

## **Colorado Procedures for Securing Adapted-Format Instructional Materials for Students who are Blind/Visually Impaired or Print Disabled per NIMAS Requirements**

The purpose of this document is to provide clarification and guidance to Colorado administrative unit personnel, parents, and students on the National Instructional Materials Accessibility Standard (NIMAS) and how it is applied to Colorado school-age students who are blind/visually impaired or print disabled. This document was created using the January 2007 handout from the *Building the Legacy: IDEA 2004* website, which was prepared by the United States Department of Education, and has been adapted first in November 2007 and again in July 2009 to include the Colorado NIMAS-related procedures.

### **Background Information**

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. A series of Question and Answer documents were prepared by OSERS to address some of the most important issues raised by requests for clarification on a variety of high-interest topics, including the NIMAS. Generally, the questions and corresponding answers presented in each Q&A document required interpretation of IDEA and the regulations and the answers are not designed to simply be a restatement of the statutory or regulatory requirements. The responses are considered to be informal guidance representing the interpretation of the U.S. Department of Education of the applicable statutory or regulatory requirements in the context of the specific facts presented and not designed to be legally binding. The Q&A documents 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.

*The following are questions from the U.S. Department of Education's Q and A guidance document on NIMAS. Comments in italics in the text below are specific to Colorado procedures.*

**A. NIMAS (National Instructional Materials Accessibility Standard)**

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**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/visually impaired or print disabled.

*Colorado Procedures:*

*NIMAS files will be housed in the National Instructional Materials Center (NIMAC), which is located at the American Printing House for the Blind in Louisville, KY. Publishers of Colorado textbooks are required as of July 19, 2006, per language within the Colorado administrative unit purchase-agreement contracts with book publishers, to submit NIMAS files of their textbooks to NIMAC. Without these source files, Colorado will not have access to the requested alternative-format textbooks in a NIMAS format.*

*As of July 2009, the State of Colorado has three designated authorized users who may access NIMAS source files from the NIMAC: (1) The Colorado Instructional Materials Center (CIMC), (2) Bookshare, and (3) Recording for the Blind and Dyslexic (RFB&D). The three entities are the only designated authorized users of the NIMAC for Colorado. The CIMC, Bookshare, and RFB&D can download the NIMAS files housed with NIMAC. These files will then be used to prepare screen enlargement, braille, digitized text, and audio books for use by qualified students.*

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**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.

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**Question A-3:** 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. SEAs and LEAs may not share these specialized formats with students who are not NIMAS eligible, even though they may benefit. Administrative units must identify each student for whom they are downloading a NIMAS file for use in an adapted format.

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**Question A-4:** 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, LEA, or authorized user designates them, as an accessible media producer (AMP) 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.

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**Question A-5:** Is there a standard style guide for NIMAS? If so, where is it created?

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

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**Question A-6:** What are the costs to an SEA when coordinating with the NIMAC?

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

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**Question A-7:** 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

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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.

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**Question A-8:** Are Individualized Education Program (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.

Further information on who qualifies for specialized format for instructional materials created from NIMAS source files can be found at [http://nimas.cast.org/about/resources/who\\_qualifies.html](http://nimas.cast.org/about/resources/who_qualifies.html)

Colorado Procedures:

*Eligibility as a school-aged learner who is “visually disabled” in Colorado is outlined in the December 2008 Rules for the Administration of the Exceptional Children’s Education Act (ECEA).*

*School-age learners who will qualify as having a print disability or a physical disability which affects one’s ability to read print such as inability to hold a book or turn pages, do not follow a strict ECEA designated “disability label” – the determination of alternative format needs of instructional materials for a student with a print disability will be made by an IEP team based on*

*the evaluations of certified professionals and the individual needs of the student, but must also be verified by an appropriate medical doctor or certifying professional.*

*Administrative unit personnel should clarify eligibility requirements and documentation procedures with each authorized user.*

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**Question A-9:** 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.

*Special Update Note per NIMAC (06/09): NIMAC receives the NIMAS source file(s) as result of the print book purchase from a local administrative unit. These files are processed, reviewed, and certified at the point of being received by the publisher. Presumably, in many or even most cases, by the time an accessible format is needed by a particular student, the file will already be available at the NIMAC and the turnaround time will revolve only around how long it takes for the accessible version to be produced by the authorized user.*

Colorado Procedures:

*Contracts between textbook publishers and individual Colorado administrative units should stipulate the expectation that the publisher will provide a NIMAS file of the ordered textbooks to the NIMAC. It is better to err on the side of ordering all textbooks with a NIMAS file, as opposed to only those textbooks that are known to be needed by the student who is blind/visually impaired or print disabled. The goal of NIMAC is to build its repository files to increase access to textbooks across the state and the country. Publishers are aware of this expectation and should be very amenable to cooperate with this request.*

*Special Note: Only certified teachers of students with visual impairments can order braille textbooks on behalf of the Colorado Instructional Materials Center. In addition only a certified teacher of students with visual impairments or an administrative unit brailist should order recreational reading books and/or textbooks in Braille Ready Format from Bookshare.*

**Question A-10:** 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-11:** If an SEA does not convert NIMAS file sets in-house and uses the American Printing House for the Blind (APH) or some other accessible media producer( 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.

Colorado Procedures:

*Costs to secure and produce braille textbooks are built into the annual CIMC budget, which is co-funded by the CDE, the APH Quota Funds, and Colorado Administrative Units, and State Operated Programs who have learners with visual disabilities. The latter funding source is completed through an annual assessment fee to Colorado Administrative Units and State Operated Programs.*

*Costs for human-recorded audio books will be determined by individual student / Administrative Unit / State Operated Program membership fees with Recording for the Blind & Dyslexic.*

*There are no membership fees for qualified students with Bookshare per a five-year grant award to Bookshare from the United States Department of Education, Office of Special Education Programs (Cooperative Agreement #H325U040001). This grant award was effective October 1, 2007.*

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**Question A-12:** 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.

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**Question A-13:** 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.

*Special Update Note per NIMAC (6/09): Coordinating with NIMAC means that the SEA has signed a Coordination Agreement with NIMAC, that the SEA and/or LEAs from the state are directing publishers to provide NIMAS files to NIMAC for print textbooks that they purchase, and that the SEA has designated authorized users that will have access to the files in the NIMAC repository. Anyone can search the NIMAC database; however, only these authorized users can directly download the NIMAS files they need to convert into specialized formats for use by NIMAS-eligible students in elementary and secondary students*

Colorado Procedures:

*As noted in answer section of Question A-1, publishers of Colorado textbooks are required as of July 19, 2006, per language within the Colorado administrative unit purchase-agreement contracts with book publishers, to submit NIMAS files of their textbooks to NIMAC.*

*The CIMC is the only Colorado designated authorized user of NIMAS files for braille textbooks for students who are visually disabled. Colorado has a long and established history of ordering braille textbooks for students who have a visual disability. Teachers certified in the area of visual impairment order the needed books from the CIMC in the spring of each school year for the following school year. Orders can be made throughout the school year as new students are enrolled or new books are needed.*

*RFB&D is the only Colorado designated authorized user of NIMAS for human-recorded audio books for students who are blind/visually impaired or print disabled. RFB&D also produces a student-ready version of the NIMAS file synchronized with synthetic speech, complete with the images provided by the publisher in the NIMAS file. These electronic text and audio books can be read on a computer using specialized software available through RFB&D. Most software and hardware already in use in schools for reading RFB&D audio only books will also play the NIMAS titles.*

*Bookshare is the only Colorado designated authorized user of NIMAS files for digitized textbooks for students who are print disabled. The books can be read on a computer using text-to-text speech or the ability to see a word at the same time. They are also available as digital braille should the certified teacher of students with visual impairments and/or certified administrative unit braillist deem this an appropriate format for a given book for a given students. Braille Ready Format files should not be ordered through Bookshare unless the person*

who is ordering the book is a CO certified teacher of students with visual impairments and/or a Colorado administrative unit brailist. This policy is to ensure that the individual receiving the file has the needed full braille competency to ensure that the braille product is of high quality.

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*Colorado Generated Questions and Answers*

**Question A-14:** *What information is in Rules for the Administration of the Exceptional Children’s Education Act (December 2008) specific to NIMAC?*

**Answer:** *ECEA Section 501 (21) details the requirements regarding access to instructional materials, including the Colorado Department of Education’s adoption of the NIMAS as established by 34 CFR§300.172. The ECEA Rules can be found at:  
<http://www.cde.state.co.us/spedlaw/download/ECEARules2008.pdf>*

**Questions A-15** *How does the State of Colorado define “in a timely manner” for students to receive their adapted-format instructional materials?*

**Answer:** *Per ECEA Rule 5.01 (21) (c) (i) “in a timely manner” means that all reasonable steps have been taken to provide children with disabilities instructional materials at the same time that instructional materials are provided to nondisabled peers.*

**Resource Links**

The website for NIMAS is: <http://nimas.cast.org/>

The website for NIMAC is: <http://www.nimac.us/>

For questions or further clarification about NIMAS procedures in Colorado, please contact Dr. Tanni Anthony at (303) 866-6681 or [anthony\\_t@cde.state.co.us](mailto:anthony_t@cde.state.co.us).

