

Senate Bill 261

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires publisher of instructional materials for post-secondary students, upon request from post-secondary education institution, to provide materials in electronic format to institution for use by students with disabilities for educational purposes.

A BILL FOR AN ACT

Relating to post-secondary instructional materials.

Be It Enacted by the People of the State of Oregon:

SECTION 1. As used in sections 1 to 4 of this 2007 Act:

(1) **"Alternative format" means any medium or format for the presentation of instructional materials other than standard print that is needed by a post-secondary student with a disability for a reading accommodation, including but not limited to Braille, large print texts, audio recordings, digital texts and digital talking books.**

(2) **"Electronic format" includes, but is not limited to, streaming video, software programs, videodiscs, videotapes and audio tapes.**

(3) **"Instructional material" means a textbook or other material if:**

(a) **The textbook or other material is published primarily for use by students in a course of study in which a post-secondary student with a disability is enrolled;**

(b) **The textbook or other material is required for a student's success in the course, as determined by the course instructor; and**

(c) **Software is commercially available to permit the conversion of an electronic file of the textbook or other material into a format that is compatible with assistive technologies such as speech synthesis software or Braille translation software commonly used by a post-secondary student with a disability.**

(4) **"Nonprinted instructional material" includes, but is not limited to, instructional material that requires the availability of electronic equipment in order to be used as a learning resource.**

(5) **"Post-secondary education institution" means:**

(a) **A state institution of higher education listed in ORS 352.002;**

(b) **A community college operated under ORS chapter 341;**

(c) **The Oregon Health and Science University; or**

(d) **An Oregon-based, generally accredited, not-for-profit institution of higher education.**

(6) **"Printed instructional material" means instructional material in book or other printed form.**

(7) **"Publisher" means any person that publishes or manufactures instructional material**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 used by students attending a post-secondary education institution.

2 (8) "Structural integrity" means the inclusion of all of the information provided in
3 printed instructional material, including but not limited to the text of the material sidebars,
4 the tables of contents, the chapter headings and subheadings, the footnotes, the indexes and
5 the glossaries.

6 (9) "Working day" means a day that is not a Saturday, Sunday or legal holiday.

7 **SECTION 2.** The purpose of sections 1 to 4 of this 2007 Act is to ensure, to the maximum
8 extent possible, that all post-secondary students with disabilities in Oregon who require
9 reading accommodations, in accordance with section 504 of the Rehabilitation Act of 1978,
10 29 U.S.C. 794, or the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq., including
11 but not limited to students who are blind, are visually impaired or have a specific learning
12 disability or other disability affecting their ability to read, shall have access to instructional
13 materials in alternative formats that are appropriate to their disability and educational
14 needs.

15 **SECTION 3.** (1)(a) A post-secondary education institution may submit a written request
16 to a publisher to receive instructional material in an electronic format. In the request, the
17 institution must certify that:

18 (A) The instructional material has been purchased:

19 (i) By a student for use by a student with a disability; or

20 (ii) By the institution for use by a student with a disability who attends or is registered
21 to attend the institution.

22 (B) The student has a disability that prevents the student from using the standard in-
23 structional material; and

24 (C) The instructional material is for use by the student in connection with a course in
25 which the student is registered or enrolled.

26 (b) A publisher may also require a statement signed by the student, or, if the student is
27 an unemancipated minor who is under 18 years of age, by the student's parent or legal
28 guardian, agreeing that the student will:

29 (A) Use the copy of the instructional material in an electronic format solely for the
30 student's own educational purposes; and

31 (B) Not copy or distribute the instructional material in an electronic format for use by
32 other people.

33 (2) The request for instructional material in an electronic format submitted under sub-
34 section (1) of this section shall be prepared and signed by:

35 (a) A representative of services for students with disabilities at the post-secondary edu-
36 cation institution;

37 (b) A representative of the Commission for the Blind; or

38 (c) A representative of the Department of Human Services.

39 (3) A publisher shall, upon receipt of a request for instructional materials that meets the
40 requirements of subsections (1) and (2) of this section, provide to the post-secondary educa-
41 tion institution, at no cost:

42 (a) Printed instructional material in an electronic format; and

43 (b) Nonprinted instructional material in an electronic format, when the technology is
44 available to maintain the material's structural integrity.

45 (4) A publisher that provides instructional material in an electronic format under sub-

1 section (3) of this section shall ensure that the instructional material:

2 (a) Maintains the structural integrity of the original instructional material;

3 (b) Is compatible with commonly used speech synthesis software and Braille translation
4 software; and

5 (c) Includes corrections and revisions as may be necessary.

6 (5) In addition to the requirements of subsection (4) of this section, a publisher shall
7 provide instructional material in an electronic format that is mutually agreed upon by the
8 publisher and the post-secondary education institution. If good faith efforts fail to produce
9 an agreement as to an electronic format that will preserve the structural integrity of the
10 instructional material, the publisher shall:

11 (a) Provide the instructional material in compliance with the National Instructional Ma-
12 terials Accessibility Standard in effect on the effective date of this 2007 Act;

13 (b) Utilize an appropriate document-type definition suitable for the creation of alternative
14 format materials; and

15 (c) Preserve as much of the structural integrity of the original instructional material as
16 possible.

17 (6)(a) The publisher shall transmit or otherwise send the instructional material in an
18 electronic format within 15 working days of receipt of a request that meets the requirements
19 of subsections (1) and (2) of this section.

20 (b) Notwithstanding paragraph (a) of this subsection, if meeting the time period require-
21 ments specified in paragraph (a) of this subsection is an undue burden on the publisher, the
22 publisher may submit within the 15 working days a statement to the requesting post-
23 secondary education institution certifying the expected date for transmission or delivery of
24 the instructional material in an electronic format and a summary of the basis of the undue
25 burden.

26 SECTION 4. Nothing in sections 1 to 4 of this 2007 Act authorizes any use of instructional
27 materials that would constitute an infringement of copyright under the Copyright Act of
28 1976, 17 U.S.C. 101 et seq.

29 SECTION 5. Sections 1 to 4 of this 2007 Act first apply to the 2008-2009 academic year.

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