



GUIDANCE FOR STUDENTS WHO ARE ELIGIBLE UNDER THE COPYRIGHT ACT AS AMENDED CHAFEE AMENDMENT (NIMAS)

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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 are 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, large print, audio or digital text, which can be used by students who are blind, vision impaired, physically disabled, 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 designated by the State of Iowa to search the NIMAC for the particular textbook and associated materials. Authorized Users are the Iowa Department for the Blind (IDB) and Bookshare. The IDB can provide Braille, large print, audio, and digital text formats. If the student needs digital text, the local district can visit www.bookshare.org, log in as a member, and simultaneously search both Bookshare and the NIMAC for the book. If the book is in the NIMAC but not in Bookshare, the local district can request Bookshare to access the book at that time. The Authorized Users can assess the electronic file and convert it into the specialized format requested or identify an Accessible Media Producer to convert the file into the specialized format. Once the specialized format has been converted, the Authorized User will send the new format to local district making the initial request or in the case of digital text, an email letting the requestor know the text is ready for download. If the desired book is not available from Bookshare or the NIMAC, the local district can contact IDB to have the book produced or obtained from another source.

NIMAS ELIGIBLE STUDENTS (Students with IEPs under the Copyright Act as Amended)

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 if 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, regardless of severity, that do not have physical origins 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. These terms do not automatically exclude students from qualifying as NIMAS eligible either.

CERTIFICATION FOR NIMAS ELIGIBILITY (Competent Authority)

In cases of Blindness, Visual Impairment, or Physical disability, certifying authorities include doctors of medicine or osteopathy, ophthalmologist, optometrists, registered nurses, nurse practitioners, physician assistants, therapists, professional staff of hospitals, institutions, and public agencies (e.g., AEA 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 (MD) or osteopathy (DO), who may consult with colleagues in associated disciplines. Bookshare eligibility qualifications for Reading Disability are based on the fact that reading disabilities are physically based and therefore a competent authority trained in disabilities, not just a medical doctor as in the definition above, can certify the disability. This interpretation has been approved by the U.S. Office of Special Education Programs (OSEP) in the U.S. Department of Education. Because Bookshare is a national organization, local districts may use this interpretation when requesting books from Bookshare. In case there are questions about copyright, the Iowa Department of Education is not altering our guidance on who is Chafee-eligible or what duplication may take place without risk of copyright violations. The Department recognizes that Bookshare has taken a different interpretation, an interpretation which has been acceded to by the publishing industry, and OSEP. The Department recognizes that any risk posed by this different interpretation is negligible.

LEA RESPONSIBILITIES

- **Ensure that all students with IEPs who require specialized formats receive these formats in a timely manner.**

The definition of “timely manner” has been defined by the Iowa Department of Education in the Iowa Rules of Special Education (41.172(1)b) as “Delivering those accessible instructional materials 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. 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.

- **When the district purchases or adopts new textbooks and related core materials, the district must request that the publisher provide NIMAS file sets to the NIMAC.**

In addition the district can also: 1) ask the publisher if specialized formats are available for purchase or 2) negotiate with the publisher for the rights to make specialized formats.

IEP Team Responsibilities

1. Identify NIMAS eligible students
2. Identify specialized formats in student preferred format
3. Identify a LEA person to make contact with the Iowa Department for the Blind (IDB) at 1-800-362-2587 or <http://www.IDBOnline.org/library/student-resources/> or Bookshare at <http://www.bookshare.org/> to begin the process of securing a specialized format for the student.

The Iowa Department for the Blind Process

1. The person identified in the above step completes the following two forms:
 - a. Eligibility Form (qualifying for services form)
 - i. Complete Pages 1-4 including the parent signature on page 4
 - ii. Ignore page 5
 - iii. Review page 6
 - Return the completed form to the IDB. This form is collected only once by the IDB and maintained in its database.
 - b. The Online Order Form for Specialized formats. This form should be completed and returned at least six months prior to the time the textbooks and related core instructional materials will be needed in the classroom by the student. Please do not submit a list of all textbooks that a student might use. Submit requests for textbooks which the student will be using and/or chapters of textbooks. Determining this ahead of time will expedite the specialized format process. It would also be prudent to list a summer contact person who could answer questions about the order and the specialized format(s).

The Iowa Department for the Blind Process (continued)

2. For students who need materials in audio format, an additional application must be filled out and signed by the parent or guardian (if the student is under 18). This application is for the services of Recording for the Blind and Dyslexic (RFB&D) of Princeton, New Jersey, an organization that transcribes textbooks and other educational materials into audio format. The application *must be* sent to the Instructional Materials Center (IMC) at the Iowa Department for the Blind, so the registration can be handled by the Iowa Department for the Blind. Do not send the application directly to RFB&D. **The RFB&D copyright agreement must be re-signed by the parent each school year and resubmitted to IMC in order to renew RFB&D services for that year.** A downloadable application can be found online at the RFB&D website: <http://www.rfbd.org/applications.htm>, or you can request a print copy of the application from your IMC librarian (Toll free in Iowa: 1-800-362-2587).

Bookshare Process

1. For students who need digital text from Bookshare, the local school district identifies a Primary Contact in the district who will be responsible for maintaining the roster of students with print disabilities eligible for digital text under the Chafee Amendment, and for NIMAS files, which require Chafee eligibility and an IEP.
 - a. This Primary Contact begins the membership process at www.bookshare.org by providing the basic organization information.
 - b. The Primary Contact agrees to the organizational membership terms online and prints, signs and FAXes the document to Bookshare. FAX 650-475-1066. Primary contacts agree that disability information for students who will become Bookshare Members is kept on file at the school.
 - c. The Primary Contact then gathers the names of Sponsors (teachers who will be reading these books.) The Primary Contact enters these names online at Bookshare or enters them on a roster and uploads the roster to Bookshare.

Resources:

True Aim: <http://trueaim.iowa.gov>

Iowa Department for the Blind (IDB): <http://www.IDBonline.org/>

Bookshare: <http://www.bookshare.org>