

# Textbook Affordability Summit 2008



# Overview

## The Textbook Provisions in the Higher Education Opportunity Act (*HEOA*) of 2008



# TEN YEARS OF CONGRESSIONAL EFFORTS REGARDING COURSE MATERIAL

- **September 1998**, a bill to prohibit universities from intentionally withholding, or preventing a student to obtain, course information and material from off-campus businesses (S. 2490)
- **November 2003**, a bill to require the General Accounting Office to conduct an investigation of the high price of college textbooks (H.R. 3567)
- **April 2004 and February 2005**, bills to amend the Internal Revenue Code of 1986 to provide a tax credit for the costs of college textbooks (H.R. 4243 and H.R. 495)

# TEXTBOOK REPORTS AND CONGRESSIONAL APPEALS

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In May 2006, based on the findings of a July 2005 GAO report on textbook pricing, Representative Buck McKeon, then-Chairman of the House Committee on Education and Labor appealed directly to the US Department of Education's Advisory Committee on Student Financial Assistance (ACSFA) to, "...investigate further the problem of rising textbook prices..." The ACSFA delivered their report in May 2007.

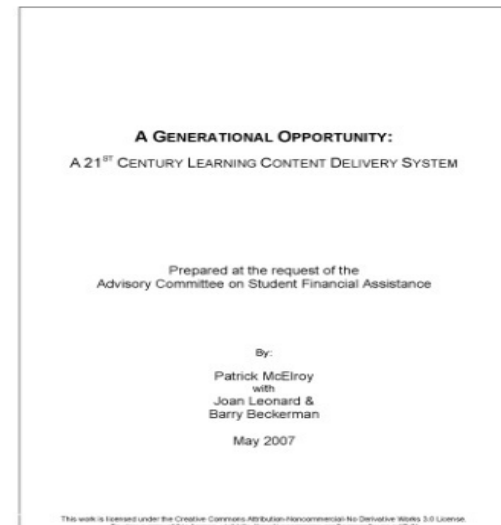
July 2005

## COLLEGE TEXTBOOKS

Enhanced Offerings  
Appear to Drive  
Recent Price  
Increases



GAO-05-806



**SEPTEMBER 2007**  
**THE COLLEGE TEXTBOOK AFFORDABILITY AND  
TRANSPARENCY ACT (H.R. 3512)**

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- The purpose of the legislation was to, *"...ensure that every student in higher education is offered better and more timely access to affordable course materials by educating and informing faculty, students, administrators, institutions of higher education, bookstores, distributors, and publishers on all aspects of the selection, purchase, sale, and use of the course materials."*
- The intent of the legislation was to, "...have all involved parties work together to identify ways to decrease the cost of college textbooks and supplemental materials for students while protecting the academic freedom of faculty members to select high quality course materials for students."

# TIMING THE TEXTBOOK PROVISIONS IN HEOA 2008

The Higher Education Opportunity Act of 2008 (H.R. 4137) passed the House on July 31, 2008 by a vote of 380-49 and was signed into law on August 14, 2008.

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- **1,158 pages**  
(6 pages dedicated to textbooks)
- **11 titles**
- **223 statutory sections**
- **64 new federal programs**

# THE HIGHER EDUCATION ACT OF 1965



Eighty-ninth Congress of the United States of America

AT THE FIRST SESSION

Began and held at the City of Washington on Monday, the fourth day of January, one thousand nine hundred and sixty-five

An Act

To strengthen the educational resources of our colleges and universities and to provide financial assistance for students in postsecondary and higher education.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Higher Education Act of 1965".

TITLE I—COMMUNITY SERVICE AND CONTINUING EDUCATION PROGRAMS

APPROPRIATIONS AUTHORIZED

Sec. 101. For the purpose of assisting the people of the United States in the solution of community problems such as housing, poverty, government, recreation, employment, youth opportunities, transportation, health, and land use by enabling the Commissioner to make grants under this title to strengthen community service programs of colleges and universities, there are authorized to be appropriated \$25,000,000 for the fiscal year ending June 30, 1966, and \$50,000,000 for the fiscal year ending June 30, 1967, and for the succeeding fiscal year. For the fiscal year ending June 30, 1969, and the succeeding fiscal year, there may be appropriated, to enable the Commissioner to make such grants, only such sums as the Congress may hereafter authorize by law.

DEFINITION OF COMMUNITY SERVICE PROGRAM

Sec. 102. For purposes of this title, the term "community service program" means an educational program, activity, or service, including a research program and a university extension or continuing education offering, which is designed to assist in the solution of community problems in rural, urban, or suburban areas, with particular emphasis on urban and suburban problems, where the institution offering such program, activity, or service determines—

- (1) that the proposed program, activity, or service is not otherwise available, and
(2) that the conduct of the program or performance of the activity or service is consistent with the institution's over-all educational program and is of such a nature as is appropriate to the effective utilization of the institution's special resources and the competencies of its faculty.

Where course offerings are involved, such courses must be university extension or continuing education courses and must be—

- (A) fully acceptable toward an academic degree, or
(B) of college level as determined by the institution offering such courses.

ALLOTMENTS TO STATES

Sec. 103. (a) Of the sums appropriated pursuant to section 101 for each fiscal year, the Commissioner shall allot \$25,000 each to Guam, American Samoa, the Commonwealth of Puerto Rico, and the Virgin Islands and \$100,000 to each of the other States, and he shall allot to each State an amount which bears the same ratio to the remainder of such sums as the population of the State bears to the population of all States.

(b) The amount of any State's allotment under subsection (a) for any fiscal year which the Commissioner determines will not be required

RECEIVED
OCT 27 1965
SENATE

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HOUSE OF REPRESENTATIVES

METHOD OF PAYMENT

Sec. 802. Payments under this Act to any individual or to any State of Federal agency, institution of higher education, or any other organization, pursuant to a grant, loan, or contract, may be made in installments, and in advance or by way of reimbursement, and, in the case of grants or loans, with necessary adjustments on account of overpayments or underpayments.

FEDERAL ADMINISTRATION

Sec. 803. (a) The Commissioner is authorized to delegate any of his functions under this Act, except the making of regulations, to any officer or employee of the Office of Education.

(b) In administering the provisions of this Act, the Commissioner is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or institution, in accordance with agreements between the Secretary and the head thereof.

FEDERAL CONTROL OF EDUCATION PROHIBITED

Sec. 804. (a) Nothing contained in this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, or over the selection of library resources by any educational institution.

(b) Nothing contained in this Act or any other Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the membership practices or internal operations of any fraternal organization, fraternity, sorority, private club or religious organization at an institution of higher education (other than a service academy or the Coast Guard Academy) which is financed exclusively by funds derived from private sources and whose facilities are not owned by such institution.

Speaker of the House of Representatives

Vice President of the United States
President of the Senate

APPROVED

NOV - 8 1965

Lyndon B. Johnson

# THE HIGHER EDUCATION OPPORTUNITY ACT (Section 133 – TEXTBOOK INFORMATION)

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- The purpose and intent language in HEOA is nearly identical to the College Textbook Affordability and Transparency Act of 2007.
- The new Textbook Information provisions take effect on July 1, 2010 – *no negotiated rulemaking*.
- No later than July 1, 2013, the Comptroller General must report to Congress the efficacy of the new provisions and examine particularly the availability of textbook information on course schedules, whether publishers are providing pricing information to college faculty, and the cost benefit to institutions and students.
- Every four years, the Commissioner for Education Statistics shall conduct on a state-by-state basis, a survey of Title IV financial aid recipients to determine how the cost of course materials affects the costs of college.

# HEOA TEXTBOOK

## 9 NEW DEFINITIONS IN THE LAW

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1. **Bundle**
2. College Textbook
3. Course Schedule
4. **Custom textbook**
5. Institution of Higher Education
6. **Integrated Textbook**
7. Publisher
8. **Substantial Content**
9. Supplemental Material

# TEXTBOOK DEFINITIONS: 4 TO REMEMBER

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- ***Bundle*** = one or more college textbooks or other supplemental materials that may be packaged together to be sold as course material for one price.
- ***Custom Textbook*** = a college textbook compiled by a publisher at the direction of a faculty member and, may include selections from original instructor materials, previously copyrighted publisher materials, copyrighted third-party works, and commemorative editions.

## TEXTBOOK DEFINITIONS (Continued)

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- ***Integrated Textbook*** = a college textbook combined with materials developed by a third-party and that, by third-party contractual agreement, may not be offered by publishers separately from the college textbook with which the materials are combined; or combined with other materials that are so interrelated with the content of the textbook that separation of the textbook from the other materials would render the textbook unusable for its intended purpose.
- ***Substantial Content*** = means parts of a college textbook such as **new** chapters, material covering additional eras of time, themes, or subject matter.

# ***PUBLISHER -- PRICING INFORMATION***

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## **Requires publishers to provide faculty and administrators:**

1. The price at which the publisher would make a textbook available to a campus bookstore, and, if available, the price at the publisher makes the textbook available to the public.
2. The copyright dates of the three previous editions.
3. A description of the substantial content revisions between current and previous edition of a textbook.
4. Whether the publisher offers the textbook in alternate formats including paperback or unbound.

# ***PUBLISHERS:*** **UNBUNDLING OF COLLEGE TEXTBOOKS FROM SUPPLEMENTAL MATERIALS**

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A publisher that sells a college textbook (and any supplemental material accompanying such a textbook) is required to offer the same material unbundled and separately price – unless it is part of an ***Integrated Textbook*** as previously defined.

# *TEXTBOOK PROVISIONS*

## **INSTITUTIONS AND THE ISBN NUMBER**

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**An institution of higher education “to maximum extent practicable” is required to:**

- Disclose “in a manner of the institution’s choosing” the International Standard Book Number (ISBN) and the retail price of required and recommended textbooks for each course listed in the institution’s internet course schedule used for pre-registration and registration purposes. A website link to textbook information may be provided.
- If the ISBN is unavailable the institution shall include in the course schedule the author, title, publisher, and copyright date for the textbook. If such disclosure is determined by the institution is not practicable, it shall be designated “To be Determined.”

## *TEXTBOOK PROVISIONS:* **COLLEGE BOOKSTORES**

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If a college bookstore is operated by, contracted with, or otherwise affiliated to an institution of higher education, the institution **as soon as practicable and upon request**, shall make available the most accurate information regarding course schedule, course material required or recommended, and class size (including the maximum student enrollment for a given course or class).

## ***TEXTBOOK PROVISIONS:*** **ADDITIONAL INFORMATION**

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*Institutions of higher education are encouraged disseminate information to students regarding available institution-based programs regarding:*

- **Textbook rental or purchasing used textbooks.**
- **Guaranteed textbook buy-back.**
- **Alternative content delivery programs or other cost-saving strategies.**

# *TEXTBOOK PROVISIONS:* **RENTAL PILOT PROGRAM**

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## **Guidelines:**

Not more than 10 institutions of higher education to support pilot programs that expand the services of bookstores to provide the option for students to rent course materials in order to achieve savings.

## **Funds may be used to:**

- Purchase course materials.
- Acquire equipment and software.
- Hire necessary staff to conduct a rental program with priority given to enrolled undergraduate students.
- Build or acquire extra storage space dedicated to course materials for rent.

*TEXTBOOK PROVISIONS:*  
**THE RULE OF CONSTRUCTION**

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**“Nothing in this section shall be construed to supercede the institutional autonomy or academic freedom of instructors involved in the selection of college textbooks, supplemental materials, and other classroom materials.”**