

Questions and Answers On the National Instructional Materials Accessibility Standards (NIMAS)

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The final regulations for the reauthorized Individuals with Disabilities Education Act (IDEA) were published in the Federal Register on August 14, 2006, and became effective on October 13, 2006. Since publication of the final regulations, the Office of Special Education and Rehabilitative Services (OSERS) in the U.S. Department of Education has received requests for clarification of some of these regulations. This is one in a series of question and answer documents prepared by OSERS to address some of the most important issues raised by requests for clarification on a variety of high-interest topics. Generally, the questions, and corresponding answers, presented in this Q&A document required interpretation of IDEA and the regulations and the answers are not simply a restatement of the statutory or regulatory requirements. The responses presented in this document generally are informal guidance representing the interpretation of the Department of the applicable statutory or regulatory requirements in the context of the specific facts presented and are not legally binding. The Q&As are not intended to be a replacement for careful study of IDEA and the regulations. The statute, regulations, and other important documents related to IDEA and the regulations are found at <http://idea.ed.gov>.

NIMAS is the National Instructional Materials Accessibility Standard, established under sections 612(a)(23)(A) and 674(e)(4) of the IDEA. The standard is a file set that includes all information typically prepared for publishing, including metadata, images and text, and is used to produce accessible instructional materials for students who are blind or who have other print disabilities. Under IDEA, all State educational agencies (SEAs) must adopt NIMAS; however, SEAs and local education agencies (LEAs) may choose whether to coordinate with the National Instructional Materials Access Center (NIMAC), a national repository authorized under section 674(e) of IDEA for NIMAS files received from publishers, SEAs, and LEAs.

Because implementing NIMAS and NIMAC is a very complex process, is developmental in nature, and involves the integration of two Federal laws (IDEA Parts B and D, and the Chafee Amendment of 1996 to section 121 of the Copyright Act), the Office of Special Education Programs funded two national centers, the NIMAS Development Center and the NIMAS Technical Assistance (TA) Center, to help facilitate the timely implementation of NIMAS by SEAs and LEAs.

A. NIMAS

Authority: The requirements for NIMAS are found in the regulations at 34 CFR §300.172, §300.210, and Appendix C to Part 300.

Question A-1: What is the definition of NIMAS?

Answer: NIMAS means the standard established by the Secretary of Education to be used in the preparation of electronic files suitable and used solely for efficient conversion into specialized formats for students who are blind or print disabled.

Question A-2: Will foreign language textbooks be available in NIMAS and through the National Instructional Materials Access Center (NIMAC)? Is this issue addressed in the law or regulations?

Answer: IDEA specifies that NIMAS applies to printed textbooks and related printed core materials that are written and published primarily for use in elementary school and secondary school instruction and are required by an SEA or LEA for use by students in the classroom. Thus, all foreign language textbooks that meet this requirement are subject to the NIMAS. This applies both to textbooks for foreign language classes and textbooks translated into a foreign language for use by students with limited English proficiency.

Question A-3: Can NIMAS files be sent to individual students so that they can manipulate them and use them, for example, on personal digital assistants (PDAs)?

Answer: NIMAS file sets are source files and are designed to be converted by software or accessible media producers (AMPs) into specialized formats (Braille, audio text, digital format or large print) to produce accessible print instructional materials for eligible students. While NIMAS file sets cannot be sent directly to students, an SEA or LEA could convert a NIMAS file set into a specialized format and place the specialized format onto an eligible student's PDA. However, each SEA or LEA must take appropriate steps under applicable copyright laws to ensure that only NIMAS eligible students receive these specialized formats.

Question A-4: May a file for an eligible student also be used for other students who may

benefit from its use?

Answer: Eligible students are “blind or other persons with print disabilities,” which means children served under IDEA who qualify to receive books and other publications produced in specialized formats in accordance with the Act entitled “An Act to Provide Books for the Adult Blind,” approved March 3, 1931, 2 U.S.C. 135a. If students are NIMAS eligible, an SEA or LEA can use the specialized format already derived from NIMAS file sets for other NIMAS eligible students. However, SEAs and LEAs may not share these specialized formats with students who are not NIMAS eligible, even though they may benefit.

Question A-5: Can programs that serve 3 to 5 year olds under Part B, section 619 use NIMAS files sets and the NIMAC repository?

Answer: It would depend on the State’s definition of elementary school. If a State considers 3 to 5 year olds who are blind or have other print disabilities and are attending preschool programs to be attending elementary schools, then those students are NIMAS eligible. NIMAS file sets can be used to make specialized formats only for use in elementary and secondary classroom instruction for students who are blind or who have print disabilities.

Question A-6: Will the American Printing House for the Blind (APH) still provide texts to APH-eligible students? How will APH textbooks interface with the NIMAC?

Answer: The APH will continue to offer their products to APH-eligible students. The APH is considered an accessible media producer (AMP) and is eligible to access NIMAS file sets from the NIMAC if an SEA or LEA designates them, as an authorized user, to convert NIMAS file sets into specialized formats. NIMAC was established through a separate grant from the Department of Education as a stand-alone center housed and administered by APH. It does not affect the existing programs at APH.

Question A-7: Is there a standard style guide for NIMAS? If so, where is it available?

Answer: The NIMAS Technical Assistance Center will develop a best practices Web page with exemplars and a style guide. This technical assistance resource is available at: <http://www.nimas.cast.org>.

Question A-8: What are the costs to an SEA when coordinating with the NIMAC?

Answer: There is no additional cost to use NIMAC. SEAs can access the NIMAC database at no cost.

Question A-9: Will States be allowed to access the graphic parts of texts? Are they required to obtain permission from publishers, the artist, or the photographer?

Answer: NIMAS file sets include some specifications for graphics. Separate permissions are not necessary if the publisher submits NIMAS files to the NIMAC for eligible students. These uses are authorized under section 674(e) of IDEA, as well as under the Chafee Amendment to the Copyright Act (17 U.S.C. Sec. 121(c)). However, portions of mathematics, science, geography, and other textbooks that do not use literary Braille are not fully accessible using NIMAS because translation software that provide accessible formats of graphical material do not currently exist. To the extent that the NIMAS files do not cover the graphs, pictures, and other visual elements in the textbooks, accessible media producers may have to use alternative measures to produce a completely accessible version of a textbook. However, this responsibility should be addressed in the agreement between the SEA or LEA and the AMP.

Question A-10: Are IEP Teams authorized to determine if a student requires accessible instructional materials? Are LEAs required to pay for additional medical certification to verify that a student's print disabilities are organic in nature?

Answer: The IEP Team determines the instructional program, modifications, and accommodations needed for students with disabilities, including the need for accessible instructional materials. However, according to the Library of Congress regulations (36 CFR §701.6(b)), only a competent authority can certify students eligible to use instructional materials produced in specialized formats from NIMAS files. In the case of a reading disability from organic dysfunction, these regulations define a competent authority as doctors of medicine who may consult with colleagues in associated disciplines. In the case of an individual who is blind, has a visual disability, or has physical limitations, other medical professionals and school officials such as social workers and counselors are included among those who are competent authorities. LEAs have the responsibility, including the assumption of any costs, to obtain the appropriate certification for the students. The complete Library of Congress regulations for certifying students who are blind or who have print

disabilities can be found on footnote 2 of the OSEP Topical Brief on NIMAS. This information is available at <http://nimas.cast.org/downloads/OSEP.NIMAS.Summary.doc>.

Question A-11: Are outlying entities eligible to coordinate with the NIMAC?

Answer: Yes, outlying entities are eligible to coordinate with the NIMAC.

Question A-12: The Department of Defense Education Activity (DODEA) is required to comply with the IDEA. Is it eligible to access the NIMAC database to use NIMAS file sets?

Answer: Yes, if the DODEA decides to coordinate with the NIMAC, it will designate authorized users who may access NIMAS files. The authorized users will, in turn, designate AMPs to convert NIMAS file sets into specialized formats for eligible students in the DODEA.

Question A-13: What is the turnaround time from the NIMAC to the students receiving accessible materials?

Answer: After the NIMAC receives NIMAS file sets from the publisher, the file sets will be checked to confirm that they are valid NIMAS files, and the files will be cataloged in a web-based database. The NIMAC expects that, if the quality conforms to NIMAS, the files will be available almost immediately for authorized users and AMPs to download and convert into specialized formats. The time from the NIMAC download to the student receiving accessible materials will vary by the type of specialized format and the efficiency of the AMP.

Question A-14: Is there an estimated cost to implement these provisions?

Answer: There is no cost to the educational agencies to download NIMAS files from NIMAC. The cost to provide the materials depends on the system that SEAs and LEAs choose to use to convert the NIMAS files into accessible formats and the type of format desired. It is expected that SEAs and LEAs with a developed infrastructure for conversion and delivery of accessibility instructional materials will have limited, if any, implementation expenses.

Question A-15: How does NIMAS relate to curricula that are delivered in an on-line platform?

Answer: NIMAS is a source file for converting print instructional materials into specialized formats and does not apply to on-line material.

Question A-16: If an SEA does not convert NIMAS file sets in-house and uses APH, Recording for Blind & Dyslexic (RFB&D), Bookshare, or some other AMP for conversion purposes, will there be additional costs to the SEA or will licensing/contract agreements and fees be sufficient?

Answer: There is no cost to use the NIMAC. The contractual agreement between the agency and the AMP will determine any additional costs for an SEA or LEA that uses an AMP, such as APH, RFB&D, or Bookshare.

Question A-17: What does it mean to coordinate with NIMAC?

Answer: Coordinating with NIMAC means that the SEA or LEA signed a user agreement with the NIMAC, is directing publishers to provide NIMAS files of materials they order to the NIMAC, and has designated authorized users who will have access to the NIMAC database. These authorized users can search the NIMAC database and directly download the NIMAS files they need to convert into specialized formats for use by NIMAS-eligible students in elementary and secondary schools.