re-review team and failed to comply with the statute

117. During discussion of *Into Reading Tennessee* at the October 22 hearing, Commissioner Bowman asked if it would be appropriate to review HMH's actual materials before voting on whether they met the statutory requirements.

118. In response, Commission Chairman Durban stated that the Commission's role was limited. Chairman Durban stated words to the effect of: "We are reviewing process, OK, I'm sorry, I don't feel that's our place to review the actual materials. We review the process."

119. It was an abdication of the Commission's authority to limit the Commission's role to a mere review of the process.

120. The statute instructs that it is the duty of the Commission to determine whether the statutory criteria for inclusion on the Board's list are met. T.C.A. § 49-6-2202(a).

121. While of course the Commission is entitled to secure the assistance and recommendations of reviewers, it should not limit its review to the process utilized by re-reviewers.

122. In any case, even if the Commission's review is limited to process, that process was, as discussed above, fatally flawed.

PARTIES, JURISDICTION, AND VENUE

123. Petitioner Houghton Mifflin Harcourt Publishing Company is a Massachusetts corporation with its principal place of business in Boston, Massachusetts.

124. Respondent Tennessee Department of Education is an agency of the State of Tennessee and may be served, pursuant to Tennessee Rule of Civil Procedure 4.04(6), through Herbert Slattery, Attorney General and Reporter, P.O. Box 20207, Nashville, TN 37202-0207.

125. Respondent Tennessee State Board of Education is an agency of the State of Tennessee and may be served, pursuant to Tennessee Rule of Civil Procedure 4.04(6), through Herbert Slattery, Attorney General and Reporter, P.O. Box 20207, Nashville, TN 37202-0207.

126. Respondent State Textbook & Instructional Materials Quality Commission is an agency of the State of Tennessee and may be served, pursuant to Tennessee Rule of Civil Procedure 4.04(6), through Herbert Slattery, Attorney General and Reporter, P.O. Box 20207, Nashville, TN 37202-0207.

127. Petitioner will also provide courtesy copies of the Petition by mail and email to Joanna Collins, Assistant General Counsel for Procurement, Counsel to the Textbook and Instructional Materials Quality Commission, Tennessee Department of Education, 9th Floor, Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, TN 37243-0375 (Joanna.collins@tn.gov) and by email to Christy Ballard, General Counsel of the Tennessee Department of Education (Christy.Ballard@tn.gov) and Angie Sanders, General Counsel of the Tennessee State Board of Education (Angela.c.sanders@tn.gov). Ms. Collins wrote a response letter to Petitioner on November 13, 2019, and Ms. Ballard and Ms. Sanders were copied on that letter.

128. The Court has jurisdiction pursuant to T.C.A. §§ 27-8-104 and 27-9-102.

129. Venue is proper in this Court pursuant to T.C.A. § 27-9-102 as the Respondents each have their principal office in this County.

**CAUSE OF ACTION—WRITS OF CERTIORARI AND SUPERSEDEAS, AND
UPON REVIEW, QUASHAL**

130. HMH incorporates by reference paragraphs 1 through 129.

131. As is set forth above, Respondents acted arbitrarily in excluding *Into Reading Tennessee*, Grade 3, from the adoption list.

132. Petitioner has been harmed as a result of Respondents' exclusion of *Into Reading Tennessee*, Grade 3, from the adoption list.

133. Respondents' decision to exclude *Into Reading Tennessee*, Grade 3 from the adoption list should be superseded and stayed pending this Court's review to prevent Petitioner from suffering irreparable harm. If Petitioner's third grade materials are not included on the approved list, no school district in this State can purchase them, and school districts are making irrevocable purchasing decisions now.

III. PRAYER FOR RELIEF

134. HMH respectfully requests that the Court grant the writ of certiorari and require Respondents bring the record of their 2018-2020 English Language Arts (ELA) adoption proceedings before the Court.

135. HMH respectfully requests that the Court grant supersedeas and stay Respondents' decision to exclude *Into Reading Tennessee*, Grade 3, from the adoption list pending judicial review pursuant to the writ of certiorari.

136. HMH respectfully requests that, upon review, the Court enter a judgment of quashal of Respondents' adoption list and conduct such further proceedings to implement its judgment as the Court deems appropriate.

137. HMH respectfully requests that the Court expedite this proceeding in light of the irreparable harm occurring to HMH and the need to determine the final adoption list due to school boards' imminent purchasing decisions.

138. HMH respectfully requests that the Court enter preliminary relief enjoining Respondents from continuing with the ELA adoption and from entering into contracts with publishers approved by the Board until *Into Reading Tennessee*, Grade 3, is added to the approved list.

139. HMH respectfully requests such other and further relief as the Court deems proper.

Respectfully submitted,

/s/ Michael G. Abelow
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Christina R.B. López (No. 37282)
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*Counsel for Petitioner Houghton
Mifflin Harcourt Publishing Company*

VERIFICATION

I, John Carroll, Senior Vice President, Product Management, Core Solutions, of Petitioner Houghton Mifflin Harcourt Publishing Company, swear that I have reviewed the Verified Petition for Writs of Certiorari and Supersedeas and, upon issuance of the Writs, Quashal, and that the allegations in the Petition are true and correct. Further, I swear that this is the first application for a Writ.

John Carroll

John Carroll, Senior Vice President, Product Management, Core Solutions

COMMONWEALTH OF MASSACHUSETTS)

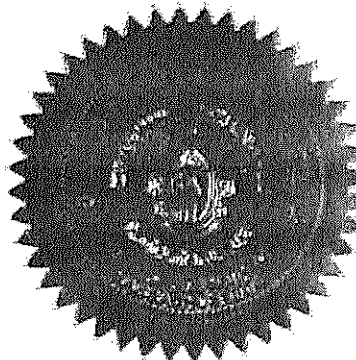
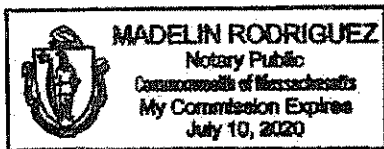
COUNTY OF Suffolk)

SWORN to and subscribed before me this 25th day of November 2019.

Madelin Rodriguez
Notary Public

My Commission Expires:

July 10, 2020



COST BOND

The undersigned hereby acknowledges himself surety for costs in the above cause of action.

/s/ Michael G. Abelow
Michael G. Abelow (No. 26710)
150 Third Avenue South, Suite 1100
Nashville, TN 37201
(615) 742-4532
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of November, 2019, a true and correct copy of the foregoing was served by Certified Mail upon the following:

Tennessee State Board of Education
c/o Herbert Slattery, Attorney General and Reporter
P.O. Box 20207
Nashville, TN 37202-0207

State Textbook & Instructional Materials Quality Commission
c/o Herbert Slattery, Attorney General and Reporter
P.O. Box 20207
Nashville, TN 37202-0207

Further, I certify that I sent a courtesy copy of the foregoing by mail and email to:

Joanna Collins, Assistant General Counsel for Procurement, Counsel to the
Textbook and Instructional Materials Quality Commission
Christy Ballard, General Counsel of the Tennessee Department of Education
Angie Sanders, General Counsel of the Tennessee State Board of Education
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/s/ Michael G. Abelow

Michael G. Abelow