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QUESTIONS AND ANSWERS ON THE NATIONAL INSTRUCTIONAL MATERIALS ACCESSIBILITY STANDARD (NIMAS)

Introduction

The 2004 Individuals with Disabilities Education Act (IDEA) established the National Instructional Materials Accessibility Standard (NIMAS) and the National Instructional Materials Access Center (NIMAC) to assist States¹ in meeting the needs of students with disabilities in elementary and secondary schools who require accessible formats for instructional materials.

Regulations for Part B of the IDEA 2004 were published in the Federal Register on August 14, 2006 and became effective on October 13, 2006. The NIMAC began its work on December 3, 2006 and has been in continuous operation since that time.² While parts B and D of the IDEA outline the duties and responsibilities of the NIMAC and provide the key definitions framing its operations, the process for providing NIMAS-sourced materials to eligible students is also impacted by section 121 of the Copyright Act (also known as the “Chafee Amendment”) and the 1931 Act to Provide Books for the Adult Blind.

The Office of Special Education and Rehabilitative Services (OSERS) in the U.S. Department of Education (Department) issued a Q&A document in August 2010 to provide States, State educational agencies (SEAs), local educational agencies (LEAs), and other interested parties with information to facilitate implementation of the NIMAS and coordination with the NIMAC. OSERS updated this document to reflect changes in the NIMAS resulting from the 2020 Notice of Interpretation (NOI)³ and the Marrakesh Treaty Implementation Act (MTIA).⁴ This Q&A document supersedes the previous document and will be updated with new questions and answers as important issues arise or to amend existing questions and answers, as needed.

¹ The NIMAC assists all State educational agencies which receive funding under IDEA, including in States, territories, freely associated States, the District of Columbia, and the Department of Defense Education Activity.

² The NIMAC is a national file repository for NIMAS files received from publishers (<https://www.nimac.us>).

³ On May 26, 2020, the Department issued a final NOI to clarify that digital instructional materials that can conform to the NIMAS standard may be accepted by the NIMAC repository; such materials are included under the definition of “printed instructional materials” referenced in the IDEA 2004.

⁴ In 2018, Congress passed the MTIA, which amends section 121 of the Copyright Act. In the Further Consolidated Appropriations Act, 2020, Congress amended the 1931 Act to Provide Books for the Adult Blind to incorporate definitions found in the MTIA. As a result of changes made to these two laws, the Department provided clarification regarding eligibility criteria for receiving NIMAS-sourced materials and the types of formats that may be developed from NIMAS files.

Other than statutory and regulatory requirements included in the document, the contents of this guidance do not have the force and effect of law and are not meant to bind the public. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies. In addition, it does not create or confer any rights for or on any person.

The questions and answers in this document are not intended to be a replacement for careful study of the IDEA and its implementing regulations. The IDEA, its implementing regulations, and other important documents related to the IDEA and the regulations are found on the [Department of Education's IDEA website](#).

If you are interested in commenting on this guidance, please e-mail your comments to OSERSguidancecomments@ed.gov and include NIMAS in the subject of your e-mail, or write us at the following address:

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Question 1: What is the definition of NIMAS?

NIMAS is the National Instructional Materials Accessibility Standard (for further background on NIMAS, please see the introduction at the beginning of this Q&A.) NIMAS is the standard, established by the Secretary of Education, in the preparation of electronic files suitable and used solely for efficient conversion into accessible formats.

Question 2: What is the definition of “accessible format”?

“Accessible format” means a copy of a work in an alternative manner or form that gives eligible students access to the work, including to permit the person to have access as feasibly and comfortably as a person without visual impairment or other print disability. The accessible format copy must respect the integrity of the original work, taking due consideration of the changes needed to make the work accessible in the alternative format and of the accessibility needs of the eligible student (17 U.S.C. § 121(d)(1)). Accessible formats produced from NIMAS may include braille, large print, digital audio, and a range of accessible digital text formats.⁵

Question 3: What is the NIMAC and what does it mean to coordinate with the NIMAC?

The NIMAC is the National Instructional Materials Access Center (for further background on the NIMAC, please see the introduction at the beginning of this Q&A). Coordinating with the NIMAC means that the SEA has signed a coordination agreement with the NIMAC, or an LEA has a coordination plan on file with its SEA. SEAs and LEAs agree to direct publishers to provide NIMAS files to the NIMAC as a part of their adoption contracts or purchase agreements when acquiring student instructional materials. SEAs also agree to designate authorized users who will have access to the NIMAC repository on behalf of students in their State. These authorized users can search the NIMAC repository and directly download the NIMAS files they need or assign these files within the system to registered accessible media producers, to convert into accessible formats for use by eligible students in elementary and secondary schools.

Question 4: Which students are eligible to receive accessible formats produced from NIMAS files from the NIMAC?

Under the copyright law, “Eligible person means an individual who, regardless of any other disability — (A) is blind; (B) has a visual impairment or perceptual or reading disability that cannot be improved to give visual function substantially equivalent to that of a person who has no such impairment or disability and so is unable to read printed works to substantially the same degree as a person without an impairment or

⁵“Accessible formats” recently replaced the term “specialized format,” which is the term currently used in the IDEA. The term “specialized formats” is defined in the IDEA at 20 U.S.C. § 1412(a)(23)(E)(iii) (and the IDEA’s definition cross-references the Copyright Act). The IDEA Part B regulations at 34 C.F.R. § 300.172(e)(1)(iv) also incorporate this IDEA statutory definition. As a result of changes made to the Copyright Act, 17 U.S.C. § 121, the term “specialized formats” has also been removed from the IDEA and its regulations and replaced with the term “accessible format.”

disability; or (C) is otherwise unable, through physical disability, to hold or manipulate a book or to focus or move the eyes to the extent that would be normally acceptable for reading.” 17 U.S.C. § 121(d)(3).⁶

Only eligible students in elementary schools and secondary schools, under section 674(e)(2) and (3) of the IDEA, may receive accessible formats produced from NIMAS files from the NIMAC. In addition to being eligible under copyright law, students must be identified as eligible and served under the IDEA in order to receive NIMAS-sourced accessible formats. Students whose parents elect for them not to have an Individualized Education Program are not served under IDEA, and thus are not eligible to receive accessible formats produced from NIMAS files.

Question 5: May an accessible format produced from a NIMAS file for an eligible student also be used by other students who may benefit from its use?

No. SEAs and LEAs may not share accessible formats with students who are not eligible for NIMAS under the IDEA. SEAs are required to ensure that children with disabilities who need instructional materials in accessible formats but are not eligible to receive educational materials produced in accessible formats from NIMAS files obtained from the NIMAC receive those instructional materials in a timely manner (34 CFR § 300.172(a)). In order to comply with this requirement, SEAs and LEAs must obtain the materials from other sources.

If SEAs or LEAs provide students with accessible educational materials from other non-NIMAS sources, IDEA restrictions specific to NIMAC and NIMAS do not apply.

Question 6: Who has responsibility for determining if particular students are eligible to receive accessible materials produced from NIMAS files obtained from the NIMAC?

SEAs and LEAs are responsible for providing a free appropriate public education to all children with disabilities and for ensuring that children who need instructional materials in accessible formats are provided these materials in a timely manner; therefore, LEAs have the responsibility, including the assumption of any associated costs, to determine eligibility (34 CFR § 300.101, 300.172(b)(4), and 300.201; 20 U.S.C. § 1412(a)(1)(A)).⁷ The NIMAC itself is not involved in determining eligibility for individual students.

⁶The term “blind persons or other persons with print disabilities” has been removed from the Copyright Act and replaced with the term “eligible person.” The IDEA defines the term “blind or other persons with print disabilities” in 20 U.S.C. § 1412(a)(23)(E)(i). The IDEA part B regulation at 34 C.F.R. § 300.172(e)(1)(i) incorporates the IDEA statutory definition.

⁷ The Library of Congress’ updated regulations for certifying eligible students state that eligibility must be certified by one of the following: doctor of medicine, doctor of osteopathy, ophthalmologist, optometrist, psychologist, registered nurse, therapist, and professional staff of hospitals, institutions, and public or welfare agencies (such as an educator, a social worker, case worker, counselor, rehabilitation teacher, certified reading specialist, school psychologist, superintendent, or librarian). For the purposes of distributing materials produced from NIMAS files, LEAs and accessible media producers develop processes to ensure that these materials are only distributed to eligible students <https://www.federalregister.gov/documents/2021/02/12/2021-02837/loans-of-library-materials-for-blind-and-other-print-disabled-persons>.

Question 7: Can programs that serve 3 through 5-year-old children pursuant to section 619 of Part B of the IDEA use NIMAS-sourced accessible formats on behalf of eligible students?

If a State includes 3 through 5-year-olds in preschool programs as part of its definition of elementary schools, then these students, if they are eligible persons under copyright law and are served under IDEA, can receive materials produced in accessible formats from NIMAS files received from the NIMAC. Likewise, if the SEA or LEA considers preschool to be included under elementary education, the SEA or LEA must include NIMAS language in its adoption contracts for instructional materials for preschool students, so that files will be available in the NIMAC for these materials for use in the production of accessible formats on behalf of these students.

Question 8: Are NIMAS files suitable for distribution directly to students for use in the classroom?

No, NIMAS file sets are source files and are designed to be converted into accessible formats by accessible media producers, using specialized software for this purpose, before distribution to students. NIMAS files are used in the production of a range of accessible formats, including braille, large print, digital audio, and a variety of accessible digital text formats, including DAISY and EPUB. When an accessible format is provided for use by the student, it is important to ensure that the material is made available for use only by qualifying students.

Question 9: For what types of instructional materials must NIMAS files be submitted to the NIMAC?

The IDEA does not impose any blanket requirement for publishers to submit instructional materials to the NIMAC. SEAs and LEAs determine which materials will be submitted to the NIMAC by including language requiring NIMAS in their adoption contracts and purchase agreements when acquiring new instructional materials, including when acquiring materials for preschool students where the SEA or LEA considers preschool students to be included under elementary education (see Question 7).

The IDEA defines materials appropriate for the NIMAC as “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 a State educational agency or local educational agency for use by students in the classroom.”

The NOI clarified this definition to include digital instructional materials when those materials can be provided to the NIMAC in valid NIMAS format.⁸

⁸The NOI states that “given the purpose of NIMAC, the trend toward digital instructional materials and resources, and the silence of the statute on the acceptance of digital files, the Department interprets the phrase “printed textbooks and related printed core materials” referred to in the definition of “print instructional materials” in section 674(e)(3)(C) of the IDEA (20 U.S.C. § 1474(e)(3)(C)) to include digital instructional materials that comply with NIMAS, because that is the primary medium through which many textbooks and core materials are now produced. The Department considers digital materials submitted to NIMAC to be in digital print format, which falls under the larger category of “print” and is consistent with the statutory language of section 674(e)(3)(C) of the

Question 10: Instructional materials, such as textbooks, are typically acquired through textbook purchasing offices at the SEA or LEA level. Are these offices required to comply with NIMAS requirements in their purchase of textbooks and other instructional materials?

Yes. If an SEA chooses to coordinate with the NIMAC, the SEA must, as part of any instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of student instructional materials, enter into a written contract⁹ with the publisher of the instructional materials to: 1) require the publisher to prepare and, on or before delivery of the instructional materials, provide to the NIMAC electronic files containing the contents of the instructional materials using the NIMAS; or 2) purchase instructional materials from the publisher that are produced in or may be rendered in accessible formats (see 34 C.F.R. §§ 300.172(c) and 300.210(a)). The SEA must 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 who receive instructional materials (34 C.F.R. § 300.172(b)(4)). Therefore, SEAs should inform all relevant offices and parties within the State, including LEAs, of their obligation to meet the requirements for access to instructional materials. For example, SEAs and LEAs should communicate these requirements to textbook adoption committees, as well as procurement and contracting offices. When an SEA or LEA considers preschool students to be included under elementary education, relevant offices and parties should be aware of the need for NIMAS requirements in the procurement of instructional materials for preschool students (see Question 7).

Question 11: What is the turnaround time from the NIMAC to the students receiving accessible materials?

After the NIMAC receives NIMAS file sets from the publisher, the file sets undergo a metadata and quality review process before acceptance into the repository. If the publisher does not need to make any corrections before the NIMAC can accept the files, they typically will be available almost immediately for accessible media producers (AMPs) to download and convert into accessible formats. The time between the downloading of a file from the NIMAC to the delivery of accessibly formatted material to a student depends on the type of accessible format being produced and the timeline of the AMPs.

Question 12: What are the costs associated with converting NIMAS into the accessible format needed by the student?

There is no cost to use the NIMAC or to obtain files through the NIMAC. However, the cost to the SEA or LEA for having an accessible format produced will vary depending on the required format and the organization producing the format. Some NIMAS-sourced accessible formats are available at no cost to the SEA or LEA, while production of other formats or by other organizations may involve a cost.¹⁰

IDEA (20 U.S.C. § 1474(e)(3)(C)).” Given this interpretation, the term “print instructional materials” will now include digital instructional materials that conform to the NIMAS format.

⁹ The AEM Center provides [sample language for use in written contracts](#) with publishers.

¹⁰ Costs incurred to acquire or produce accessible materials necessary to provide students with free and appropriate public education are allowable expenditures of IDEA Part B funds (34 CFR § 300.704(b)(4)(x)).

Question 13: Does the NIMAC receive file sets for standardized assessments?

No. Standardized assessments do not fall within the definition of print instructional materials as that term is defined in section 674(e)(3)(C) of the IDEA. Ensuring that accessible formats are provided for standardized assessments must be achieved through other means.

Question 14: Under what circumstances will foreign language textbooks be available in NIMAS and through the NIMAC?

The IDEA specifies that NIMAS applies to “print instructional materials,” which is defined in section 674(e)(3)(C) of the IDEA as 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 fall within the definition of “print instructional materials” 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 15: Can the NIMAC accept the files of books that are written for general use (i.e., trade books), such as novels, given that the IDEA only authorizes access to materials written and published primarily for use in elementary school and secondary school?

Yes. Consistent with the IDEA, the NIMAC may accept trade book files from publishers, when they are bundled by the publisher as a supplement alongside other instructional materials for use in the classroom, as required by the SEA or LEA approved curriculum. This means that publishers must provide a textbook or supplementary guide that identifies how each trade book in the bundle is tied into the curriculum required by an SEA or LEA for use by students in the classroom. This must be done by substantially linking each trade book to analysis, questions, study guides, or other curriculum materials contained in the textbook or supplementary guide.

Question 16: Do SEAs and LEAs have to request permission to use the image content in NIMAS files?

No. 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 the IDEA, which is consistent with the Chafee Amendment to the Copyright Act (17 U.S.C. § 121).¹¹

¹¹ Portions of mathematics, science, geography, and other textbooks that do not use literary braille are often not fully accessible using NIMAS alone. To the extent that the NIMAS files do not cover the graphs, pictures, and other visual elements in the textbooks, AMPs may have to use alternative measures to produce a completely accessible version of a textbook. This responsibility should be addressed in the agreement between the SEA or LEA and the AMP.

Question 17: If I am a publisher seeking resources to work with the NIMAC and produce NIMAS files, where can I find guidance?

Resources for publishers and conversion vendors can be found on the NIMAC website, <https://www.nimac.us/publishers-conversion-houses/> and also on the National Accessible Educational Materials (AEM) Center website, <https://aem.cast.org/get-started/by-role#publisher>. NIMAS exemplars can be found at <https://aem.cast.org/nimas-nimac/nimas-exemplars> and additional resources can be found at <https://aem.cast.org/get-started/resources/2020/creating-nimas-files>.

Question 18: How can I locate information on how my State is working with NIMAC to serve students eligible to receive materials in accessible formats?

For information on how your State is working with the NIMAC, the best contact will be your NIMAC State Coordinator. Contact information for all NIMAC State Coordinators, as well as for additional key staff involved in State AEM systems, can be found on the National AEM Center website: <https://aem.cast.org/nimas-nimac/nimac-state-coordinators>. The NIMAC will assist schools or teachers to locate accessible formats needed by eligible students or will contact NIMAC authorized users or other providers in their State. Please reach out at 1-877-526-4622 or nimac@aph.org.