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**TESTIMONY ON BEHALF OF
THE ASSOCIATION OF AMERICAN PUBLISHERS**

**By Stacy S. Skelly
Director for Higher Education**

Before the Texas State
Senate Committee on Education

October 20, 2008

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Good morning, Madame Chairman, members of the Committee. My name is Stacy Skelly, and I am the Director for Higher Education at the Association of American Publishers.

Thank you for this opportunity to discuss the Higher Education Opportunity Act¹, its impact on Texas college students, and the efforts publishers are making to address textbook affordability and effectiveness.

Jesse Gutierrez of McGraw-Hill Education is also here with me today as a resource witness in case you have questions about the Higher Education Opportunity Act's direct impact on publishing companies.

Let me start by saying that the Association of American Publishers supports transparency in the college textbook adoption process. We worked closely with Members of Congress during the reauthorization of the Higher Education Opportunity Act to ensure students would have access to affordable, quality course materials that meet their developmental, instructional and financial needs.

When you look at the big picture, the Higher Education Act requires universities and colleges to give students the International Standard Book Numbers, or ISBNs, and retail prices of course materials in the institution's course schedules. The idea here is to give students and parents plenty of time to prepare for their textbook costs. Schools are also encouraged to distribute information about their rental programs, buy back programs, and any other institutional cost-saving strategies.

Regarding the provisions for publishers, the Higher Education Act focuses on ensuring faculty members have:

- Wholesale price information,
- Retail price information, if it is available,
- Information on the array of formats of course materials available and their prices,
- Copyright dates for the previous three editions of the textbook, if any, and
- Descriptions of substantial content revisions made between the current edition of a textbook and the previous edition, if any.

¹ The full text of the Higher Education Opportunity Act can be found at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_bills&docid=f:h4137enr.txt.pdf. The textbook provisions begin on page 30.

I'm pleased to say that publishers support the bill's call for price and product transparency. Transparency is good for students, faculty and publishers, and ensures that students receive fair value for their investment in course materials.

Custom books are subject to these disclosure provisions when possible. Custom textbooks enable faculty to build their own textbooks – essentially determining the price – by choosing content (e.g., chapters from one or more textbooks, newspaper articles, instructor lecture notes, white papers), art, photos and visuals, and any instructional aids or student learning technologies they feel are best for their class and their students. Custom books are popular with students because they generally cost less, and they ensure that all of the materials are used in the course.

The law also requires that college textbooks and supplemental materials be *made available* as separate items, each separately priced. To be clear, publishers are to make the materials available separately but may continue to deliver course materials as ordered by faculty, separately or bundled.

The bottom line is that these provisions will help ensure that faculty members are fully aware of how much they are asking their students to pay for course materials, how often new editions are released, and opportunities for lower-cost alternatives.

Let me assure you that publishers are already working toward compliance, and they will be in full compliance by the effective date.

Publishers have always provided information about their course materials to faculty members. In fact, online resources have significantly enhanced access to information, and publishers have created websites that provide price and product information for faculty members, students and the public. These sites will continue to be enhanced as publishers work to meet the letter and spirit of the federal law.

As of today, anyone can access course material information and prices in a matter of seconds by typing a text's ISBN (International Standard Book Number) or title and author into an online search engine. This kind of transparency will help students find the best price for their materials.

Regarding the “unbundling” provisions, publishers are happy to make materials available to students in a variety of formats, including “unbundled”. Currently, publishers deliver course materials as ordered by the faculty member and bookstore, and these materials are also available for purchase separately, in almost all cases, directly from publishers' websites. Still, publishers understand cost concerns and will work with all faculty members to make information on textbooks and corresponding components even more easily accessible.

The federal law corresponds to the various pieces of state legislation already on the books, including textbook affordability legislation offered last session here in Texas. In a few cases, the specific wording is different, but the intent and outcome is the same.

One area in which the states have acted but the federal government did not is on “ethics provisions”. These “ethics” provisions ban faculty members from receiving “kickbacks” in exchange for adopting certain texts and prohibit the insidious and unethical practice of faculty and other state employees from profiting from the sale of the free, complimentary textbook copies sent to faculty for review.

The goal of the federal bill is one we all share, ensuring that faculty, bookstores, institutions, and publishers work together to help students receive a quality education while protecting academic freedom.

Publishers understand that college costs are a concern for American families and are very aware that institutions are facing significant and growing challenges. Today’s increasingly diverse student population is often ill prepared for college-level work, and many students require extensive remediation.

Publishers are here to help. We are proactively making changes to current business practices and looking for innovations that will take us beyond the status quo, such as developing new digital products to help improve the way college students learn and assess their own progress and readiness through online tutoring, online homework management systems, e-textbooks, and customized course web sites.

If you don’t mind, I would like to take a minute to share with you what publishers are doing outside of the legislative process to ensure the student consumer is the primary focus. Each of these initiatives is win-win-win, designed to simultaneously address the issues of affordability, remediation and student success.

- The University of Texas-Austin, for example, is partnering with publisher John Wiley & Sons on an e-textbook pilot program.
 - As my co-panelists will explain, the pilot program uses a subscription model to offer free electronic course materials to approximately 1,000 students. The pilot program explores how institutions might pay a subscription fee to publishers to license their content, similar to software, which would then be made available to students. Additionally, students can opt out of the e-textbook option by paying a fee to have the book printed on campus for as little as \$20 to \$40. This public-private partnership is a great example of publishers’ willingness to implement new business models and take risks.
- Publishers are working with the California State University System to create a “Digital Marketplace” that would offer commercial and non-commercial course materials in one digital network.
 - The Marketplace would enable faculty to choose a variety of course materials, such as publisher-produced content, open course content, faculty-produced content, and Internet resources. In fact, the federal Advisory Committee on Student Financial Assistance heralded the project as a potential national solution to the affordability issue. (See http://www.calstate.edu/ats/digital_marketplace/ or <http://www.ed.gov/about/bdscomm/list/acsfa/txtbkpres/hanleypresent.pdf>)

- Six major textbook publishers have created CourseSmart, an online retailer that enables students to have instant access to more than 4,000 e-textbooks titles on one Web site.
 - Students can save as much as 50 percent off the cost of printed texts, and they get search capabilities, note taking, and communication features that can only be offered through the Web. Students are able to print out the pages they need at any given time. (See <http://www.CourseSmart.com>)
- The University System of Ohio, through a partnership with CourseSmart, is offering half or more off the print price of many textbooks to its students.
 - This is the first partnership between a university system and CourseSmart. (For more information, visit <http://textbooks.uso.edu/about>.)
- iChapters.com is an online site that enables students to purchase textbooks by the chapter at a significant discount, traditional textbooks, and eBooks.
 - As with Apple's iTunes, the student consumer holds the power here. New print textbooks are available at up to 40 percent off retail prices, sometimes costing less than the price of a used book. eBooks are priced 50 percent below retail price and eChapters start as low as \$1.99 each. By paying course material costs over an entire semester, students on a tight budget can spread out their spending.
- At Rio Salado College, a community college in Tempe, Arizona, that caters to working adults, the administration partnered with a college textbook publisher to offer tailor-made materials for all of their courses, saving students an average of 52 percent over traditional books.
 - Students said that using all of the content in the custom materials and saving money upfront were very important factors.
- A major textbook publisher launched a Student Advisory Board in 2007 to work directly with a diverse group of college students to determine exactly what students need and want to be successful.
 - Publishers are speaking with student consumers, understanding their concerns and attempting to address their learning needs at the same time. (Additional details are available at www.pearsonstudents.com or at the group's Facebook page at <http://www.facebook.com/pages/Pearson-Education/9704821975>.)

Thank you again for allowing AAP to participate in this hearing. I would like to offer you the continued support and resources of AAP and publishers as you go forward. I encourage you to look to the future to better ensure delivery of 21st century educational materials and methods that will improve student success.

Higher Education Opportunity Act

The full text of the Higher Education Opportunity Act can be found at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_bills&docid=f:h4137enr.txt.pdf.

The textbook provisions begin on page 30, and those provision can be found below.

SEC. 133. TEXTBOOK INFORMATION.

(a) **PURPOSE AND INTENT.**—The purpose of this section is to ensure that students have access to affordable course materials by decreasing costs to students and enhancing transparency and disclosure with respect to the selection, purchase, sale, and use of course materials. It is the intent of this section to encourage all of the involved parties, including faculty, students, administrators, institutions of higher education, bookstores, distributors, and publishers, to work together to identify ways to decrease the cost of college textbooks and supplemental materials for students while supporting the academic freedom of faculty members to select high quality course materials for students.

(b) **DEFINITIONS.**—In this section:

(1) **BUNDLE.**—The term ‘bundle’ means one or more college textbooks or other supplemental materials that may be packaged together to be sold as course materials for one price.

(2) **COLLEGE TEXTBOOK.**—The term ‘college textbook’ means a textbook or a set of textbooks, used for, or in conjunction with, a course in postsecondary education at an institution of higher education.

(3) **COURSE SCHEDULE.**—The term ‘course schedule’ means a listing of the courses or classes offered by an institution of higher education for an academic period, as defined by the institution.

(4) **CUSTOM TEXTBOOK.**—The term ‘custom textbook’—

(A) means a college textbook that is compiled by a publisher at the direction of a faculty member or other person or adopting entity in charge of selecting course materials at an institution of higher education; and

(B) may include, alone or in combination, items such as selections from original instructor materials, previously copyrighted publisher materials, copyrighted third-party works, and elements unique to a specific institution, such as commemorative editions.

(5) **INSTITUTION OF HIGHER EDUCATION.**—The term ‘institution of higher education’ has the meaning given the term in section 102.

(6) **INTEGRATED TEXTBOOK.**—The term ‘integrated textbook’ means a college textbook that is—

(A) 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

(B) combined with other materials that are so interrelated with the content of the college textbook that the separation of the college textbook from the other materials would render the college textbook unusable for its intended purpose.

(7) PUBLISHER.—The term ‘publisher’ means a publisher of college textbooks or supplemental materials involved in or affecting interstate commerce.

(8) SUBSTANTIAL CONTENT.—The term ‘substantial content’ means parts of a college textbook such as new chapters, new material covering additional eras of time, new themes, or new subject matter.

(9) SUPPLEMENTAL MATERIAL.—The term ‘supplemental material’ means educational material developed to accompany a college textbook that—

(A) may include printed materials, computer disks, website access, and electronically distributed materials; and

(B) is not being used as a component of an integrated textbook.

(c) PUBLISHER REQUIREMENTS.—

(1) COLLEGE TEXTBOOK PRICING INFORMATION.—When a publisher provides a faculty member or other person or adopting entity in charge of selecting course materials at an institution of higher education receiving Federal financial assistance with information regarding a college textbook or supplemental material, the publisher shall include, with any such information and in writing (which may include electronic communications), the following:

(A) The price at which the publisher would make the college textbook or supplemental material available to the bookstore on the campus of, or otherwise associated with, such institution of higher education and, if available, the price at which the publisher makes the college textbook or supplemental material available to the public.

(B) The copyright dates of the three previous editions of such college textbook, if any.

(C) A description of the substantial content revisions made between the current edition of the college textbook or supplemental material and the previous edition, if any.

(D)(i) Whether the college textbook or supplemental material is available in any other format, including paperback and unbound; and

(ii) for each other format of the college textbook or supplemental material, the price at which the publisher would make the college textbook or supplemental material in the other format available to the bookstore on the campus of, or otherwise associated with, such institution of higher education and, if available, the price at which the publisher makes such other format of the college textbook or supplemental material available to the public.

(2) UNBUNDLING OF COLLEGE TEXTBOOKS FROM SUPPLEMENTAL

MATERIALS.—A publisher that sells a college textbook and any supplemental material accompanying such college textbook as a single bundle shall also make available the

college textbook and each supplemental material as separate and unbundled items, each separately priced.

(3) CUSTOM TEXTBOOKS.—To the maximum extent practicable, a publisher shall provide the information required under this subsection with respect to the development and provision of custom textbooks.

(d) PROVISION OF ISBN COLLEGE TEXTBOOK INFORMATION IN COURSE SCHEDULES.—To the maximum extent practicable, each institution of higher education receiving Federal financial assistance shall—

(1) disclose, on the institution's Internet course schedule and in a manner of the institution's choosing, the International Standard Book Number and retail price information of required and recommended college textbooks and supplemental materials for each course listed in the institution's course schedule used for preregistration and registration purposes, except that—

(A) if the International Standard Book Number is not available for such college textbook or supplemental material, then the institution shall include in the Internet course schedule the author, title, publisher, and copyright date for such college textbook or supplemental material; and

(B) if the institution determines that the disclosure of the information described in this subsection is not practicable for a college textbook or supplemental material, then the institution shall so indicate by placing the designation 'To Be Determined' in lieu of the information required under this subsection; and

(2) if applicable, include on the institution's written course schedule a notice that textbook information is available on the institution's Internet course schedule, and the Internet address for such schedule.

(e) AVAILABILITY OF INFORMATION FOR COLLEGE BOOKSTORES.—

An institution of higher education receiving Federal financial assistance shall make available to a college bookstore that is operated by, or in a contractual relationship or otherwise affiliated with, the institution, as soon as is practicable upon the request of such college bookstore, the most accurate information available regarding—

(1) the institution's course schedule for the subsequent academic period; and

(2) for each course or class offered by the institution for the subsequent academic period—

(A) the information required by subsection (d)(1) for each college textbook or supplemental material required or recommended for such course or class;

(B) the number of students enrolled in such course or class; and

(C) the maximum student enrollment for such course or class.

(f) **ADDITIONAL INFORMATION.**—An institution disclosing the information required by subsection (d)(1) is encouraged to disseminate to students information regarding—

- (1) available institutional programs for renting textbooks or for purchasing used textbooks;
- (2) available institutional guaranteed textbook buy-back programs;
- (3) available institutional alternative content delivery programs; or
- (4) other available institutional cost-saving strategies.

(g) **GAO REPORT.**—Not later than July 1, 2013, the Comptroller General of the United States shall report to the authorizing committees on the implementation of this section by institutions of

higher education, college bookstores, and publishers. The report shall particularly examine—

- (1) the availability of college textbook information on course schedules;
- (2) the provision of pricing information to faculty of institutions of higher education by publishers;
- (3) the use of bundled and unbundled material in the college textbook marketplace, including the adoption of unbundled materials by faculty and the use of integrated textbooks by publishers; and
- (4) the implementation of this section by institutions of higher education, including the costs and benefits to such institutions and to students.

(h) **RULE OF CONSTRUCTION.**—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.

(i) **NO REGULATORY AUTHORITY.**—The Secretary shall not promulgate regulations with respect to this section.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on July 1, 2010.