
A BILL FOR AN ACT

RELATING TO EDUCATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that books and other
2 instructional materials are needed in alternate accessible
3 formats for use by elementary and secondary school students who
4 are unable to use print as their primary learning media. The
5 federal Individuals with Disabilities Education Improvement Act
6 of 2004, P.L. 108-446, made important changes to the law,
7 including the establishment of the National Instructional
8 Materials Accessibility Standard and the National Instructional
9 Materials Access Center, which serves as a central repository
10 for files formatted in accordance with the National
11 Instructional Materials Accessibility Standard and as a conduit
12 for the distribution of those files to schools.

13 The legislature further finds that existing state law
14 pertaining to instructional materials for exceptional children
15 directs publishers to meet requirements that are now out of
16 date and undesirable due to advances in technology. Thus, a
17 revision is necessary to harmonize existing state law with the



1 existing federal law and practice, including technological
2 advancements that make more instructional materials available in
3 appropriate accessible formats.

4 Accordingly, the purpose of this Act is to:

5 (1) Provide for the timely availability of accessible
6 instructional materials and technology for eligible
7 students; and

8 (2) Assure that such materials are distributed to eligible
9 students in accordance with the federal Individuals
10 with Disabilities Education Act, as amended, and the
11 federal Copyright Act of 1976, as amended.

12 SECTION 2. Section 302A-442.5, Hawaii Revised Statutes, is
13 amended to read as follows:

14 **"§302A-442.5 Instructional materials; exceptional**
15 **children.** (a) Whenever used in this section, unless a
16 different meaning clearly appears from the context:

17 "Accessible format" has the same meaning as in section
18 121(d)(1) of the federal Copyright Act of 1976 (17 U.S.C.
19 121(d)(1)), as amended.

20 "Accessible instructional materials" means print
21 instructional materials provided to eligible students in the



1 accessible format most appropriate to the needs of each eligible
2 student.

3 "Assistive technology device" has the same meaning as in
4 section 602(1) of the federal Individuals with Disabilities
5 Education Act (20 U.S.C. 1401(1)), as amended.

6 "Assistive technology service" has the same meaning as in
7 section 602(2) of the federal Individuals with Disabilities
8 Education Act (20 U.S.C. 1401(2)), as amended.

9 "Braille" means the system of reading and writing through
10 touch commonly known as standard English braille.

11 "Eligible student" means an elementary or secondary school
12 student who:

13 (1) Is eligible for services under the federal Individuals
14 with Disabilities Education Act, as amended;

15 (2) Is approved as an eligible person, as defined in
16 section 121(d)(3) of the federal Copyright Act of 1976
17 (17 U.S.C. 121(d)(3)), as amended; and

18 (3) Attends a department school, a private school under
19 chapter 302C, a public charter school under chapter
20 302D, or an approved alternative education program
21 under section 302A-1132(a)(5).



1 "National Instructional Materials Access Center" means the
2 center established pursuant to section 674(e) of the federal
3 Individuals with Disabilities Education Act (20 U.S.C. 1474(e)),
4 as amended.

5 "National Instructional Materials Accessibility Standard"
6 has the same meaning as in section 674(e) (3) (B) of the federal
7 Individuals with Disabilities Education Act (20 U.S.C.
8 1474(e) (3) (B)), as amended.

9 "Print instructional materials" includes but is not limited
10 to textbooks, articles, handouts, posters, bulletin boards,
11 maps, charts, graphics, audio-visual presentations, digital
12 instructional materials, and all other printed materials
13 available to students in elementary and secondary classrooms.

14 "Technology mediated instruction" means learning that is
15 aided or entirely accomplished through the use of computer-based
16 technology.

17 ~~(b) [All publishers of textbooks and instructional~~
18 ~~materials sold to the State or any public school shall furnish~~
19 ~~computer diskettes for literary subjects in the American~~
20 ~~Standard Code for Information Interchange from which braille~~
21 ~~versions can be produced. Publishers shall also furnish~~



1 ~~computer diskettes in American Standard Code for Information~~
2 ~~Interchange for nonliterary subjects including natural sciences,~~
3 ~~computer science, mathematics, and music when braille specialty~~
4 ~~code translation software is available.] In accordance with~~
5 ~~section 612(a)(23) of the federal Individuals with Disabilities~~
6 ~~Education Act (20 U.S.C. 1412(a)(23)), as amended, the State~~
7 ~~adopts the United States Secretary of Education's National~~
8 ~~Instructional Materials Accessibility Standard as in effect on~~
9 ~~the effective date of this Act and as may be subsequently~~
10 ~~revised. The department shall coordinate with the National~~
11 ~~Instructional Materials Access Center to obtain the benefits of~~
12 ~~this service.~~

13 (c) ~~[This section shall not apply to publishers of~~
14 ~~textbooks and instructional materials written in the Hawaiian~~
15 ~~language.] The department, as part of any print instructional~~
16 ~~materials adoption process, procurement contract, or other~~
17 ~~practice or instrument used for purchase of print instructional~~
18 ~~materials, including digital materials, shall:~~

19 (1) Obtain instructional materials from the publisher or
20 other source that are in, or can be rendered in, the



1 appropriate accessible format for the eligible student
2 using the instructional material; or
3 (2) If the needed instructional materials cannot be
4 obtained in the eligible student's appropriate
5 accessible format, the department shall enter into a
6 written contract with the publisher of the print
7 instructional materials to require the publisher to
8 prepare and, on or before delivery of the print
9 instructional materials, provide to the National
10 Instructional Materials Access Center electronic files
11 containing the contents of the print instructional
12 materials using the National Instructional Materials
13 Accessibility Standard.
14 (d) The department shall obtain accessible instructional
15 materials for eligible students attending any department school
16 and, to the maximum extent allowed, assist any private school
17 under chapter 302C, public charter school under chapter 302D, or
18 eligible student enrolled in an approved alternative education
19 program pursuant to section 302A-1132(a)(5), to obtain
20 instructional materials in accessible formats when the
21 department receives a request from the school or program;



1 provided that the department shall not be liable for the expense
2 of any instructional materials obtained other than the expense
3 for instructional materials obtained for eligible students
4 attending department schools.

5 (e) Each eligible student shall receive accessible
6 instruction materials without regard to whether the accessible
7 instructional materials have been purchased in accordance with
8 subsection (c). Eligible students shall receive accessible
9 instructional materials at the same time the corresponding print
10 instructional materials are provided to all other students in
11 the classroom, including any assistive technology device and
12 assistive technology service to be provided in advance and
13 needed for the eligible student to use the accessible
14 instructional materials.

15 (f) Technology shall be provided to each eligible student
16 receiving technology mediated instruction, including any
17 assistive technology device and assistive technology service
18 needed for the technology to be accessible to and usable by the
19 eligible student.

20 (g) The individualized education program for an eligible
21 student shall:



- 1 (1) Contain information sufficient to document approval of
2 the student as an eligible person, as defined in
3 section 121(d) (3) of the federal Copyright Act of 1976
4 (17 U.S.C. 121(d) (3)), as amended;
- 5 (2) Identify:
- 6 (A) The print instruction materials to be used by the
7 students without disabilities;
- 8 (B) All accessible formats of the instructional
9 materials; and
- 10 (C) The services and instruction to be provided to
11 convert the print instructional materials into
12 accessible instructional materials and enable the
13 eligible student to use the instructional
14 materials in one or more accessible formats
15 usable by the eligible student;
- 16 (3) If the eligible student is blind and receiving
17 instruction in braille or the use of braille, ensure
18 that instructional materials are provided in braille
19 and may be used by the eligible student in addition to
20 other accessible formats available;



- 1 (4) List any assistive technology device and assistive
2 technology service needed for the eligible student to
3 use accessible instructional materials and technology
4 mediated instruction, including timely and appropriate
5 instruction to enable the eligible student to use the
6 technology to access age-appropriate content
7 independently;
- 8 (5) Ensure that any assistive technology device or
9 assistive technology service used for accessible
10 instructional materials is available for use by the
11 eligible student in school, at home, and in other
12 settings to the same extent that print instructional
13 materials are available to other students; and
- 14 (6) Identify and provide technology to be used by an
15 eligible student when receiving technology mediated
16 instruction, including any assistive technology device
17 and assistive technology service needed for the
18 technology to be accessible to and usable by the
19 eligible student."

20 SECTION 3. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

A handwritten signature in black ink, consisting of several fluid, overlapping strokes, is written over a horizontal line.

JAN 20 2023



H.B. NO. 388

Report Title:

Education; DOE; National Instructional Materials Accessibility Standard

Description:

Adopts the National Instructional Materials Accessibility Standard. Requires the department of education to obtain instructional materials in accessible formats for eligible students.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

