

AMENDED IN SENATE JUNE 30, 1999

AMENDED IN SENATE JUNE 16, 1999

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AMENDED IN ASSEMBLY APRIL 5, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 422

**Introduced by Assembly Member Steinberg
(Coauthors: Assembly Members Aroner, Corbett, Kuehl,
and Thomson)**

February 12, 1999

An act to add Section 67302 to the Education Code, relating to instructional materials.

LEGISLATIVE COUNSEL'S DIGEST

AB 422, as amended, Steinberg. Instructional materials: disabled students.

Under existing law, a publisher or manufacturer of instructional materials offered for adoption or sale in California is required to comply with specified requirements, including providing to the state, at no cost, the right to transcribe, reproduce, and distribute the material in **Braille** *braille*, large print, recordings, or other accessible media for use by pupils with visual disabilities. This right includes computer diskette versions of instructional materials if made available to any other state, and those corrections and revisions as may be necessary.

This bill would require every individual, firm, partnership or corporation publishing or manufacturing printed instructional materials, as defined, for students attending the University of California, the California State University, or a California Community College to provide to the university, college, or particular campus of the university or college, for use by students at no additional cost and in a timely manner, any printed instructional material in unencrypted electronic form upon the receipt of a written request, provided that the university or college complies with certain conditions.

This bill would require that the computer files or electronic versions of printed instructional material maintain their structural integrity, as defined, be compatible with commonly used braille translation and speech synthesis software, and include corrections and revisions as may be necessary.

This bill would authorize the Chancellor of the California Community Colleges, the Chancellor of the California State University, and the President of the University of California to each establish one or more centers within their respective segments to process requests for electronic versions of instructional materials, as prescribed.

This bill would also require an individual, firm, partnership or corporation that publishes or manufactures nonprinted instructional materials for students attending the University of California, the California State University, or a California Community College to provide computer files or other electronic versions of the nonprinted instructional materials for use by students, subject to the same conditions for printed instructional materials, when technology is available to convert these nonprinted instructional materials to a format that maintains the structural integrity of the nonprinted instructional material that is compatible with braille translation and speech synthesis software.

This bill would provide that willful failure to comply with these requirements would be subject to sanctions under the law relating to full and equal access of disabled persons to public accommodations.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.



The people of the State of California do enact as follows:

1 SECTION 1. Section 67302 is added to the Education
2 Code, to read:

3 67302. (a) An individual, firm, partnership or
4 corporation that publishes or manufactures printed
5 instructional materials for students attending the
6 University of California, the California State University,
7 or a California Community College, shall provide to the
8 university, college, or particular campus of the university
9 or college, for use by students attending the University of
10 California, the California State University, or a California
11 Community College, any printed instructional material
12 in an electronic format mutually agreed upon by the
13 publisher or manufacturer and the college or campus.
14 Computer files or electronic versions of printed
15 instructional materials shall maintain the structural
16 integrity of the printed instructional material, be
17 compatible with commonly used braille translation and
18 speech synthesis software, and include corrections and
19 revisions as may be necessary. The computer files or
20 electronic versions of the printed instructional material
21 shall be provided to the university, college, or particular
22 campus of the university or college at no additional cost
23 and in a timely manner, upon receipt of a written request
24 that does all of the following:

25 (1) Certifies that the university, college, or particular
26 campus of the university or college has purchased the
27 printed instructional material for use by a student with a
28 disability or that a student with a disability attending or
29 registered to attend that university, college, or particular
30 campus of the university or college has purchased the
31 printed instructional material.

32 (2) Certifies that the student has a disability that
33 prevents him or her from using standard instructional
34 materials.

35 (3) Certifies that the printed instructional material is
36 for use by the student in connection with a course in
37 which he or she is registered or enrolled at the university,
38 college, or particular campus of the university or college.



1 (4) Is signed by the coordinator of services for students
2 with disabilities at the university, college, or particular
3 campus of the university or college or by the campus or
4 college official responsible for monitoring compliance
5 with the Americans with Disabilities Act of 1990 (42
6 U.S.C. 12101 et seq.) at the university, college, or
7 particular campus of the university or college.

8 (b) An individual, firm, partnership or corporation
9 specified in subdivision (a) may also require that, in
10 addition to the conditions enumerated above, the request
11 shall include a statement signed by the student agreeing
12 to both of the following:

13 (1) He or she will use the electronic copy of the
14 printed instructional material in specialized format solely
15 for his or her own educational purposes.

16 (2) He or she will not copy or duplicate the printed
17 instructional material for use by others.

18 (c) If a college or university permits a student to
19 directly use the electronic version of an instructional
20 material, the disk or file shall be copy-protected or the
21 college or university shall take other reasonable
22 precautions to ensure that students do not copy or
23 distribute electronic versions of instructional materials in
24 violation of the Copyright Revisions Act of 1976, as
25 amended (17 U.S.C. Sec. 101 et seq.).

26 (d) An individual, firm, partnership or corporation
27 that publishes or manufactures nonprinted instructional
28 materials for students attending the University of
29 California, the California State University, or a California
30 Community College shall provide computer files or other
31 electronic versions of the nonprinted instructional
32 materials for use by students attending the University of
33 California, the California State University, or a California
34 Community College, subject to the same conditions set
35 forth in subdivisions (a) and (b) for printed instructional
36 materials, when technology is available to convert these
37 nonprinted instructional materials to a format that
38 maintains the structural integrity of the nonprinted
39 instructional materials that is compatible with ~~Braille~~
40 *braille* translation and speech synthesis software.



1 (e) For purposes of this section:

2 ~~(1) Printed “instructional material or materials”~~
3 ~~means all printed materials that are designed for use by~~
4 ~~students and faculty as a learning resource and help~~
5 ~~students to acquire facts, skills, or opinions or to develop~~
6 ~~cognitive processes. Instructional materials may be~~
7 ~~printed or nonprinted, and may include textbooks,~~
8 ~~manuals, references, other educational materials, and~~
9 ~~tests.~~

10 ~~(2) “Nonprinted instructional materials” includes~~
11 ~~those basic or supplemental instructional materials that~~
12 ~~require the availability of electronic equipment in order~~
13 ~~to be used as a learning resource, including, but not~~
14 ~~limited to, software programs, video disks, compact disks,~~
15 ~~optical disks, videotape and audiotapes, lesson plans, and~~
16 ~~data bases.~~

17 ~~(3)~~

18 *(1) “Instructional material or materials” means*
19 *textbooks and other materials written and published*
20 *primarily for use by students in postsecondary instruction*
21 *that are required or essential to a student’s success in a*
22 *course of study in which a student with a disability is*
23 *enrolled. The determination of which materials are*
24 *“required or essential to student success” shall be made*
25 *by the instructor of the course in consultation with the*
26 *official making the request pursuant to paragraph (4) of*
27 *subdivision (a) in accordance with guidelines issued*
28 *pursuant to subdivision (i). “Instructional material or*
29 *materials” does not include nontextual mathematics and*
30 *science materials until the time software becomes*
31 *commercially available that permits the conversion of*
32 *existing electronic files of the materials into a format that*
33 *is compatible with braille translation software or*
34 *alternative media for students with disabilities.*

35 *(2) “Printed instructional material or materials”*
36 *means instructional material or materials in book or other*
37 *printed form.*

38 *(3) “Nonprinted instructional materials” means*
39 *instructional materials in formats other than print, and*
40 *includes instructional materials that require the*



1 *availability of electronic equipment in order to be used*
2 *as a learning resource, including, but not necessarily*
3 *limited to, software programs, video disks, and video and*
4 *audio tapes.*

5 (4) “Structural integrity” means all of the printed
6 instructional material, including, but not limited to, the
7 text of the material, sidebars, the table of contents,
8 chapter headings and subheadings, footnotes, indexes,
9 glossaries, and bibliographies. “Structural integrity” need
10 not include nontextual elements such as pictures,
11 illustrations, graphs, or charts. If good faith efforts fail to
12 produce an agreement pursuant to subdivision (a)
13 between the publisher or manufacturer and the
14 university, college, or particular campus of the university
15 or college, as to an electronic format that will preserve the
16 structural integrity of the printed instructional material,
17 the publisher or manufacturer shall provide the
18 instructional material in ASCII text and shall preserve as
19 much of the structural integrity of the printed
20 instructional material as possible.

21 ~~(4) “Instructional material or materials” means~~
22 ~~textbooks and other printed material written and~~
23 ~~published primarily for use by students in postsecondary~~
24 ~~instruction that are required or essential to a student’s~~
25 ~~success in a course of study in which a disabled student is~~
26 ~~enrolled. The determination of which materials are~~
27 ~~“required or essential to student success” shall be made~~
28 ~~by the instructor of the course in consultation with the~~
29 ~~official making the request pursuant to paragraph (4) of~~
30 ~~subdivision (a) in accordance with guidelines issued~~
31 ~~pursuant to subdivision (i). “Instructional material or~~
32 ~~materials” does not include nontextual mathematics and~~
33 ~~science materials until the time that software becomes~~
34 ~~commercially available that permits the conversion of~~
35 ~~existing electronic files of the materials into a format that~~
36 ~~is compatible with braille translation software or~~
37 ~~alternate media for students with disabilities.~~

38 (5) “Specialized format” means braille, audio, or
39 digital text that is exclusively for use by blind or other
40 persons with disabilities.



1 (f) Nothing in this section shall be construed to
2 prohibit a university, college, or particular campus of the
3 university or college from assisting a student with a
4 disability by using the electronic version of printed
5 instructional material provided pursuant to this section
6 solely to transcribe or arrange for the transcription of the
7 printed instructional material into braille. In the event a
8 transcription is made, the campus or college shall have
9 the right to share the braille copy of the printed
10 instructional material with other students with
11 disabilities.

12 (g) The Chancellor of the California Community
13 Colleges, the Chancellor of the California State
14 University, and the President of the University of
15 California may each establish one or more centers within
16 their respective segments to process requests for
17 electronic versions of instructional materials pursuant to
18 this section. If a segment establishes a center or centers,
19 each of the following shall apply:

20 (1) The colleges or campuses designated as within the
21 jurisdiction of a center shall submit requests for
22 instructional material made pursuant to paragraph (4) of
23 subdivision (a) to the center, which shall transmit the
24 request to the publisher or manufacturer.

25 (2) If there is more than one center, each center shall
26 make every effort to coordinate requests within its
27 segment.

28 (3) The publisher or manufacturer of instructional
29 material shall be required to honor and respond to only
30 those requests submitted through a designated center.

31 (4) If a publisher or manufacturer has responded to a
32 request for instructional materials by a center, or on
33 behalf of all the centers within a segment, all subsequent
34 requests for these instructional materials shall be satisfied
35 by the center to which the request is made.

36 (h) Nothing in this section shall be deemed to
37 authorize any use of instructional materials that would
38 constitute an infringement of copyright under the
39 Copyright Revision Act of 1976, as amended (17 U.S.C.
40 Sec. 101 et seq.).



1 (i) The governing boards of the California
2 Community Colleges, the California State University, and
3 the University of California shall each adopt guidelines
4 consistent with this section for its implementation and
5 administration. At a minimum, the guidelines shall
6 address all of the following:
7 (1) The designation of materials deemed “required or
8 essential to student success.”
9 (2) The determination of the availability of technology
10 for the conversion of nonprinted materials pursuant to
11 subdivision (d) and the conversion of mathematics and
12 science materials pursuant to paragraph (4) of
13 subdivision (e).
14 (3) The procedures and standards relating to
15 distribution of files and materials pursuant to subdivisions
16 (a) and (b).
17 (4) Other matters as are deemed necessary or
18 appropriate to carry out the purposes of this section.
19 (j) Failure to comply with the requirements of this
20 section shall be a violation of Section 54.1 of the Civil
21 Code.

