

**FLORIDA BOARD OF GOVERNORS
NOTICE OF PROPOSED AMENDED REGULATION**

DATE: July 23, 2020

REGULATION NUMBER AND TITLE: 8.003, Textbook and Instructional Materials Affordability

SUMMARY: Board of Governors Regulation 8.003 Textbook and Instructional Materials Affordability is being amended to address changes in section 1004.085(4), Florida Statutes from the 2020 Legislative Session. The amendment requires that innovative pricing techniques and payment options for course materials include an opt-out provision in addition to the opt-in provision for students. The opt-out provision may be approved provided there is documented evidence that opting out reduces the cost of textbooks and instructional materials for students taking a course.

FULL TEXT OF THE REGULATION IS INCLUDED WITH THIS NOTICE.

AUTHORITY TO PROPOSE REGULATION(S): Section 7(d), Art. IX, Fla. Const.; BOG Regulation Development Procedure dated March 23, 2006.

THE BOARD OF GOVERNORS' OFFICIAL INITIATING THE PROPOSED REGULATION: Dr. Christy England, Vice Chancellor for Academic and Student Affairs

COMMENTS REGARDING THE PROPOSED REGULATION SHOULD BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO THE CONTACT PERSON IDENTIFIED BELOW. The comments must identify the regulation on which you are commenting:

General Counsel, Board of Governors, State University System, 325 W. Gaines Street, Suite 1614, Tallahassee, Florida 32399, (850) 245-0466 (phone), (850) 245-9685 (fax), or generalcounsel@flbog.edu.

8.003 Textbook and Instructional Materials Affordability

(1) Each university board of trustees shall adopt a regulation that establishes textbooks and instructional materials affordability policies to minimize the cost of required or recommended textbooks and instructional materials for students while maintaining the quality of education and academic freedom. The regulation shall provide for the following:

- (a) Selection of textbooks and instructional materials through cost-benefit analyses that enable students to obtain the highest-quality product at the lowest available price, by considering:
 1. Purchasing digital textbooks in bulk;
 2. Expanding the use of open-access textbooks and instructional materials;
 3. Providing rental options for textbooks and instructional materials;
 4. Increasing the availability and use of affordable digital textbooks and learning objects;
 5. Developing mechanisms to assist in buying, renting, selling, and sharing textbooks and instructional materials;
 6. The length of time that textbooks and instructional materials remain in use;
 7. An evaluation of cost savings for textbooks and instructional materials which a student may realize if individual students are able to exercise opt-in or opt-out provisions for the purchase of the materials.
- (b) The use of innovative pricing techniques and payment options for textbooks and instructional materials in consultation with providers including bookstores. The pricing techniques and payment options must include an opt-in or opt-out provision for students and may be approved only if there is documented evidence that the options reduce the cost of the textbooks and instructional materials.
- (c) A deadline for the selection of textbooks and instructional materials each term that shall provide sufficient lead time for bookstores to confirm availability, source lower-cost options, explore alternatives with faculty, and maximize the availability of used textbooks and instructional materials.
- (d) A procedure to document the intent of the course instructor or the academic department offering the course to use all items ordered, including each individual item sold as part of a bundled package, before the selection is finalized.
- (e) A determination by the course instructor or academic department offering the course, before a textbook or instructional material is selected, of the extent to which a new edition differs significantly and substantively from earlier versions and the value to the student of changing to a new edition or the extent to which an open-access textbook or instructional material is available.
- (f) A procedure(s) to make required and recommended textbooks and instructional materials for each course offering available to students who otherwise cannot afford the cost of the textbook including consideration of the extent to which an

open-access textbook or instructional material may be used.

- (g) A procedure(s) by which students can obtain required textbooks and instructional materials prior to receipt of their financial aid distribution, when necessary.
- (h) A deadline for posting a hyperlink to lists of required and recommended textbooks and instructional materials for at least 95 percent of all courses and course sections offered for the upcoming term in the university's course registration system and on the university's website. The designated university official shall determine compliance with this requirement no later than forty-five (45) days prior to the first day of classes for each term. Any request for an exception to the compliance deadline shall be submitted in writing to the designated university official and shall provide a reasonable justification for an exception. A course or section added after the notification deadline is exempt from this notification requirement. The posted list shall include the following information for each required and recommended textbook and instructional materials:
 - 1. the International Standard Book Number (ISBN); or
 - 2. other identifying information which shall include, at a minimum:
 - a. the title,
 - b. all authors listed,
 - c. publisher,
 - d. edition number,
 - e. copyright date,
 - f. published date, and
 - g. other relevant information necessary to identify the specific textbook or instructional materials required and recommended for each course.
- (i) Consultation with school districts to identify practices that impact the cost of dual enrollment textbooks and instructional materials to school districts, including, but not limited to, the length of time that textbooks and instructional materials remain in use.

(2) No employee of a state university may demand or receive any payment, loan, subscription, advance, deposit of money, service, or anything of value, present or promised, in exchange for requiring students to purchase a specific textbook or instructional materials for coursework or instruction. However, an employee may receive, subject to the requirements of the Florida Code of Ethics for Public Officers and Employees and the outside activity and conflict of interest requirements set forth in university regulations and collective bargaining agreements:

- (a) Sample copies, instructor copies, or instructional materials. These materials may not be sold for any type of compensation if they are specifically marked as free samples, not for resale.
- (b) Royalties or other compensation from sales of textbooks or instructional materials that include the instructor's own writing or work.
- (c) Honoraria for academic peer review of course materials.
- (d) Fees associated with activities such as reviewing, critiquing, or preparing support materials for textbooks or instructional materials.

(e) Training in the use of course materials and learning technologies.

(3) Each university board of trustees shall provide a report, by September 30 of each year, to the Chancellor of the State University System, in a format determined by the Chancellor, that details:

- (a) The selection process for high enrollment courses;
- (b) Specific initiatives of the institution designed to reduce the costs of textbooks and instructional materials;
- (c) Policies implemented regarding the posting of textbook and instructional materials for at least 95% of all courses and course sections 45 days before the first day of class;
- (d) The number of courses and course sections that were not able to meet the posting deadline for the previous academic year; and
- (e) Any additional information determined by the Chancellor.

The Chancellor will report to the Board of Governors a summary of the State University System's initiatives and efforts addressing textbook and instructional materials affordability by November 1 of each year.

Authority: Section 7(d), Art. IX, Fla. Const.; History: New 03-26-09, Amended 11-03-16, Amended 10-30-19. Amended XX-XX-XX.