

Draft Textbook Guidance

Textbooks are often the most expensive out-of-pocket expense for many college students, including those attending community colleges and/or receiving financial aid. In recent years, the prices for textbooks have been increasing at rates that exceed the overall rate of inflation. For many students, the financial aid available is not sufficient to cover the entire cost of their textbooks. At the same time, faculty and the operators of college bookstores have complained that textbook prices are frequently not transparent. The prices can change, for example, after a faculty member selects a text, but before students are asked to buy it. In many cases, students have also not been able to obtain accurate information about the costs of required textbooks when they register for classes.

The Higher Education Opportunity Act (PL 110-315) was enacted by Congress and signed by the President to begin to address these issues. This new law takes effect on July 1, 2010, when its requirements related to textbook pricing, which pertain to the conduct of publishers and institutions of higher education, become mandatory. The central feature of this new law is a requirement, to the maximum extent practicable, for greater transparency of pricing information at the time faculty members select texts for the classes they teach and when students register for classes. The Department of Education has prepared the following non-regulatory guidelines to help publishers and college registration officials recognize their obligations under this new law in advance of its formal implementation date and to assist institutions and publishers who may wish to bring their organizations into legal compliance before the final deadline. In addition, this document also contains a series of recommended voluntary best practices that publishers, higher education institutions, faculty and students can take to make it easier to comply with both the letter and spirit of this new law.

What The New Law Requires of TEXTBOOK PUBLISHERS:

When publishers provide information on a college textbook or supplemental material to faculty or any college entity or person in charge of selecting course materials at institutions the information must be in writing, which may be conveyed by means of an electronic communication. These written records must include:

- The price the publisher would charge the bookstore on the campus of or otherwise associated with the higher education institution for the textbook and any supplemental material (this is often referred to as the "net price") and, if available, the price the publisher would charge the public for the same materials (this is often called the "list price").
- The copyright dates of three previous editions (if any).
- A description of major differences or revisions between the current and previous edition (if any).
- Whether the textbook and/or supplemental materials are available in other printed formats, including paperback or unbound and, if so, the price(s) the publisher would charge campus

bookstores and bookstores associated with higher education institutions for these alternate printed formats and, if available, the prices that would be charged to the general public for the same materials.

- The same information as described above for custom textbooks, to the extent possible.

In addition, textbook bundles, which include texts and supplementary materials such as workbooks, CDs or DVDs, must be available ala carte, in parts, with each part of the bundle separately priced, except for integrated textbooks as defined by this law. Textbooks without explicit third-party contract limitations should not generally be considered as “integrated textbooks” if an identical textbook or supplemental material, including used, is commonly available to students in a form that is fully usable for its intended purpose and which meets the requirements of a course at an institution.

Voluntary Best Practices for TEXTBOOK PUBLISHERS Suggested by the U.S. Department of Education:

To assist publishers in fulfilling these requirements, the U.S. Department of Education has created a standard disclosure form that publishers may use to inform faculty or other adopting entities about the legally required textbook pricing information. This form can be downloaded here (insert link).

In order to streamline access to information and to promote efficiency, publishers are encouraged to:

- Provide the required information and options as early as possible before academic quarters or semesters.
- Make the required pricing and edition revision history for textbooks and supplementary materials available online where it can be freely accessed by all interested parties.
- Consider how or if the interests of faculty, students and publishers might be advanced by the production and distribution of freely available open source or public domain branded learning materials that can help publishers gain market share while reducing costs imposed on students.

What the New Law Requires of HIGHER EDUCATION INSTITUTIONS:

Institutions of higher education are required, to the maximum extent practicable, to post verified textbook pricing information for both required and recommended materials for each class on the institution’s online course schedule or linked to the course schedule from another site, such as a college-designated bookstore, in a manner of the institution’s choosing. This information must include:

- The International Standard Book Number (ISBN) and retail price of the materials charged by the institution or bookstore on the campus of or otherwise associated with the institution.
- If no ISBN is available, the author, title, publisher and copyright date.
- If these disclosures are not practicable for some reason, the designation of To Be Determined (TBD) must appear along with any other available helpful explanation related to the costs of the items.

At the request of a college bookstore that is operated by or in a contractual relationship with or otherwise affiliated with an institution of higher education, institutions must provide to the bookstore:

- The institution's course schedule for the subsequent academic period as soon as is practicable.
- For each course or class offered, the information the institution must include on its online course schedule, including the required and recommended textbooks and supplemental material, the number of students enrolled and the maximum student enrollment for each class or section using the identified materials.

Voluntary Best Practices for HIGHER EDUCATION INSTITUTIONS Suggested by the U.S. Department of Education:

- Whenever possible, a preferred approach is to embed and integrate the required pricing information for textbooks and supplementary materials, if any, directly into the online course schedule with the required information published in electronic form in a location that is directly adjacent to the description or title of each particular course. While this approach is ideal, it may not be practical in all cases. For this reason, this law does not require that the pricing information for each class be embedded directly into the online course schedule adjacent to each course description. Furthermore, this law does not define the terms "retail price" or "college bookstore."

In most cases, retail prices are determined by a college bookstore or similar commercial outlet that serves the college and textbook market. These commercial entities often have the most current and accurate information about retail textbook prices. As such, it is reasonable for higher education institutions to link their online course schedules with current pricing information maintained by a bookstore that is designated as the official campus store. Once a store is so designated by a higher education institution the institution can fulfill their pricing disclosure obligations under this law by linking the institution's online course schedule to the legally required pricing information that may reside on the webpage of the officially designated college store. In this case, and to remain in compliance with the law, the institution must provide the required information about textbook and supplemental material prices as described above to the designated bookstore in a manner that allows the bookstore to verify the information and make the books available for students on the timeline required by the teacher(s) of the course(s).

- The law does not specify a date by which this information must be available to students but the clear intent of the law as stated in parts (a) and (d) suggests it should be available to students by the time student registration or pre-registration begins, to the maximum extent possible.
- In cases where textbook and other learning material costs are included in the cost of course registration ("baked in" to the cost of a course, either as a rental or purchase) higher education institutions should provide students with a break out the cost of the textbook and/or other learning materials that is paid for by their course registration fees.

- Financial aid offices and personnel can help students maximize their aid for textbook costs by widely publishing information about any and all financial aid for textbook purchases that may be available and by the timely release of aid to ensure students are able to acquire the materials by the start of classes at the lowest possible cost.
- Institutions should periodically review and, if necessary, update their existing textbook adoption policies and other administrative procedures to better ensure compliance with the requirements of this law.
- Ongoing campus-based partnerships and task forces with representatives from student governments, faculty, bookstores and administrators can help identify and monitor best practices for students, such as getting orders in early and making textbooks conveniently available.
- Many higher education institutions already meet or exceed the requirements delineated by this new law and are further encouraged to actively promote, facilitate and provide information on any other institutional or student run programs that may help students overcome the high cost of textbooks, such as:
 - Textbook rental programs
 - Purchasing used textbooks
 - Textbook buy-back programs
 - Accessible, mobile, or open source formats
- The governing boards of higher education institutions should consider enacting formal policies that support interested faculty in the creation, cultivation, improvement and use of textbooks and other learning materials that reside in the public domain (also known as Open Education Resources). Development and reliance on these policies have generated tens of thousands of dollars of savings in textbook costs per class section while also demonstrably improving the overall quality of teaching and learning. A model institutional policy in support of Open Education Resources was enacted by the Governing Board of the Foothill-De Anza Community College District in 2004, a copy of which can be found here (insert link).
- For more information on Open Education Resources and other model programs to reduce textbook costs you can visit www.ed.gov/textbooks, which was created by the U.S. Department of Education to assist governing boards, institutions, bookstores and faculty in creating student-friendly local textbook policies, programs and administrative procedures.

What the New Law Requires of **COLLEGE BOOKSTORES**:

The new law places no new legal requirements on college bookstores. The requirements of the law pertain to institutions of higher education and to the publishers of textbooks and other supplementary

materials used by those institutions. There are, however, a series of voluntary best practice actions that college bookstores can take to contribute to compliance with the letter and spirit of this new law (see below).

Voluntary Best Practices for COLLEGE BOOKSTORES recommended by the U.S. Department of Education:

Bookstores that are operated by or in a contractual relationship with an institution(s) of higher education can aid textbook price transparency efforts and better support the academic mission of the institutions they serve by:

- Managing the collection, verification and posting of the pricing information required to be disseminated by this law.
- Enhancing the adoption process through promotion of information on affordable options for faculty to consider in their textbook adoptions.
- Monitoring the status of faculty compliance with the requirements of this law by tracking and reporting on-time textbook adoption rates by department and class section and the accuracy of information submitted.

Bookstores can also go further in helping students and faculty by establishing a bookstore advisory committee that includes students, faculty and registration personnel and by working to clearly inform faculty and students about textbook affordability initiatives such as textbook rental and buy-back efforts and by widely publicizing any corresponding deadlines for participation in such programs. Bookstores can also seek support from their higher education institutions to establish Open Education Resource Specialists within their operations that are trained to assist faculty and students in locating free high-quality learning materials that reside in the public domain, which will help faculty and students while also preserving and extending the role of the college bookstore within the academic system.

What the New Law Requires of **FACULTY**:

The new law places no new legal requirements on faculty. The requirements of the law pertain to institutions of higher education and to the publishers of textbooks and other supplementary materials used by those institutions. There are, however, a series of voluntary best practice actions that faculty can take to contribute to compliance with the letter and spirit of this new law (see below).

Voluntary Best Practices for FACULTY recommended by the U.S. Department of Education:

Faculty members and in some cases departments play a critical role in enhancing textbook price transparency and affordability because they determine which textbooks and supplementary materials are required or recommended for a course. The price of textbooks is only one factor that goes into a

decision about textbook or learning material adoptions. But the price of a textbook can have an important impact on overall learning outcomes in a class, for example, in cases where the costs imposed on students are high enough to discourage their purchase of materials that would improve their comprehension of the subject matter. Faculty should be aware that this new law ensures they will have access to important information about textbooks and supplementary learning materials during their decision process about which books to require or suggest. Faculty members should expect and require the following information, in written or electronic form, from publishers to assist in their decision-making process:

- The price the publisher would charge the bookstore on the campus of or otherwise associated with the higher education institution for the textbook and any supplemental material (often referred to as the "net price") and, if available, the price the publisher would charge the public for the same materials (often called the "list price").
- The copyright dates of three previous editions (if any).
- A description of major differences or revisions between the current edition and previous edition (if any).
- Whether the textbook and/or supplemental materials are available in other printed formats, including paperback or unbound and, if so, the price(s) the publisher would charge campus bookstores and bookstores associated with higher education institutions for these alternate printed formats and, if available, the prices that would be charged to the general public for the same materials.
- The same information as described above for custom textbooks, to the extent possible.
- Textbook bundles, which can include texts and supplementary materials such as workbooks, CDs or DVDs, must be available ala carte, in parts, with each part of the bundle separately priced, except for integrated textbooks as specifically defined by this law.
- To make comparisons easier, faculty may request that publishers provide the information noted above using the Standard Disclosure Form developed for this purpose, which can be found here (insert link).

Faculty can also take the following steps independent of requests to publishers:

- In most cases the local bookstore, not the publisher, determines the final retail price for a textbook. Faculty should contact their campus bookstore to verify what the retail price of the book would be for the new textbook under consideration and what the selection would mean for students with respect to buy-back, used books and other student cost considerations.
- Use the same textbook and edition for as many terms as possible as long as the material remains academically sound.

- Submit textbook adoption orders to the college bookstore as early as possible so they can support institutional compliance with the disclosure requirements of this law and address potential issues that may arise in the adoption process. Early submission of textbook adoption plans may enable the identification of lower cost alternatives of equal or higher academic quality.
- Let students know as early as possible if a textbook is optional or if you allow students to use an older edition.
- Ensure consistency with what is disclosed on the official institutional online course schedule. Be sure to contact the appropriate office on campus if the required and recommended course material information on the course schedule page is not consistent with the pricing information you have or what you plan to tell students.
- Review state laws and institutional rules and guidelines, consulting with academic superiors as necessary, regarding sales of textbooks they have authored or to which they have contributed, to their own students.

Finally, faculty should be informed consumers when it comes to selecting textbooks and learning materials for the classes they teach. They can move toward this goal by:

- Review the items in textbook bundles to ensure all components are really necessary for your class. Don't require that students purchase bundles containing materials they won't find useful. Be aware that unbundled books may cost less.
- Be aware of time-expiring passcodes or other built-in obsolescence features included with textbooks or supplementary materials, particularly those offered electronically, that may make it difficult or impossible for students to sell or buy the materials after their initial use.
- Carefully consider all features of a bundled textbook to determine if they really represent a net cost saving to students. Some custom books and packages appear to be cheaper but may actually cost students more than the standard edition.
- Consider a variety of textbook options, including open textbooks, which are sometimes called Open Education Resources. These academic learning materials are freely available, have been shown to improve the quality of teaching and learning and can often be modified to suit the needs of a particular course or instructor. You can learn more about Open Education Resources [here \(insert link\)](#).

What the New Law Requires of STATES:

The new law places no new legal requirements on states. The requirements of the law pertain to institutions of higher education and to the publishers of textbooks and other supplementary materials used by those institutions. There are, however, a series of voluntary best practice actions that states can take to contribute to compliance with the letter and spirit of this new law (see below).

Voluntary Best Practices for **STATES** recommended by the U.S. Department of Education:

States play an important role in their oversight and accountability of textbook selection and purchasing practices. States are encouraged to:

- Conduct periodic audits of institutional textbook practices and costs to determine compliance with federal and state laws and regulations.
- Review textbook affordability issues and remove barriers to the use of Open Education Resources by creating legislative and policy frameworks that enable these materials to be assessed and used by faculty on an equal basis with commercially published materials.
- Adopt state laws and policies that encourage the use of free, high-quality open education resource learning materials in accordance with the academic standards of higher education institutions within those jurisdictions.
- Collaborate with other states to share best practices on textbook affordability oversight.
- Enable state and institutional participation in academic consortia that are working to collaboratively develop and improve free, high-quality Open Education Resources that reside in the public domain.
- Carefully monitor the impact of state and federal laws related to textbook affordability to determine their utility and to make recommendations for future improvements.

What the New Law Requires of **STUDENTS**:

The new law places no new legal requirements on students. The requirements of the law pertain to institutions of higher education and to the publishers of textbooks and other supplementary materials used by those institutions. There are, however, a series of voluntary best practice actions that students can take to make sure they have access to the highest quality learning materials at the lowest possible cost (see below):

Voluntary Best Practices for **STUDENTS** recommended by the U.S. Department of Education:

The key features of this new law are designed to help students by ensuring that they have the information they need about textbook prices for specific classes to enable them to make wise decisions that best serve student needs. Taking advantage of this opportunity requires students to take action on their own behalf. Students should heed the following advice.

- Become an informed consumer:

- Periodically review your course schedule and look on the course schedule website for any changes or updates to your list of required or recommended textbooks and learning materials. This information can change at any time before classes begin and may have an impact on the courses you choose to take.
- Consult with faculty or the college bookstore if you have questions about the intended use and value of the recommended materials; including determining whether you will have the option to sell the materials back to the bookstore if you no longer need or desire them.
- Consider the total cost of all materials you purchase; including shipping time and costs when purchasing books online; remember that commercial e-books and workbooks usually cannot be sold back to their supplying bookstore.
- Consider the finality of your course choices and use the online information about individual course learning material costs to help you make course selection decisions that best serve your needs.
- Shop wisely for textbooks and learning materials:
 - Don't be afraid to comparison shop for the best value and service.
 - Search for books online by ISBN number to find new and used copies of your required textbooks, or search by author and title, edition and copyright to locate older editions or alternate formats – but be sure to confirm that you are purchasing the right book before you finalize your order.
 - Avoid purchasing international editions or faculty samples that may not be usable in class or have little or no resale value.
 - Consider using textbook rental or book swap programs, either through your campus or via websites that offers these services.
 - Check the library; many schools offer reserve copies of textbooks and other materials that students can use or borrow for short periods of time.
- Students may also want to look for classes and faculty that use free, high-quality learning materials, also known as Open Education Resources, as partial or complete substitutes for commercial text books. Open education resources are free, are currently in use in many higher education institutions, and have been demonstrated to improve student learning outcomes. Suggest that faculty members investigate these free online printable materials for use in their classes and support faculty members who are using these materials by taking their classes on a preferred basis when doing so meets your academic needs.

For more information on how students can work with their faculty, bookstores and higher education institutions to improve the transparency of textbooks prices and obtain the best possible learning materials at the lowest possible costs please visit the U.S. Department of Education's textbook affordability website, which you can find here (insert link).

Publishers and higher education institutions that have questions about compliance with this law that are not answered here can mail those inquiries to: Or fax them to:

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