



August 2007

The National Instructional Materials Accessibility Standard (NIMAS): Current State Implementation

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As part of the 2004 reauthorization of the Individuals with Disabilities Education Act (IDEA), states are required to comply with the National Instructional Materials Accessibility Standard (NIMAS) beginning July 19, 2006. NIMAS is defined as “the standard established by the Secretary to be used in the preparation of electronic files suitable and used solely for efficient conversion into specialized formats” [IDEA Section 674(e)(3)(B)].¹ The purpose of this document is to describe how states are responding to NIMAS requirements. Project Forum at the National Association of State Directors of Special Education completed this document as part of its cooperative agreement with the U.S. Department of Education’s Office of Special Education Programs (OSEP).

LEGISLATIVE BACKGROUND

According to the Center for Applied Special Technology (CAST), the purpose of NIMAS is to assure that all students have access to the general curriculum by ensuring access to textbooks and other related print materials. The provisions were particularly intended to ensure that students with “print disabilities” (including students with visual impairments) had access to instructional materials *at the same time* as their nondisabled peers.

According to a recent OSEP topic brief, IDEA regulations for NIMAS:

- provide definitions related to the purchase of and access to instructional materials;
- require states to adopt NIMAS;
- establish state education agency (SEA) rights and responsibilities;
- establish requirements for the preparation and delivery of files;
- require collaboration with state agencies providing assistive technology programs; and

¹ For more information on NIMAS, see <http://nimas.cast.org/about/index.html>.

- establish responsibilities for local education agencies (LEAs) for purchase of instructional materials.²

States also have the option of coordinating with the National Instructional Materials Access Center (NIMAC). As described in IDEA Section 674(e)(2), NIMAC's duties are to:

- receive and maintain a catalog of print instructional materials that meet NIMAS from the textbook publishing industry, SEAs and LEAs;
- provide NIMAS file sets for conversion to print instructional materials, including textbooks, in accessible media, free of charge, to blind or other persons with print disabilities in elementary and secondary schools, in accordance with such terms and procedures as NIMAC may prescribe; and
- develop, adopt and publish procedures to protect against copyright infringement with respect to the print instructional materials provided in sections 612(a)(23) and 613(a)(6) of IDEA.

DATA COLLECTION

In collaboration with CAST and NIMAC staff, Project Forum developed an interview protocol addressing issues related to NIMAS and NIMAC. During the months of May and June, 2007, 46 SEAs completed the survey. Survey responses were analyzed and findings are reported in the following section.

FINDINGS

Dedicated Staff

Of the 46 responding SEAs, 45 reported having designated a state-level NIMAS coordinator. Twenty-six SEAs provided information on the full-time equivalent (FTE) dedicated to the position of NIMAS coordinator. Two SEAs reported that 1.0 FTE or more was dedicated to the position; nine SEAs reported that less than 1.0 FTE but more than .10 FTE was dedicated to the position; and 13 reported that .10 FTE or less was dedicated to the position. Two SEAs noted that no specific FTE was dedicated to the position.

Most commonly, SEAs reported that NIMAS coordinators roles and responsibilities include:

- responding to inquiries from local education agencies (LEAs) and schools (42 SEAs);
- providing LEAs and schools with federal information on NIMAS and NIMAC (40 SEAs);
- developing statewide policies and procedures pertaining to NIMAS (e.g., publisher requirements) (37 SEAs);
- collaborating/coordinating with NIMAC (37 SEAs);

² IDEA regulations pertaining to NIMAS are summarized in OSEP's topic brief which can be found at <http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CTopicalBrief%2C12%2C>.

- planning/coordinating/providing professional development and technical assistance to LEAs and schools (27 SEAs);
- developing handbooks, guidelines or other publications for use by local special education administrators, principals and/or teachers (21 SEAs); and
- collecting NIMAS-related data (e.g. number of students receiving materials under NIMAS) (11 SEAs).

Several SEAs also described additional responsibilities such as designing and implementing a web-based delivery system, assisting with legislative changes, coordinating a workgroup of LEA representatives, convening NIMAS community council meetings, coordinating with the authorized user(s), and/or collecting IDEA assurances from LEAs regarding whether they plan to coordinate with NIMAC.

Coordination with NIMAC

All 46 responding SEAs have decided to coordinate with the NIMAC.³ However, of the 46, only 26 have signed and returned to NIMAC a Limitation-of-Use Agreement, the legal agreement between authorized users and the NIMAC ensuring that NIMAS file sets will be converted for the exclusive purpose of producing accessible instructional materials for blind or other persons with print disabilities in elementary and secondary schools, as defined in Section 674(e)(3) of IDEA.

Guidelines, Publication Requirements and/or Legislation/Regulations

Thirty-two SEAs have generated guidelines for LEAs as far as what needs to be included in their purchase orders or contracts with publishers, and several noted that they are in the process of developing such guidelines. Eight SEAs reported that their guidelines are available online and several others reported that guidelines were sent out via hardcopy to LEAs. A few SEAs described sharing language provided by CAST and/or the NIMAS website with their LEAs, providing sample forms from other states, or making available an instructional webcast. One SEA described including an assurance page outlining requirements for LEAs as part of their IDEA-Part B applications.

Five SEAs reported having developed publisher requirements that call for multiple files in addition to NIMAS, and a few noted that they are in the process of developing such requirements for multiple files.

Fifteen SEAs have passed legislation and/or regulations relating to NIMAS and several are in the process of drafting such legislation/regulations. For instance, New York regulations require that LEAs ensure that all instructional materials used in the LEA are available in a usable alternative format that must meet NIMAS; California Education Code requires publishers to caption their instructional videos and make their websites and computer-based instructional resources 508-

³ If LEAs choose to opt out of coordinating with NIMAC, they must assure that they have a plan in place to meet the needs of students with print disabilities.

compliant;⁴ and Oregon includes in its Administrative Rules requirements pertaining to special education and textbook adoption. Kentucky's regulations call for a three-level system. "Level One" requires that graphic image files and other non-text elements exceed NIMAS in the manner:

- Files must include a text equivalent for every non-text element.
- Row and column headers must be identified for data tables.
- Markup must be used to associate data cells and header cells for data tables that have two or more logical levels of row or column headers.
- Frames must be titled with text that facilitates frame identification and navigation.

Professional Development Activities

Twenty-nine SEAs report providing some type of professional development activities relating to NIMAS. Most commonly, individuals being trained on NIMAS requirements at the state level include:

- Instructional Resource Center for the Blind and Visually Impaired staff (24 SEAs);
- SEA special education staff (23 SEAs);
- LEA special education staff (22 SEAs);
- SEA assistive technology staff (19 SEAs);
- LEA instructional technology leaders (15 SEAs);
- special education teachers (13 SEAs);
- regional training center staff (12 SEAs);
- general education teachers (10 SEAs); and
- parents (10 SEAs).

Fifteen SEAs also reported providing professional development to one or more of the following types of staff: library media specialists, curriculum coordinators, teachers of the visually impaired, LEA curriculum directors and/or textbook coordinators, LEA special education directors, members of the state advisory panel and faculty from institutions of higher education (IHEs).

Data Collection

Thirty SEAs plan to collect data regarding the provision of alternate format materials to students with print disabilities.

Legal Issues

Four SEAs reported that there had been one or more legal issues in their states relating to the availability of textbooks and/or other materials. California, New Hampshire, and Mississippi

⁴ Section 508 of the Workforce Investment Act of 1998 (P.L. 105-220) requires that Federal agencies' electronic and information technology is accessible to people with disabilities.

described cases related to the timely provision of accessible materials to students with print disabilities. Also, Texas described a conflict between the NIMAC Limitation-of-Use Agreement, which requires indemnification, and Texas law, which prohibits the same.

NIMAS File Conversions

Thirty-two SEAs plan to convert NIMAS files to specialized formats within their states. Of these, 23 provided information on whether the state will develop its own conversion services (2 SEAs), whether the work will be contracted to third party Accessible Media Producers (9 SEAs), or whether the SEA will engage in a combination of both approaches (12 SEAs).

Challenges

SEAs identified a wide range of challenges relating to the implementation of NIMAS. Most commonly, SEAs reported the following challenges:

- developing necessary state infrastructure to meet NIMAS requirements (31 SEAs);
- providing accessible materials to students who may not qualify for NIMAS/NIMAC (29 SEAs);
- providing appropriate inservice to LEAs (26 SEAs);
- locating Accessible Media Producers to convert NIMAS files (10 SEAs);
- being limited to no more than five authorized users (5 SEAs); and
- problems with the Limitation-of-Use Agreement's indemnity clause (5 SEAs).

Eighteen SEAs also described facing one or more of the following challenges: providing assistive technology training to support accessible formats; accessing supplementary materials; securing adequate funding to meet the new requirements; tracking users of NIMAC materials; training of staff; and lack of information on appropriate software for developing conversion services within the state.

Next Steps

Twenty-four SEAs described next steps in terms of meeting the requirements of NIMAS and/or coordinating with NIMAC. Some of these steps include the following:

- revising and approving state regulations;
- establishing necessary state infrastructure;
- convening a NIMAS advisory committee;
- hiring a state level education specialist to take over NIMAS-related responsibilities;
- identifying Accessible Media Producers and/or developing in-state conversion capability;
- setting up an informational website;
- providing necessary training to LEAs;
- resolving difficulties relating to the Limitation-of-Use Agreement; and
- downloading the state's first NIMAS file.

SUMMARY

Based on survey results, it appears that SEAs are responding in a variety of ways to NIMAS requirements. All 46 responding SEAs have decided to coordinate with NIMAC, and all but one have designated a staff person to handle NIMAS-related issues. The majority of responding SEAs are providing some type of NIMAS-related training to staff throughout the state and a significant number of SEAs have developed NIMAS-related guidelines, legislation and/or regulations. Challenges persist, however, in developing appropriate state infrastructure and several SEAs noted that the Limitation-of-Use Agreement—as it currently stands—poses legal problems. Furthermore, when describing “next steps” it appears that SEAs are at different stages of implementation. Ongoing guidance, support and products from the NIMAS Technical Assistance Center, OSEP and NIMAC would most likely help to speed this process.

ACKNOWLEDGEMENTS

Project Forum wishes to thank the following individuals for providing input on the development of our interview protocol and/or reviewing an earlier version of this document: Chuck Hitchcock, Director, NIMAS Technical Assistance Center, CAST and Board Member, NIMAC; Skip Stahl, Project Director, NIMAS Development Center and Director, Technical Assistance, CAST; Valerie Hendricks, Senior Producer, NIMAS Centers, CAST; and Cheryl Boley, NIMAS Coordinator and Consultant for the Visually Handicapped, Department of Special Education, Ohio Department of Education.

This report was supported by the U.S. Department of Education (Cooperative Agreement No. H326F050001). However, the opinions expressed herein do not necessarily reflect the position of the U.S. Department of Education and no official endorsement by the Department should be inferred.

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