



CALIFORNIA  
DEPARTMENT OF  
EDUCATION

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**JACK O'CONNELL**

State Superintendent of  
Public Instruction

PHONE: (916) 319-0800

July 12, 2006

Dear Publishers of Kindergarten Through Grade Eight Instructional Materials:

### **GRATIS LIST ITEMS FOR ADOPTED MATERIALS**

As we complete the 2006 Visual and Performing Arts Adoption and the 2006 Science Adoption, we want to remind publishers of policy and procedures governing gratis items.

Under California *Education Code* Section 60061, publishers of instructional materials have a number of duties, including providing materials free of charge in this state to the same extent as that received by any state or school district in the United States. *5 California Code of Regulations (CCR)*, Section 9527, further clarifies this requirement. This section states:

(a) Free instructional materials shall comply with the requirements of *Education Code* sections 60040-60044 and the Board's Standards for Evaluation of Instructional Materials with Respect to Social Content

(b) Publishers and manufacturers shall inform the Department in writing of all offers of free instructional materials within thirty (30) working days of the effective date of the offer so that all school districts may have the opportunity to order these materials. Failure or refusal by the publisher or manufacturer to inform the Department within this deadline shall constitute a rebuttable presumption that the violation of *Education Code* section 60061 was willful.

Both the *Education Code* sections and the *CCR* section referenced above appear in the *Invitation to Submit Document* for each adoption. As noted in the *Invitation to Submit Document*, by submitting a program for consideration, publishers have entered into an express agreement to follow the provisions of, and the procedures set forth in the *Invitation to Submit*.

In addition to the issues discussed in the *Education Code* and *CCR* cited above, publishers also need to remember that the gratis lists should include instructional materials only, **not equipment such as DVD players, televisions, LCD projectors, lap top computers, scanners, etc.** Offering equipment as part of a gratis list can be considered a violation of *Education Code* Section 60071. This code section states:

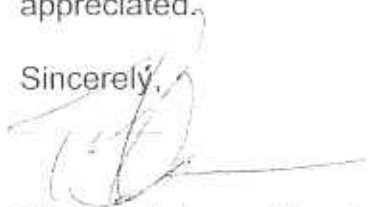
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No publisher or manufacturer of instructional materials, nor any of his representatives, shall offer or give any emolument, money or other valuable thing, or any inducement, to any school official to directly or indirectly introduce, recommend, vote for, or otherwise influence the adoption or purchase of any instructional material.

In a letter addressed to publishers of instructional materials dated August 15, 2005, Sue Stickel, Deputy Superintendent, Curriculum and Instruction Branch, reminded publishers about the prohibition in *Education Code* Section 60071. The letter appears on the California Department of Education (CDE) Web site at <http://www.cde.ca.gov/ci/cr/cf/mrktpracticepub.asp>. A companion letter addressed to County and District Superintendents, found on the Web site at the address above, was sent on the same day.

Your attention to these responsibilities as you send in your gratis lists to CDE is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Adams', with a long horizontal line extending to the right.

Thomas Adams, Director  
Curriculum Frameworks and Instructional Resources Division

TA:jj