

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) "Governing board," "institution of higher  
18 education," and "university system" have the meanings assigned by  
19 Section 61.003.

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

24 (5) "Special instructional material" means

1 instructional material in Braille, large type, audio form, digital  
2 text, or any other medium or any apparatus that conveys information  
3 to or otherwise contributes to the learning process of a blind or  
4 visually impaired student.

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

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

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

15 (c) To assist the institution in producing special  
16 instructional material, a publisher or manufacturer of printed  
17 instructional material assigned by an institution of higher  
18 education for use by students in connection with a course at the  
19 institution shall provide to the institution on the institution's  
20 request in accordance with this section computerized files based on  
21 the printed instructional material. The publisher or manufacturer,  
22 as applicable, shall provide the computerized files as soon as  
23 practicable after the date of receipt of the request and may not  
24 impose any charge for providing the files.

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

27 (1) certify that for each blind or visually impaired

1 student who will use specialized instructional material based on  
2 the requested computerized files for a course in which the student  
3 is enrolled at the institution, either the institution or the  
4 student has purchased a printed copy of the instructional material;  
5 and

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

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

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

16 (2) not to copy or otherwise distribute for use by  
17 others the requested computerized files or the printed  
18 instructional material on which the requested computerized files  
19 are based.

20 (f) The computerized files of the printed instructional  
21 material must:

22 (1) be in a format that:

23 (A) except as provided by Subsections (g) and  
24 (h), contains all of the information that is in the printed  
25 instructional material, including any text, sidebar, table of  
26 contents, chapter headings, chapter subheadings, footnotes, index,  
27 glossary, and bibliography, and is approved by the publisher or

1 manufacturer, as applicable, and the institution of higher  
2 education as a format that will contain that material; and

3 (B) is compatible with commonly used Braille  
4 translation and speech synthesis software; and

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

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

14 (h) The computerized files of the printed instructional  
15 material are not required to contain nontextual elements such as  
16 pictures, illustrations, graphs, or charts.

17 (i) If an institution of higher education permits a  
18 student's direct use of the computerized files provided under this  
19 section, the institution must:

20 (1) provide for the files to be protected against  
21 copying; or

22 (2) take other reasonable precautions to ensure that  
23 the student does not copy or otherwise distribute the files in a  
24 manner that violates 17 U.S.C. Section 101 et seq.

25 (j) In the same manner as a publisher or manufacturer is  
26 required under this section to provide computerized files of  
27 printed instructional material, a publisher or manufacturer shall

1 provide to an institution of higher education according to the  
2 procedures required by this section:

3 (1) computerized files of instructional material that  
4 is not available in printed form only to the extent that technology  
5 is available commercially to convert the non-printed instructional  
6 material into a format that could contain all of the information  
7 required by Subsection (f)(1)(A) and is compatible with commonly  
8 used Braille translation and speech synthesis software; and

9 (2) computerized files of nontextual mathematics or  
10 science material only to the extent that computer software  
11 technology is available commercially to convert the computerized  
12 files into a format compatible with commonly used Braille  
13 translation and speech synthesis software or alternative media for  
14 blind and visually impaired students.

15 (k) The governing board of a university system may establish  
16 one or more centers for processing requests under this section by  
17 the system's component institutions. If a governing board  
18 establishes a center under this subsection, notwithstanding any  
19 other provision of this section, a component institution of that  
20 university system must submit a request under this section to the  
21 center, the center must submit that request to the publisher or  
22 manufacturer, and the publisher or manufacturer, as applicable, is  
23 required to respond only to those requests under this section made  
24 through a center. If a governing board establishes more than one  
25 center, each of those centers shall coordinate requests made under  
26 this section. If a publisher or manufacturer has responded to a  
27 request by a center, a subsequent request for the same computerized

1 files that is made by a component institution served by the center  
2 must be satisfied by the center.

3 (1) This section does not:

4 (1) prohibit an institution of higher education from:

5 (A) assisting a blind or visually impaired  
6 student by using requested computerized files solely to transcribe  
7 printed instructional material into Braille or other special  
8 instructional material; or

9 (B) sharing that Braille transcription or other  
10 special instructional material with other blind and visually  
11 impaired students enrolled at the institution; or

12 (2) authorize any use of instructional material that  
13 would constitute an infringement of copyright under 17 U.S.C.  
14 Section 101 et seq.

15 (m) The coordinating board may impose a reasonable  
16 administrative penalty against a publisher or manufacturer who  
17 knowingly violates this section. The coordinating board shall  
18 provide for a hearing to be held, in accordance with coordinating  
19 board rule, to determine whether a penalty is to be imposed and the  
20 amount of any penalty. The coordinating board shall base the amount  
21 of any penalty on:

22 (1) the seriousness of the violation;

23 (2) any history of a previous violation;

24 (3) the amount necessary to deter a future violation;

25 (4) any effort to correct the violation; and

26 (5) any other matter justice requires.

27 (n) The coordinating board shall adopt rules for

1 administering this section, including rules that address:

2 (1) the method for identifying instructional material  
3 considered to be required or essential for a student's success in a  
4 course;

5 (2) the method for determining, for purposes of  
6 Subsection (j), the commercial availability of technology for the  
7 conversion of instructional material that is not available in  
8 printed form and of nontextual mathematics or science material;

9 (3) the procedures and standards relating to  
10 distribution of computerized files under this section; and

11 (4) any other matter considered necessary or  
12 appropriate for the administration of this section.

13 SECTION 2. (a) Section 51.970, Education Code, as added by  
14 this Act, applies beginning with requests for computerized files of  
15 printed instructional material assigned for use by students in the  
16 2008 spring semester.

17 (b) Not later than November 1, 2007, the Texas Higher  
18 Education Coordinating Board shall adopt rules as required by  
19 Section 51.970(n), Education Code, as added by this Act.

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