
SUBSTITUTE HOUSE BILL 2911

State of Washington

58th Legislature

2004 Regular Session

By House Committee on Higher Education (originally sponsored by Representatives Kenney, Morrell, Fromhold, Cox and Darneille; by request of State Board for Community and Technical Colleges)

READ FIRST TIME 02/06/04.

1 AN ACT Relating to instructional materials for students with
2 disabilities; adding a new section to chapter 28B.10 RCW; and
3 prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 28B.10 RCW
6 to read as follows:

7 (1) For purposes of this section:

8 (a) "Instructional material" means textbooks and other textual and
9 nontextual material required or essential to a student's success in a
10 postsecondary course of study in which a student with a disability is
11 enrolled as determined by the instructor of the course in consultation
12 with the official making the request in accordance with guidelines
13 issued pursuant to subsection (9) of this section.

14 (b) "Print access disability" means a condition in which a person's
15 independent reading of, reading comprehension of, or visual access to
16 materials is limited or reduced due to a sensory, neurological,
17 cognitive, physical, psychiatric, or other disability recognized by
18 state or federal law. The term is applicable, but not limited to,

1 persons who are blind, have low vision, or have reading disorders or
2 physical disabilities.

3 (c) "Structural integrity" means all instructional material,
4 including but not limited to the text of the material, sidebars, the
5 table of contents, chapter headings and subheadings, footnotes,
6 indexes, glossaries, graphs, charts, illustrations, pictures,
7 equations, formulas, and bibliographies.

8 (d) "Specialized format" means Braille, audio, electronic, or
9 digital text that is exclusively for use by blind or other persons with
10 print access disabilities.

11 (2) An individual, firm, partnership, or corporation that publishes
12 or manufactures instructional material for students attending any
13 public or private institution of higher education in the state of
14 Washington must provide to the public or private institution of higher
15 education, for use by students attending the institution, instructional
16 material in an electronic or specialized format mutually agreed upon by
17 the publisher or manufacturer and the public or private institution of
18 higher education. Computer files or electronic versions of printed
19 instructional material shall be provided; video materials must be
20 captioned or accompanied by transcriptions of spoken text; and audio
21 materials must be accompanied by transcriptions. Structural integrity
22 of material must be maintained. Structural elements, such as headings,
23 lists, and tables must be identified using current markup and tools.
24 If good faith efforts fail to produce an agreement between the
25 publisher or manufacturer and the public or private institution of
26 higher education, as to a specialized format that will preserve the
27 structural integrity of instructional material, the publisher or
28 manufacturer must provide the instructional material in a verified and
29 valid HTML format and must preserve as much of the structural integrity
30 of the instructional material as possible. The instructional material
31 in a specialized format must be provided to the public or private
32 institution of higher education at no additional cost and in a timely
33 manner, upon receipt of a written request as provided in subsection (3)
34 of this section.

35 (3) A written request for instructional material in a specialized
36 format must:

37 (a) Certify that the public or private institution of higher
38 education has purchased the instructional material in its standard

1 format for use by a student with a print access disability or that the
2 student with a print access disability attending or registered to
3 attend the public or private institution of higher education has
4 purchased the instructional material in its standard format;

5 (b) Certify that the student has a print access disability that
6 substantially prevents him or her from using standard instructional
7 material;

8 (c) Certify that the instructional material is for use by the
9 student in connection with a course in which he or she is registered or
10 enrolled at the public or private institution of higher education; and

11 (d) Be signed by the coordinator of services for students with
12 disabilities at the public or private institution of higher education
13 or by the college or campus official responsible for monitoring
14 compliance with the Americans with Disabilities Act of 1990 (42 U.S.C.
15 12101 et seq.) at the public or private institution of higher
16 education.

17 (4) An individual, firm, partnership, or corporation specified in
18 subsection (2) of this section may require that, in addition to the
19 requirements in subsection (3) of this section, the request include a
20 statement signed by the student agreeing to both of the following:

21 (a) He or she will use the instructional material provided in
22 specialized format solely for his or her own educational purposes; and

23 (b) He or she will not copy or duplicate the instructional material
24 provided in specialized format for use by others.

25 (5) If a public or private institution of higher education provides
26 a student with the specialized format version of instructional
27 material, the media must be copy-protected or the public or private
28 institution of higher education shall take other reasonable precautions
29 to ensure that students do not copy or distribute specialized format
30 versions of instructional material in violation of the Copyright
31 Revisions Act of 1976, as amended (17 U.S.C. Sec. 101 et seq.).

32 (6) Nothing in this section prohibits a public or private
33 institution of higher education from assisting a student with a print
34 access disability through the use of a specialized format version of
35 instructional material obtained under this section or by transcribing
36 or translating or arranging for the transcription or translation of the
37 instructional material into specialized formats that provide persons
38 with print access disabilities the ability to have increased

1 independent access to instructional material. If such specialized
2 format is made, the public or private institution of higher education
3 may share the specialized format version of the instructional material
4 with other students with print access disabilities for whom the public
5 or private institution of higher education is authorized to request
6 instructional material in a specialized format. The addition of
7 captioning to video material by a Washington public or private
8 institution of higher education does not constitute an infringement of
9 copyright.

10 (7) A specialized format version of instructional material
11 developed at one public or private institution of higher education in
12 Washington state may be shared for use by a student at another public
13 or private institution of higher education in Washington state for whom
14 the latter public or private institution of higher education is
15 authorized to request instructional material in a specialized format.

16 (8) Nothing in this section shall be deemed to authorize any use of
17 instructional material that would constitute an infringement of
18 copyright under the Copyright Revision Act of 1976, as amended (17
19 U.S.C. Sec. 101 et seq.).

20 (9) The governing boards of public and participating private
21 institutions of higher education in Washington shall each adopt
22 guidelines consistent with this section for its implementation and
23 administration. At a minimum, the guidelines shall address all of the
24 following:

25 (a) The designation of instructional material deemed "required or
26 essential to student success";

27 (b) The determination of the availability of technology for the
28 conversion of instructional material and the conversion of mathematics
29 and science material;

30 (c) The procedures and standards relating to distribution and use
31 of instructional material pursuant to this section;

32 (d) The procedures for granting exceptions or waivers when it is
33 determined that an individual, firm, partnership, or corporation is not
34 technically able to comply with the requirements of this section; and

35 (e) Other matters as are deemed necessary or appropriate to carry
36 out the purposes of this section.

1 (10) Failure to comply with the requirements of this section is a
2 violation of chapter 49.60 RCW.

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