

By: Naishtat

H.B. No. 3382

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to providing certain computerized instructional material  
3 for blind and visually impaired students at public institutions of  
4 higher education.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subchapter Z, Chapter 51, Education Code, is  
7 amended by adding Section 51.970 to read as follows:

8 Sec. 51.970. INSTRUCTIONAL MATERIAL FOR BLIND AND VISUALLY  
9 IMPAIRED STUDENTS. (a) In this section:

10 (1) "Blind or visually impaired student" includes any  
11 student whose visual acuity is impaired to the extent that the  
12 student is unable to read the print in the standard printed  
13 instructional material used in a course in which the student is  
14 enrolled.

15 (2) "Coordinating board" means the Texas Higher  
16 Education Coordinating Board.

17 (3) "Institution of higher education" has the meaning  
18 assigned by Section 61.003.

19 (4) "Instructional material" means a book, system of  
20 instructional material, or combination of a book and supplementary  
21 instructional material that conveys information to or otherwise  
22 contributes to the learning process of a student.

23 (5) "Special instructional material" means  
24 instructional material in Braille, large print, audio format,

1 digital text, or any other medium or any apparatus that conveys  
2 information to or otherwise contributes to the learning process of  
3 a blind or visually impaired student.

4 (b) This section applies only to instructional material  
5 that is:

6 (1) written and published primarily for postsecondary  
7 instruction of students; and

8 (2) required or essential for a student's success in a  
9 course at an institution of higher education, as identified by the  
10 instructor of the course for which the instructional material will  
11 be used, in consultation with the person at the institution with  
12 primary responsibility for services for students with disabilities  
13 and in accordance with rules adopted under Subsection (j)(1).

14 (c) To assist the institution in producing special  
15 instructional material, a publisher or manufacturer of printed  
16 instructional material assigned by an institution of higher  
17 education for use by students in connection with a course at the  
18 institution shall provide to the institution on the institution's  
19 request in accordance with this section computerized files based on  
20 the printed instructional material. The publisher or manufacturer,  
21 as applicable, shall provide the computerized files not later than  
22 the 15th business day after the date of receipt of the request.

23 (d) A request made by an institution of higher education  
24 under Subsection (c) must:

25 (1) certify that for each blind or visually impaired  
26 student who will use specialized instructional material based on  
27 the requested computerized files for a course in which the student

1 is enrolled at the institution, either the institution or the  
2 student has purchased a printed copy of the instructional material;  
3 and

4 (2) be signed by the person at the institution with  
5 primary responsibility for services for students with  
6 disabilities.

7 (e) A publisher or manufacturer may require that a request  
8 made by an institution of higher education under Subsection (c)  
9 include from each student for whom the institution is making the  
10 request a signed statement in which the student agrees:

11 (1) to use the requested computerized files and  
12 related special instructional material only for the student's own  
13 educational purposes; and

14 (2) not to copy or otherwise distribute in a manner  
15 that violates 17 U.S.C. Section 101 et seq. the requested  
16 computerized files or the printed instructional material on which  
17 the requested computerized files are based.

18 (f) The computerized files of the printed instructional  
19 material must:

20 (1) be in a format that:

21 (A) except as provided by Subsection (g),  
22 contains all of the information that is in the printed  
23 instructional material, including any text, sidebar, table of  
24 contents, chapter headings, chapter subheadings, footnotes, index,  
25 glossary, and bibliography, and is approved by the publisher or  
26 manufacturer, as applicable, and the institution of higher  
27 education as a format that will contain that material; and

1           (B) is compatible with commonly used Braille  
2 translation and speech synthesis software; and

3           (2) include any correction or revision available at  
4 the time the computerized files are provided.

5           (g) If the publisher or manufacturer and the institution of  
6 higher education are not able to agree on a format as required by  
7 Subsection (f)(1)(A), the publisher or manufacturer, as  
8 applicable, shall provide the computerized files in American  
9 Standard Code for Information Interchange (ASCII) text or an  
10 equivalent text and in a format that contains as much of the  
11 material specified by that subsection as is practicable.

12           (h) Notwithstanding any other provision of this section, a  
13 publisher or manufacturer is not required to comply with Subsection  
14 (c) or (f), as applicable, if the coordinating board, using  
15 procedures and criteria adopted by coordinating board rule and  
16 based on information provided by the publisher or manufacturer,  
17 determines that:

18           (1) compliance by the manufacturer or publisher would  
19 violate a law, rule, or regulation relating to copyrights; or

20           (2) the printed instructional material on which  
21 computerized files would be based is:

22                   (A) out of print; or

23                   (B) in a format that makes it impracticable to  
24 convert the material into an electronic format.

25           (i) The coordinating board may impose a reasonable  
26 administrative penalty against a publisher or manufacturer that  
27 knowingly violates this section. The coordinating board shall

1 provide for a hearing to be held, in accordance with coordinating  
2 board rule, to determine whether a penalty is to be imposed and the  
3 amount of any penalty. The coordinating board shall base the amount  
4 of any penalty on:

- 5 (1) the seriousness of the violation;
- 6 (2) any history of a previous violation;
- 7 (3) the amount necessary to deter a future violation;
- 8 (4) any effort to correct the violation; and
- 9 (5) any other matter justice requires.

10 (j) The coordinating board, in consultation with an  
11 advocacy organization for persons who are blind or visually  
12 impaired, shall adopt rules for administering this section,  
13 including rules that address:

- 14 (1) the method for identifying instructional material  
15 considered to be required or essential for a student's success in a  
16 course;
- 17 (2) the procedures and standards relating to  
18 distribution of computerized files under this section; and
- 19 (3) any other matter considered necessary or  
20 appropriate for the administration of this section.

21 SECTION 2. (a) Section 51.970, Education Code, as added by  
22 this Act, applies beginning with requests for computerized files of  
23 printed instructional material assigned for use by students in the  
24 2008 spring semester.

25 (b) Not later than November 1, 2007, the Texas Higher  
26 Education Coordinating Board shall adopt rules as required by  
27 Section 51.970(i), Education Code, as added by this Act.

1           SECTION 3. This Act takes effect immediately if it receives  
2 a vote of two-thirds of all the members elected to each house, as  
3 provided by Section 39, Article III, Texas Constitution. If this  
4 Act does not receive the vote necessary for immediate effect, this  
5 Act takes effect September 1, 2007.