

Inclusive Access and Charging for Instructional Supplies

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What is the issue?

Some institutions bundle the cost of books and instructional materials into a student's tuition and fees in order to lower the cost of those materials and ensure that students have access to all of their instructional materials on the first day of class. These programs are often referred to as inclusive access programs. This allows institutions to leverage federal financial aid to automatically pay for students' instructional materials. The Department of Education expressed concern that in so doing, student consumer choice is prevented, and students are unable to seek less expensive options for instructional materials.

Current policy

[Section 668.164\(c\)\(2\)](#) allows an institution to include the costs of books and supplies as part of tuition and fees if the institution has an arrangement that enables it to make those materials available below competitive market rates, provides a way for students to obtain those materials by the seventh day of the term, and has a policy that allows for the student to opt-out of such a program. An institution may also create such a program if there is a compelling health or safety reason.

Proposed language

The [Department's proposed language](#) (page 3) would create 668.164(c)(1)(ii)(A) and (B). This proposed language would only allow institutions to include the cost of instructional materials in tuition and fees under the following circumstances:

- A student is incarcerated OR
- The institution individually discloses the cost of such books, supplies, and other educationally related goods and services prior to any authorization being signed, AND
- The student explicitly opts in to such a program, AND
- The institution makes those books and supplies available at or below competitive market rates.

Potential impact

If the proposed language goes forward, institutions will only be allowed to include "educationally related goods and services" in tuition and fees if students explicitly opt-in to these programs each academic term. Institutions that currently have inclusive access programs that allow students to opt-out of participation will be required to change into opt-in programs in which students must choose to opt-in each academic term. The only exception to this requirement would be for incarcerated individuals.

Additionally, it does not appear that institutions with practical programs that require specific tools would be able to include the cost of that equipment in tuition and fees.

The earliest the regulation would go into effect is July 1, 2025.

Next steps

Institutions with inclusive access programs should consider the next steps:

- Review current processes to determine what changes might need to be made should the proposed language be finalized as regulations.
- Work with your government relations department to contact your federal legislators.
- Be prepared to explain the impact on students that the proposed language would have.

Note: This document was created for members of the [SAN \(State Authorization Network\)](#) and [WCET \(WICHE Cooperative for Educational Technologies\)](#). Regulatory language and references are subject to change. The information should not be considered legal advice. Legal questions should be directed to legal counsel.