

AUTOMATIC TEXTBOOK BILLING

LIMITED CHOICE, UNCERTAIN SAVINGS



**Student
PIRGs**

U.S. PIRG
Education Fund

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GROUP


THE MICHELSON 20MM
FOUNDATION

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Executive summary

After decades of steadily increasing textbook costs that added to the financial burden of a college education, textbook price increases slowed starting in 2017.¹ The reasons for this slowdown likely include competition from used books, sharing of online resources by students, and the availability of free open educational resources.²

Amid stagnant student spending on textbooks and growing competition from open educational resources, publishers have turned to automatic textbook billing, in which students are charged for textbooks (often digital) and other online course materials on their tuition bills, unless they opt out. Contracts signed by colleges and universities with not only publishers, but also bookstores and digital platform operators that help provide materials to students, set the conditions and prices under which students are automatically charged.

While supporters of automatic textbook billing, also known as “inclusive access” and by various brand names, argue that the arrangement can provide cost savings and more convenient access to course materials for students, a review of contracts between schools, bookstores and publishers shows that the system may also keep students locked into an uncompetitive textbook market and may limit the spread of free open educational resources. Moreover, the claimed savings of automatic textbook billing are difficult to quantify.

To update our 2020 analysis of digital textbook billing practices and costs, we reviewed 171 contracts at 92 two- and four-year public colleges and universities or consortiums of public higher education institutions collected by SPARC, a nonprofit organization that supports open and equitable systems for education and research.³ This analysis includes more schools than our previous report, and includes a more detailed look at contracts with third-party bookstore operators.⁴ This review supports the previous finding that many automatic textbook billing practices may not be in students’ best financial interests.

Specifically, we find:

1. Savings in contracts with publishers, third-party bookstore operators and digital platforms are difficult to evaluate, and some contracts may provide no savings.
2. Many contracts with publishers require that a very high percentage of students participate in automatic billing programs or the school risks losing promised discounts. This may discourage schools from promoting used or rental textbooks that might save money for students or from making reasonable efforts to ensure students can opt out.
3. Most contracts between bookstores and schools include commissions and incentive payments from bookstores to the college or university. These payments – often based, in part, on sales through the automatic textbook billing program – may discourage schools from supporting the development and adoption of free open educational resources that would save money for students and build a more competitive textbook market.

Finding #1: In many contracts, savings are difficult to evaluate. A key selling point of automatic textbook billing programs is that they will reduce costs for students. We found unclear savings in contracts between schools and publishers, third-party bookstore operators and digital platform operators:

- More than half of all the contracts between schools and publishers include a provision for a percentage reduction off a base price.⁵ While these price cuts are often listed at 20% to 25%, there is no reasonably transparent way to know the nondiscounted prices from which savings are calculated.
- At some schools, a third-party operated bookstore manages the automatic textbook billing program. Of the contracts between schools and third-party bookstore operators that include pricing information related to automatic billing, we found no indication of the level of savings. These contracts place a limit on the markup the bookstore can apply to the price it pays the publisher. The actual price of the textbooks is based on a separate contract between the publisher and the school or bookstore, to which we did not have access.
- Fourteen contracts between schools and third-party bookstore operators list automatic textbook billing rates in terms of a price per credit hour ranging from \$19.87 to \$26 per credit hour. For a student taking a full course load, this means a cost of \$596 to \$780 per year.⁶
- Savings were unclear in many of the 45 contracts between schools and digital platform operators, which provide students with online access to textbooks and homework and charge a fee in addition to what students pay to publishers. Some RedShelf contracts that we reviewed, for example, stipulate that the school will pay RedShelf 5% to 10% for each resource purchased from a publisher and accessed through RedShelf. In this case, potential savings are contingent upon the discount that the school negotiates with each publisher, and we did not have access to that information.

Finding #2: High participation quotas for automatic billing programs may discourage schools from promoting used or rental textbooks that might be less expensive for students, or from making reasonable efforts to ensure students can opt out. Under contracts with participation quotas, if too few students purchase their course materials through the automatic textbook billing program, the publisher may increase the price of course materials the next semester or school year by revoking discounts negotiated in the contract or canceling the contract.

- More than 40% of the contracts between publishers and institutions include a participation quota. For example, many require 85% to 90% of students in classes that use the automatic textbook billing program to buy their materials through the program.

Finding #3: Commission and incentive payments from bookstores to colleges and universities may discourage schools from supporting the development and adoption of free open educational resources. Many campuses outsource bookstore operations to a third party that often pays a commission based on sales. When a school implements an automatic textbook

billing program, it effectively guarantees the bookstore operator an increase in sales and therefore an increase in the commission to be paid to the institution – creating a potential conflict between students’ and the institution’s financial best interests.

Of the bookstore operating contracts that include provisions for automatic textbook billing programs, almost all include revenue-sharing provisions between the bookstore and the school. In other words, the school bills students for textbooks, pays the bookstore and then receives a portion of that money back.

- In 90% of the bookstore operating contracts for which we could see the details about commission payments, the school received a commission payment based on sales of automatic textbook billing products.
- Only four bookstore operating contracts paid no commission on these materials. We could not determine commission payment rates for nine contracts.
- The commission rate for digital materials and automatic billing course materials was 7% or higher in more than two-thirds of the contracts for which we could see commission payment information.

Policymakers and campus leaders should act to protect students’ financial interests and allow for choice in the textbook market.

- Campus administrators should ensure that the pricing structure of automatic textbook billing arrangements provides savings for students. The original price of the assigned material and the discount off the publisher retail price should be easy for school administrators and others to assess.
- Campus administrators should reject provisions that restrict their school’s ability to provide alternative course material purchasing options or that punish the school if too few students participate in automatic billing.
- Campus faculty should explore the use of open educational resources to replace restrictive digital materials that limit creation of a more competitive textbook market with long-term benefits for students.
- The U.S. Department of Education should require automatic textbook billing programs to operate on an opt-in basis. Students should be asked whether they consent to participate in automatic textbook billing before they are billed.

Introduction

Students struggling to manage the high cost of textbooks have historically turned to a variety of creative solutions to reduce their financial burden. They may buy used books, rent textbooks, borrow copies from the library or share with classmates.

But students can no longer use these methods as reliably. Publishers, and increasingly campus bookstores, have adopted strategies that limit the number of hard-copy textbooks that supply the market for used books or that can be shared.

Publishers now promote digital texts and course materials that are difficult to share, and limit the supply of physical textbooks. Starting roughly a decade ago, publishers began bundling hard-copy texts with single-use digital access codes that allowed students to complete homework and other coursework online. This meant that buying used textbooks, which lacked a digital code, did not give students access to everything they needed for class. Recently, even physical textbooks often have been replaced by digital texts that cannot be resold.⁷ For texts sold through an automatic billing program, at least one publisher often limits sales of physical texts to just 15% or 20% of students in a class.⁸ In addition, these hard copies may be printed in loose-leaf format, rather than as more durable hard-bound texts and thus have a lower resale value.⁹ Publishers may also reduce the resale market by producing a custom textbook for a single professor or department, meaning students have fewer options to buy used or make back their money by selling their copy.

To give students an alternative to expensive digital access codes and expensive traditional print materials, a growing number of instructors have been selecting free open educational resources.¹⁰ In a 2023 survey, one in three faculty members reported using open educational resources in at least one course.¹¹ The benefits of open educational materials are more than financial: these materials are customizable by instructors, can be downloaded by students who may lack a stable internet connection, and do not expire at the end of the term.

As our 2020 report documented, publishers have increased use of their digital products through automatic textbook billing, encouraging colleges and universities to sign contracts that automatically include the price of textbooks and other class materials in students' tuition bills.¹² Automatic billing may apply to only selected classes or to all classes. Though students can opt out of these programs, many do not know that that's an option. In addition, some who would like to opt out are not able to because homework or quizzes that impact their grades are bundled into these programs. Campus bookstores, too, have begun offering automatic textbook billing provisions in their contracts with schools. The result is that digital texts and course materials are ever more common, and the hard-copy texts that could once be resold, borrowed or shared are harder to find.

Not only does automatic billing limit students' ability to seek out less expensive textbooks for their current classes, but it also discourages changes in the textbook market that would help drive down the cost of books and materials in the long run. Automatic billing contracts may lead some faculty to be less motivated to seek out and offer their students open educational resources.

For this report, we reviewed 171 contracts between institutions of higher education and publishers, bookstores and digital platform providers to understand if the current textbook market limits the ability of current and future students to obtain affordable class materials. This report confirms the finding of our first report that automatic textbook billing contracts may not always provide savings for students. In this new report, we also found that these contracts may create a financial incentive for schools to rely on expensive course materials instead of seeking out free open educational resources, providing course reserves at the library or supporting used textbook markets. Given the financial burden of higher education, students need their schools to do more to help ensure they have options for finding affordable textbooks and course materials.

A broken market drives up textbook prices

Textbooks are a major expense for college students, adding to the financial burden of tuition and fees. College students spend hundreds of dollars each year on textbooks. Estimates of spending vary widely: for the 2022-2023 school year, the National Association of College Stores estimates that students spent an average \$285 on course materials, while the California Student Aid Commission estimates students spent an average of \$810 on books and course material fees.¹³

The textbook market is an atypical one, where the usual rules of supply and demand do not apply. In most markets, if the consumer thinks that a product is not of sufficient quality or the price is too high, they can buy a substitute product or shop elsewhere. Not so with textbooks, where the instructor chooses a specific title that students must purchase, or, if they forgo purchasing, risk potentially affecting their grades. In recent years, due to automatic billing programs adopted by universities, these students face new barriers to obtaining those materials at an affordable price.

Traditionally, students have sought to limit their spending on textbooks with a variety of strategies, including purchasing used books (made easier by the existence of online resellers), renting textbooks and borrowing books from classmates or the library. Some universities and academic consortiums have also developed textbooks and educational materials, known as open educational resources, that are available at little to no cost. These resources are often available digitally, which means students can access them on the first day of class without going to the bookstore or waiting for an online order to arrive. Increasingly, these resources can include reading guides, homework and quizzes that faculty can adapt to their courses.

Online retailers, textbook rentals and open educational materials are among the reasons that textbook prices have stabilized after years of rapid price increases.¹⁴ Federal data on consumer spending shows that though textbook prices increased at nearly three times the rate of inflation from 2000 to 2016, prices in 2022 remained at approximately 2017 levels.¹⁵

Digital texts can benefit students but increase publisher control

As these approaches reduced revenues from textbook sales, publishers have tried to maintain control of the textbook market by shifting to digital products and limiting the availability of printed materials.¹⁶

A transition to digital resources has the potential to provide multiple benefits to students and instructors – including lower distribution costs that could reduce student expenses, easier content updates for authors and immediate access for students on the first day of class, helping to ensure that students do not fall behind at the start of the term. (In contrast, students who buy hard-copy books from online sellers might have to wait for them to arrive.)

Online open educational resources harness the benefits of digitization to reduce the financial burden on students. In contrast, publishers have seen digitization as a tool that could allow them to largely eliminate the used-book market and shrink students' options for affordable textbooks.

Digital textbook products from the major publishers have an "access code" that grants a single user access to an online platform. Familiar digital product brand names include MyLab, Connect and MindTap.¹⁷ Access code products typically include not only a textbook, but also homework, quizzes, study aids and other content.¹⁸ Because the access to the platform only works for a single person and often expires, students cannot retain or resell all-digital materials.¹⁹ If a digital access code is bundled with a hard-copy text, the expiration of the access code reduces the resale value of the text.²⁰ In short, digital products allow publishers to shut off supply for the resale market and even the paper copy rental market. Digital access codes can also force students to purchase access to the same text multiple times, such as if they repeat a class or if they want to refer to the content of an introductory class when they take a more advanced class.

For a decade, major publishers have pursued strategies that could reduce competition from used and rental textbooks and increase the use of access codes and fully digital tools. In 2014, as Cengage sought to nearly double its share of digital users, Cengage CEO Michael Hansen said that the rental book market is "a market that should fall by the wayside if we do our job the right way."²¹ In 2017, Cengage announced the launch of a subscription service, bundling its entire digital catalog for a flat rate.²² In 2019, Pearson announced its intent to restrict the availability of print editions in favor of digital-only offerings.²³

Automatic textbook billing programs consolidate publishers' control of the textbook market

More recently, publishers have begun offering automatic billing of textbooks and course materials on students' tuition bills. These "inclusive access" programs rely on partnerships between the institution, the publisher and/or the bookstore. By establishing automatic textbook billing agreements with institutions, publishers solidify their role in providing textbooks to students and potentially can sell a new book to every student in a class. Generally, if students wish to obtain their textbooks another way, they must opt out of the automatic billing arrangement. Automatic billing goes under a variety of names, including inclusive access, equitable access, affordable access, universal access, book bundle, First Day and includED.²⁴

The number of automatic textbook billing programs has increased since the U.S. Department of Education issued a new Cash Management Rule in 2016 that allowed charges on a student's tuition bill for course material costs.²⁵ Such charges are allowed provided the materials are offered below market price under an arrangement with the publisher or other entity, that

students receive their materials within seven days and that students be able to opt out of the charge.²⁶ Worried that automatic billing programs could increase the cost of textbooks for students, the Department of Education noted in its rulemaking that “even with an opt out provision, we are concerned that students who would otherwise seek lower cost alternatives will settle, out of sheer convenience, for the price of books and supplies negotiated by the institution. So, we encourage institutions to negotiate agreements with publishers and other entities that provide options for students.”²⁷ In early 2024, the Department of Education proposed revising the rule to make almost all automatic billing programs opt in rather than opt out.²⁸

Currently, nearly half of all colleges and universities use automatic textbook billing programs, according to the Association of American Publishers.²⁹ A separate study in 2022 found that 39% of students reported obtaining course materials through an automatic billing program.³⁰

Institutions may use automatic billing programs in one of two ways. Some schools adopt automatic billing on a course-by-course basis. For each class with automatic textbook billing, enrolled students are charged a fee on their tuition bill. Schools often negotiate a specific price for each class. The second model schools use when implementing automatic textbook billing is to adopt it campus-wide. In this “flat-fee” model, students are charged a fixed amount per credit hour or per semester for all their course materials.

Automatic textbook billing programs provide more predictable income for campus bookstore operators.³¹ While bookstores do not charge as much for digital texts and materials as they do for physical copies, such materials also cost less for bookstores to manage because there are no shipping or restocking costs.³² Automatic textbook billing programs boost bookstore sales, as it is difficult for students to find any alternative way to access required materials.³³ BVT Publishing advertises its automatic billing program to campus bookstores with the claim that “you will sell 4-times as many books, with no returns.”³⁴

RedShelf, which works with schools and bookstores to sell and provide access to digital materials, says on its website that automatic textbook billing can provide “greater financial sustainability for schools and publishers,” while also improving affordability and convenience for students. The website continues, saying that automatic billing achieves “90+% average sell-through [rates], keeping critical textbook revenue on campus.”³⁵ This strong sell-through rate “translates to higher net revenues for publishers and schools.”

A high sell-through rate means that very few students are opting out of automatic billing programs. That might indicate that students believe the program saves them money. Or it might reveal that students do not know they can opt out, have tried opting out but found the process too difficult, or have discovered that if they opt out they cannot access mandatory course materials. A letter signed by 54 student organizations and hundreds of students, representing

student voices in more than 20 states, described opt-out processes as “cumbersome and not always clearly communicated.”³⁶

In addition, if a class requires online coursework or exams that are accessible only through these programs, then opting out is not truly an option.³⁷ In a recent survey, 79% of students said they had been required to buy an access code for an online homework system, and more than three-quarters found the cost a source of stress. A number of students did not purchase the access code, perhaps for financial reasons, and had a negative academic outcome. Of the students in courses that used an access code, 29% said their grade had suffered because they had not purchased an access code and 6% reported failing a class because they did not have a code.³⁸

A review of automatic billing contracts

As automatic textbook billing becomes more common at colleges and universities across the country, the contracts that govern these arrangements affect more students. To understand what these contracts may mean for students, we reviewed 171 contracts that relate to automatic billing at 92 schools or consortiums of schools.³⁹

We obtained the contracts from a publicly accessible database maintained by SPARC, which includes many of the contracts from our 2020 study plus many more that SPARC obtained through public records requests since then.⁴⁰ (SPARC is known by its acronym, which stands for the Scholarly Publishing and Academic Resources Coalition.) The database includes contracts from a range of states, public institution types and vendors. We focused on contracts we had not previously examined.

We reviewed the contracts recently collected by SPARC to better understand what, if anything, has changed in automatic textbook billing practices and the role that third-party bookstore operators now play in automatic textbook billing programs. The contracts include those signed by publishers, private operators of campus bookstores and digital platform providers, which provide students with online access to textbooks and course materials. Across all contracts, we found limited transparency, which makes it hard to assess how much less money students will pay for textbooks with automatic textbook billing. In some contracts, we found discounts that are contingent upon high participation rates, which may discourage universities from making reasonable efforts to allow students to opt out. We also found revenue-sharing arrangements between campus bookstores and universities that return a share of profits to schools even as those schools essentially guarantee customers for bookstores.

These contracts worsen the fundamental problem with the textbook market, which is that students, who must buy the course materials selected by their instructors, have limited options of where to purchase their books, which limits their ability to seek out competitive options and save money.

Our review of contracts identified three types of problems:

1. Savings in contracts with publishers, third-party bookstore operators and digital platforms are difficult to evaluate, and some contracts may provide no savings.
2. Many contracts with publishers require that a very high percentage of students participate in automatic billing programs or the school risks losing promised discounts. This may discourage schools from promoting used or rental textbooks that might save money for students or from making reasonable efforts to ensure students can opt out.
3. Most contracts between bookstores and schools include commissions and incentive payments from bookstores to the college or university. These payments – often based, in part, on sales through the automatic textbook billing program – may discourage schools from supporting the development and adoption of free open educational

resources that would save money for students and build a more competitive textbook market.

The following sections explain each finding in more detail.

Savings are often unclear

A key selling point of automatic textbook billing programs is that they will reduce costs for students, and many schools have adopted automatic textbook billing programs on the premise that they will deliver savings, at least in the short term. For example, the automatic billing contract we obtained from Morton College in Illinois included a board resolution proposing adoption of the program. The stated rationale was that the automatic textbook billing program will allow the college “to lower per unit textbook costs for students.”⁴¹

However, we find two problems with this assumption that automatic textbook billing will lower prices. First, it is not clear that every contract provides savings, or that, when combined, the multiple contracts governing access to a single textbook deliver savings. In our review of contracts, we found it difficult to evaluate the savings that students obtain from individual publishers, bookstores or digital platforms. The multiple layers of contracts, each with their own pricing arrangements, further complicate efforts to understand the price impact of automatic textbook billing agreements. Institutions may contract with multiple publishers for their various products. Schools also may sign a contract with one or more digital platforms, such as RedShelf or VitalSource, which provide online tools for accessing digital textbooks and course materials. Digital platforms may have their own exclusive arrangements with particular publishers or bookstore chains. The negotiated prices in all these contracts affect how much students pay for textbooks and course materials.

The second problem with the assumption that automatic textbook billing programs will reduce prices for students is that these contracts do nothing to address the question of whether textbooks are appropriately priced in the first place. Automatic billing may provide discounts, but the suggested retail prices from publishers may be artificially high after decades of faster-than-inflation price increases.⁴²

Publisher contracts

We reviewed 77 publisher contracts that include or allow for automatic textbook billing and we could not consistently discern savings for the texts, digital books, courseware, digital packages and various other products covered by the contracts. The opacity of the contracts causes us to question how well institutions are able to assess – much less guarantee – savings for their students.

The vast majority of contracts describe discounts in terms that make it difficult to evaluate the actual savings, for two reasons. First, the nondiscounted price is set by the publishers, who may

have inflated that initial price in anticipation of needing to offer discounts. Second, the discounts are for bundles of materials whose constituent parts are hard to price separately.

- More than half of all the publisher contracts include a provision for a percentage reduction off a base price for e-books or digital course packages. These discounts are often listed at 20-25%, though in one contract the discount is as low as 5% and in one as high as 65%.⁴³ The base price to which these discounts are applied is described in some contracts as the list price; in others it is the current inclusive access catalog price. The value of these discounts is difficult to assess, because the nondiscounted price is set by the publisher operating in a noncompetitive market, knowing that they will be offering discounts to multiple buyers. Furthermore, most of these percentage discounts are less than the potential 30% to 40% discount publishers have promoted in some of their marketing materials.⁴⁴
- In other cases, contracts describe pricing for packages of materials. One publisher contract sets the price at \$81 per student per year, regardless of course load, for access to course materials.⁴⁵ Another publisher contract includes a price of \$102 per student and grants access to materials for four months at a time.⁴⁶ A third contract stipulates a price of \$189.99 per student for 12 months or \$124.99 for four months.⁴⁷ We could not readily discern what products are included in each of these contracts and therefore whether the contracted price offered a meaningful discount.

Adding to the challenge of evaluating the discounts offered in contracts is language permitting the publisher to adjust prices. Some contracts allow the publisher to adjust prices, often annually. Of the contracts allowing the publisher to adjust the price, a few contracts limit these increases to 4% per year, but many do not include any limits.

Bookstore contracts

At some schools, the automatic textbook billing program is operated through the campus bookstore. The bookstore collects information from faculty on which materials will be needed for each course, coordinates with publishers to obtain access codes for students and invoices the school for the cost of course materials provided to students, plus a markup for the bookstore. We reviewed a number of contracts between schools and third-party bookstore operators for provisions related to automatic textbook billing. As with publisher contracts, we found it difficult to assess how much money these programs may save for students, though Barnes & Noble, for example, claims these programs save students an average of 35-50%.⁴⁸

We looked at 48 contracts between colleges and bookstore operators that include provisions related to automatic textbook billing.

In many bookstore contracts, pricing is stated merely as a limit on the percentage markup the bookstore can apply to the sale of textbooks, without any indication that course materials are cheaper or that this markup is less than it would be for a contract without automatic textbook billing. The actual price of the textbooks is based on a separate contract between the publisher

and the school or bookstore, to which we did not have access. For example, two contracts said that the bookstore would invoice automatic billing materials at a rate equal to the lowest acquisition cost plus a markup.⁴⁹ Without knowing the actual “lowest acquisition cost” at each bookstore, we could not determine what savings these contracts provide.

Fourteen bookstore operating contracts list automatic textbook billing rates in terms of a price per credit hour, ranging from \$19.87 to \$26 per credit hour. For a student taking a full course load, this means a cost of \$596 to \$780 per year.⁵⁰ In addition, at some campuses this fee clearly applies to all classes even if an instructor does not require any textbooks or opts to assign open textbooks.⁵¹ Without information about how much students at these schools currently pay for books and online homework and exercises, we could not determine savings.

Digital platform contracts

Digital platforms, which provide students with access to books purchased from a variety of publishers, are used more often at schools that run their own bookstores than at schools that have a third-party bookstore operator. Though these contracts are between the school and the digital platform, it is actually students who pay these costs when schools include textbook costs and access fees on tuition bills. We looked at 45 contracts between digital platform operators and schools that related to automatic billing. While some contracts had clear savings for automatic textbook billing programs, in other contracts we did not have enough information to confirm savings.

Savings were evident in some contracts. For example, some of VitalSource’s contracts charge a flat fee of \$4 per inclusive access text distributed through the platform and \$7 per text that is not part of an automatic billing program. These charges are in addition to the cost of the texts themselves.

In other contracts, savings were not clear. The RedShelf contracts that we reviewed often require the school to pay a percentage of the price the school paid to the publisher for textbooks and materials accessed through the platform. For example, multiple RedShelf contracts stipulate that for each copy of a digital textbook purchased from a publisher and accessed through RedShelf, the school will pay RedShelf an amount equal to 10% of the price paid to the publisher and, for each copy of online course materials purchased from a publisher and accessed through RedShelf, the school will pay 5% of the price paid to the publisher. In this case, potential savings are contingent upon the discount that the school negotiates with each publisher, and we did not have access to that information.

High participation quotas potentially help publishers maintain market control

Many automatic textbook billing contracts between publishers and schools include minimum participation rates. If too few students purchase their course materials through the automatic billing program, the publisher may increase the price of course materials for the following semester or year by eliminating discounts negotiated in the contract.⁵² Under some contracts, the publisher may terminate the contract entirely if the university does not achieve the participation quota.⁵³

Thus, high participation requirements potentially discourage schools from vigorously informing students of their right to opt out of automatic billing programs. Schools may perceive automatic billing as a tool for reducing students' financial burden and do not want to lose access to this program and its discounts. But in the long run, these provisions may make it harder for alternative textbook solutions, such as open educational resources, to succeed, and help publishers maintain control over the market on campus. (We did not attempt to answer the question of how automatic billing contracts that remove discounts and charge students full price comply with federal requirements that such programs provide savings to students.)

We examined 77 contracts between publishers and universities that dealt with automatic billing of texts and course materials. More than 40% of contracts include provisions that create a penalty if too few students participate in automatic textbook billing for the relevant courses.

- Twenty-six contracts set a minimum percentage sell-through rate, requiring that 85% to 90% of students in classes that use an automatic billing program must buy their materials through the program. Of the contracts with a minimum sell-through percentage, 24 set the rate at 90% and were Pearson contracts.
- Another six contracts tied penalties to participation minimums based on specific estimated enrollment numbers.

The Department of Education's Cash Management Rule that opened the door for widespread use of automatic textbook billing requires that students be allowed to opt out of these programs. Students rely on their schools to tell them about their right not to participate, but a school facing the loss of negotiated discounts or a canceled contract if too few students participate may be reluctant to do anything more than the minimum in notifying students of their right to opt out. This ultimately boosts sales for publishers, helping them edge out used texts, textbook rentals and other options students might use to save money on course materials.

If the savings available through automatic billing programs are truly meaningful, then that should be enough to get faculty and students to participate, without the use of quotas.

Third-party bookstore operator commission payments may encourage schools to support the current expensive textbook system

Payment models between institutions and third-party campus bookstore operators may further lock students into the traditional model of buying new books and materials from publishers, and create a disincentive for schools to support alternatives to the current model that could help lower textbook prices in the long run. Private operators of campus bookstores typically pay colleges a share of revenues. The school may receive a larger or more consistent payment after adopting automatic textbook billing because that increases sales at the campus bookstore – even if that is not in students’ best interests.

Approximately half of college bookstores are operated by a third party rather than by the institution itself.⁵⁴ Schools look to these bookstore outsourcing agreements as sources of income: The contracts between schools and bookstore operators include requirements that the bookstore pay a commission to the school based on sales amounts and frequently include additional one-time or annual payments to the school. Though this revenue may help fund campus operations, scholarships and other expenses that benefit students, students are also the main source of the income that the bookstores use to pay the school, essentially paying a hidden tax to the school.

Schools’ adoption of automatic billing programs delivers a captive audience to bookstores, increasing sales. Because students are charged for materials on their tuition bills unless they take action to opt out, many default to purchasing their course materials through the campus bookstore. A *Forbes* article about automatic textbook billing reported that 30% of students purchased their materials at the campus bookstore before their campus adopted automatic billing. That rose to 80% to 90% of students after adoption.⁵⁵

Higher sales at third-party campus bookstores as a result of automatic billing also mean higher profits for corporate shareholders at the expense of students. That same *Forbes* article noted that “schools that switched to Inclusive Access [automatic textbook billing] brought guaranteed revenue to booksellers.”⁵⁶ Bookstore operators are well aware of this: Barnes & Noble Education reported in a presentation to investors in September 2023 that sales and profits at its campus bookstores rose dramatically when schools adopted the company’s First Day Complete, a campus-wide automatic textbook billing program. Sales increased 82% and profits increased 96% from FY22 to FY23 at bookstores that transitioned from automatic textbook billing for selected courses to campus-wide automatic textbook billing between Fall 2021 and Fall 2022.⁵⁷

The typical commission and incentive provisions in contracts between schools and bookstore operators mean that when schools agree to adopt automatic textbook billing, they may receive greater commission payments. This means they have a financial disincentive to support

development and adoption of free open educational resources – which may provide greater savings in the long run for students.

Many schools receive a cut of every sale

To learn how common these provisions are, we looked at 48 bookstore operating contracts that included anything about automatic textbook billing. Though some of these third-party contracts are no longer in effect, having been superseded by new contracts with the same or different vendor, we included them because they help provide a more complete understanding of contracts in this era of automatic textbook billing.

Some contracts contain explicit provisions and prices for automatic textbook billing; others merely mention it as a future possibility that would require an amendment to the contract. Almost all the contracts include commission payments from the bookstore operator to the school, with different rates for various types of sales, such as textbooks, packages of course material, college-branded merchandise and materials sold through automatic billing programs.

- Overall, in contracts with commissions on automatic billing and textbooks, commissions ranged from 2% to 18%, with applicable relevant sales varying from contract to contract. In many cases, as total bookstore revenue increases, the commission rate also increases.
- Automatically billed materials most often were covered under separate, usually lower, commission provisions with many contracts setting the rate at 7%. However, in some cases, course materials sold through the automatic billing program were included in the commission rate for all other materials.
- Nine contracts did not have information on commission arrangements, either because it was not included in the material we received or it had been redacted.
- Only four contracts charged no commission for textbooks or automatically billed products.

Even with a single bookstore operator, there is variation in commission rates. Terra State Community College's contract with Follett says that the school will not collect a commission on materials covered by the automatic textbook billing program.⁵⁸ In contrast, San Bernardino Community College District's contract with Follett includes those materials in commission payments.⁵⁹

Third-party bookstore operating contracts seem to use commission payments as an incentive for the school to boost student participation, while publisher contracts rely on participation quotas. If schools were not receiving commissions on the sales of automatically billed course materials, their interests might be better aligned with students and they could have greater reason to support measures, such as greater development and use of open educational resources, that would provide more choice and potentially reduce costs for students.

Furthermore, in the short run, lowering or eliminating commission payments could reduce how much students pay. A 2018 contract amendment between Ocean County Community College and Barnes & Noble included an agreement that the bookstore would reduce its markup on First Day e-learning materials and that the college would also reduce its commission request to 10.5% of gross sales of First Day and digital textbooks, down from a previous 15.5% commission rate, but still higher than commission rates observed in many contracts.⁶⁰ A contract and some amendments between Lansing Community College and MBS Direct specify that the school will forfeit its commission on sales for which the bookstore does not apply a markup, to “help lower course material costs for students.”⁶¹ Of course, it is also possible that if a school simply lowers the commission rate without also asking the bookstore to cut prices the bookstore operator would retain more profit, but these examples show that schools may be able to reduce immediate student costs through contract provisions.

Many schools receive regular payments from private bookstore operators

Further evidence that schools use bookstores as revenue generators are the clauses that require bookstores to make general incentive payments to the school. While these provisions are not explicitly tied to the bookstore hitting specific revenue benchmarks, they are nonetheless dependent upon the bookstore operator being so confident about future revenue – from the sale of school-branded merchandise and other products as well as textbooks – that the company will commit to it in a contract. The school’s adoption of automatic billing may increase the bookstore operator’s confidence.

Multiple contracts include a payment from the bookstore operator to the campus when the contract is signed. Some of these bonuses are several hundred thousand dollars.

Even more contracts include smaller, ongoing incentive payments.

- Many contracts include modest (often \$5,000 to \$10,000) annual contributions for textbook scholarships, provided to selected students to help them with the cost of course materials. One contract, between the University of Mary Washington and Barnes & Noble, explained that the bookstore’s textbook scholarships will help “build goodwill and enhance the stores [*sic*] standing with the academic community.”⁶²
- Contracts also frequently include payments from the bookstore to various campus activities and expenses. For example, at the University of North Carolina Wilmington, Barnes & Noble College agreed to pay \$135,000 each year “to be distributed between scholarships, athletics donations, faculty/staff textbooks scholarships, etc.,” to be allocated however the school wanted.⁶³ At Sam Houston State University, the contract says Barnes & Noble College will make an annual \$66,666 unrestricted contribution to the school, plus \$15,000 for other specified uses.⁶⁴

Contracts with automatic textbook billing provisions are not the only contracts that include incentive payments to schools. Other bookstore contracts do as well. For example, a contract between James Madison University in Virginia and Follett Higher Education Group includes a

requirement that the bookstore operator pay \$250,000 when the contract was signed, pay another \$99,250 annually, fund several scholarships and pay for half of the cost of a football stadium suite each year.⁶⁵

Recommendations

Automatic textbook billing programs are expanding across the country. In 2023, 24% of college and university administrators surveyed said that automatic textbook billing was used at their school, up slightly from 22% of respondents in the 2021-2022 school year.⁶⁶ Unfortunately, automatic billing contracts have not improved since the first edition of this study. They continue to provide unclear benefits to students currently enrolled in them and impede development of a fully competitive textbook market.

These programs lock institutions into contracts that reduce student choices and perpetuate the publishing industry's practices, while failing to provide clear savings for students. These programs may also discourage faculty from choosing free open educational materials, further limiting potential student savings.

Contracts with publishers, third-party bookstore operators and digital platform providers may need major revisions from the status quo in order to provide real savings and restore choice for students. Campuses considering renewals of their automatic billing contracts should keep a few key things in mind when negotiating for better terms:

- 1. Ensure that the pricing structure provides savings for students.** The original price of the assigned material and the discount off the publisher retail price should be easy for school administrators to assess. Contracts should be able to be nullified if savings are not verifiable.
- 2. Reject attempts to restrict the institution's ability to provide and market multiple course material purchasing options.** Contracts should seek to increase student choice, not restrict it. This should include unlimited access to printed copies of materials.
- 3. Eliminate quotas.** Automatic textbook billing programs should offer enough savings and benefits to students to get students to participate without threats.
- 4. Limit annual price increases** to the current rate of inflation.
- 5. Make the billing mechanism opt in,** and list automatic textbook billing as one of many options that students can use to acquire their course materials. Institutions can certainly negotiate bulk discounts for students, but students should be able to choose whether to participate.
- 6. Exempt courses that use all open educational materials or free materials from flat fee billing programs,** so that students clearly benefit from those savings.

Stakeholders on campus each have a role in making sure course materials are affordable and accessible to students. Here are some recommendations for people in roles throughout higher education:

Student leaders: Share your concerns about textbook affordability and the impact of the high cost of course materials with faculty, campus administrators, student government leaders and other campus leaders. Reach out to campus decision makers and let them know about the true pros and cons of automatic billing. Advocate for alternatives to commercial course materials like open textbooks and work with campus librarians, the IT department and faculty leaders to increase adoption of more accessible course materials.

Faculty: If you are currently using a commercial access code or a print textbook that is not available used or through a rental program, explore what free alternatives exist to replace access codes. Your campus library may be able to provide resources for open educational resources, homework and ancillary materials. Meet with campus leaders to advocate against automatic billing programs and pass faculty union or senate resolutions opposing these contracts.

Bookstores, business officers and other service administrators on campus: If you are approached about adopting an automatic billing program, take care to make sure the terms that are proposed meet the standards laid out above. Do not accept a contract with loopholes that reduce transparency and affordability.

Other institutional administrators: Work with your faculty, library, IT department and student leaders to increase the creation and adoption of free and open alternative course materials. Grant programs can support faculty in transitioning to open textbooks, workshops can increase faculty understanding of how to find high-quality alternatives to commercial materials and coordination among different departments can help support existing affordability efforts and improve their outcomes.

State and federal policymakers: Pass legislation that regulates these types of billing programs so that they are opt in only and reflect the recommendations stated above. Beware of legislation with language that authorizes institutions to enter agreements that allow for “inclusive access,” “equitable access,” or “innovative pricing arrangements” with a publisher. Support and fund programs that increase open educational resource creation and adoption.

The U.S. Department of Education: This report highlights the need to revise the Cash Management Rule to curb automatic textbooks billing programs and make these programs “opt in” rather than “opt out” for students. Making these programs truly optional empowers students to decide whether these programs offer the savings benefits they claim. This is an opportunity to support a common-sense, student-friendly policy.

Methodology

We obtained the contracts from the “Textbook Billing Contract Library,” a publicly accessible database maintained by SPARC, a nonprofit organization “that supports systems for research and education that are open by default and equitable by design.”⁶⁷ Here is SPARC’s description of how the contracts in the library were collected and reviewed:⁶⁸

The Textbook Billing Contract Library contains public copies of legal agreements between higher education institutions and textbook billing vendors. All of the documents were obtained through open records requests pursuant to U.S. state or federal freedom of information laws, or through other legally permissible means. Contracts marked with a source of “PIRG FOIA” were originally published by U.S. PIRG through its 2020 automatic textbook billing investigation and later analyzed by SPARC. Contracts marked with a source of “SPARC FOIA” were obtained through public records requests submitted by SPARC.

SPARC collected the majority of the contracts currently in the library through two waves of public records requests sent in 2021 and 2023. Requests were sent to public institutions that had been identified as having an automatic textbook billing program, either by word of mouth or internet searches. We made some effort to include institutions from a variety of states and institution types, although our ability to make requests is limited by state laws, the ease of submitting a request, and an institution’s compliance with a request. In spring 2021, we sent requests to 75 institutions out of which 42 provided documents and 4 had no responsive records. In 2023, we sent requests to 149 institutions (including some who previously received requests from SPARC or PIRG), out of which 75 provided documents and 7 had no responsive records. The remaining institutions either did not respond to the request or charged what we deemed as an excessive fee in order to complete the request.

Before adding contracts to the library, SPARC carefully reviews each document received for its relevance to textbook billing. Contracts that do not directly relate to course materials, digital content, or bookstore services were generally excluded from the library. Each document is processed using optical character recognition to make the text searchable, then analyzed by a member of staff who enters key details about each contract into the library. A second member of staff reviews this information before it is published. A link to download the full text of each document is available in the library, which users may use to verify the details of the contract.

For our analysis, we included contracts signed or amended in or after 2015, which is when the Department of Education was updating its rules about how students can be charged for textbooks and class resources. Though some of these contracts may no longer be in effect, we included them because they help provide a more complete understanding of contracts in this

era of automatic textbook billing. We excluded contracts that were included in our previous report.

Here is how we dealt with each type of contract:

- Publisher contracts: We included those that were explicitly or implicitly about automatic textbook billing. This means we excluded contracts that were just about custom publishing or about other matters, such as math placement tests.
- Bookstore contracts: We included those between a school and a third-party bookstore operator, not contracts between bookstores and publishers, or for operation of an online book buyback program. We included contracts that mentioned automatic billing in some way.
- Platform contracts: We included those that were explicitly or implicitly about automatic textbook billing.

This left us with 171 contracts from 92 colleges, universities, university systems and consortiums. Twenty-nine schools were two-year schools, 56 schools were four-year schools, and seven were systems or purchasing groups. These institutions were located in 33 states and enrolled more than a million students in the 2022-2023 school year.⁶⁹

In some cases, we obtained only amendments to a contract and not the original contract. We based our assessment on what we had access to and did not make any assumptions about the original contract. We reviewed all contracts we included in our analysis to confirm the accuracy of information entered in SPARC's summary, and made clarifications and corrections where necessary.

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