

Navigating Accessible Educational Materials: Accessible Formats

Guiding Questions for the Decision-Making Team

Step 3: Acquire accessible formats from available sources

The following questions will help a decision-making team understand the process and options for acquiring accessible formats.

Doesn't fair use apply when my school converts materials to accessible formats?

It is important to keep in mind that local creation of accessible formats does not relieve anyone from observing copyright law as it relates to educational materials. If copyrighted materials are being used as a source, the restrictions are the same as those for AMPs and other sources. In other words, if an accessible format of a copyrighted material is created for one student who needs it, that material cannot be shared with another student who may simply prefer it (or even need it) if that child does not meet copyright criteria—except possibly under the Fair Use exception to copyright statute. To learn more, read [Fair Use and Accessibility for Persons with Disabilities](#).

How does U.S. copyright law relate to the provision of accessible formats?

The 1996 Chafee Amendment to Copyright Law, Public Law 104-197, adds Section 121, establishing an exception to copyright infringement for the reproduction of works for use by eligible persons. The definition of eligible person refers to the definition in the Act to Provide Books for the Adult Blind approved March 3, 1931, which was revised as a result of the Marrakesh Treaty Implementation Act (2018). IDEA also points to this definition of “eligible person.” [Visit the National Library Service \(NLS\) for more information about the Chafee Amendment](#).

Can the same law be interpreted in different ways?

Yes, there are ambiguities in the laws that are subject to interpretation. When questions arise, district personnel are urged to contact their district administrators and/or [NIMAC State Coordinator](#).

What is NIMAS?

The National Instructional Materials Accessibility Standard or NIMAS includes a technical specification used by publishers to produce source files (in XML) that may be used to develop multiple accessible formats (such as braille or audio books) for qualifying students. It is mandated in the Individuals with Disabilities Education Improvement Act of 2004 (IDEA) for textbooks and related educational materials. A NIMAS-conformant source file is not a student-ready format but must be converted into an accessible format (i.e., braille, tactile graphics, audio, digital text, large print) for student use.

The NIMAS outlines and defines what a set of consistent and valid XML-based source file(s) and other component files consist of, and these are typically created by K–12 curriculum publishers or other content producers. These well-structured source filesets can be used to create student-ready, accessible formats of educational materials. A complete NIMAS fileset includes an XML content file, a package file, images, and a PDF file of the title page (or whichever page contains ISBN and copyright information).

Special education statutes apply to state and local education agencies, not to publishers. There is no statutory requirement placed on publishers to create NIMAS source files and deposit them in the NIMAC. To be sure that NIMAS source files are created and deposited in the NIMAC so they are available for conversion to accessible formats when needed, all contracts for the purchase of educational materials need to include the requirement that these files be created and deposited along with a date by which this must be done. [Sample NIMAS contract language can be found in the policy brief, NIMAS & NIMAC: What SEAs and LEAs Need to Know.](#)

What is the NIMAC?

IDEA mandated the establishment of the National Instructional Materials Access Center (NIMAC) as a national repository for publisher-sourced filesets of textbooks and related educational materials that are created according to the technical specification included in the National Instructional Materials Accessibility Standard, commonly known by the acronym NIMAS. The NIMAC is part of the American Printing House for the Blind (APH).

When a publisher creates a NIMAS fileset for a textbook or other educational material and deposits the fileset in the NIMAC, that fileset can be converted into student-ready accessible formats, such as braille, tactile graphics, large print, audio, or digital text.

It must be remembered that NIMAS filesets have to be converted to student-ready accessible formats and that accessible formats created from filesets housed in the NIMAC can only be used by dually qualified students. A student must be served under IDEA and meet copyright criteria for accessible formats to use materials created from NIMAS source files from the NIMAC. Learn more at the [NIMAC website](#).

Who can use accessible formats created from NIMAS source files from the NIMAC?

IDEA specifies that a student must meet two criteria in order to receive an accessible format rendered from a NIMAS fileset from the NIMAC:

- The student must receive special education services under IDEA.
- The student must be certified by a competent authority as having a disability as specified in the Act to Provide Books for the Adult Blind (approved March 3, 1931, 2 U.S.C. 135a) [34 CFR 300.172(e)(1)]. The Marrakesh Treaty Implementation Act created changes to the criteria for eligibility (see “Who is a competent authority?” below).

Who is eligible to receive accessible formats?

As a result of the Marrakesh Treaty Implementation Act (2018), the term “eligible person” replaced “blind persons or other persons with print disabilities” in section 121 of the U.S. Copyright Act, also known as the Chafee Amendment. An eligible person is defined as someone who is either blind, has a “visual impairment or perceptual or reading disability” rendering them unable to read printed works “to substantially the same degree as a person without an impairment or disability,” or has a physical disability making them unable to hold or manipulate a book or focus or move their eyes to read. A condition making one an “eligible person” must be “determined by a competent authority possessing experience in making such determinations.”

Who is a competent authority?

As a result of the Marrakesh Treaty Implementation Act (2018), the list of professionals who can certify a person’s eligibility to receive accessible formats, defined by Library of Congress regulations, was revised. The revision was posted in the Federal Register on February 12, 2021, and states:

“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**).

What are accessible media producers (AMPs)?

AMPs are agencies, organizations, or companies that produce educational materials in accessible formats such as braille, tactile graphics, large print, audio, or digital text.

Most materials produced by AMPs are available to students or others who meet copyright criteria for accessible formats. Only those students who are dually qualified (meet copyright criteria and are served under IDEA) are eligible for accessible formats created from NIMAS filesets obtained from the NIMAC. However, because AMPs provide accessible formats of materials that are both sourced and not sourced from the NIMAC, access to them are **not** limited to dually qualified students.

Here is important information about federally funded AMPs and related resources:

- [Bookshare](#) is an OSEP-funded project that provides a range of accessible formats. Membership is free of charge to eligible students in early learning programs, elementary, or secondary schools. While students must be certified as eligible to receive accessible formats to access files in Bookshare's collection, an IEP is not a requirement. Bookshare's collection includes accessible formats that are both sourced and not sourced from NIMAS files.
- States are allocated, annually, some funds to purchase specialized educational materials from the [American Printing House for the Blind \(APH\)](#), including but not limited to braille and large print ([Federal Quota Program](#)). APH also has a Tactile Graphic Image Library. All States have one or more APH Ex Officio Trustees who can assist in placing orders with APH.
- Some States have an Instructional Resource Center (IRC) that maintains a library of accessible formats and manages requests for materials for eligible students. Information about IRCs is available from [State AEM Contacts](#).
- The [National Library Service for the Blind and Print Disabled \(NLS\)](#) and its network of State libraries provide braille and audio. The [NLS has a children's resource collection](#) for those eligible under 18 years of age, as well as their teachers and parents. Additionally, the [NLS compiles a state directory of producers of reading materials](#), specifically audio, braille, and large print.
- The [Described and Captioned Media Program \(DCMP\)](#) is an OSEP-funded project that provides accessible educational videos. Membership is free of charge for any classroom with a student with a disability.
- The [searchable Louis Database of Accessible Materials](#) includes information on materials available from over 50 organizations, including Bookshare and APH.

Who is an authorized user?

An authorized user (AU) is an agent of a state department of education who has access to the NIMAC database in order to download or to assign NIMAS fileset(s) for conversion to accessible

formats in accordance with established agreements with the NIMAC. An AU can be a nonprofit organization or a governmental agency. Examples of AUs include accessible media producers (AMPs), such as Bookshare and State Instructional Resource Centers (IRCs).

How are teacher-created materials made accessible?

Teacher-made materials include worksheets, assessments, and other materials created by a teacher that are not part of published educational materials and are not available in accessible formats from other sources. If a student requires accessible formats of published educational materials, it logically follows that materials produced by a teacher will also need to be made accessible via a “locally created” process.

Ideally, teacher-made materials are created using accessibility best practices so that they are usable by all students, including those who need accessible formats. In cases where a material cannot be recreated in a timely manner to be accessible, conversion will be necessary. Options include scanning with Optical Character Recognition (OCR) software or creating an audio recording.

Creating accessible materials from the start is the most effective way to avoid the need for time-consuming and often burdensome local conversion of teacher-created content. The [National Center on Accessible Digital Educational Materials & Instruction \(NCADEMI\)](#), has resources to help school staff create accessible documents, slide decks, and videos.

These questions and answers originated from the AIM Navigator, a tool developed by the National Center on Accessible Instructional Materials (AIM Center) and later maintained by the National Center on Accessible Educational Materials (AEM Center). They were updated for use in this module.