



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-3802/?

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Fri 12/19

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1 AN ACT ...; relating to: accessible instructional materials for student with
2 disabilities enrolled in institutions of higher education.

Analysis by the Legislative Reference Bureau

Under current state law, the University of Wisconsin System (UW System) and the Technical College System (TCS) may not deny to a student admission to, participation in, or the benefits of, or discriminate against a student in, any service, program, course, or facility because of the student's disability. In addition, under current federal law, a college, university, or other postsecondary institution, including a private postsecondary institution, may not exclude a student from participation in, deny a student the benefits of, or subject a student to discrimination under any program or activity receiving federal financial assistance. Federal regulations specify that a postsecondary institution receiving federal financial assistance must ensure that no student with a disability is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination because of the absence of educational auxiliary aids for students with impaired sensory, manual, or speaking skills.

This bill requires a publisher of instructional materials, within 15 working days after receipt of a request, to provide, at no additional cost, instructional material in an electronic format to a nonprofit or public institution of higher education, including an institution providing vocational training, located in this state (institution of higher education) or to the state repository for alternative format instructional materials (state repository), which the TCS Board and the Board of Regents of the UW System are directed by the bill to jointly establish.

Under the bill, a request for instructional material in an electronic format must certify: 1) that a copy of the instructional material has been purchased for use by a

student with a disability, which is defined in the bill as a student who is blind or visually impaired, or who has a specific learning disability or other disability affecting the activity of reading, and who needs reasonable accommodations in order to read; 2) that the student has a disability that prevents the student from using standard instructional material; and 3) that the instructional material is for use by the student in connection with a course at the institution of higher education in which the student is enrolled. In addition, the publisher may require the student to sign a statement agreeing that the student will use the electronic copy of the instructional material solely for his or her own educational purposes and that the student will not copy or distribute the instructional material for use by others.

Under the bill, instructional material provided by a publisher in electronic format must: 1) maintain the structural integrity of the original instructional material, which means that all of the information provided in printed instructional material, including the text of sidebars, the table of contents, chapter headings and subheadings, footnotes, indexes, glossaries, and bibliographies, but not including nontextual elements such as pictures, illustrations, graphs, and charts, are included when that printed instructional material is provided in an electronic format; 2) be compatible with commonly-used Braille translation or speech synthesis software; 3) include corrections and revisions as necessary; and 4) be in a format that is mutually agreed to between the publisher and the requester.

The bill permits an institution of higher education to use instructional material in an electronic format provided under the bill solely to convert that material into an alternative format, which is defined in the bill as Braille, large print texts, audio recordings, digital texts, digital talking books, or any other medium or format for the presentation of instructional materials, other than standard print, that is needed by a student with a disability to make those materials accessible to the student. The bill also permits an institution of higher education that converts instructional material into an alternative format to share the alternative format version of the material with the state repository, with any other institution of higher education that is serving a student with a disability, or with an entity that is authorized under the federal Copyright Act to reproduce and distribute previously published works in alternative formats exclusively for use by persons with disabilities and that commonly provides instructional materials in alternative formats to students enrolled in institutions of higher education.

The bill directs the TCS Board and the Board of Regents of the UW System to jointly: 1) establish a state repository for the purpose of collecting instructional materials in electronic and alternative formats and facilitating timely access to those materials by students with disabilities; and 2)  develop policies and procedures to ensure to the maximum extent possible that a student with a disability has access to instructional material in an appropriate alternative format within the first week of the class for which the material is required. Under the bill, the state repository may submit requests for instructional materials in an electronic format to publishers on behalf of institutions of higher education and receive instructional materials in electronic and alternative formats from publishers, institutions of higher education that have created those materials for use by students with disabilities, and other

5

sources. The bill requires the state repository, on receipt of a request for instructional material in an electronic or alternative format from an institution of higher education to provide that material to the institution of higher education at no cost.

Finally, current law prohibits any person from denying to another the full and equal enjoyment of any public place of accommodation or amusement because of disability (public accommodations law). This bill provides that a publisher of instructional material is considered to be a public place of accommodation or amusement and that any publisher that refuses to provide instructional material as required under the bill is in violation of the public accommodations law.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 106.52 (1) (e) 1. of the statutes is amended to read:

2 106.52 (1) (e) 1. "Public place of accommodation or amusement" shall be
3 interpreted broadly to include, ~~but not be limited to,~~ places of business or recreation;
4 lodging establishments; restaurants; taverns; barber or cosmetologist, aesthetician,
5 electrologist or manicuring establishments; nursing homes; clinics; hospitals;
6 cemeteries; publishers, as defined in s. 106.57 (1) (h); and any place where
7 accommodations, amusement, goods, or services are available either free or for a
8 consideration, subject to subd. 2.

History: 1971 c. 185 s. 1; 1971 c. 228 s. 42; 1971 c. 230; 1971 c. 307 s. 51; Stats. 1971 s. 101.22; 1975 c. 94, 275, 421, 422; 1977 c. 29; 1977 c. 418 s. 929 (55); 1979 c. 110; 1979 c. 177 s. 85; 1979 c. 188, 221, 355; 1981 c. 112, 180; 1981 c. 391 s. 210; 1983 a. 27, 189; 1985 a. 238, 319; 1987 a. 262; 1989 a. 47 ss. 2 to 5, 8 to 11; 1989 a. 94, 106, 139, 359; 1991 a. 295, 315; 1993 a. 27; 1995 a. 27 s. 3687; Stats. 1995 s. 106.04; 1995 a. 225; 1995 a. 448 ss. 66, 68; 1997 a. 112, 237, 312; 1999 a. 82 ss. 75 to 92, 102 to 105; Stats. 1999 s. 106.52; 1999 a. 186; 2003 a. 23.

9 **SECTION 2.** 106.52 (3) (a) 6. of the statutes is created to read:

10 106.52 (3) (a) 6. Refuse to provide instructional material in an electronic format
11 in violation of s. 106.57 (2) (a). ✓

12 **SECTION 3.** 106.57 of the statutes is created to read:

13 **106.57 Postsecondary education; accessible instructional material for**
14 **students with disabilities. (1) DEFINITIONS.** In this section:

1 (a) “Alternative format” means Braille, large print texts, audio recordings,
2 digital texts, digital talking books, or any other medium or format for the
3 presentation of instructional materials, other than standard print, that is needed by
4 a student with a disability to make those materials accessible to the student.

5 (b) “Board” means the technical college system board.

6 (c) “Board of regents” means the board of regents of the University of Wisconsin
7 System.

8 (d) “Institution of higher education” means an institution of higher education,
9 as defined in s. 108.02 (18), that is located in this state. ✓

10 (e) “Instructional material” means a textbook or other material written and
11 published primarily for use by a student enrolled in a course of study at an institution
12 of higher education that is required or essential to the student’s success, as
13 determined by the course instructor. “Instructional material” includes nontextual
14 mathematics and science material to the extent that software is commercially
15 available that permits the conversion of an electronic file of that material into a
16 format that is compatible with Braille translation software, speech synthesis
17 software, or other assistive technologies that are commonly used by students with
18 disabilities. ✓

19 (f) “Nonprinted instructional material” means instructional material in a
20 format other than print, including instructional material that requires the
21 availability of electronic equipment, such as a computer software program,
22 videodisc, videotape, or audiotape, in order to be used as a learning resource. ✓

23 (g) “Printed instructional material” means instructional material in a book or
24 other printed form.

1 (h) "Publisher" means a person that publishes or manufactures instructional
2 material. ✓

3 (i) "State repository" means the state repository for alternative format
4 instructional materials established under sub. (3) (a) 1. ✓

5 (j) "Structural integrity" means that all of the information provided in printed
6 instructional material, including the text of sidebars, the table of contents, chapter
7 headings and subheadings, footnotes, indexes, glossaries, and bibliographies, but
8 not including nontextual elements such as pictures, illustrations, graphs, and
9 charts, are included when that printed instructional material is provided in an
10 electronic format. ✓

11 (k) "Student with a disability" means a student enrolled in an institution of
12 higher education who is blind or visually impaired, or who has a specific learning
13 disability or other disability affecting the activity of reading, and who needs
14 reasonable accommodations in order to read. ✓

a holiday designated under s.
230.35 (4)(a);

15 (L) "Working day" means a day that is not a Saturday, a Sunday, or a legal
16 holiday. ✓

under federal law

with any requirement imposed by the publisher under

17 (2) PROVISION OF INSTRUCTIONAL MATERIALS IN ELECTRONIC FORMAT. (a) Subject
18 to par. (e), within 15 working days after receipt of a request that complies with par.
19 (b) and if required, par. (c), a publisher shall, at no additional cost, provide to an
20 institution of higher education or to the state repository instructional material in an
21 electronic format that complies with par. (d). ✓

22 (b) A request under par. (a) for instructional material in an electronic format
23 shall be prepared and signed by the coordinator of services for students with
24 disabilities at an institution of higher education or by another employee of an
25 institution of higher education who is responsible for monitoring compliance with

1 the federal Americans with Disabilities Act, 42 USC 12101 to 12213, or the federal
 2 Rehabilitation Act of 1973, 29 USC 701 to 796L, by a representative of the division
 3 of vocational rehabilitation in the department on behalf of an institution of higher
 4 education, or by a representative of the state repository on behalf of an institution
 5 of higher education, and shall certify all of the following:

6 1. That a copy of the instructional material has been purchased for use by a
 7 student with a disability by the student or by the institution of higher education in
 8 which the student is enrolled.

9 2. That the student has a disability that prevents the student from using
 10 standard instructional material.

11 3. That the instructional material is for use by the student in connection with
 12 a course at the institution of higher education in which the student is enrolled.

13 (c) A publisher may also require a request under par. (a) to be accompanied by
 14 a statement signed by the student or, if the student is a minor, the student's parent,
 15 guardian, or legal custodian agreeing to all of the following:

16 1. That the student will use ~~the electronic copy of~~ the instructional material
 17 solely for his or her own educational purposes. *[Handwritten signature]*

18 2. That the student will not copy or distribute the instructional material for use
 19 by others.

20 (d) Instructional material provided by a publisher in electronic format shall
 21 meet all of the following requirements:

22 1. Maintain the structural integrity of the original instructional material,
 23 except that this requirement does not apply to ~~nonprinted~~ instructional material
 24 unless technology is available to maintain the structural integrity of the ~~nonprinted~~
 25 instructional material.

non-textual (use 2x)

1 2. Be compatible with commonly used Braille translation or speech synthesis
2 software.

3 3. Include corrections and revisions as necessary.

4 4. Be in a format that is mutually agreed to between the publisher and the
5 requester. If good faith efforts fail to produce an agreement as to an electronic format
6 that will maintain the structural integrity of the original instructional material, the
7 publisher shall provide the instructional material in extensible markup language,
8 using an appropriate document-type definition that is suitable for the creation of
9 alternative format instructional materials, and shall preserve as much of the
10 structural integrity of the original instructional material as possible. ✓

11 (e) If providing instructional material in an electronic format within 15
12 working days after receipt of a request under par. (a) would impose an undue burden
13 on a publisher, the publisher shall, within those 15 working days, submit a statement
14 to the requester certifying the date by which the publisher expects to transmit or
15 deliver the instructional material. ✓

16 **(3) STATE REPOSITORY.** (a) Subject to the availability of funds, the board and the
17 board of regents shall jointly under s. 20.901 (4) do all of the following: ✓

18 1. Establish a state repository for the purpose of collecting instructional
19 materials in electronic and alternative formats and facilitating timely access to those
20 materials by students with disabilities. ✓

21 2. Develop policies and procedures to ensure to the maximum extent possible
22 that a student with a disability has access to instructional material in an appropriate
23 alternative format within the first week of the class for which the material is
24 required.

Complies - 8 -
with any requirement imposed
by the publisher under sub. (2)

1 (b) The state repository may submit requests for instructional material in an
2 electronic format to publishers on behalf of institutions of higher education and may
3 receive instructional materials in electronic and alternative formats from
4 publishers, institutions of higher education that have ^e created those materials for use
5 by students with disabilities, and other sources. On receipt of a request for
6 instructional material in an electronic or alternative format from an institution of
7 higher education that conforms to the requirements of sub. (2) (b) and (c), the state
8 repository shall, at no cost, provide that material to the institution of higher
9 education. On request of a publisher, the repository shall provide to the publisher
10 all of the following:

11 1. A summary of all instructional materials published by that publisher that
12 the state repository has provided in an electronic or alternative format to institutions
13 of higher education from its holdings. ✓

14 2. Copies of requests for instructional materials published by that publisher
15 that the state repository has received from institutions of higher education.

16 (c) In its biennial report under s. 15.04 (1) (d), the board of regents shall include
17 an assessment of the need for technical assistance, training, and other support to
18 increase the availability and effective use of instructional materials in alternative
19 formats by students with disabilities enrolled in the University of Wisconsin System.

20 In its biennial report under s. 15.04 (1) (d), the board shall include an assessment of
21 the need for technical assistance, training, and other support to increase the
22 availability and effective use of instructional materials in alternative formats by
23 students with disabilities enrolled in the technical college system.

24 (4) USE OF INSTRUCTIONAL MATERIALS IN ELECTRONIC FORMAT. (a) An institution
25 of higher education may assist a student with a disability by using instructional

1 material in an electronic format provided under sub. (2) (a) or (3) (b) solely to convert
2 or arrange for the conversion of that material into an alternative format. If an
3 institution of higher education converts or arranges for the conversion of that
4 material into an alternative format, the institution of higher education may share
5 the alternative format version of the material with the state repository, with any
6 other institution of higher education that is serving a student with a disability, or
7 with an authorized entity, as defined in 17 USC 121 (c) (1), that commonly provides
8 instructional materials in alternative formats to students enrolled in institutions of
9 higher education.

10 (b) If an institution of higher education permits a student with a disability to
11 directly use instructional material in an electronic format, the disc or file of the
12 electronic format version shall be copy protected, or the institution of higher
13 education shall take reasonable precautions to ensure that the student does not copy
14 or distribute the electronic format version in violation of the federal Copyright Act,
15 17 USC 101 to 1332. ✓

16 (c) Nothing in this section shall be construed to authorize any use of
17 instructional materials that would constitute an infringement of copyright under the
18 federal Copyright Act, 17 USC 101 to 1332. ✓

19 (5) PUBLISHER A PUBLIC PLACE OF ACCOMMODATION OR AMUSEMENT. A publisher is
20 considered to be a public place of accommodation or amusement for purposes of s.
21 106.52. Any publisher that refuses to provide instructional material in an electronic
22 format as required under sub. (2) (a) is in violation of s. 106.52 (3). ✓

23 (END)

Malaise, Gordon

From: Verette, Natalie
Sent: Friday, December 16, 2005 9:39 AM
To: Malaise, Gordon
Subject: LRB 3802

Attachments: Doc1.doc



Doc1.doc (23 KB)

Hi Gordon,

The attached document addresses two revisions NTC would like to see. Please let me know if you have questions.

Thank you,

Natalie Verette
Legislative Assistant
Office of State Representative Donna Seidel 85th Assembly District

State Capitol, 409 North
P.O. Box 8953
Madison, WI 53708

608.266.0654
888.534.0085 (toll-free)
natalie.verette@legis.state.wi.us

-----Original Message-----

From: Edmond Mielczarek/Northcentral Technical College
[mailto:mielczar@northcentral.tec.wi.us] On Behalf Of Joe Mielczarek/Northcentral
Technical College
Sent: Friday, December 16, 2005 8:19 AM
To: Verette, Natalie
Subject: Fw: bill

Morning Natalie

I had the experts take a look and this is the only comment. It is very important to have access to all information and it is not hard to do if done when writing. It is kind of like renovating your house after you have completed the project, much harder and expensive.

Thanks for the good work. I will be calling you.

joe

----- Forwarded by Edmond Mielczarek/Northcentral Technical College on
12/16/2005 08:16 AM -----

"Randy Ingman"
<ingman@ntc.edu>

12/16/2005 08:01
AM

"Joe Mielczarek"
<mielczarek@ntc.edu>

To

cc

Subject

bill

The attached file has some of my thoughts regarding the bill. (See attached file: Doc1.doc)

Hey Joe-

Your right. The bill looks really good, except for one part. The part where the bill mandates what elements of the book should be included.

The bill states, those non-contextual items, such as pictures, flowcharts, and graphs can be excluded.

These items are very important. For example, in an Excel book, they put all the problems in pictures. If the publisher is allowed to exclude this from the electronic version, the student whose print impaired will be cheated.

Another example is the Microsoft Word textbook. In this book, the steps for showing a student how to format a document are in the text, but, at the end of the steps, the student is asked to type the document in the picture. Again, a student whose print impaired is cheated.

The bill makes it seem like flowcharts and graphs don't contain any valuable information for the student. This could not be further from the truth. The publisher needs to convert the information in the pictures to text. This is not hard and can be done right in Adobe Acrobat.

There are many more examples, of how students are being cheated of valuable information because publishers are putting complex materials in a graphic format just to make their life easier.

Lastly, once the book has been created, it needs to be converted to an electronic format that is totally accessible by all Adaptive Software.

Currently, publishers are using the PDF format more an more. This format allows for a complete replica of the book. This is great. But, it is very difficult to navigate the book using a Screen Reader. At best it's clumsy.

If a publisher would use a Tagged PDF document, it could easily be converted to a Rich Text Format. This format would give anyone with a computer the ability to bring that file up on their computer.

So, in summary, the two changes I'd like to see in the bill are as follows:

- Make the publishers include all elements of the textbook (contextual and non-contextual).
- Put the book in a more accessible electronic file type like Rich Text Format (RTF) or Microsoft Word (DOC).



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-3802/4

GMM:cjs:rs

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2005 BILL

Regen

- 1 AN ACT *to amend* 106.52 (1) (e) 1.; and *to create* 106.52 (3) (a) 6. and 106.57 of
2 the statutes; **relating to:** accessible instructional materials for student with
3 disabilities enrolled in institutions of higher education.

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BILL

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materials (state repository), which the TCS Board and the Board of Regents of the UW System are directed by the bill to jointly establish.

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and

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Finally, current law prohibits any person from denying to another the full and equal enjoyment of any public place of accommodation or amusement because of disability (public accommodations law). This bill provides that a publisher of instructional material is considered to be a public place of accommodation or amusement and that any publisher that refuses to provide instructional material as required under the bill is in violation of the public accommodations law.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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BILL**SECTION 3**

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BILL

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13 disability or other disability affecting the activity of reading, and who needs
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15 (L) “Working day” means a day that is not a Saturday, a Sunday, a holiday
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BILL**SECTION 3**

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19 2. That the student will not copy or distribute the instructional material for use
20 by others.

21 (d) Instructional material provided by a publisher in electronic format shall
22 meet all of the following requirements:

23 1. Maintain the structural integrity of the original instructional material,
24 except that this requirement does not apply to nontextual instructional material

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1 unless technology is available to maintain the structural integrity of the nontextual
2 instructional material.

3 2. Be compatible with commonly used Braille translation or speech synthesis
4 software.

5 3. Include corrections and revisions as necessary.

6 4. Be in a format that is mutually agreed to between the publisher and the
7 requester. If good faith efforts fail to produce an agreement as to an electronic format
8 that will maintain the structural integrity of the original instructional material, the
9 publisher shall provide the instructional material in ~~extensible markup language,~~
10 ~~using an appropriate document-type definition,~~ that is suitable for the creation of
11 ~~alternative format instructional materials, and shall preserve~~ ^{an electronic format} as much of the
12 structural integrity of the original instructional material as possible. ^{and that preserves}

13 (e) If providing instructional material in an electronic format within 15
14 working days after receipt of a request under par. (a) would impose an undue burden
15 on a publisher, the publisher shall, within those 15 working days, submit a statement
16 to the requester certifying the date by which the publisher expects to transmit or
17 deliver the instructional material.

18 (3) STATE REPOSITORY. (a) Subject to the availability of funds, the board and the
19 board of regents shall jointly under s. 20.901 (4) do all of the following:

20 1. Establish a state repository for the purpose of collecting instructional
21 materials in electronic and alternative formats and facilitating timely access to those
22 materials by students with disabilities.

23 2. Develop policies and procedures to ensure to the maximum extent possible
24 that a student with a disability has access to instructional material in an appropriate

BILL**SECTION 3**

1 alternative format within the first week of the class for which the material is
2 required.

3 (b) The state repository may submit requests for instructional material in an
4 electronic format to publishers on behalf of institutions of higher education and may
5 receive instructional materials in electronic and alternative formats from
6 publishers, institutions of higher education that have created those materials for use
7 by students with disabilities, and other sources. On receipt of a request for
8 instructional material in an electronic or alternative format from an institution of
9 higher education that conforms to the requirements of sub. (2) (b) and complies with
10 any requirement imposed by the publisher under sub. (2) (c), the state repository
11 shall, at no cost, provide that material to the institution of higher education. On
12 request of a publisher, the repository shall provide to the publisher all of the
13 following:

14 1. A summary of all instructional materials published by that publisher that
15 the state repository has provided in an electronic or alternative format to institutions
16 of higher education from its holdings.

17 2. Copies of requests for instructional materials published by that publisher
18 that the state repository has received from institutions of higher education.

19 (c) In its biennial report under s. 15.04 (1) (d), the Board of Regents shall
20 include an assessment of the need for technical assistance, training, and other
21 support to increase the availability and effective use of instructional materials in
22 alternative formats by students with disabilities enrolled in the University of
23 Wisconsin System. In its biennial report under s. 15.04 (1) (d), the board shall include
24 an assessment of the need for technical assistance, training, and other support to

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1 increase the availability and effective use of instructional materials in alternative
2 formats by students with disabilities enrolled in the technical college system.

3 (4) USE OF INSTRUCTIONAL MATERIALS IN ELECTRONIC FORMAT. (a) An institution
4 of higher education may assist a student with a disability by using instructional
5 material in an electronic format provided under sub. (2) (a) or (3) (b) solely to convert
6 or arrange for the conversion of that material into an alternative format. If an
7 institution of higher education converts or arranges for the conversion of that
8 material into an alternative format, the institution of higher education may share
9 the alternative format version of the material with the state repository, with any
10 other institution of higher education that is serving a student with a disability, or
11 with an authorized entity, as defined in 17 USC 121 (c) (1), that commonly provides
12 instructional materials in alternative formats to students enrolled in institutions of
13 higher education.

14 (b) If an institution of higher education permits a student with a disability to
15 directly use instructional material in an electronic format, the disc or file of the
16 electronic format version shall be copy protected, or the institution of higher
17 education shall take reasonable precautions to ensure that the student does not copy
18 or distribute the electronic format version in violation of the federal Copyright Act,
19 17 USC 101 to 1332.

20 (c) Nothing in this section shall be construed to authorize any use of
21 instructional materials that would constitute an infringement of copyright under the
22 federal Copyright Act, 17 USC 101 to 1332.

23 (5) PUBLISHER A PUBLIC PLACE OF ACCOMMODATION OR AMUSEMENT. A publisher is
24 considered to be a public place of accommodation or amusement for purposes of s.

Malaise, Gordon

From: Verette, Natalie
Sent: Thursday, January 05, 2006 10:35 AM
To: Malaise, Gordon
Subject: LRB 3802

Hi Gordon,

The folks at NTC looked at the revised draft and they are very happy with it. They have one final concern regarding screenshots, which are mostly in computer text books, but are apparently a commonly omitted item when reproducing text books electronically. So I think if we can just add "screenshots and all other pertinent data" to the list of nontextual elements that would hopefully take care of it.

Thanks much,

Natalie

Natalie Verette
Legislative Assistant
Office of State Representative Donna Seidel 85th Assembly District

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State of Wisconsin
2005 - 2006 LEGISLATURE

Fr. 116

LRB-3802/2
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2005 BILL

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Reger cut.

1 AN ACT *to amend* 106.52 (1) (e) 1.; and *to create* 106.52 (3) (a) 6. and 106.57 of
2 the statutes; **relating to:** accessible instructional materials for student with
3 disabilities enrolled in institutions of higher education.

Analysis by the Legislative Reference Bureau

Under current state law, the University of Wisconsin System (UW System) and the Technical College System (TCS) may not deny to a student admission to, participation in, or the benefits of, or discriminate against a student in, any service, program, course, or facility because of the student's disability. In addition, under current federal law, a college, university, or other postsecondary institution, including a private postsecondary institution, may not exclude a student from participation in, deny a student the benefits of, or subject a student to discrimination under any program or activity receiving federal financial assistance. Federal regulations specify that a postsecondary institution receiving federal financial assistance must ensure that no student with a disability is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination because of the absence of educational auxiliary aids for students with impaired sensory, manual, or speaking skills.

This bill requires a publisher of instructional materials, within 15 working days after receipt of a request, to provide, at no additional cost, instructional material in an electronic format to a nonprofit or public institution of higher education, including an institution providing vocational training, located in this state (institution of higher education) or to the state repository for alternative format instructional

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and screenshots, and any other data that are pertinent to the instructional material

materials (state repository), which the TCS Board and the Board of Regents of the UW System are directed by the bill to jointly establish.

Under the bill, a request for instructional material in an electronic format must certify: 1) that a copy of the instructional material has been purchased for use by a student with a disability, which is defined in the bill as a student who is blind or visually impaired, or who has a specific learning disability or other disability affecting the activity of reading, and who needs reasonable accommodations in order to read; 2) that the student has a disability that prevents the student from using standard instructional material; and 3) that the instructional material is for use by the student in connection with a course at the institution of higher education in which the student is enrolled. In addition, the publisher may require the student to sign a statement agreeing that the student will use the electronic copy of the instructional material solely for his or her own educational purposes and that the student will not copy or distribute the instructional material for use by others.

Under the bill, instructional material provided by a publisher in electronic format must: 1) maintain the structural integrity of the original instructional material, which means that all of the information provided in printed instructional material, including the text of sidebars, the table of contents, chapter headings and subheadings, footnotes, indexes, glossaries, bibliographies, ~~and~~ nontextual elements such as pictures, illustrations, graphs, ~~and~~ charts, are included when that printed instructional material is provided in an electronic format; 2) be compatible with commonly-used Braille translation or speech synthesis software; 3) include corrections and revisions as necessary; and 4) be in a format that is mutually agreed to between the publisher and the requester or, if the publisher and the requester cannot agree to a format, be in a format that is suitable for the creation of alternative format instructional materials and that preserves as much of the structural integrity of the original material as possible.

The bill permits an institution of higher education to use instructional material in an electronic format provided under the bill solely to convert that material into an alternative format, which is defined in the bill as Braille, large print texts, audio recordings, digital texts, digital talking books, or any other medium or format for the presentation of instructional materials, other than standard print, that is needed by a student with a disability to make those materials accessible to the student. The bill also permits an institution of higher education that converts instructional material into an alternative format to share the alternative format version of the material with the state repository, with any other institution of higher education that is serving a student with a disability, or with an entity that is authorized under the federal Copyright Act to reproduce and distribute previously published works in alternative formats exclusively for use by persons with disabilities and that commonly provides instructional materials in alternative formats to students enrolled in institutions of higher education.

The bill directs the TCS Board and the Board of Regents of the UW System to jointly: 1) establish a state repository for the purpose of collecting instructional materials in electronic and alternative formats and facilitating timely access to those materials by students with disabilities; and 2) develop policies and procedures to

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ensure to the maximum extent possible that a student with a disability has access to instructional material in an appropriate alternative format within the first week of the class for which the material is required. Under the bill, the state repository may submit requests for instructional materials in an electronic format to publishers on behalf of institutions of higher education and receive instructional materials in electronic and alternative formats from publishers, institutions of higher education that have created those materials for use by students with disabilities, and other sources. The bill requires the state repository, on receipt of a request for instructional material in an electronic or alternative format from an institution of higher education, to provide that material to the institution of higher education at no cost.

Finally, current law prohibits any person from denying to another the full and equal enjoyment of any public place of accommodation or amusement because of disability (public accommodations law). This bill provides that a publisher of instructional material is considered to be a public place of accommodation or amusement and that any publisher that refuses to provide instructional material as required under the bill is in violation of the public accommodations law.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 106.52 (1) (e) 1. of the statutes is amended to read:

2 106.52 (1) (e) 1. “Public place of accommodation or amusement” shall be
3 interpreted broadly to include, ~~but not be limited to,~~ places of business or recreation;
4 lodging establishments; restaurants; taverns; barber or cosmetologist, aesthetician,
5 electrologist or manicuring establishments; nursing homes; clinics; hospitals;
6 cemeteries; publishers, as defined in s. 106.57 (1) (h); and any place where
7 accommodations, amusement, goods, or services are available either free or for a
8 consideration, subject to subd. 2.

9 **SECTION 2.** 106.52 (3) (a) 6. of the statutes is created to read:

10 106.52 (3) (a) 6. Refuse to provide instructional material in an electronic format
11 in violation of s. 106.57 (2) (a).

12 **SECTION 3.** 106.57 of the statutes is created to read:

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1 **106.57 Postsecondary education; accessible instructional material for**
2 **students with disabilities. (1) DEFINITIONS.** In this section:

3 (a) “Alternative format” means Braille, large print texts, audio recordings,
4 digital texts, digital talking books, or any other medium or format for the
5 presentation of instructional materials, other than standard print, that is needed by
6 a student with a disability to make those materials accessible to the student.

7 (b) “Board” means the technical college system board.

8 (c) “Board of Regents” means the Board of Regents of the University of
9 Wisconsin System.

10 (d) “Institution of higher education” means an institution of higher education,
11 as defined in s. 108.02 (18), that is located in this state.

12 (e) “Instructional material” means a textbook or other material, including
13 nontextual mathematics and science material, written and published primarily for
14 use by a student enrolled in a course of study at an institution of higher education
15 that is required or essential to the student’s success, as determined by the course
16 instructor.

17 (f) “Nonprinted instructional material” means instructional material in a
18 format other than print, including instructional material that requires the
19 availability of electronic equipment, such as a computer software program,
20 videodisc, videotape, or audiotape, in order to be used as a learning resource.

21 (g) “Printed instructional material” means instructional material in a book or
22 other printed form.

23 (h) “Publisher” means a person that publishes or manufactures instructional
24 material.

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and screenshots, and any other data that are pertinent to the instructional material

1 (i) "State repository" means the state repository for alternative format
2 instructional materials established under sub. (3) (a) 1.

3 (j) "Structural integrity" means that all of the information provided in printed
4 instructional material, including the text of sidebars, the table of contents, chapter
5 headings and subheadings, footnotes, indexes, glossaries, bibliographies, and
6 nontextual elements such as pictures, illustrations, graphs, and charts, are included
7 when that printed instructional material is provided in an electronic format.

8 (k) "Student with a disability" means a student enrolled in an institution of
9 higher education who is blind or visually impaired, or who has a specific learning
10 disability or other disability affecting the activity of reading, and who needs
11 reasonable accommodations in order to read.

12 (L) "Working day" means a day that is not a Saturday, a Sunday, a holiday
13 designated under s. 230.35 (4) (a), or a legal holiday under federal law.

14 **(2) PROVISION OF INSTRUCTIONAL MATERIALS IN ELECTRONIC FORMAT.** (a) Subject
15 to par. (e), within 15 working days after receipt of a request that complies with par.
16 (b) and with any requirement imposed by the publisher under par. (c), a publisher
17 shall, at no additional cost, provide to an institution of higher education or to the
18 state repository instructional material in an electronic format that complies with
19 par. (d).

20 (b) A request under par. (a) for instructional material in an electronic format
21 shall be prepared and signed by the coordinator of services for students with
22 disabilities at an institution of higher education or by another employee of an
23 institution of higher education who is responsible for monitoring compliance with
24 the federal Americans with Disabilities Act, 42 USC 12101 to 12213, or the federal
25 Rehabilitation Act of 1973, 29 USC 701 to 796L, by a representative of the division

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1 of vocational rehabilitation in the department on behalf of an institution of higher
2 education, or by a representative of the state repository on behalf of an institution
3 of higher education, and shall certify all of the following:

4 1. That a copy of the instructional material has been purchased for use by a
5 student with a disability by the student or by the institution of higher education in
6 which the student is enrolled.

7 2. That the student has a disability that prevents the student from using
8 standard instructional material.

9 3. That the instructional material is for use by the student in connection with
10 a course at the institution of higher education in which the student is enrolled.

11 (c) A publisher may require a request under par. (a) to be accompanied by a
12 statement signed by the student or, if the student is a minor, the student's parent,
13 guardian, or legal custodian agreeing to all of the following:

14 1. That the student will use the instructional material solely for his or her own
15 educational purposes.

16 2. That the student will not copy or distribute the instructional material for use
17 by others.

18 (d) Instructional material provided by a publisher in electronic format shall
19 meet all of the following requirements:

20 1. Maintain the structural integrity of the original instructional material,
21 except that this requirement does not apply to nontextual instructional material
22 unless technology is available to maintain the structural integrity of the nontextual
23 instructional material.

24 2. Be compatible with commonly used Braille translation or speech synthesis
25 software.

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1 3. Include corrections and revisions as necessary.

2 4. Be in a format that is mutually agreed to between the publisher and the
3 requester. If good faith efforts fail to produce an agreement as to an electronic format
4 that will maintain the structural integrity of the original instructional material, the
5 publisher shall provide the instructional material in an electronic format that is
6 suitable for the creation of alternative format instructional materials and that
7 preserves as much of the structural integrity of the original instructional material
8 as possible.

9 (e) If providing instructional material in an electronic format within 15
10 working days after receipt of a request under par. (a) would impose an undue burden
11 on a publisher, the publisher shall, within those 15 working days, submit a statement
12 to the requester certifying the date by which the publisher expects to transmit or
13 deliver the instructional material.

14 **(3) STATE REPOSITORY.** (a) Subject to the availability of funds, the board and the
15 board of regents shall jointly under s. 20.901 (4) do all of the following:

16 1. Establish a state repository for the purpose of collecting instructional
17 materials in electronic and alternative formats and facilitating timely access to those
18 materials by students with disabilities.

19 2. Develop policies and procedures to ensure to the maximum extent possible
20 that a student with a disability has access to instructional material in an appropriate
21 alternative format within the first week of the class for which the material is
22 required.

23 (b) The state repository may submit requests for instructional material in an
24 electronic format to publishers on behalf of institutions of higher education and may
25 receive instructional materials in electronic and alternative formats from

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1 publishers, institutions of higher education that have created those materials for use
2 by students with disabilities, and other sources. On receipt of a request for
3 instructional material in an electronic or alternative format from an institution of
4 higher education that conforms to the requirements of sub. (2) (b) and complies with
5 any requirement imposed by the publisher under sub. (2) (c), the state repository
6 shall, at no cost, provide that material to the institution of higher education. On
7 request of a publisher, the repository shall provide to the publisher all of the
8 following:

9 1. A summary of all instructional materials published by that publisher that
10 the state repository has provided in an electronic or alternative format to institutions
11 of higher education from its holdings.

12 2. Copies of requests for instructional materials published by that publisher
13 that the state repository has received from institutions of higher education.

14 (c) In its biennial report under s. 15.04 (1) (d), the Board of Regents shall
15 include an assessment of the need for technical assistance, training, and other
16 support to increase the availability and effective use of instructional materials in
17 alternative formats by students with disabilities enrolled in the University of
18 Wisconsin System. In its biennial report under s. 15.04 (1) (d), the board shall include
19 an assessment of the need for technical assistance, training, and other support to
20 increase the availability and effective use of instructional materials in alternative
21 formats by students with disabilities enrolled in the technical college system.

22 (4) USE OF INSTRUCTIONAL MATERIALS IN ELECTRONIC FORMAT. (a) An institution
23 of higher education may assist a student with a disability by using instructional
24 material in an electronic format provided under sub. (2) (a) or (3) (b) solely to convert
25 or arrange for the conversion of that material into an alternative format. If an

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1 institution of higher education converts or arranges for the conversion of that
2 material into an alternative format, the institution of higher education may share
3 the alternative format version of the material with the state repository, with any
4 other institution of higher education that is serving a student with a disability, or
5 with an authorized entity, as defined in 17 USC 121 (c) (1), that commonly provides
6 instructional materials in alternative formats to students enrolled in institutions of
7 higher education.

8 (b) If an institution of higher education permits a student with a disability to
9 directly use instructional material in an electronic format, the disc or file of the
10 electronic format version shall be copy protected, or the institution of higher
11 education shall take reasonable precautions to ensure that the student does not copy
12 or distribute the electronic format version in violation of the federal Copyright Act,
13 17 USC 101 to 1332.

14 (c) Nothing in this section shall be construed to authorize any use of
15 instructional materials that would constitute an infringement of copyright under the
16 federal Copyright Act, 17 USC 101 to 1332.

17 **(5) PUBLISHER A PUBLIC PLACE OF ACCOMMODATION OR AMUSEMENT.** A publisher is
18 considered to be a public place of accommodation or amusement for purposes of s.
19 106.52. Any publisher that refuses to provide instructional material in an electronic
20 format as required under sub. (2) (a) is in violation of s. 106.52 (3).

21 (END)

Emery, Lynn

From: Verette, Natalie
Sent: Tuesday, March 07, 2006 5:20 PM
To: LRB.Legal
Subject: Draft review: LRB 05-3802/3 Topic: Instructional material in alternative formats for postsecondary students with disabilities

It has been requested by <Verette, Natalie> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-3802/3 Topic: Instructional material in alternative formats for postsecondary students with disabilities