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No equivalent provision.

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SECTION __. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.949 to read as follows:

Sec. 51.949. INFORMATION FOR BOOKSTORES RELATING TO INSTRUCTIONAL MATERIALS. (a)

In this section:

(1) "Institution of higher education" has the meaning assigned by Section 61.003.

(2) "Instructional materials" means any printed or computer-generated educational material, including textbooks, or any equipment or supplies that a student is required or recommended to use in connection with a course.

(3) "University-affiliated bookstore" means a store that sells instructional materials, regardless of whether the store is located on the campus of an institution of higher education, and that is operated by or with the approval of the institution through ownership or through a management, lease, rental, or similar agreement.

(b) This section does not apply to an institution of higher education with a university-affiliated bookstore if the bookstore is owned and operated by the institution.

(c) Each institution of higher education shall make available for public inspection through the Internet or in person a list of required or recommended instructional materials for a semester or other academic term at the same time the institution provides the list to the operator of a university-affiliated bookstore.

(d) To the extent that space for an activity described by this subsection is available, an institution of higher

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education shall provide to a retailer or other provider of instructional materials that holds a sales tax permit issued to the provider under Subchapter F, Chapter 151, Tax Code, the same opportunity as an operator of a university-affiliated bookstore to participate in any programs related to the dissemination or provision of instructional materials for students of the institution, including providing information at student orientation or participating in a program of repurchasing instructional materials. If sufficient space is not available for each provider of instructional materials, other than an operator of a university-affiliated bookstore, that holds a sales tax permit and that applies to participate in an activity described by this subsection, the institution shall provide the available space in the same order as those providers applied to participate in the activity.

(e) An institution of higher education may charge to a provider of instructional materials, other than an operator of a university-affiliated bookstore, a reasonable fee for participation in an activity described by Subsection (d).

(f) If an institution of higher education works in conjunction with a university-affiliated bookstore to provide a method for the extension of credit or the ability of a student to charge or otherwise delay the payment of the costs of instructional materials, including the extension of credit under Section 51.929(b), the institution shall provide to any other provider of instructional materials to students of the institution that holds a sales tax permit issued to the provider under Subchapter F, Chapter 151, Tax Code, equal access and

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opportunity to use or develop the same or similar method of payment at a reasonable cost to that person.

(g) Subsection (f) does not restrict an institution of higher education from adopting or enforcing a policy that is necessary to ensure the institution's compliance with a rule or policy of the National Collegiate Athletic Association or of another organization governing intercollegiate athletic competition of which the institution is a member.

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

Sec. 51.970. INSTRUCTIONAL MATERIAL FOR BLIND AND VISUALLY IMPAIRED STUDENTS. (a)

In this section:

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

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

(3) "Institution of higher education" has the meaning

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

Sec. 51.970. INSTRUCTIONAL MATERIAL FOR BLIND AND VISUALLY IMPAIRED STUDENTS

AND STUDENTS WITH DYSLEXIA. (a) In this section:

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

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

(3) "Dyslexia" means a condition of dyslexia considered to be a disability under the Americans with Disabilities Act (42 U.S.C. Section 12101 et seq.) or Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794).

(4) "Institution of higher education" has the meaning

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assigned by Section 61.003.

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

(5) "Special instructional material" means instructional material in Braille, large print, audio format, digital text, or any other medium or any apparatus that conveys information to or otherwise contributes to the learning process of a blind or visually impaired student.

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

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

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

(c) To assist the institution in producing special instructional material, a publisher or manufacturer of printed instructional material assigned by an institution of higher education for use by students in connection with a course at the institution shall provide to the

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assigned by Section 61.003.

(5) "Instructional material" means a printed textbook or other printed instructional material or a combination of a printed book and supplementary printed instructional material that:

(1) conveys information to or otherwise contributes to the learning process of a student; and

(2) was published on or after January 1, 2004.

(6) "Special instructional material" means instructional material in Braille, large print, audio format, digital text, or any other medium or any apparatus that conveys information to or otherwise contributes to the learning process of a blind or visually impaired student or a student with dyslexia.

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

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

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

(c) To assist the institution in producing special instructional material, a publisher or manufacturer of instructional material assigned by an institution of higher education for use by students in connection with a course at the institution shall provide to the institution on the

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institution on the institution's request in accordance with this section computerized files based on the printed instructional material. The publisher or manufacturer, as applicable, shall provide the computerized files not later than the 15th business day after the date of receipt of the request.

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

(1) certify that for each blind or visually impaired student who will use specialized instructional material based on the requested computerized files for a course in which the student is enrolled at the institution, either the institution or the student has purchased a printed copy of the instructional material; and

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

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

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

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

(f) The computerized files of the printed instructional

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institution's request in accordance with this section a copy in an electronic format of the instructional material.

The publisher or manufacturer, as applicable, shall provide the electronic copy not later than the 15th business day after the date of receipt of the request.

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

(1) certify that for each blind or visually impaired student or student with dyslexia who will use specialized instructional material based on the requested copy of the material in an electronic format for a course in which the student is enrolled at the institution, either the institution or the student has purchased a printed copy of the instructional material; and

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

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

(1) to use the requested electronic copy and related special instructional material only for the student's own educational purposes; and

(2) not to copy or otherwise distribute in a manner that violates 17 U.S.C. Section 101 et seq. the requested electronic copy or instructional material on which the requested electronic copy is based.

(f) Each electronic copy of instructional material must:

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material must:

(1) be in a format that:

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

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

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

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

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

(1) compliance by the manufacturer or publisher would

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(1) be in a format that:

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

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

(2) include any correction or revision available at the time the **electronic copy is** provided.

(g) If the publisher or manufacturer and the institution of higher education are not able to agree on a format as required by Subsection (f)(1)(A), the publisher or manufacturer, as applicable, shall provide the **electronic copy of the instructional material in a format that can be read by a word processing application and** that contains as much of the material specified by that subsection as is practicable.

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

(1) compliance by the manufacturer or publisher would

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violate a law, rule, or regulation relating to copyrights; or
(2) the printed instructional material on which
computerized files would be based is:

(A) out of print; or

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

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

(1) the seriousness of the violation;

(2) any history of a previous violation;

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

(4) any effort to correct the violation; and

(5) any other matter justice requires.

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

(1) the method for identifying instructional material
considered to be required or essential for a student's

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violate a law, rule, or regulation relating to copyrights; or
(2) the printed instructional material on which
computerized files would be based is:

(A) out of print; or

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

(h) The coordinating board may impose a reasonable
administrative penalty not to exceed \$250 per violation
against a publisher or manufacturer that knowingly
violates this section. The coordinating board shall
provide for a hearing to be held, in accordance with
coordinating board rule, to determine whether a penalty
is to be imposed and the amount of any penalty. The
coordinating board shall base the amount of any penalty
on:

(1) the seriousness of the violation;

(2) any history of a previous violation;

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

(4) any effort to correct the violation; and

(5) any other matter justice requires.

(i) The coordinating board, in consultation with an
advocacy organization for persons who are blind or
visually impaired, an advocacy organization for persons
with dyslexia, representatives from one or more
instructional material publishing companies or
publishing associations, and institutions of higher
education shall adopt rules for administering this section,
including rules that address:

(1) the method for identifying instructional material
considered to be required or essential for a student's

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success in a course;

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

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

No equivalent provision.

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

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

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success in a course;

(2) the procedures and standards relating to distribution of electronic copies of instructional material under this section; and

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

SECTION __. (a) Section 51.949, Education Code, as added by this Act, applies only to a semester or term that begins on or after the effective date of this Act.

(b) Section 51.949, Education Code, as added by this Act, does not affect the terms of a contract entered into before the effective date of this Act.

(c) As soon as practicable on or after the effective date of this Act, each public institution of higher education to which Section 51.949, Education Code, as added by this Act, applies shall designate an officer or employee of the institution to ensure the institution's compliance with that section.

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

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

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

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Same as House version.

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