

Making Decisions about Accessible Instructional Materials (AIM): What ARD Committees Need to Know



Texas Assistive Technology Network (TATN)
Lead by Region 4 Education Service Center
Special Education Services
7145 West Tidwell
Houston, Texas 77092-2096
Kirk D. Behnke, M.Ed., ATP/S, Senior Education Specialist
Telephone: 713.744.6559
Fax: 713.744.6811
E-mail: kbehnke@esc4.net
<http://www.texasat.net>

[Revised January, 2013]

Making Decisions about Accessible Instructional Materials (AIM): What ARD Committees Need to Know

Note: Information on this Web page is frequently changed as new information becomes available. Please check periodically for updates.

Table of Contents

- I. [The National Context](#)
- II. [Texas Specific Issues](#)
- III. [National Resources](#)
- IV. [Accessible Media Producers \(AMPs\) for Digital Talking Books](#)

I. The National Context

Authority: The final regulations for the reauthorized Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004) were published in the Federal Register on August 14, 2006, and became effective on October 13, 2006. The requirements for accessible instructional materials are found in the regulations at [34 CFR §300.172](#), [§300.210](#) and Appendix C to Part 300.



What are Accessible Instructional Materials?

IDEA 2004 requires that core instructional materials be provided in a timely manner in specialized formats when needed by students with disabilities.



What are the Specialized Formats?

Alternate formats include Braille, large print, digital (electronic text), and audio books.



What is NIMAS?

The National Instructional Materials Accessibility Standard (NIMAS) is a standard file format established by the Secretary of Education and included in the Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004). NIMAS is to be used in the preparation of electronic files of print instructional materials that can more easily be converted into accessible formats. IDEA 2004 requires state educational agencies (SEAs) to adopt the NIMAS. It is through the textbook adoption process that SEAs and local education agencies (LEAs) require the publishers to use the technical standard to produce source files (in XML) that may be transformed into student-ready specialized formats.

[\(See Final Regulations Appendix C to Part 300 for Technical Specifications—The Baseline Element Set\)](#)



Why is NIMAS needed?

The purpose of NIMAS is to help increase the availability and timely delivery of print instructional materials in accessible formats to blind or other persons with print disabilities in elementary and secondary schools. Students need timely access to accessible instructional materials (AIM) in order to ensure they receive a free, appropriate public education (FAPE).

Problems with the existing system prior to the adoption of NIMAS:

- Students who need instructional materials in “specialized formats” may not get them on time.
- Students may not receive instructional materials in accessible formats of consistent quality. Currently, quality is variable.
- Publishers have to produce many different file types to meet SEA and LEA specifications, contributing to lengthy production time and higher costs.
- The system is fragmented with a wide range of conversion houses converting diverse file types to specialized formats.

Source: [OSEP Leadership Conference 2006: NIMAS PowerPoint Presentation](#)



What is the NIMAC?

IDEA 2004 mandates the establishment of the [National Instructional Materials Access Center \(NIMAC\)](#) as a national repository for publishers’ electronic files of textbooks and core related instructional materials in the NIMAS file format. The NIMAC has been established by the American Printing House for the Blind, Inc. (APH) in Louisville, Kentucky. Each SEA specifies the authorized users that are designated to download the source files from the NIMAC for eligible students. The NIMAS files can be downloaded free of charge by the authorized users for eligible students. The NIMAS file format is not student-ready, i.e. ready for student use. The NIMAS source files will need to be converted into student-ready files.



Which students qualify to receive NIMAS files from the NIMAC?

IDEA 2004 specifies that students who qualify in accordance with the Act entitled "[An Act to Provide Books for the Adult Blind](#)" approved March 3, 1931, are eligible. The following is an excerpt from that statute regarding the four categories of eligibility and the definition of competent authority.

Title 36 Code of Federal Regulations Sec 701.10 Loans of library materials for blind and other physically handicapped persons.

b. Eligibility Criteria.

1. *The following persons are eligible for such service:*
 - i. *Blind persons whose visual acuity, as determined by competent authority, is 20/200 or less in the better eye with correcting glasses, or whose widest diameter if visual field subtends an angular distance no greater than 20 degrees.*
 - ii. *Persons whose visual disability, with correction and regardless of optical measurement, is certified by competent authority as preventing the reading of standard printed material.*
 - iii. *Persons certified by competent authority as unable to read or unable to use standard printed material as a result of physical limitations.*
 - iv. *Persons certified by competent authority as having a reading disability resulting from organic dysfunction and of sufficient severity to prevent their reading printed material in a normal manner.*
2. *In connection with eligibility for loan services "competent authority" is defined as follows:*
 - i. *In cases of blindness, visual disability, or physical limitations "competent authority" is defined to include doctors of medicine, doctors of osteopathy, ophthalmologists, optometrists, registered nurses, therapists, professional staff of hospitals, institutions, and public or welfare agencies (e.g., social workers, case workers, counselors, rehabilitation teachers, and superintendents). In the absence of any of these, certification may be made by professional librarians or by any persons whose competence under specific circumstances is acceptable to the Library of Congress.*
 - ii. *In the case of reading disability from organic dysfunction, competent authority is defined as doctors of medicine who may consult with colleagues in associated disciplines.*

Retrieved February 29, 2008, from the National Library Service at <http://www.loc.gov/nls/sec701.html>



What is the Chafee Amendment?

The 1996 Chafee Amendment to the Copyright Law adds Section 121, establishing an exception to copyright infringement for the reproduction of works for use by the blind or other persons with print disabilities. The definition of blind and other persons with disabilities refers, as does IDEA 2004, to the definition in the [Act to Provide Books for the Adult Blind](#) approved March 3, 1931, as discussed above.

The [National Library Service Factsheet](#) provides background information, the language of the statute, and questions and answers about the Chafee Amendment.



What If a student with disabilities needs Accessible Instructional Materials but does not qualify under the Chafee Amendment?

IDEA 2004 specifies that nothing in 34 C.F.R. Sections 300.172 or 300.210 relieves a state or local education agency of its responsibility to ensure that students with disabilities, who need instructional materials in accessible formats but are not included under the definition of blind or other persons with print disabilities or who need materials that cannot be produced from NIMAS files, receive the materials in a timely manner.

II. Texas Specific Issues



What Texas statute addresses the provision of Accessible Instructional Materials?

The Texas Administrative Code (TAC), Chapter 66, State Adoption and Distribution of Instructional Materials, Subchapter D addresses special instructional materials. Please see the following excerpt.

§66.121. Special Instructional Materials.

(a) All laws and rules applying to instructional materials provided to sighted pupils that are not in conflict with the Texas Education Code, §31.028, or this section shall apply to the distribution and control of Braille and large type instructional materials.

(b) Publishers shall grant permission to the state to have adopted instructional materials transcribed into Braille, large type, and audiotape without penalty or royalty.

*(c) On or before the deadline specified in the schedule for the adoption process, **each publisher of newly adopted instructional materials shall provide computerized files as specified in the proclamation to be used for producing Braille or other versions of materials to be used by students with disabilities. All information contained in adopted***

instructional materials shall be included on the computerized files. Computerized files may be copied and distributed to a school district, upon request, for instructional use with a student with disabilities who requires the use of computerized instructional materials, pursuant to an individualized plan developed for the student under the Rehabilitation Act, §504; the Americans with Disabilities Act; or the Individuals with Disabilities Education Act. (Emphasis added)

(d) The state shall make suitable student instructional materials available in large type. The commissioner of education shall develop specifications for large type instructional materials and notify publishers of student instructional materials suitable for production in large type. The publisher may elect to supply the large type materials, or the commissioner of education may enter into contracts for producing large type materials.

Source: The provisions of this § 66.121 adopted to be effective September 1, 1996, 21 TexReg 7236; amended to be effective October 12, 2006, 31 TexReg 8360.

Retrieved February 29, 2008 from

<http://www.tea.state.tx.us/rules/tac/chapter066/ch066d.html>



How are alternate formats obtained for a student in Texas?

Based on the Texas Administrative Code [§66.121. Special Instructional Materials](#)

1. An Admission, Review and Dismissal (ARD), 504, or ADA committee determines that a student requires accessible instructional materials.
2. The student's specific need for accessible instructional materials is written in an individualized plan developed for the student under the Rehabilitation Act, §504; the Americans with Disabilities Act; or the Individuals with Disabilities Education Act.
3. Textbook coordinators in each district or charter school order books through the [Texas Education Agency, Instructional Materials and Educational Technology Division](#).

For additional information on obtaining Braille, large print or audiotape formats, go to the Instructional Materials and Educational Technology (IMET) Division Web pages and click on [Forms and Downloads](#).

III. National Resources

[Building the Legacy: IDEA 2004, NIMAS Topic Page](#)

The U.S. Department of Education, Office of Special Education Programs (OSEP), developed a Web site with resources and information to assist SEAs and LEAs in implementing IDEA 2004. One of the major topics addressed is NIMAS. (<http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CTopicalArea%2C10%2C>)

[Building the Legacy: IDEA 2004, NIMAS Questions and Answers](#)

OSEP has provided a question and answer document on NIMAS on the Building the Legacy Web site. (<http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CQaCorner%2C5%2C>)

[CAST Accessible Instructional Materials](#)

The Center for Applied Special Technology (CAST) provides information on accessible instructional materials and the Accessible Instructional Materials (AIM) Consortium. The 15-state and CAST AIM Consortium is exploring ways to improve the quality, availability, and timely delivery of accessible instructional materials to K–12 students with print disabilities. (<http://aim.cast.org/>)

[CITEd](#)

Visit the CITEd webinar archives to hear the [NIMAS: Implementation Issues and Solutions presentation](#). The webinar is presented by Chuck Hitchcock, M.Ed. Chief Officer of Policy & Technology, CAST; and Ruth Ziolkowski, MBA, President of Don Johnston, Inc. (<http://www.cited.org/>) (http://www.cited.org/index.aspx?page_id=126#NIMAS2)

[Legal References Related to Assistive Technology, Texas Assistive Technology Network](#)

This document provides statutory and regulatory citations relevant to assistive technology and accessible instructional materials. (http://www.texasat.net/docs/Legal%20Ref_IDEA2004%20Feb%202007.pdf)

[NIMAS Development Center and NIMAS Technical Assistance Center](#)

Two national centers were awarded to the Center for Applied Special Technology (CAST) by the U. S. Department of Education, Office of Special Education Programs (OSEP). These centers were established to further the development and implementation of NIMAS. The [NIMAS Web site at CAST](#) is a rich resource of information. The following resources are especially noteworthy to public school districts. (<http://nimas.cast.org/>)

[Accessible Textbooks in the Classroom: An Educator's Guide to the Acquisition of Alternate Format Core Learning Materials for Pre-K–12 Students with Print Disabilities](#)

This article, the second in a series prepared by CAST in cooperation with OSEP, is available on the CAST Web site and provides a substantive overview regarding the provision of accessible instructional materials and solutions for conversion of files particularly for Braille, large print and audio. (http://www.dpi.state.nd.us/speced/nimas_accessible.pdf)

[Accessible Textbooks in the Classroom II](#)

This document, the third in the series, focuses on the acquisition and use of digital text. Each of the other formats—Braille, audio, and large print—can be generated from one or more digital text file types. Please refer to the previous article in this series, for a review of resources for the specific acquisition of Braille, audio, and large print, (http://nimas.cast.org/about/resources/accessible_textbooks_ii.html)

[NIMAS Development and Technical Assistance Centers FAQ](#)

The national centers provide answers to a comprehensive set of questions about NIMAS. (<http://nimas.cast.org/about/faq/>)

[NIMAS/NIMAC Glossary](#)

(http://nimas.cast.org/about/resources/nimas_nimac_glossary.html#startcontent)

[National Instructional Materials Access Center \(NIMAC\)](#)

IDEA 2004 mandated the establishment of the National Instructional Materials Access Center (NIMAC) as a national repository for publishers' electronic files of textbooks and core related instructional materials in the NIMAS file format. The NIMAC has been established by the American Printing House for the Blind, Inc. (APH) in Louisville, Kentucky. The NIMAS file format is not student-ready or ready for students to use. Each SEA specifies the authorized users that will be able to download the files, and the files will have to be converted into student-ready files. Files may only be downloaded for students with print disabilities as specified under IDEA 2004. Please refer to the [NIMAC FAQ](#) for NIMAC specific questions and answers. (<http://www.nimac.us>)

[NICHCY, IDEA 2004 Training Module 8: NIMAS](#)

Module 8: NIMAS, part of the *Building the Legacy: A Training Curriculum on IDEA 2004*, was developed by the National Dissemination Center for Children with Disabilities (NICHCY) at the request of the U.S. Department of Education, Office of Special Education Programs (OSEP). The NIMAS training module was created in cooperation with the NIMAS Development Center and OSEP. The module includes PowerPoint presentation, discussion (training notes), and handouts. (<http://www.nichcy.org/training/contents.asp#NIMAS>)

IV. Accessible Media Producers for Digital Talking Books

Accessible media producers (AMPs) convert NIMAS files into student-ready accessible formats such as Braille, audio, digital or large print exclusively for use by blind or other persons with print disabilities. AMPs are eligible to download files directly from the NIMAC as agents of authorized users. The AMPs listed below receive special funding from OSEP to expand the availability of accessible electronic books. Please refer to the Web sites for more information.

[Bookshare \(www.bookshare.org\)](http://www.bookshare.org)

The organization provides a collection of electronic digital books and the software to read those books free of charge for students who qualify under the Chafee Amendment.

[Learning Ally \(www.learningally.org\)](http://www.learningally.org)

This national nonprofit organization receives special funding from OSEP to increase the availability of digital books. The Texas Education Agency also contracts with Learning Ally to produce recorded versions of the State of Texas' adopted texts.

Referenced URLs:

34 CFR §300.172, §300.210 (<http://idea.ed.gov/explore/view/p/%2Croot%2Cregs%2C>)

OSEP Leadership Conference 2006: NIMAS PowerPoint Presentation
(<http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CPresentation%2C10%2C>)

National Instructional Materials Access Center (NIMAC)
(<http://nimac.us>)

“An Act to Provide Books for the Adult Blind”
(<http://www.loc.gov/nls/sec701.html>)

National Library Service Factsheet
(<http://www.loc.gov/nls/reference/factsheets/copyright.html>)

§66.121. Special Instructional Materials
(<http://www.tea.state.tx.us/rules/tac/chapter066/ch066d.html>)

[Texas Education Agency, Instructional Materials and Educational Technology](http://www.tea.state.tx.us/index2.aspx?id=3373)
(<http://www.tea.state.tx.us/index2.aspx?id=3373>)

Instructional Materials and Educational Technology (IMET) Division -- Forms and Downloads
(<http://www.tea.state.tx.us/textbooks/forms/index.html>)