

## **TEXTBOOK ACCESSIBILITY, ADOPTIONS & AFFORDABILITY**

*References: Education Code §67310-67313, §81676, §84850;  
Title 5 §56000 et seq., §59400(a) and §59402(c);  
34 C.F.R. §104.3(j)(1) and (k)(3); §104.44(a) and (b)(1)(ii);  
Legal Opinion L 02-29; Academic Senate paper: "Textbook Issues: Economic Pressures and Academic Values", 2005*

Over the years, textbook accessibility and affordability adoption policies and procedures have been shaped through legislation, legal opinion, and education code, which are found in Academic Senate for California Community Colleges (ASCCC) resolutions and papers. The purpose of these procedures is to make use of the many means available to improve textbook accessibility and affordability for student success.

### **Accessibility: Background**

Federal Law and Southwestern College Policy for Universal Design and Alternate Media require accessibility of textbooks and educational materials for our students. The law requires that textbooks and materials be provided in a "timely manner." This federal law is enforceable by both the Office of Civil Rights and the Department of Justice. Students have the right to sue faculty who use books and/or materials that are not accessible or made accessible in a timely manner.

Students with visual (print) and hearing disabilities continue to struggle to obtain textbooks and educational materials in accessible formats in a timely manner every semester because of faculty who select publishers who do not comply with federal law and provide electronic text (e-text) that is immediately readable by screen reading software. In addition, when faculty do not submit textbook orders when requested, students cannot purchase the book for conversion to an accessible format before the term begins.

1. Most publishers do not provide e-text in an accessible format upon the request of Disability Support Services (DSS) that is ready for use by computer screen readers for our students with print disabilities. This means that our staff spends exorbitant time reformatting e-text from the publisher before a student can use the screen reader. (Copyright law requires all students with disabilities purchase and have proof of purchase before requests can be made for e-text.)
2. Many publishers and Internet sources do not provide captioning as required by Federal law. This means our students who are deaf or hard of hearing cannot fully understand or participate fully in video-based activities and learning.
3. Most publishers do not provide descriptive captioning for visuals (called "tags" on pictures, etc.) on e-textbooks or for electronic instructional material. This means screen readers cannot read the descriptions of visuals to students who are blind or visually impaired.

## **TEXTBOOK ACCESSIBILITY, ADOPTIONS & AFFORDABILITY**

4. In order to change the practice of **publishers**, faculty are encouraged to use textbooks from publishers who provide e-text that is immediately usable by screen readers for students with visual disabilities.
5. In addition, most electronic textbooks and supplemental electronic materials are not accessible to students with visual or hearing disabilities. Text must be readable by a screen reading, pictures need to be tagged, and videos/audio must be closed captioned. Faculty are encouraged use textbooks that are immediately usable by these students.

### **Accessibility Procedure: Faculty will**

1. Publicize publishers and websites annually that are known to provide texts and electronic materials that are accessible to students with visual and hearing disabilities.
2. Provide our Bookstore with the publisher information for required texts and materials by the Bookstore deadline.
3. Notify publisher representatives of texts considered for adoption to make e-text and supplemental materials available in a format usable immediately by a screen reader for students with disabilities. Faculty are encouraged to adopt books and materials that comply.
4. Inform publisher representatives of all videos under consideration for adoption that audiovisual material must have dialogue captioning to assist students who are deaf or hard of hearing. It is recommended that faculty only purchase videos with captioning.
5. All faculty request captioning of all currently used instructional videos and Internet videos, including descriptive captioning from the library.

### **Bookstore Textbook Committee**

A Bookstore Textbook Committee, an ad hoc committee of the Academic Senate, will be created to provide oversight and guidance to decisions on improving accessibility and affordability of textbooks and supplemental educational materials. (ASCCC, 1997, p. 13; 2005, p. 14)

1. Committee membership will be chaired by a faculty member with two additional faculty members with at least one member from each of the following constituent groups: ASO, administrator, and classified professional from the bookstore.
2. The committee will use the 1997 and 2005 ASCCC papers to assist in identification of goals of the bookstore and the review of Bookstore policies.
3. The committee will produce and publicize a list of publishers and other sources of affordable books and materials (including Open Educational Resources, OER) known to readily provide accessible books, e-text, and instructional materials for colleges.
4. The committee will develop electronic access via our website or an app where faculty and students can sell/buy/exchange books. This site would include guidance on alternative sources for purchasing books and materials.

## **TEXTBOOK ACCESSIBILITY, ADOPTIONS & AFFORDABILITY**

5. The committee will create a sample "Letter to Publisher" detailing changes strongly recommended in publishing practices to provide affordable and accessible textbooks and instructional materials for our students. Letter will go through Senate for approval and immediate implementation by faculty with publishers.
6. The committee should recommend Bookstore pricing policies and the use of Bookstore profits. (Education Code §81676)
7. The committee will identify a procedure in collaboration with the Articulation Officer for the Bookstore to buy-back publisher-discontinued textbooks that instructors wish to continue to use. These books are resold at the buy-back price.
8. The committee should develop the means to assess the effect of textbook prices on student success as part of our Student Equity and Student Success Support Plans.
9. The committee should work with SWC Foundation to establish a SWC "Textbook Scholarship Fund" in addition to the Whittaker Textbook Scholarship. Details of this fund will be determined by the committee, and faculty will be encouraged to support the fund. The committee will work with Fiscal to create voluntary tax deductible payroll deduction to the Textbook Fund. This might include book loans in addition to scholarships to mitigate the effect of the high cost of books on student access and success.
10. The committee will encourage use of ASO money to support textbook affordability via book rentals, and rentals of technical devices for online books/materials, and purchase of extra books for placement on reserve in the College library.
11. The committee will work with ASO to establish and coordinate a book exchange at the end of and beginning of each semester.
12. Create a process to request purchase of instructional materials (textbooks, videos, etc.) by the library.
13. Ensure that minimum numbers of textbooks are available in the bookstore for students receiving financial aid, in EOPS and/or Department of Rehabilitation.

### **Faculty Role in Affordability**

The textbook adoption process must be ethical, protecting the academic freedom of faculty and the educational and financial interests of students. To this end, faculty should:

1. Locate and use free textbooks as appropriate, e.g. OpenSource, Open Educational Resources (OER).
2. Insist on receiving a book's wholesale cost to the Bookstore from the publisher prior to making an adoption decision.
3. Return all unsolicited, and/or "bundled" materials to publisher, as the costs add up. (2005, p. 11)
4. Whenever possible, collectively negotiate as department or school with publishers on price and duration of the edition.
5. Urge publishers to do the following: reduce pictures and color in texts; produce soft-cover and electronic texts in lieu of hard cover; stop production of new

## **TEXTBOOK ACCESSIBILITY, ADOPTIONS & AFFORDABILITY**

editions with limited changes; and return to production of addendums to supplement old editions with changes. Do not use textbooks with these features that increase cost.

6. Prior to adoption of a new edition, require documentation of substantial changes (e.g. 50% or more) to a new edition before it will be used. With the use of older editions supplement information with “core text” materials, i.e. internet source material, etc.
7. Create and post instructor-created educational materials on the online College Management System (CMS) for free, whenever possible.
8. Create a referral list of vendors and Internet sites for students to use to find and purchase more affordable texts.

### **District Only and Faculty-Authored Texts and Materials**

Faculty- authored texts, workbooks, and educational materials are often an affordable option to consider for our students. Textbooks adopted may be authored by faculty.

District Only Materials: Previously, problems arose in California with faculty-authored texts that were self-published or district-published and sold only by the District with a mark-up. This practice gave the appearance of an additional student fee (besides tuition). Legal Opinion L 02-29 (2002) clarifies:

Students may not be required to purchase mandatory instructional materials that are exclusively available from the District unless those materials are provided at the District’s cost. [Title 5, §§59400(a) and 59402(c)]. Therefore, inclusion of a markup on the instructional materials for royalties to the faculty/author or District from materials solely and exclusively available from the District is a prohibited practice. As stated in Legal Opinion 01-40, “The overall premise is that neither a district nor its employees ought to be making a profit on materials which the district solely or exclusively provides.”

Faculty-Authored Texts and Materials: Because of the power entrusted to faculty, it is essential that there be no appearance of coercion and that there be absolutely no perception of conflict of interest. To avoid this, the following peer review procedures are recommended prior to adoption of faculty-authored and published texts:

1. It is recommended the adoption be approved by the department, or by the Department Chair or, if the Chair is the author, by the Dean. (2005, pp. 14-15)
2. To avoid any appearance of conflict of interest, faculty using self-authored texts in their own classes are encouraged to donate profits from only those courses to a Southwestern College non-profit entity or Textbook Scholarship Fund which benefit students, and explain this donation.
3. Faculty are encouraged to price their books below market value when possible.

## **TEXTBOOK ACCESSIBILITY, ADOPTIONS & AFFORDABILITY**

4. Faculty using self-authored texts are encouraged to ensure that the text is used for a minimum of half (1/2) the course material.
5. Faculty are encouraged to only adopt new editions when more than 50% of the content is changed.
6. Please note that anthologies of works by other authors that are compiled together by a faculty member for use in class must include formal statement(s) of permission from the author/publisher so the actual author is credited for the work. These cannot be sold for profit.

### **Appeal Process for Faculty-Authored Textbook Disputes**

In the event that a faculty requested department approval for adoption of their faculty-authored textbook/materials, an appeal process for a denial of faculty-authored textbook/materials adoption shall include the Vice President of Academic Affairs and two faculty selected by the Academic Senate President: one faculty member from the school in which the dispute arose; and one faculty member from a different school.

1. An appeal process shall be timely, lasting not more than 10 work days.
2. The decision shall be made based on a two-thirds majority.
3. There can be a second and final appeal, to the Superintendent/President, whose decision shall be binding.

### **Sabbatical Leave and Ownership**

**Any materials developed during a sabbatical leave shall be owned by the faculty member who created the work.**

1. The College shall have no right to the work, its publication, or to any royalties resulting from the publication.

### **Direct Sales Prohibited**

Faculty may not sell text materials and/or photocopies directly to students.

1. Direct sales of textbooks by faculty members, academic departments, or schools is a conflict of interest and a violation of professional ethics.
2. Direct sales of textbooks and instructional materials may evade the collection of sales tax as required by California law.
3. Students receiving financial aid and/or with EOPS and/or with Department of Rehabilitation are not able to use their funds for direct sales.
4. While selection of textbooks is a right of the individual faculty member, the Department Chair should be made aware of all text selections by faculty.

## **TEXTBOOK ACCESSIBILITY, ADOPTIONS & AFFORDABILITY**

### **Textbooks on Reserve in Library:**

<http://www.swccd.edu/index.aspx?page=2906>

### **Any faculty member may place a copy of his/her textbook on Reserve in the Library.**

This benefits students who cannot afford to purchase the book.

1. Faculty should request that publishers provide two or more desk copies of texts for Reserve in the Library as a condition of adoption. Faculty bring desk copies to the circulation counter in the library and complete a Course Reserve Request Form.
2. Annotated Instructor's Editions (AIE) may not be placed on reserve because other instructors may be using the quizzes, exams, etc. from that text.
3. Workbooks and other consumable publications may not be placed on Reserve.
4. When an instructional manual is used by multiple faculty members, individual faculty will not be allowed to publish answers (online on websites). This impacts other faculty wishing to use the manuals in some other manner.
5. Faculty who feel that it is in the students' best interest to have their own materials for daily use in class may choose not to provide a desk copy to the College Library.

### **Copyright**

"Customized" anthologies or textbooks consisting of photocopied materials from other sources are prohibited unless each included item is accompanied by a statement of copyright permission and may only be sold at the cost of duplication. If a book is out of print and will not be available, then photocopies are permitted and may only be sold at the cost of duplication.

Study guides compiled by an instructor from their own handouts, notes, etc. and not the copyright of another person are permitted and may be sold without a profit by the Instructor.

Instructional materials collected from the works of authors that are no longer copyrighted may be produced by faculty and sold without a profit by the instructor.

Faculty members are encouraged to provide to their students in all syllabi the following statement, adapted from Dr. Marvin E. Bennett, professor at the Center for Earth and Environmental Studies:

*The Copyright Act of 1976 grants to copyright owners the exclusive right to reproduce their works and distribute copies of their work. Works that receive copyright protection include published works such as a textbook. Copying a textbook without permission from the owner of the copyright may constitute copyright infringement. Civil and criminal penalties may be assessed for copyright infringement. Civil penalties include damages up to \$100,000; criminal penalties include a fine up to \$250,000 and imprisonment.*

## **TEXTBOOK ACCESSIBILITY, ADOPTIONS & AFFORDABILITY**

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*In general, the extent of your copying should not suggest that the purpose or the effect of your copying is to avoid paying for the materials. Thus, students who copy textbook or parts of textbooks to avoid buying them or professors who provide or allow photocopies of textbooks to enable students to save money are both violating the law.*

### **Bibliography**

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