


SPECIAL EDUCATION INFORMATIONAL BULLETIN

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TO: District Administrators, CESA Administrators, CCDEB Administrators,
Directors of Special Education and Pupil Services, and Other Interested Parties

FROM: Michael Thompson, PhD, Deputy State Superintendent
Office of State Superintendent 

SUBJECT: Legal Requirements for Accessible Educational Materials (AEM) for Students with
Print Disabilities (This replaces Bulletin 13.02)

A provision in the Individuals with Disabilities Education Act of 2004 (IDEA) established the National Instructional Materials Accessibility Standard (NIMAS). *See* 34 CFR §300.172(a)(1). NIMAS is a technical standard used by publishers to produce source files in XML that may be used to develop specialized formats, such as Braille or audio books, for students with print disabilities. The National Instructional Materials Access Center (NIMAC) is a federally funded, online repository of NIMAS source files from publishers that can be converted into specialized formats such as audio, Braille, large print, or digital files.

For a student to be eligible to receive NIMAS materials directly through the NIMAC, the student must have an individualized education program (IEP), and qualify under one of the following four categories:

1. Blindness: “Blind persons whose visual acuity, as determined by a competent authority, is 20/200 or less in the better eye with correcting glasses, or whose wide diameter if visual field subtends an angular distance no greater than 20 degrees”;
2. Visual Disability: “Persons whose visual disability, with correction and regardless of optical measurement, is certified by competent authority as preventing the reading of standard print material”;
3. Physical Limitations: “Persons certified by competent authority as unable to read or unable to use standard print material as a result of physical limitations”; or
4. Reading Disability Resulting from Organic Dysfunction: “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.” *See* 34 CFR § 300.172(e), 36 CFR § 701.10.

For the categories of “blindness”, “visual disability”, and “physical limitations”, “competent authority” includes school and district personnel such as teachers of the visually impaired or special education teachers; school psychologists, medical professionals such as ophthalmologists, optometrists, and family doctors; or other authorities such as Assistive Technology (AT) specialists, Occupational or Physical Therapists; rehabilitation counselors, etc. An IEP team is considered a competent authority. 36 CFR§701.10.

For the category of “reading disability resulting from Organic Dysfunction”, “competent authority” is defined as doctors of mediation and doctors of osteopathy who may consult with colleagues in associated disciplines. 36 CFR§701.10.

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If a student is eligible for NIMAS materials, then the competent authority can directly request the materials from NIMAC. Due to copyright laws, textbook and other core material files may only be used to create specialized formats for the eligible student for whom the material was requested.

The U.S. Department of Education has stated that “timely access to appropriate and accessible instructional materials is an inherent component of a State’s and LEA’s obligation under IDEA to ensure that a free and appropriate public education (FAPE) is available for children with disabilities and that children with disabilities participate in the general education curriculum as specified in their IEPs.” 71 Fed Reg. 46540, 46618 (August 14, 2006). In Wisconsin, all students eligible for materials in a specialized format must receive their materials at the same time as their non-disabled peers. In some instances, original formats are highly technical and/or include a high number of tactile graphics and take additional time to convert to a specialized format. In order to meet the requirement that students with print disabilities receive their materials at the same time as their non-disabled peers, LEAs must be aware of the content of the original formats that need to be converted into specialized formats and obtain educational materials as early as possible.

It is essential for districts to select new curriculum well before April 1 of each year to ensure timely delivery of educational materials in the appropriate format for the upcoming academic school year. When an LEA purchases curriculum, they must ensure that publishers of educational materials submit their electronic files to the NIMAC to ensure that students with print disabilities receive instructional material at the same time as their non-disabled peers.

School districts have an obligation under IDEA to ensure the timely provision of accessible educational materials (AEM) or accessible instructional materials (AIM) (terms used interchangeably) to all students with disabilities who may need it in order to access, engage in, and make progress in the general curriculum. Students receiving special education services who are not identified by the IEP team as having a print disability are not eligible to receive NIMAS materials through NIMAC.

However, if an IEP determines a student without a print disability requires AEM/AIM, they must still be provided to the student in a timely manner. *See* 34 CFR §300.172(b)(3). Many accessible educational materials may be obtained from multiple sources, including Accessible Media Producers such as Learning Ally, Bookshare, or the American Printing House. For more information, see “*WCASS Guide for IEP teams: Supporting Students with Print Disability*” (<https://wcass.memberclicks.net/assets/docs/PositionPapers/January%20%2017%202019%20Print%20Disability.pdf>).

Frequently Asked Questions

1. How long does it typically take to obtain a NIMAS file?

Once the NIMAS file has been assigned to the appropriate AMP, it may take up to two weeks before the file is available for download. If the NIMAS file is not available on the NIMAC, it is the responsibility of the LEA to request that the publisher release their file to the NIMAC pursuant to their print book purchase agreement. For more information about how to obtain AIM/AEM please see the “*WCASS Guide for IEP teams: Supporting Students with Print Disability*.” Links to sources are also provided at the bottom of this bulletin.

2. What services and materials are available to students who are blind or visually impaired in Wisconsin?

Consultation, assessment, and evaluation are available at no cost to local school districts through outreach services from the Wisconsin Center for the Blind and Visually Impaired (WCBVI). In addition, Wisconsin Accessible Materials Productions (WAMP) is funded by the Department of Public Instruction (department) and is located at the WCBVI to assist local districts in obtaining accessible educational materials (AEM) or accessible instructional materials (AIM) in specialized formats. Please visit the following WAMP website for detailed information regarding the processes for requesting specially formatted textbooks and related educational materials:
<https://www.wamp.k12.wi.us/>.

3. Are students designated under Section 504 eligible for NIMAS/ NIMAC materials?

No. According to the U.S. Department of Education's Questions and Answers on the National Instructional Materials Accessibility Standard (August 2010), only students who are served under the IDEA, and are also identified with a print disability, are eligible to receive formats that have been developed from NIMAS files through the NIMAC. If it is suspected that a student served under Section 504 may also have a print disability and is in need of AEM, then it would be the responsibility of the LEA to provide these materials.

4. How do you document that the student has a print disability in the IEP?

IEP teams may document and explain why the student has a print disability in the "Disability Related Needs" section on the I-4 linking form. Once documented as a disability related need, the IEP team must consider what AEM/AIM the student needs.

5. What types of specialized formats should the IEP team consider for students with a print disability?

AEM can be provided in audio, Braille, large print, digital text, or text-to-speech application.

6. How can IEP teams determine which digital features are best for the student?

Using the AEM Explorer magnification, custom text and background colors, text-to-speech, text highlighting, and layout options are presented to students in a logical sequence to help struggling readers, educators, and families decide which of these supports would enable the student access to the text. The AEM Explorer is a student-centered, useful assessment tool that can be downloaded from the AEM center website at http://aem.cast.org/navigating/aim-explorer.html#.W-nM_JNKjIU.

7. How do I, as District staff, ensure materials will be available in a timely manner?

Districts can ensure materials are available in a timely manner by adhering to the April 1 yearly deadline for the upcoming school year for all textbook or print materials requests for NIMAC. In Wisconsin, all students eligible for materials in a specialized format *must* receive their materials at the same time as their non-disabled peers. LEAs must be aware of the content of the original formats that need to be converted into specialized formats and submit requests as early as possible.

Additional Resources

WCASS Guide for IEP teams: Supporting Students with Print Disability

Bookshare: <https://www.bookshare.org/cms/>

Learning Ally: <http://www.learningally.org/>

NIMAC: <http://www.nimac.us/>

Wisconsin Accessible Media Productions (WAMP): <https://www.wamp.k12.wi.us/>

Wisconsin Talking Book and Braille Library (WTBBL): <https://dpi.wi.gov/talkingbooks>

CCR IEP Five Step Process: <https://dpi.wi.gov/sped/college-and-career-ready-ieps>

CAST AEM Explorer: <http://aem.cast.org/navigating/aim-explorer.html#.W311mehKi71>

For questions about this information, contact the DPI Special Education Team at (608) 266-1781.