



## DISABILITY AND COMMUNICATION ACCESS BOARD

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April 6, 2023

### TESTIMONY TO THE SENATE COMMITTEE ON WAYS AND MEANS

#### House Bill 388 HD1 SD1 – Relating to Education

The Disability and Communication Access Board (DCAB) supports House Bill 388 HD1 SD1 – Relating to Education. This bill would adopt the National Instructional Materials Accessibility Standard and require the Department of Education to obtain instructional materials in accessible formats for eligible students.

For some students who are blind or have other print disabilities, printed instructional materials are a barrier to their participation in the general education curriculum. Some students with print disabilities need instructional materials that are converted into accessible formats to learn the same curriculum that is being taught to other students in their class.

This bill would improve equity and inclusion in our education system by adopting NIMAS, which is designed to maximize the access students who are blind or have other print disabilities have to the general education curriculum.

Thank you for the opportunity to provide testimony.

Respectfully submitted,

KIRBY L. SHAW  
Executive Director



**WRITTEN TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-SECOND LEGISLATURE, 2023**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 388, H.D. 1, S.D. 1, RELATING TO EDUCATION.

**BEFORE THE:**

SENATE COMMITTEE ON WAYS AND MEANS

**DATE:** Thursday, April 6, 2023

**TIME:** 10:00 a.m.

**LOCATION:** State Capitol, Room 211

**TESTIFIER(S):** **WRITTEN TESTIMONY ONLY.**

(For more information, contact Anne T. Horiuchi,  
Deputy Attorney General, at (808) 586-1255)

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Chair Dela Cruz and Members of the Committee:

The Department of the Attorney General (Department) provides the following comments.

The bill adopts the National Instructional Materials Accessibility Standard (NIMAS) and requires the Department of Education to obtain instructional materials in accessible formats for eligible students.

The bill could lead to unintended consequences because of the breadth of subsection (g)(2)(A) of section 302A-442.5, as it appears in the current draft. In previous drafts of the bill, new subsection (g)(2)(A) of section 302A-442.5, Hawaii Revised Statutes (HRS), required that the individualized education program (IEP) for an eligible student identify the "print instructional materials to be used by the students without disabilities[.]" "Print instructional material" is a defined term limited to "textbooks and related printed core materials that are written and published primarily for use in elementary school and secondary school instruction by students in the classroom[.]" (Page 4, lines 8- 17.)

In the current draft of the bill, new subsection (g)(2)(A) of section 302A-442.5, HRS, now requires that the IEP of an eligible student identify:

The print instructional materials and other materials to be used by the students without disabilities, including but not limited to textbooks, articles, handouts, posters, bulletin

boards, maps, charts, graphics, audio-visual presentations, digital instructional materials, and all other printed materials available to students in elementary and secondary classrooms[.]

(Page 8, line 15, through page 9, line 2, of the bill.) This itemized list goes substantially beyond the definition of "print instructional materials." (Page 4, lines 8-17).

Given the breadth of this provision, the Department anticipates that it will be difficult for IEP teams to accurately identify individual documents or categories of documents beyond textbooks and core materials to be listed in an IEP as required by this bill. An IEP is intended to be applicable for a year, and must be reviewed at least annually. See 20 U.S.C. § 1414(d). It also should contain, among other things, a listing of the special education and related services to be provided to the student. There are no provisions in the Individuals with Disabilities Education Act (IDEA) or NIMAS that require the identification of either broad categories of printed materials or individually identified printed materials in a student's IEP. If a student requires printed materials in accessible formats, then the usual practice under the IDEA is to identify the specific format, service, and assistive technology, rather than a specific document, in the IEP. If items listed in an IEP are not provided to a student, it could result in claims of denial of a free and appropriate public education, which could potentially result in non-compliance with the IDEA.

Therefore, the Department respectfully recommends that new subsection (g)(2)(A) of section 302A-442.5, HRS, at page 8, line 15, through page 9, line 10, be revised to require that the IEP for an eligible student identify the "print instructional materials to be used by the students without disabilities."

Thank you for the opportunity to comment on this measure.



STATE OF HAWAII  
DEPARTMENT OF EDUCATION  
KA 'OIHANA HO'ONA'AUAO  
P.O. BOX 2360  
HONOLULU, HAWAII 96804

**Date:** 04/06/2023

**Time:** 10:00 AM

**Location:** CR 211 & Videoconference

**Committee:** Senate Ways and Means

**Department:** Education

**Person Testifying:** Keith T. Hayashi, Superintendent of Education

**Title of Bill:** HB 0388, HD1, SD1 RELATING TO EDUCATION.

**Purpose of Bill:** Adopts the National Instructional Materials Accessibility Standard. Requires the Department of Education to obtain instructional materials in accessible formats for eligible students. Effective 7/1/3000. (SD1)

**Department's Position:**

The Hawaii State Department of Education (Department) supports HB 388, HD1, SD1 related to the Department obtaining instructional materials in accessible formats for eligible students and appreciates the amendments made by the previous committee.

Providing appropriate instructional materials for all students, including accessibility to appropriate instructional materials for students with disabilities is a high priority of the Department.

The Department has adopted the National Instructional Materials Accessibility Standard (NIMAS) and coordinates with National Instructional Materials Access Center (NIMAC) to provide accessible instructional materials for students with Individualized Education Programs (IEP).

Currently, schools work with their District Resource Teacher of the Visually Impaired to receive the needed materials in accessible formats whether it is large print, Braille, tactile maps, or graphs etc. For all other accessible materials such as articles, handouts, posters, etc., the Resource Teachers of the Visually Impaired will produce the materials.

The Department has created guidance with a Curriculum Management System and Instructional Materials Approval Process. This process is for the Department's State reviews, Complex Area reviews, and school reviews of high-quality instructional materials. The materials review criteria include equity and civil rights expectations during the materials review or purchase consideration, including whether the needs of students with disabilities are addressed. All instructional materials must comply with federal, state, Hawaii State Board of Education, and Department rules, policies, and laws, which strictly prohibit any form of discrimination based upon a protected class. There are also additional criteria for digital materials. The Department is committed to ensuring all students have access to high quality instructional materials.

Thank you for the opportunity to provide testimony on HB 388, HD1, SD1.

Testimony of James Gashel  
Submitted for National Federation of the Blind of Hawaii  
Committee on Ways and Means (WAM)  
Hawaii State Senate  
Thirty-second Legislature, regular session of 2023  
April 6, 2023, 10:00 AM, hearing on HB388, H.D. 1, S.D. 1

Good morning chair, vice chair, and members. I am James Gashel, representing National Federation of the Blind (NFB) of Hawaii, proudly supporting HB388, H.D. 1, S.D. 1, on behalf of people with print disabilities and especially our blind and visually impaired keiki in elementary and secondary school. Thank you for considering this important bill.

HB388 is all about books, but it's actually about much more. Let's say equal access to learning. I think when you can see ok you just assume the books, handouts, and other things you need will just be made available when your teachers want you to read them; no real fuss, no struggle. These are just what everybody expects; nothing at all unusual.

Imagine if you were blind or couldn't see enough to read standard print. You would find that the normal expectations don't apply to you as they do to others. This is not as it should be. We need HB388, H.D. 1, S.D. 1, to become law to make changes.

Right now our state law has only one requirement about accessible instructional materials, which is far out of date. Changing the instructional materials law on behalf of people with print disabilities, especially our blind and visually impaired keiki, is long overdue. Making these changes will send an important message to the Department of Education, emphasizing that the legislature cares about access for these students. We know there are many in the Department of Education who do care too, but they really need your support.

Mahalo for considering HB388, H.D. 1, S.D. 1. Members of the NFB of Hawaii strongly support this bill and hope you will too. Everybody wins, there are absolutely no losers, when we share the value of equal access to learning.

**HB-388-SD-1**

Submitted on: 4/4/2023 11:06:39 PM

Testimony for WAM on 4/6/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Tabatha Mitchell	Testifying for National Organization of Parents of Blind Children Hawai'i Representative	Support	Written Testimony Only

Comments:

I am submitting testimony to express my extreme desire for support of HB388 SD1 and the amendments brought forward by the National Federation of the Blind and Senator Kidani's Education Committee.

I am a parent of a blind child and a representative of other parents throughout Hawai'i that are raising blind keiki. I know the despair and grief that parents experience when they receive a diagnosis that their baby will go blind or may have been born blind. Suddenly, everything you thought you knew about parenting simply doesn't apply. Every single thing is different.

It is my kuleana to serve and support all of these parents of blind kids and their families. I serve with the National Organization of Parents of Blind Children as the Hawai'i Representative. I support parents throughout all of our Hawaiian islands and their blind children and their families.

These keiki read & write with Braille. Their language is touch. Printed pages and posters throughout their classrooms are literally invisible to them. A printed hand-out is like a blank sheet of paper.

Parents can't leave their kids notes. Friends & family struggle to communicate and connect, because, quite frankly, they don't know how.

Ironically, it's not that hard. It's just a paradigm shift. Families & teachers simply need the right tools. These blind keiki just need things in their language of touch. They need training in blind

techniques, and they need non-visual tools and materials. And, they need their materials at the same time that everyone else in the class gets their materials.

My daughter, blind since birth, attended Kailua Intermediate School and is now a Jr at Kalaheo High School on the windward side. She took her ACT test yesterday in preparation for all of the extremely competitive college applications ahead of her next year. She took the ACT test in an accessible digital format with a laptop computer using a screenreader and a refreshable Braille display. She also had a paper Braille copy with raised line diagrams and drawings. Like every other Jr that took the test, she's eagerly anticipating her scores. Next up is her AP Biology exam.

My daughter's path to being an honor student that is on target for college has been fraught with challenges. Way more complicated than the life of her sighted siblings and her sighted peers.

My blind daughter has gone without text books and without materials in her language of touch way too often. Just this year, she didn't get her AP Biology book until 2nd semester. Classroom teachers need these kids to have their materials in their language of touch and they need them to have those materials at the same time that their sighted peers get their materials. Not days, weeks, or semesters later.

All too often the blind keiki are left out, and left behind simply because they don't have their materials in their language of touch. Every single day, parents of blind keiki throughout Hawai'i have to supplement or completely create & provide accessible instructional materials for their kids at home - just to be able to keep up with what is being taught in class. From posters on the classroom walls to quick handouts given out by substitutes in the classroom, the depth & breadth that parents of blind keiki have to provide at home through their own ingenuity & creativity is truly unbelievable.

When our blind daughter was learning to brush her own teeth as a toddler, we learned a crucial lesson in parenting a blind child... She was just as capable of doing the same things as her brother & sisters AS LONG AS and only if she could receive instruction "in her language". And her preferred language was clearly the language of touch, which meant she needed hands-on training with actual tools/materials very similar to on-the-job training.



As she grew older that meant Braille stickers on our light switches & bathtubs instead of printed words. We had to push for hands-on examples/materials & tactile diagrams in the classroom. Things she can touch. It is a necessity for these keiki. It is not a "nice to have" or "good to do". It is a crucial necessity.

It is how all of our keiki that are blind intake information and learn the skills necessary to be contributing members of our society.

My daughter that is blind will be going to college soon. I have this same desire for all of our blind keiki in Hawai'i. They are all perfectly capable. They just need their materials in their language - from birth on.

Parents and their blind keiki struggle to get the instructional materials that they need in their classrooms. Many blind students and their parents give up very early. They consistently do not get their materials on time or in a format they can use. Their keiki can't keep up. But more importantly, it breaks their spirit. Families, teachers, and blind kids begin to accept that it's ok for them to just sit there and "to just listen". They begin to accept that they are less than and that it's ok for them to not have their books and materials because it is "so hard". These excuses are not ok. Braille has been around since 1854.

Please move HB388 SD1 forward to help our blind keiki throughout Hawai'i. The old statute is woefully out of date and behind the times. Supporting HB388 SD1 and bringing our Hawai'i statute up to date will be a tremendous help for our classroom teachers and their blind students that just want to learn the same material as everyone else.

**HB-388-SD-1**

Submitted on: 4/5/2023 8:41:57 AM

Testimony for WAM on 4/6/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Stan Young	Testifying for Hawaii State Committee of Blind Vendors	Support	Written Testimony Only

Comments:

Since most educational materials are created and produced originally in the digital format, the digital or accessible materials are more readily available at a minimum cost, especially when compared to costs a few years ago. In fact, more and more education materials are being made available on digital formats and the internet. Some materials are only available in digital formats. Therefore, it is a small investment to provide educational materials to students, resulting in a positive educational experience and achievement, especially for those students who are blind, visually impaired, or who have reading disabilities such as dyslexia. Almost all states and the Federal government will be providing accessible materials, and Hawaii should be a leader in this area.

**HB-388-SD-1**

Submitted on: 4/4/2023 6:34:51 AM

Testimony for WAM on 4/6/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Ann Lemke	Individual	Support	Written Testimony Only

Comments:

Honorable WAM Committee Members,

I am a retired blind professional who worked in higher education for nearly 45 years. My career would not have been possible without a sound educational foundation.

The proposed legislation will ensure that our blind and visually-impaired children will receive their textbooks and instructional materials in a timely and complete manner in a form they can use.

I support the position set forth by members of the National Federation of the Blind of Hawaii.

**HB-388-SD-1**

Submitted on: 4/4/2023 6:42:31 PM

Testimony for WAM on 4/6/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Cards Pintor	Individual	Support	Written Testimony Only

Comments:

Aloha,

I support this bill.

Mahalo nui,

Cards Pintor

Brandon Young

4/4/2023

Committee on Ways and Means

Sen. Donovan Dela Cruz

Hearing on Decision Making for HB 388 HD1 SD1

Thursday, April 6, 2023

Dear Sen. Dela Cruz and other committee members,

My name is Brandon Young and I am a member of the National Federation of the Blind of Hawaii. I am writing in support of HB 388 HD1 SD1. I would urge you and your committee pass this bill as is. This bill would help many blind and visually impaired students here in our education system here in Hawaii.

The purpose of this bill is to do two very important things. The first is to make sure the law mandates that the Department of Education use technology that is current to make textbooks in to accessible formats. The current law was enacted back in 2004 and has not been updated since then. The technology that is referred is much out of date and the Department of Education does not use this technology anymore. The other prong of the bill would to get books in alternate formats for blind and visually students in a timely manner. Currently, blind and visually impaired students have to wait several months to get their textbooks in braille. This is costly time that is lost in the education of a gifted blind child. We would hope that the passage of this law would help in shortening this long waiting time for our blind and visually impaired children here in Hawaii.

I want to again stress the importance of this bill. I want to thank you and your committee for taking the time to decide on the passage of this bill. The passage of this bill will only create more opportunities for blind and visually impaired children in our educational system. I am sure if you had a child in this situation, that you would want this issue to be resolved as soon as possible. Again, I want to thank you for your time and I hope you have a wonderful day.

**HB-388-SD-1**

Submitted on: 4/4/2023 8:47:55 PM

Testimony for WAM on 4/6/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Erie	Individual	Support	Written Testimony Only

Comments:

Hello I hope this testimonial finds you well. I adamantly stand in support of HB 388. Over the years I have worked with countless blind children and they have taught me that they are just as capable and competent as their sighted counterparts as long as they have accessible materials. I would also like to kindly ask that the committee please moves forward HB388 SD1 and adopt the amendments and position presented by the National Federation of the Blind, for who better knows what's accessible to the blind other than the blind themselves? Thank you so much for doing your part in helping build a better community for all to be productive and contributing members.

Testimony of Hoku Burrows

Committee on Ways and Means (WAM)

Hawaii State Senate

Thirty-second Legislature, regular session of 2023

April 6, 2023, 10:00 AM, hearing on HB388, H.D. 1, S.D. 1

Good morning chair, vice chair, and members. I am Hoku Burrows, proudly supporting HB388 H.D. 1, S.D. 1. Mahalo for holding this hearing.

Why would we consider leaving in place old barriers for any child's education, due to out-of-date laws limiting our blind and low vision keiki. Give our children the best we can. It is a simple answer to give our keiki what format they need for their highest opportunity of learning.

I stand in strong support of the testimony submitted by the National Federation of the Blind of Hawai'i.

Mahalo nui loa for your consideration and yes vote today regarding HB388 H.D. 1, S.D. 1 and our blind and low vision Keiki.

Testimony of Virgil Stinnett

Committee on Ways and Means (WAM)

Hawaii State Senate

Thirty-second Legislature, regular session of 2023

April 6, 2023, 10:00 AM, hearing on HB388, H.D. 1, S.D. 1

Good morning chair, vice chair, and members. My name is Virgil Stinnett, a blind businessman and president of the National Federation of the blind of Hawai'i, proudly supporting HB388 H.D. 1, S.D. 1. Mahalo for holding this hearing.

I stand in strong support of the testimony submitted by the NFB of Hawai'i.

Mahalo for your time and serious consideration to pass HB388 H.D. 1, S.D. 1 into law.

Virgil Stinnett, President NFB of Hawai'i



Testimony of Katie Keim

Committee on Ways and Means (WAM)

Hawaii State Senate

Thirty-second Legislature, regular session of 2023

April 6, 2023, 10:00 AM, hearing on HB388, H.D. 1, S.D. 1

Good morning chair, vice chair, and members. My name is Katie Keim, a blind professional and leader in the National Federation of the Blind of Hawai'i. I am in strong support of HB388 H.D. 1, S.D. 1.

Mahalo for taking the time to hear my testimony and seriously consider supporting this important bill. I stand in support of the testimony submitted by the NFB of Hawai'i.

I am proud of the achievements of many of our blind and low vision Keiki, yet very familiar with what they and their parents must undergo to attain their basic education, let alone if they have the desire to strive for advanced education. Often it is a battle to get needed educational material on time and in accessible formats that enable them to be equals with their sighted peers, stay on track with assignments and graduate with their classmates. Why should we expect them to give up and let frustration take hold due to the lack of timely accessible material, when it could be part of their regular curriculum? By passing HB388 H.D. 1, S.D. 1 could become the regulation supporting this process and is critical to our blind and low vision keiki's education. When they receive their material at the same time as their peers in the format they need to complete their assignments, it leads to their ability to dream and strive for their highest learning and development, ultimately good paying jobs.

Mahalo for considering and passing HB388 H.D. 1, S. D. 1.

**HB-388-SD-1**

Submitted on: 4/5/2023 8:28:46 AM

Testimony for WAM on 4/6/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Emerie Mitchell-Butler	Individual	Support	Written Testimony Only

Comments:

Good morning chair, vice chair, and members. I am Emerie Mitchell-Butler, testifying in support of HB388\_SD1. I am a blind student at Kalaheo High School and a member of the National Federation of the Blind of Hawaii. This bill, relating to accessible instructional materials, is extremely important and relevant to me.

As a sighted person taking a high school class, you would enter the class and receive all materials in the format that you can read. You'll even get the textbook you'll use all year on the first day of class. But I am not sighted. I am a blind junior at Kalaheo High School, and this year, I decided to take Advanced Placement Biology, as many others at my school have done. I arrived in class the first day of school; the other students got their print volumes, but I got nothing. In AP Biology, specifically, my peers read many chapters which were all supplemented by diagrams, charts, and graphs. I did not receive my book until January 2023, just four months before the AP exam is scheduled (May 10th, 2023). My peers will have had over nine months to prepare using their textbook, while I will only have four months. This is not only a question of my right to learn along with my peers, but also a question of dollars and cents. My inability to pass the AP Exam could cost me hundreds of dollars I could have otherwise saved.

In addition to AP Biology, I also didn't get my trigonometry / analytic geometry book until second semester. Furthermore, over my high school career, I never received a textbook for chemistry, physics, or Spanish, among others. I also didn't get my textbook in braille for AP World History. I only got an electronic version, which did not have any tactile maps that would have made learning the geography portion of the curriculum much easier. These shortcomings are not the fault of any one person, and the reasons are varied. Rather, this is a symptom of a broken system which this bill aims to help remedy.

The current law in Hawaii is outdated. It requires textbook publishers to provide an electronic file on an ASCII disk to the school system so the textbooks can be produced. Just as ASCII disks are obsolete, the current law is obsolete. There is a system in place in which the school system requires the publisher to provide a current electronic file to the American Printing House for the Blind. Our state does use this system. Regardless of that, our state law has never been updated to repeal the computer ascii disk requirement and adopt the National Instructional Materials standard as made a state option under the federal Individuals with Disabilities Improvement Act of 2004. Something is wrong with the current law. It needs to be changed to get our students with print disabilities the instructional materials they need to be successful in the classroom. This is the point of HB388.

In order to succeed in AP Biology, I have had to rely on my teacher to describe diagrams and explain visual concepts in a way that I can understand them. She has done a stellar job of this. However, that isn't supposed to be her responsibility, and it puts a strain on an already incredibly busy person. To pass this bill is to support the success of students and educators alike. When print disabled students have what they need to succeed, everyone involved is less stressed.

Also consider the success of me and other students. If we are well educated with all the materials we need, I think we'll be more likely to be productive members of the workforce when we grow up. Many of the classes I didn't receive materials for, received materials late, or had to fight very hard for materials, are classes that are required or highly recommended for college admission. While higher education isn't the path for everyone, it generally increases wages over a person's life, and makes it easier for them to get a job they want.

Thank you for considering this bill. There is no reason HB388 shouldn't be passed, as it benefits everyone. I ask that you please support passage of this bill. This isn't for me, as my time in the K-12 education system is almost over. This is for all the blind students and all the print disabled students who will come behind me. I know how hard it is to believe STEM subjects are beyond your reach because you don't know if you'll get your textbook, don't know if you'll get the information, and don't know if you'll have the technology skills necessary for the class. Blind and otherwise print disabled students, as much as every other student, deserve the same freedom and security of mind to choose the classes they really want to take. Thank you for considering the passage of this bill.

Emerie Mitchell-Butler

Testimony of Donald Sakamoto  
Committee on Ways and Means (WAM)  
Hawaii State Senate  
Thirty-second Legislature, regular session of 2023  
April 6, 2023, 10:00 AM, hearing on HB388, H.D. 1, S.D. 1

Good morning chair, vice chair, and members. I am Donald Sakamoto , a member of the National Federation of the Blind (NFB) of Hawaii, in full support of HB388 H.D. 1, S.D. 1 especially, for those individuals with print disabilities and our blind and visually impaired.

The bill truly allows a chance for all individuals, such as are children who are blind or visually impaired in our schools to access the same printed materials such as books, handouts, and other things equally with ease as the same with their sighted classmates.

In July 1990 The Americans with Disabilities Act (ADA) was passed by both bipartisan parties of the U. S. House and Senate and was signed into law on July 26, 1990 some 32 years ago by our President and in which the law requires effective equal access of printed materials with all individuals who have disabilities, including blind and visually impaired. .

The time is for our state to prepare now in having these materials available in place now. Famous “by failing to prepare, you are preparing to fail” by Benjamin Franklin. Mahalo and I truly urge you all to prepare and please do the right thing and “Go For Broke” and support to move this bill forward into law.