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The attorney general of Texas, Greg Abbott, recently reaffirmed the standing interpretation of the 1995 state law that restricts the power of the Texas state board of education to review and reject the content of textbooks used in the public schools. Abbott's opinion, issued on September 18, 2006, was in response to a request from board member Terri Leo (District 6), who was among the most vocal critics of the eleven biology textbooks under review by the board in 2003. Despite a barrage of objections from creationist organizations in Texas and across the country, all eleven books were eventually [approved](#) [4]. In her [request](#) [5] (PDF), dated January 6, 2006, Leo asked for the attorney general to reconsider 1996's [Opinion No. DM-424](#) [6] **[Link broken]**, which held that "[t]he State Board of Education has no authority under the Texas Education Code to adopt rules regarding the content of state-approved textbooks establishing criteria for approval beyond the criteria contained in section 31.023 of the Education Code. The board's authority to adopt or reject textbooks does not extend to consideration of ancillary items provided to school districts free of charge."

A [brief](#) [7] (PDF) from a number of groups, led by the Texas State Teachers Association and also including the Texas Freedom Network and the Texas Association of Biology Teachers, urged the attorney general to reaffirm DM-424, contending that Leo's request "telegraphs a desire by some members of the SBOE to return to the day when textbook decisions were made on non-educational grounds," when "the SBOE's textbook adoption process was entangled with ideology, politics, and religion, and was a forum for divisive political battles that focused on ideological rather than educational or pedagogical concerns." A separate [brief](#) [8] from Texas Citizens for Science argued that DM-424 served Texas students well, commenting, "For example, the biology textbooks adopted in 2003 are the best that this state has purchased since at least the 1950s, for the topics of evolution and origin of life in them remained uncensored, despite a tremendous and expensive effort to accomplish such censorship using the current rules (conformance to TEKS [Texas Essential Knowledge and Skills] and no factual errors), which national-

and state-based creationists mistakenly thought would be sufficient."

In his [opinion](#) [9], Abbott overruled portions of DM-424 that denied the board's authority over "ancillary items" -- supplementary materials that accompany textbooks -- but, importantly, reaffirmed the conclusion that the board's statutory authority over textbooks is limited to identifying the TEKS standards, evaluating the books for factual errors and physical standards, and ensuring that they "foster the continuation of the tradition of teaching United States and Texas history and the free enterprise system." Attempts to broaden the board's statutory authority (such as 2004's [House Bill 220](#) [10], which [died](#) [11] in committee in 2005) have failed in the legislature in the past. In a September 18, 2006, [press release](#) [12], Texas Citizens for Science commented, "Both the Attorney General and the Texas Legislature have acted for the good of Texas citizens and should both be commended," and similarly, Kathy Miller of the Texas Freedom Network [told](#) [13] the Associated Press (September 19, 2006), "The Legislature and both Democratic and Republican attorneys general have now told the politicians on the State Board that they may not use public school textbooks to promote their own personal and political agendas."

Nevertheless, in the next round of biology textbook adoption proceedings, the antievolution faction on the board is likely to continue to attempt to compromise the presentation of evolution in the textbooks under review with the tools at its statutory disposal -- by arguing, as it argued in 2003, that the textbooks are factually in error or not in conformity with the TEKS standards. Cutting to the heart of the matter, the *Austin American-Statesman* (September 22, 2006) editorially [commented](#) [14] **[Link broken]**, "State law mandates that the board approve textbooks that cover curriculum standards, are free of factual errors and meet manufacturing standards. Despite Abbott's ruling mostly affirming that law, we doubt that the 15-member board will get the message. That is why the Legislature should totally eliminate the board's authority over textbook selection." The next round of biology textbook adoption proceedings is not expected to begin until 2009 at the earliest, however, and the next battleground for evolution education in Texas will be during the next round of review, and possible revisions, of the TEKS standards for science in 2007.

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[12] <http://www.texscience.org/opinion/TCS18Sept2006PressRelease.htm>

[13] <http://www.dallasnews.com/sharedcontent/dws/news/texasouthwest/stories/092006dntexttextbooks.2620390a.html>

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