

**INSTRUCTIONAL MATERIALS FOR
DISABLED STUDENTS**

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: D. Gregg Buxton

Senate Sponsor: Gregory S. Bell

LONG TITLE

General Description:

This bill imposes requirements and establishes procedures for providing instructional materials to disabled students in an electronic format.

Highlighted Provisions:

This bill:

- ▶ requires a publisher or manufacturer of instructional materials for students enrolled in state institutions of higher education to provide an electronic version of the materials for the use by disabled students;

- ▶ requires the electronic version of instructional materials to be provided:
 - in a format mutually agreed upon by the publisher or manufacturer and the state institution of higher education;

- at no additional cost; and

- in a timely manner;

- ▶ establishes procedures for requesting and providing instructional materials in an electronic format;

- ▶ directs the State Board of Regents to make rules; and

- ▶ defines terms.

Monies Appropriated in this Bill:

None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 ENACTS:

32 **53B-23-101**, Utah Code Annotated 1953

33 **53B-23-102**, Utah Code Annotated 1953

34 **53B-23-103**, Utah Code Annotated 1953

35 **53B-23-104**, Utah Code Annotated 1953

36 **53B-23-105**, Utah Code Annotated 1953

37 **53B-23-106**, Utah Code Annotated 1953



39 *Be it enacted by the Legislature of the state of Utah:*

40 Section 1. Section **53B-23-101** is enacted to read:

41 **CHAPTER 23. INSTRUCTIONAL MATERIALS FOR DISABLED STUDENTS ACT**

42 **53B-23-101. Title.**

43 This chapter is known as the "Instructional Materials for Disabled Students Act."

44 Section 2. Section **53B-23-102** is enacted to read:

45 **53B-23-102. Definitions.**

46 For purposes of this chapter:

47 (1) (a) "Instructional material or materials" means textbooks and other materials
48 written and published primarily for use by students in postsecondary instruction that are
49 required or essential to a student's success in a course of study in which a student with a
50 disability is enrolled. The determination of which materials are "required or essential to
51 student success" shall be made by the instructor of the course in consultation with the official
52 making the request pursuant to Section 53B-23-103 in accordance with rules issued pursuant to
53 Section 53B-23-106.

54 (b) "Instructional material or materials" does not include nontextual mathematics and
55 science materials until the time software becomes commercially available that permits the
56 conversion of existing electronic files of the materials into a format that is compatible with
57 braille translation software or alternative media for students with disabilities.

58 (2) "Printed instructional material or materials" means instructional material or

59 materials in book or other printed form.

60 (3) "Nonprinted instructional materials" means instructional materials in formats other
61 than print, and includes instructional materials that require the availability of electronic
62 equipment in order to be used as a learning resource, including software programs, video disks,
63 and video and audio tapes.

64 (4) "State institution of higher education" means an institution listed in Section
65 53B-2-101.

66 (5) "Specialized format" means braille, audio, or digital text that is exclusively for use
67 by blind or other persons with disabilities.

68 (6) (a) "Structural integrity" means all of the printed instructional material, including
69 the text of the material, sidebars, the table of contents, chapter headings and subheadings,
70 footnotes, indexes, glossaries, and bibliographies.

71 (b) "Structural integrity" need not include nontextual elements such as pictures,
72 illustrations, graphs, or charts.

73 Section 3. Section **53B-23-103** is enacted to read:

74 **53B-23-103. Instructional materials to be provided in electronic format.**

75 (1) (a) On or after January 1, 2009, any person that publishes or manufactures printed
76 instructional material for students attending a state institution of higher education shall provide
77 to the institution for use by students attending the institution any printed instructional material
78 in an electronic format mutually agreed upon by the publisher or manufacturer and the
79 institution.

80 (b) Computer files or electronic versions of the printed instructional material shall:

81 (i) maintain the structural integrity of the printed instructional material;

82 (ii) be compatible with commonly used braille translation and speech synthesis
83 software; and

84 (iii) include corrections and revisions as may be necessary.

85 (c) If good faith efforts fail to produce an agreement pursuant to Subsection (1)(a)
86 between the publisher or manufacturer and the institution as to an electronic format that will
87 preserve the structural integrity of the printed instructional material, the publisher or
88 manufacturer shall provide the instructional material in ASCII text and shall preserve as much
89 of the structural integrity of the printed instructional material as possible.

90 (2) The computer files or electronic versions of the printed instructional material shall
91 be provided to the institution at no additional cost and in a timely manner, upon receipt of a
92 written request that:

93 (a) certifies that the institution has purchased the printed instructional material for use
94 by a student with a disability or that a student with a disability attending or registered to attend
95 that institution has purchased the printed instructional material;

96 (b) certifies that the student has a disability that prevents the student from using
97 standard instructional materials;

98 (c) certifies that the printed instructional material is for use by the student in
99 connection with a course in which the student is registered or enrolled at the institution; and

100 (d) is signed by the coordinator of services for students with disabilities at the
101 institution or by the official responsible for monitoring compliance with the Americans with
102 Disabilities Act of 1990, 42 U.S.C. 12101 et seq. at the institution.

103 (3) A publisher or manufacturer providing instructional materials in an electronic
104 format to an institution may require that, in addition to the requirements specified in
105 Subsections (2)(a) through (2)(d), the request shall include a statement signed by the student
106 that:

107 (a) the student will use the electronic copy of the printed instructional material in
108 specialized format solely for the student's own educational purposes; and

109 (b) the student will not copy or duplicate the printed instructional material for use by
110 others.

111 (4) If an institution permits a student to directly use the electronic version of an
112 instructional material, the disk or file shall be copy-protected or the institution shall take other
113 reasonable precautions to ensure that the student does not copy or distribute electronic versions
114 of instructional materials in violation of the Copyright Revisions Act of 1976, 17 U.S.C. Sec.
115 101 et seq.

116 (5) A person that publishes or manufactures nonprinted instructional materials for
117 students attending a state institution of higher education shall provide computer files or other
118 electronic versions of the nonprinted instructional materials for use by students attending the
119 institution subject to the same requirements specified in Subsections (1) and (2) for printed
120 instructional materials, when technology is available to convert the nonprinted instructional

121 materials to a format that maintains the structural integrity of the nonprinted instructional
122 materials that is compatible with braille translation and speech synthesis software.

123 (6) Nothing in this chapter shall be construed to prohibit an institution from assisting a
124 student with a disability by using the electronic version of printed instructional material
125 provided pursuant to this section solely to transcribe or arrange for the transcription of the
126 printed instructional materials into braille. If a transcription is made, the institution shall have
127 the right to share the braille copy of the printed instructional material with other students with
128 disabilities.

129 Section 4. Section **53B-23-104** is enacted to read:

130 **53B-23-104. Centers for processing requests for electronic versions of**
131 **instructional materials.**

132 (1) The State Board of Regents may establish one or more centers to process requests
133 for electronic versions of instructional materials pursuant to this chapter.

134 (2) The institutions designated as within the jurisdiction of a center shall submit
135 requests for instructional material to the center, which shall transmit the request to the
136 publisher or manufacturer.

137 (3) If there is more than one center, each center shall make every effort to coordinate
138 requests.

139 (4) The publisher or manufacturer of instructional material shall be required to honor
140 and respond to only those requests submitted through a designated center.

141 (5) If a publisher or manufacturer has responded to a request for instructional materials
142 by a center, all subsequent requests for those instructional materials shall be satisfied by the
143 center to which the request is made.

144 Section 5. Section **53B-23-105** is enacted to read:

145 **53B-23-105. Infringement of copyright laws not authorized.**

146 Nothing in this chapter shall be considered to authorize any use of instructional
147 materials that would constitute an infringement of copyright under the Copyright Revision Act
148 of 1976, as amended, 17 U.S.C. Sec. 101 et seq.

149 Section 6. Section **53B-23-106** is enacted to read:

150 **53B-23-106. State Board of Regents to make rules.**

151 The State Board of Regents shall adopt rules consistent with this section for its

152 implementation and administration, including rules addressing:
153 (1) the designation of materials considered "required or essential to student success";
154 (2) the determination of the availability of technology for the conversion of nonprinted
155 materials pursuant to Section 53B-23-103 and the conversion of mathematics and science
156 materials pursuant to Section 53B-23-102; and
157 (3) the procedures and standards relating to distribution of files and materials pursuant
158 to Section 53B-23-103.

Legislative Review Note
as of 1-20-06 2:47 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0192

Instructional Materials for Disabled Students

31-Jan-06

10:35 AM

State Impact

No fiscal impact.

Individual and Business Impact

If textbook publishers' costs increase, they could pass those additional costs on in the form of higher textbook costs. However, any such increase is expected to be minimal.

Office of the Legislative Fiscal Analyst