

House Bill 880

By: Representatives Sheldon of the 105th, Hembree of the 67th, Cox of the 102nd, and Dempsey of the 13th

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 an effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

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

11 "CHAPTER 3A

12 20-3A-1.

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

15 20-3A-2.

16 As used in this chapter, the term:

17 (1) 'Electronic version of instructional materials' means a format of instructional
18 materials that preserves the structural integrity of such materials; uses the most updated
19 software technology available to the public at that time; includes corrections and
20 revisions as may be necessary; and is compatible with commonly used Braille translation,
21 software, large print, screen enlargement, screen reading and recognition systems, and
22 speech synthesis software.

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

7 (3) 'Instructional material' means textbooks and other materials which are required or
8 considered essential by an instructor of any course of study offered for credit or toward
9 a degree or certificate by any institution subject to the requirements of this chapter, are
10 written or published by a publisher primarily for use by students, and are available for
11 purchase. The term also includes nonprinted instructional materials which are subject to
12 the accessibility standards of Section 508 of the federal Rehabilitation Act, 29 U.S.C.
13 Section 794, which includes, but is not limited to, commercially published software
14 programs, videodisks, and video and audiotapes.

15 (4) 'Publisher' means the person or entity which prints and issues a textbook or other
16 instructional material that is generally available for purchase by the public and the person
17 or entity which offers for sale material available for purchase primarily by students.

18 (5) 'Structural integrity' means all of the commercially published printed instructional
19 material, including, but not limited to, the text of the material, sidebars, the table of
20 contents, chapter headings and subheadings, footnotes, pictures, illustrations, graphs,
21 charts, indexes, glossaries, and bibliographies.

22 (6) 'Student with a print access disability' means a student requiring accommodations in
23 accordance with Section 504 of the federal Rehabilitation Act, 29 U.S.C Section 794, or
24 the federal Americans with Disabilities Act of 1990, 42 U.S.C. Sections 12101, et seq.,
25 including, but not limited to, students who are blind, are visually impaired or have a
26 specific learning disability, or other disability affecting reading.

27 20-3A-3.

28 (a)(1) An institution shall make a written request for a student with a print access
29 disability to a publisher of instructional material for an electronic version of instructional
30 material that is required or considered essential for a course of study or program offered
31 by an institution in which the student is enrolled, as determined by the instructor for the
32 course or program in consultation with the person who signs the request pursuant to
33 subparagraph (D) of paragraph (2) of this subsection.

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

35 (A) Certify that the student for whom the material was requested has a print access
36 disability which prevents him or her from using standard printed instructional material;

1 (B) Certify that the electronic version of the instructional material is for use by the
2 student with a print access disability in connection with a course of study or program
3 in which the student is enrolled at the institution;

4 (C) Certify that the instructional material has been purchased by or is being purchased
5 for the student; and

6 (D) Be signed by a person at the institution who is responsible for coordinating
7 services for students with print access disabilities or who is responsible for monitoring
8 compliance with the federal Americans with Disabilities Act of 1990.

9 (b)(1) A publisher who receives a request for an electronic version of instructional
10 material complying with subsection (a) of this Code section shall be required to provide
11 such electronic version to the institution within ten days, unless such request creates an
12 undue hardship, as defined in the federal Americans with Disabilities Act of 1990, 42
13 U.S.C. Sections 12101, et seq. The electronic version shall be in a format mutually
14 agreed upon by the publisher and the institution, but shall, after December 31, 2009, meet
15 the National Instructional Materials Accessibility Standard adopted or utilized by the
16 United States Department of Education; provided, however, that a publisher which is a
17 bookstore or is a person located on the campus of a public institution, as institution is
18 defined in Code Section 20-3A-2, shall not be required to comply with the provisions of
19 this paragraph with regard to instructional materials which are not textbooks or
20 nonprinted instructional materials.

21 (2) The computer files or electronic versions of the commercially published printed
22 instructional material shall be available to students with disabilities at a cost comparable
23 to the printed version of such commercially published material.

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

27 (1) The student for whom the electronic version of instructional material is being
28 requested has been properly counseled in the use of the material in a manner to avoid
29 violating any copyright laws; and

30 (2) The institution has on file a form signed by the student in which he or she:

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

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

35 (d) If an institution allows a student, member of its staff, or member of its faculty to have
36 direct use of an electronic version of instructional material obtained pursuant to this Code

1 section, the institution shall take such reasonable precautions as are necessary to ensure that
2 the electronic version is not distributed in violation of federal copyright laws.

3 20-3A-4.

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

14 (b) Nothing in this chapter shall be construed to allow the incurring of any cost for the
15 acquisition of instructional material by a student with a print access disability in excess of
16 the cost to a student who does not have a print access disability.

17 (c) Nothing in this chapter shall be construed to limit a faculty member's choice of
18 textbook or other appropriate instructional material for use in a course he or she is teaching;
19 provided, however, that a faculty member, after being made aware that a student with a
20 print access disability is or shall be enrolled in a course of which he or she is an instructor,
21 shall, in accordance with institution policies or guidelines, if any, provide a person at the
22 institution responsible for coordinating services for students with print access disabilities
23 a list of the instructional material required or considered essential for the course as soon
24 as is feasible.

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

27 20-3A-5.

28 The Board of Regents; an institution which is part of the university system, as set forth in
29 Code Section 20-3-50; the Department of Technical and Adult Education; or any school
30 or program under the authority, management, or operational control of the department is
31 authorized to develop policies for the implementation of this chapter. Such policies shall
32 include guidelines for the roles of persons involved in seeing that students with print access
33 disabilities receive an electronic version of instructional materials in compliance with this
34 chapter. Such persons shall include students with print access disabilities, faculty, and the
35 person or persons at the institution who are responsible for coordinating services for

1 students with print access disabilities or who are responsible for monitoring compliance
2 with the federal Americans with Disabilities Act of 1990."

3 **SECTION 2.**

4 This Act shall become effective on July 1, 2008.

5 **SECTION 3.**

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