*** § 715. Instructional materials; students with disabilities.** 1. For purposes of this section, the following words shall have the following meanings: (a) "College" means college as defined in subdivision two of section six hundred one of this chapter;

(b) "Instructional material or materials" means textbooks and other materials written and published by commercial publishers primarily for use by students in postsecondary instruction that are required or essential to a student's success in a course of study in which a student with a disability is enrolled. The determination of which materials are "required or essential to student success" shall be made by the instructor of the course. "Instructional material or materials" shall also include commercially published nontextual mathematics and science material wherever available software permits the conversion of existing electronic files of the materials into a format that is compatible with braille translation software or alternative media for students with disabilities.

(c) "Nonprinted instructional materials" means commercially published instructional materials in formats other than print, and includes commercially published instructional materials that require the availability of electronic equipment in order to be used as a learning resource, including, but not necessarily limited to, commercially published software programs, video disks, and video and audio tapes.

(d) "Printed instructional material or materials" means instructional material or materials commercially published in book or other commercially published printed form.

(e) "Structural integrity" means all of the commercially published printed instructional material, including, but not limited to, the text of the material, sidebars, the table of contents, chapter headings and subheadings, footnotes, pictures, illustrations, graphs, charts, indexes, glossaries, and bibliographies. If good faith efforts fail to produce an agreement pursuant to subdivision two of this section between the publisher or manufacturer and the commissioner as to an electronic format that will preserve the structural integrity of the commercially published printed instructional material, the publisher or manufacturer shall provide the instructional material in the most updated electronic format taking into consideration the recommendation made by the National Institute of Standards and Technology (NIST) and shall preserve as much

of the structural integrity of the commercially published printed instructional material as possible.

(f) "Specialized format" means braille, audio, or digital text that is exclusively for use by blind persons and students with other disabilities.

(g) "Advisory council", means a group of individuals appointed as follows: seven shall be appointed directly by the governor, two shall be appointed on the nomination of the temporary president of the senate, two shall be appointed on the nomination of the speaker of the assembly, one shall be appointed on the nomination of the minority leader of the senate, and one shall be appointed on the nomination of the minority leader of the assembly. The council shall be comprised of representatives from college disability student support services; the department; the publisher community; students with disabilities and other interested parties who will provide input into policy development, program guidelines and implementation strategies for the implementation of this section, and updates and technical assistance to regional college disability service coordinators.

(h) "Guidelines" means a set of information, training, technical guidance and best practices used in implementing the provisions of this section.

Nothing in this subdivision shall be construed to prohibit a college from assisting a student with a disability by using the electronic version of commercially published printed instructional material provided pursuant to this section solely to transcribe or arrange for the transcription of the commercially published printed instructional material into braille. In the event such a transcription is made, the college shall have the right to share such braille copy of the commercially published printed instructional material with other students with disabilities.

2. An individual, firm, partnership or corporation that publishes or manufactures commercially published printed instructional materials for students attending college shall provide for purchase by students with disabilities such printed instructional material in an electronic format mutually agreed upon by the commercial publisher or manufacturer and the

commissioner. These commercially published printed instructional materials must be converted to an electronic format using the most updated software technology available to the public at that time. Computer files or electronic versions of commercially published printed instructional materials shall maintain the structural integrity of such printed instructional material, be compatible with commonly used braille translation and speech synthesis software, and include corrections and revisions as may be necessary. The computer files or electronic versions of the commercially published printed instructional material shall be available to students with disabilities at a cost comparable to the printed version of such commercially published material and in a timely manner, upon receipt of a written request that does all of the following:

(a) Certifies that the electronic version of the commercially published printed instructional materials will be used by a student with a disability.

(b) Certifies that the student has a disability that prevents him or her from using standard commercially published instructional materials.

(c) Certifies that the commercially published printed instructional material is for use by the student in connection with a course in which he or she is registered or enrolled at the college.

(d) Is signed by the coordinator of services for students with disabilities at the college or by the campus or college official responsible for monitoring compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) at the college.

3. An individual, firm, partnership or corporation specified in subdivision two of this section may also require that, in addition to the conditions enumerated above, the request shall include a statement signed by the student agreeing to both of the following:

(a) He or she will use the electronic copy of the commercially published printed instructional material in specialized format solely for his or her own educational purposes.

(b) He or she will not copy or duplicate the commercially published printed instructional material or electronic copy for use by others consistent with the requirements of the copyright revision act of 1976, as amended (17 U.S.C. §101 et seq.).

4. If a college permits a student to directly use the electronic version of a commercially published instructional material, such student shall use the disk or file in a manner that complies at all times with the Copyright Revisions Act of 1976, as amended (17 U.S.C. Sec. 101 et seq.).

5. An individual, firm, partnership or corporation that, for commercial purposes, publishes or manufactures nonprinted instructional materials for students attending college shall provide computer files or other electronic versions of such nonprinted instructional materials for use by students attending such college subject to the same conditions set forth in subdivisions two and three of this section for printed instructional materials, when technology is available to convert these nonprinted instructional materials published or manufactured for commercial purposes to a format that maintains the structural integrity of such nonprinted instructional materials that is compatible with braille translation and speech synthesis software.

6. Nothing in this section shall be deemed to authorize any use of any commercially published instructional materials that would constitute an infringement of copyright under the Copyright Revision Act of 1976, as amended (17 U.S.C. Sec. 101 et seq.).

7. The governor shall convene a statewide advisory council as defined in paragraph (g) of subdivision one of this section that will meet as necessary to fulfill the functions set forth in paragraph (g) of subdivision one of this section.

* NB Repealed August 15, 2028