Minnesota Department of Education

Accessible Instructional Material (AIM) Guidance 2009-2010

The 2004 reauthorization of the Individuals with Disabilities Education Act (IDEA) included a requirement that students who are visually impaired and students who are print-disabled receive their textbooks and core instructional materials in specialized formats at the same time as their non-disabled peers.

The 2006 regulations implementing the 2004 IDEA include directions on how states and local districts are to respond to this legislation. The two sections of this legislation establish the National Instructional Materials Accessibility Standards (NIMAS) and the National Instructional Materials Accessibility Center (NIMAC). Providing accessible formats in a timely manner is not a new requirement. The new NIMAS process will improve this process for the students covered under these regulations.

The NIMAS establishes standards to be used by textbook publishers to prepare electronic files of textbooks, which can be converted to specialized formats. Specialized formats means Braille, audio, large print, text to speech or digital text, which can be used by students who are blind, vision-impaired, physically disabled and/or reading disabled. The NIMAC's duties are to receive and maintain a catalog of these electronic files. Publishers, at the direction of local school districts, send these files to NIMAC. When a student in a local school district requires one of these specialized formats to have access to the general education curriculum, the local district will contact an Authorized User (AU) designated by the state of Minnesota to search the NIMAC for the particular textbook and associated materials. The Authorized User can access the electronic file and convert it into the specialized format requested or identify an Accessible Media Producer (AMP) to convert the file into the specialized format. Once the specialized format has been converted, the AMP will send it to the local district making the initial request.

NIMAS-ELIGIBLE STUDENTS

Students who qualify for textbooks from the NIMAC are only those students with Individualized Education Programs (IEPs) who are identified as blind/visually impaired or have a physical or reading disability.

Blind

Persons whose visual acuity, as determined by competent authority, is 20/200 or less in the better eye with corrective lenses, or whose widest diameter of visual field subtends an angular distance no greater than 20 degrees.

Visually Impaired

Persons whose visual disability, with correction and regardless of optical measurement, is certified by competent authority as preventing the reading of standard printed material.

Physically disabled

Persons certified by competent authority as unable to read or unable to use standard printed material as a result of physical limitations.

Reading disabled

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. Competent

authority must be a doctor of medicine, who may consult with practitioners in other disciplines. Persons with reading disabilities that do not have physical origins, regardless of severity, are not covered. Nonorganic factors –such as emotional or environmental causes, intellectual or educational deficiencies, or other possible nonorganic or nonphysical causes –must be ruled out and not taken into consideration. The following diagnoses or disorders do not create automatic eligibility: learning disabilities, dyslexia, attention deficit disorder, attention deficit hyperactivity disorder, chronic-fatigue syndrome, autism, functional illiteracy, or mental retardation.

CERTIFICATION FOR NIMAS ELIGIBILITY

In cases of blindness, visual impairment, or physical disability, certifying authorities include doctors of medicine or osteopathy, ophthalmologists, optometrists, registered nurses, nurse practitioners, physician assistants, therapists, professional staff of hospitals, institutions, and public agencies (such as school support and related service personnel, teachers of the visually impaired, social workers, counselors or rehabilitation teachers). In the absence of any of these, certification may be made by professional librarians or by any person whose competence under special circumstances is acceptable to the Library of Congress. In the case of a reading disability from an organic dysfunction, the certifying authority must be a doctor of medicine or osteopathy, who may consult with colleagues in associated disciplines. A family member is not eligible to be the certifying authority.

LOCAL EDUCATION AUTHORITY (LEA) RESPONSIBILITIES

1. Textbook adoption guidance – textbooks published after July 19, 2006:

   For adoption of elementary and secondary textbooks and core related materials, the district must require the publisher to prepare and, on or before delivery of the print instructional materials, provide to NIMAC electronic files containing the content of the print instructional materials using the NIMAS or purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats. If the district has purchased new textbooks on or after July 19, 2006, these districts should contact the publisher and request that the textbook files are sent to NIMAC in order to comply with the NIMAS regulations.

2. Suggested language for textbook adoption contracts and Local Education Authority (LEA) purchase orders:

   "By agreeing to deliver the materials marked with "NIMAS" on this contract or purchase order, the publisher agrees to prepare and submit, on or before___/___/___a NIMAS fileset to the NIMAC that complies with the terms and procedures set forth by the NIMAC. Should the vendor be a distributor of the materials and not the publisher, the distributor agrees to immediately notify the publisher of its obligation to submit NIMAS filesets of the purchased products to the NIMAC. The files will be used for the production of specialized formats as permitted under the law for students with print disabilities. Please note that the delivery of print versions should not be delayed in cases where the NIMAS fileset has yet to be validated and cataloged by the NIMAC. For Additional information about NIMAS, please refer to **http://nimas.cast.org**. For additional information about the NIMAC, refer to **http://nimac.us**. We would also be interested in learning about accessible versions of your instructional materials that may be available for purchase to support students with print disabilities who do not qualify for specialized formats created with files available from the NIMAC."

3. Identifying NIMAS-eligible students:
   - Follow all Local Education Authority (LEA) special education eligibility standards and child find/evaluation procedures, including the policies and procedures for paying for a medical diagnosis.
   - Follow competent authority guidance.
   - Identify NIMAS eligibility on the IEP form.

4. Identifying accessible formats:
   - Use appropriate assessments such as the Learning Media Assessment given by the Teachers of the Visually Impaired.
   - Teachers of the Visually Impaired, Assistive Technology Consultants, and others with specific information must be involved and present at IEP meetings. If they cannot be present, their reports need to be available to IEP team members.
   - Describe textbooks and related core materials to be converted to accessible formats on the IEP form. If an assessment to determine the accessible format has been completed, results should be reported also.

5. Timely manner process:
   - Definition: "timely manner" language has been interpreted by the U.S. Department of Education, Office of Special Education Programs (OSEP) as "at the same time as other children receive instructional materials." The regulation requires the department to "ensure that all public agencies take all reasonable steps to provide instructional materials in accessible formats to children with disabilities who need those instructional materials at the same time as other children receive instructional materials."[34 C.F.R. § 300.172(b)(4). OSEP's commentary lists the following examples of reasonable steps:
   - "Reasonable steps, for example, would include requiring publishers or other contractors to provide instructional materials in accessible formats by the beginning of the school year for children whom the public agency has reason to believe will be attending its schools. Reasonable steps also might include having a means of acquiring instructional materials in accessible formats as quickly as possible for children who might transfer into the public agency in the middle of the year. Reasonable steps would not include withholding instructional materials from other children until instructional materials in accessible formats are available."

6. Considering the need for accessible instructional materials in the IEP:
   - It is recommended that the IEP include a query such as the following:

     > "Does the student require accessible, alternate-format versions of printed textbooks and printed core materials that are written and published primarily for use in elementary and secondary school instruction and are required by an SEA or Local Education Authority (LEA) for use by students in the classroom?"

     A query of this kind is designed to prompt the IEP team to consider each print-disabled student's need for accessible, alternate-format versions of print instructional materials.
   - If a student with print disability does need a specialized format, the IEP should specify the following:
     - The specific format(s) to be provided (Braille, audio, digital text, large print, etc.)
     - The services and/or assistive technology the student may need to use the specialized format.
     - The individual or individuals responsible for providing the specialized format.
     - Whether or not the format is required to be used in the student's home or in another setting in order for the student to receive a free appropriate public education.

7. Process for obtaining accessible formats in a timely manner:
    - Accessible formats include braille, audio, large print, text to speech or digital text specialized formats.
    - IEP teams make the determination of need using competent authorities as defined in IDEA. Team members also make the decision about need and type of accessible format required by an individual student.
    - The Local Education Authority (LEA) representative on the IEP team will assume responsibility for following district procedure for obtaining accessible formats. This might include having a specific district person designated as a Digital Right Manager (DRM). The contact between the Local Education Authority (LEA) representative and the DRM will be identified on the IEP services page as a linkage that needs to occur within 10 days of the IEP meeting so all textbooks and related core materials can be ordered in the accessible format required by students in a timely manner.
    - The DRM will contact an Authorized User to identify textbooks and related core materials needed, the type of accessible format required, and to indicate any preference in the Accessible Media Producers (AMP) who will generate the accessible materials.

8. Students who do not qualify for files from the NIMAC:
    - LEAs have an obligation under IDEA to provide accessible instructional materials in a timely manner to all students who require them, including students who do not qualify for filesets from the NIMAC.

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