

Model Policy:

Section 1. Title. This Act shall be known as the “Textbook Cost Transparency Act”.

Section 2. Definitions. (a) “Content distribution system” means any learning management platform, online homework system, content platform, or other software-based system required to access instructional materials.

(b) “Instructional materials” means content in any medium or combination of media used or intended to be used for conveying information to a student. The term includes a book, supplementary materials, computer software, magnetic media, DVD, CD-ROM, computer courseware, on-line services, or an electronic medium or other means of conveying information to the student or otherwise contributing to the learning process through electronic means. The term also includes packages or bundles of multiple instructional materials.

(c) “Online course schedule” means any online list or catalog of courses or course sections used by students for course registration or scheduling.

(d) “Open educational resource” means a teaching, learning, or research resource that is offered freely to users in at least one form and that resides in the public domain or has been released under an open copyright license that allows for its free use, reuse, modification, and sharing with attribution.

Section 3. Identification of courses or sections requiring only open educational resources or that have low textbook costs.

(a) In any online course schedule, the institution shall clearly identify any courses or course sections for which all required instructional materials are open educational resources.

(b) If the institution provides a search function as part of its online course schedule, the institution shall provide a clearly labeled filter for searching for courses or course sections for which all required instructional materials are open educational resources.

(c) The information required in subsections (a) and (b) shall be available at a minimum for use by students during any period when students may register for courses.

(d) In addition to identifying courses and course sections as provided in subsection (a), an institution may identify courses or course sections as having low textbook costs, or a similar designation, if the criteria for such a designation, or a link to the criteria, is clearly shown on any screen that identifies such a course or course section.

Section 4. Disclosure of automatic charges for instructional materials.

(a) An institution of higher education that automatically assesses a charge for instructional materials to a student, or that allows another entity such as a bookstore to automatically assess such a charge, shall fully disclose the amount of the charge and terms under which student data is collected and used, as prescribed by this section. This section applies notwithstanding whether the student is allowed to opt out or opt in to being assessed.

(b) If the charge described in subsection (a) is based on the specific instructional materials required or recommended for a specific course or course section in which a student enrolls, then:

~~(1) the full amount of the charge shall be disclosed in or linked from the listing for the course or course section in the institution's online course schedule;~~

~~(2) the charge for instructional materials shall be itemized separately from any other charges associated with the course or course section;~~

~~(3) if the instructional materials are delivered primarily in a digital format, the terms under which the provider of the materials collects and uses student data through a student's access to the materials shall be disclosed in clear language, either in the listing for the course or course section in the institution's online course schedule, or linked from that listing;~~

~~(4) any provision that allows a student to opt in or opt out of the charge shall be clearly stated either directly with the listing for the course or course section, or through a clearly visible link from that listing; and,~~

~~(5) the information required under this subsection shall be made available to the maximum extent practicable for preregistration and registration purposes.~~

~~(c) Unless a charge described in subsection (b) is only assessed to students who voluntarily opt in to being assessed, the charge is subject to all limitations, rebates, waivers, refunds or similar requirements generally applicable to mandatory student fees under this Code.~~

~~(d) If the charge described in subsection (a) is based on credit hours in which the student enrolls, number of courses in which the student enrolls, course program, or another basis other than the cost of the specific instructional materials required or recommended for a specific course or course section in which a student enrolls, then:~~

~~(1) unless the charge is only assessed to students who voluntarily opt in to being assessed, the full amount of the charge shall be included as part of the tuition for the course, course section, or academic term, as applicable, and any tuition rates published by the institution shall be inclusive of such charges;~~

~~(2) any provision that allows a student to opt in or opt out of the charge shall be clearly provided as part of any written or electronic agreement authorized by the student or any other party for the payment of any tuition that includes the charge; and,~~

~~(3) if the instructional materials are delivered primarily in a digital format, the terms under which student data is collected and used through a student's access to the material shall be disclosed in clear language as part of any written or electronic agreement authorized by the student or any other party for the payment of any tuition that includes the charge;~~

~~(e) Unless a charge described in subsection (d) is only assessed to students who voluntarily opt in to being assessed, the charge is subject to all limitations, rebates, waivers, refunds or similar requirements generally applicable to tuition under this Code.~~

~~(f) An opt in provision shall not be considered to be voluntary under this section if:~~

~~(1) the instructional materials for which a charge is assessed are reasonably necessary for the student to participate in or to successfully complete the course; and,~~

~~(2) the instructional materials may only be legally purchased, rented or otherwise accessed from the institution or from a vendor or vendors specified by the institution.~~

~~(g) If the instructional materials for which a charge is assessed, as described in subsection (a), include printed materials provided under a rental agreement, the institution may require that such materials be returned according to the terms of the agreement before issuing a refund for the specific printed materials as would be otherwise required under this Code.~~

~~(h) An agreement between an institution and any entity under which the institution agrees to assess, or allow to be assessed, a charge as described under subsection (a), or which establishes the amount of any such charge, is an open governmental record as defined under [your state's Open Records Act], and is not exempted by any provision generally exempting the records of institutions of higher education.~~

~~Section 5. Disclosure of automatic charges for access to content management systems.~~

~~(a) An institution of higher education that automatically assesses a charge for a student's access to a content management system, or that allows another entity such as a publisher to automatically assess such a charge, shall fully disclose the amount of the charge and terms under which student data is collected and used, as prescribed by this section. This section applies notwithstanding whether the student is allowed to opt out or opt in to being assessed.~~

~~(b) Unless the charge is only assessed to students who voluntarily opt in to being assessed, the full amount of the charge shall be included as part of the tuition for the course, course section, or academic term, as applicable, and any tuition rates published by the institution shall be inclusive of such charges;~~

~~(c) any provision that allows a student to opt in or opt out of the charge shall be clearly provided as part of any written or electronic agreement authorized by the student or any other party for the payment of any tuition that includes the charge; and,~~

~~(d) the terms under which any provider of the content management system or the instructional materials accessed through the system collects and uses student data through a student's access to the system or instructional materials shall be disclosed in clear language as part of any written or electronic agreement authorized by the student or any other party for the payment of any tuition that includes the charge;~~

~~(e) Unless a charge described in subsection (d) is only assessed to students who voluntarily opt in to being assessed, the charge is subject to all limitations, rebates, waivers, refunds or similar requirements generally applicable to tuition under this Code.~~

~~(f) An opt-in provision shall not be considered to be voluntary under this section if use of the content management system is reasonably necessary for the student to participate in or to successfully complete the course.~~

~~(g) An agreement between an institution and any entity under which the institution agrees to assess, or allow to be assessed, a charge as described under subsection (a), or which establishes the amount of any such charge, is an open governmental record as defined under [your state's Open Records Act], and is not exempted by any provision generally exempting the records of institutions of higher education.~~

~~Model Policy (Section-by-section notes):~~

Section 2. Definitions.

The definition of Open Educational Resource is the most current generally recognized definition and should be used exactly as worded if possible. It has been recently revised to recognize that OER materials are sometimes offered in print form for a fee, but are still considered to be OER as long as they are “offered freely ... in at least one form” (typically digitally) and meet the other terms of the definition.

Section 3. Identification of courses or sections requiring only open educational resources or that have low textbook costs.

This section requires institutions of higher education to mark, in their online course schedules, which courses or course sections use OER. It also requires that OER be a selection in the course search function of the online schedule, if the institution provides a search function. And, if an institution marks courses as having “low textbook costs”, or similar wording, it must state how the institution defines that term.

This would allow students and their families to compare the complete cost of courses, including materials, while they are deciding which courses or course sections to select. When a student is selecting an elective course, the cost of materials can be an important consideration. Even for required courses, the materials required by each professor, and the cost of those materials, can vary greatly.

Current federal law requires course schedules to include pricing information about required textbooks. But clicking through several links to find the cost of materials for each course and section can take hours. Clearly marking OER-based courses simplifies that process, so students can make informed choices.

Eight states currently require institutions to mark courses that use low-cost textbooks or OER, with five specifically requiring marking of OER-based courses, according to a recent study. The study found that around 25% of higher ed institutions currently include some form of low-textbook-cost course marking in their catalogs.

Section 4. Disclosure of automatic charges for instructional materials.

This section requires full disclosure of instructional materials charges that are increasingly being automatically assessed to every student by institutions (or by publishers or bookstore operators with an institution’s consent.) The section also requires clear disclosure of data-gathering practices of the vendors who gain digital access to the entire student body through such plans.

Subsection (b) sets out the specific disclosure requirements where an automatic charge is based on the cost of the materials required or recommended for the course. Full disclosure is required for the amount of the charge (itemized separately from other course fees), how the vendor will collect and use student data, and any optout or opt-in provisions that apply. All disclosures are required to be available, to the extent practicable, for pre-registration and registration purposes.

Subsection (c) provides that the charge discussed in the previous subsection is subject to any limitations, rebates, refunds or other similar requirements generally applicable to mandatory student fees, except when offered as a voluntary “opt-in” charge.

Subsection (d) sets out the specific disclosure requirements where an automatic charge is based on the credit hours, courses, course program, or another similar basis not related to cost of the materials for

~~the courses in which a student enrolls. Since all students must pay this charge regardless of the materials required or used, this charge is really more of a “cost of attendance” than a use fee, as a result, shall be included up front as part of tuition. (An exception is provided if the charge is truly an “opt-in” charge on the part of the student.)~~

~~Subsection (d) also requires full disclosure how the vendor will collect and use student data.~~

~~Subsection (e) provides that the charge discussed in the previous subsection is subject to any limitations, rebates, refunds or other similar requirements generally applicable to tuition charges, except when offered as a voluntary “opt-in” charge.~~

~~Subsection (f) clarifies that an “opt-in” provision is not voluntary if the materials for which a charge is assessed are necessary to pass complete the course successfully and are only legally available from the institution or vendors specified by the institution. This recognizes that an “opt-in” is not really voluntary if the student must opt in to realistically have a chance to pass the course.~~

~~Subsection (g) allows the institution to require that rented materials be returned prior to issuing any refund that would otherwise be required, if such a requirement is provided under a rental agreement.~~

~~Subsection (h) states that such agreements between institutions and vendors are subject to the State’s Open Records Act, notwithstanding any provision generally exempting institutions from the Act.~~

~~Section 5. Disclosure of automatic charges for access to content management systems.~~

~~Many digital materials are now delivered to students through “content management systems”, that house the materials and that may be used to allow or limit access to those materials. Such systems are operated by institutions, publishers and others. In some cases, access to the content management system is also necessary to turn in homework assignments, making it impossible to successfully complete the course without access.~~

~~Some institutions, publishers and others now charge fees for access to the content management system. If a student must purchase access to a content management system in order to have access to required materials, or to submit homework, then any charges for such access should have the same disclosure requirements as the materials themselves. This section establishes those requirements.~~

~~*All existing sections and language in the Textbook Cost Transparency Act is struck and replaced with the following:*~~

SECTION 1. DISSEMINATION OF COURSE SCHEDULE AND LIST OF REQUIRED AND RECOMMENDED COURSE MATERIALS.

(a) Definitions:

(1) "Course material" means a textbook, supplemental material, or open educational resource.

(2) "Institution of higher education," means a public college or university.

(3) “Course Schedule” means the official list of courses or course sections designated by an institution of higher education for course scheduling.

(b) Not later than the 30th day before the first day that classes are conducted for each semester or academic term, each public institution of higher education shall:

(1) compile a course schedule indicating each course offered by the institution for the semester or term to postsecondary students;

(2) with respect to each course, include with the schedule, or provide in a prominent location in the schedule a link to an Internet website, such as the Internet website of a college bookstore, that contains, a list of the required and recommended course materials that specifies, to the extent practicable, the following information for each course material, as applicable:

(A) the retail price;

(B) the author;

(C) the publisher or provider;

(D) the most recent copyright date;

(E) the International Standard Book Number assigned, if any;

(F) whether the course material is an open educational resource; and

(G) any associated fee or charge, such as a technology cost, library use cost, or printing or publication fee;

(3) in a prominent location in the schedule, state or provide an Internet website link to:

(A) the full amount of any fee or charge for course materials assessed by the institution or another entity under an agreement with the institution, including a statement regarding whether the fee or charge is included in the cost of tuition;

(B) if a course material is in a primarily electronic format, the terms under which the publisher or provider collects and uses student data obtained through a student's use of the course material; and

(C) any provision that allows the student to opt out of a fee or charge described by Paragraph (A)

(4) make information regarding the cost of course materials on the course materials list under Subdivision (2) available to college bookstores and other providers of course materials that serve the students of the institution.

(c) As soon as practicable after the information becomes available, each institution of higher education shall make available specific information regarding any revisions to the institution's course schedule and course materials list.

(d) An institution of higher education shall itemize a fee or charge for course materials assessed by the institution or another entity under an agreement with the institution separately from any other fees or charges assessed for a course or course section in the institution's billing to the student. This subsection may not be construed to prohibit an institution of higher education from including the cost of course materials as part of the institution's tuition.

(e) Any agreement between an institution of higher education and an entity under which the institution agrees to assess or allows the entity to assess a fee or charge for course materials to students enrolled at the institution is public information

(f) To allow for timely placement of course material orders by students, each institution of higher education shall establish a deadline by which faculty members must submit information to be included in the course schedule and course materials list required by Subsection (b).

(g) If an institution of higher education or a college bookstore publishes a course materials list with a course schedule on an Internet website that provides a search function, the institution or bookstore must:

(1) ensure that the search function permits a search based on whether a course or section of a course requires or recommends only open educational resources; or

(2) provide a searchable list of courses and sections of courses that require or recommend only open educational resources.

(h) If an institution of higher education designates in the institution's course schedule certain courses or sections of courses as having low course material costs or a similar designation, the institution shall, in a prominent location in the schedule, state or provide an Internet website link to the criteria for that designation.

(i) This section may not be construed to affect any authority granted to a faculty member by an institution of higher education to select course materials for courses taught by the faculty member.