

House Bill 1020

By: Representatives Ashe of the 42nd, Post 2, Coleman of the 65th, Millar of the 52nd, Gardner of the 42nd, Post 3, and Fludd of the 48th, Post 4

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 20 of the Official Code of Georgia Annotated, relating to education, so as to
2 enact "The Access to Postsecondary Education Instructional Material Act"; to provide for
3 definitions; to provide for requests to publishers for electronic versions of instructional
4 material; to provide for duties of publishers; to provide for counseling, agreement, and
5 reasonable precautions to avoid violating copyright laws; to provide for construction; to
6 provide for remedies for violations; to provide an effective date; to repeal conflicting laws;
7 and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 style="text-align:center">**SECTION 1.**

10 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by
11 adding a new Chapter 20-3A to read as follows:

12 style="text-align:center">"CHAPTER 20-3A

13 20-3A-1.

14 This chapter shall be known and may be cited as 'The Access to Postsecondary Education
15 Instructional Material Act.'

16 20-3A-2.

17 As used in this chapter, the term:

18 (1) 'Electronic version of instructional materials' means a format of instructional
19 materials which enables the user of such materials who has a print access disability to
20 have substantially the same access as users who do not have a print access disability. The
21 term includes the usage of such formats as 'xml,' 'rtf,' 'ASCII,' and 'OEB' and includes but
22 is not limited to other such formats that are compatible with commonly used Braille

1 translation, software, large print, screen enlargement, screen reading and recognition
2 systems, and speech synthesis software.

3 (2) 'Institution' means any part of the university system, as set forth in Code Section
4 20-3-50, any private postsecondary educational institution defined as 'nonpublic' in Code
5 Section 20-3-250.2, any proprietary school as defined in Code Section 20-3-250.2, any
6 junior college as defined in Code Section 20-3-131, or any school or program under the
7 authority, management, or operational control of the Department of Technical and Adult
8 Education.

9 (3) 'Instructional material' means any textbook, pamphlet, or compilation of pages that
10 is required or essential to learning for any course of study offered for credit or toward a
11 degree or certificate by any institution subject to the requirements of this chapter. The
12 term specifically includes both textual and nontextual information. The term also
13 includes nonprinted instructional material and material published and generally available
14 for purchase by the public and material that is printed and generally available for
15 purchase primarily by students of an institution.

16 (4) 'Nonprinted instructional material' means instructional material that is in a format
17 other than print. The term includes but is not limited to instructional material that
18 requires electronic equipment other than a computer or computer peripheral for the
19 material to be used as a learning resource, such as a software program, video disc,
20 videotape, or audiotape. The term does not include a website or Internet link that is
21 associated with or operated by a publisher of instructional material.

22 (5) 'Print access disability' means a condition in which a person's independent reading
23 of, reading comprehension of, or visual access to printed material is limited or reduced
24 due to a sensory, neurological, cognitive, physical, psychiatric, or other disability
25 recognized by state or federal law. The term is applicable but not limited to persons who
26 are blind, have low vision, or have reading disorders or physical disabilities.

27 (6) 'Publisher' means the person or entity that prints or issues instructional material that
28 is generally available for purchase by the public and the person or entity that offers for
29 sale or makes available instructional material primarily to students of an institution.

30 20-3A-3.

31 (a)(1) An institution shall make a written request to a publisher of instructional material
32 for an electronic version of instructional material that is required by either a member of
33 the staff or member of the faculty of an institution with a print access disability for use
34 in postsecondary education or is essential to the success of a student with a print access
35 disability in a course of study or program offered by an institution in which the student
36 is enrolled, as determined by the instructor for the course or program in consultation with

1 the person who signs the request pursuant to subparagraph (C) of paragraph (2) of this
2 subsection.

3 (2) A written request for an electronic version of instructional material shall:

4 (A) Certify that the student, member of the staff, or faculty member for whom the
5 electronic version of the instructional material was requested has a print access
6 disability which prevents him or her from using standard printed instructional material;

7 (B) Certify that the electronic version of the instructional material is for use by the
8 student with a print access disability in connection with a course of study or program
9 in which the student is enrolled at the institution or for use by the member of the staff
10 or member of the faculty with a print access disability in connection with postsecondary
11 education; and

12 (C) Be signed by a person at the institution responsible for coordinating services for
13 students, members of the staff, or members of the faculty with print access disabilities
14 or by a person at the institution who is responsible for monitoring compliance with the
15 Americans with Disabilities Act of 1990.

16 (b) A publisher who receives a request for an electronic version of instructional material
17 complying with subsection (a) of this Code section shall be required to provide such
18 electronic version to the institution within ten days.

19 (c) A publisher may require that a written request for an electronic version of instructional
20 material include a statement signed by the person described in subparagraph (a)(2)(C) of
21 this Code section in which the person verifies that:

22 (1) The student, member of the staff, or member of the faculty for whom the electronic
23 version of instructional material is being requested has been properly counseled in the use
24 of the material in a manner to avoid violating any copyright laws; and

25 (2) The institution has on file a form signed by the student, member of the staff, or
26 member of the faculty in which he or she:

27 (A) Agrees to use the electronic version of the instructional material solely for his or
28 her own educational or instructional purposes; and

29 (B) Agrees not to copy or otherwise duplicate the electronic version of the instructional
30 material for use by another person.

31 (d) An electronic version of instructional material provided by the publisher shall:

32 (1) Directly match the printed instructional material;

33 (2) Include all of the requested printed instructional material, including but not limited
34 to the text of the material, sidebars, tables of contents, numberings, tables, graphs, charts,
35 chapter headings and subheadings, footnotes, indexes, glossaries, imbedded images, table
36 numbers, and graphic numbers;

1 (3) Include such corrections and revisions as may be necessary to ensure that the
2 electronic version is current with requested instructional material; and

3 (4) Be compatible for use with equipment that is commonly used by students, faculty,
4 or staff of the institution with print access disabilities to convert material into a format
5 that provides them with the ability to have increased independent access to the material.

6 (e) If an institution allows a student, member of its staff, or member of its faculty to have
7 direct use of an electronic version of instructional material obtained pursuant to this Code
8 section, the institution shall take such reasonable precautions as are necessary to ensure that
9 the electronic version is not distributed in violation of federal copyright laws, including but
10 not limited to copy-protecting the disc, file, or other medium that contains the electronic
11 version.

12 20-3A-4.

13 (a) Nothing in this chapter shall be construed to prohibit an institution from assisting a
14 student, member of its staff, or member of its faculty with a print access disability through
15 the use of an electronic version of instructional material obtained pursuant to Code Section
16 20-3A-3 or by transcribing or translating or arranging for the transcription or translation
17 of the printed instructional material into formats that provide persons with print access
18 disabilities the ability to have increased independent access to printed instructional
19 material. If such transcription or translation is made, the institution may share the
20 transcription or translation with other students, members of the staff, or members of the
21 faculty with print access disabilities for whom the institution is authorized to request
22 electronic versions of instructional material.

23 (b) Nothing in this chapter shall be construed to limit a faculty member's choice of
24 textbook or other appropriate instructional material for use in a course he or she is teaching.

25 (c) Nothing in this chapter shall be construed to allow the incurring of any cost for the
26 acquisition of instructional material by a student, member of the staff, or faculty of the
27 institution with a print access disability in excess of the cost to a student, member of the
28 staff, or faculty member who does not have a print access disability.

29 (d) Nothing in this chapter shall be construed to authorize any use of instructional material
30 that would constitute an infringement of federal copyright laws.

31 20-3A-5.

32 (a) A person who violates a provision of this chapter may be held liable for actual damages
33 to the person whose rights are violated.

34 (b) In an action brought pursuant to this chapter, the court may:

- 1 (1) Grant any equitable relief it considers appropriate, including without being limited
2 to temporary, preliminary, or permanent injunctive relief against the defendant; and
3 (2) Award costs and reasonable attorney's fees to the prevailing party."

4 **SECTION 2.**

5 This Act shall become effective on July 1, 2004.

6 **SECTION 3.**

7 All laws and parts of laws in conflict with this Act are repealed.