
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15 directs publishers to meet requirements that are now out of date
16 and undesirable due to advances in technology. Thus, a revision
17 is necessary to harmonize existing state law with the existing



1 federal law and practice, including technological advancements
2 that make more instructional materials available in appropriate
3 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) Ensure 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" means printed textbooks and
10 related printed core materials that are written and published
11 primarily for use in elementary school and secondary school
12 instruction by students in the classroom.

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

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



1 ~~Interchange for nonliterary subjects including natural sciences,~~
2 ~~computer science, mathematics, and music when braille specialty~~
3 ~~code translation software is available.]~~ In accordance with
4 section 612(a)(23) of the federal Individuals with Disabilities
5 Education Act (20 U.S.C. 1412(a)(23)), as amended, the State
6 adopts the United States Secretary of Education's National
7 Instructional Materials Accessibility Standard as in effect on
8 the effective date of Act , Session Laws of Hawaii 2023, and
9 as may be subsequently revised. The department shall coordinate
10 with the National Instructional Materials Access Center to
11 obtain the benefits of this service.

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

18 (1) Obtain instructional materials from the publisher or
19 other source that are in, or can be rendered in, the
20 appropriate accessible format for the eligible student
21 using the instructional material; or



1 (2) If the needed instructional materials cannot be
2 obtained in the eligible student's appropriate
3 accessible format, the department shall enter into a
4 written contract with the publisher of the print
5 instructional materials to require the publisher to
6 prepare and, on or before delivery of the print
7 instructional materials, provide to the National
8 Instructional Materials Access Center electronic files
9 containing the contents of the print instructional
10 materials using the National Instructional Materials
11 Accessibility Standard.

12 (d) The department shall obtain accessible instructional
13 materials for eligible students attending any department school
14 and, to the maximum extent allowed, assist any private school
15 under chapter 302C, public charter school under chapter 302D, or
16 eligible student enrolled in an approved alternative education
17 program pursuant to section 302A-1132(a)(5), to obtain
18 instructional materials in accessible formats when the
19 department receives a request from the school or program;
20 provided that the department shall not be liable for the expense
21 of any instructional materials obtained other than the expense



1 for instructional materials obtained for eligible students
2 attending department schools.

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

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

18 (g) The individualized education program for an eligible
19 student shall:

20 (1) Contain information sufficient to document approval of
21 the student as an eligible person, as defined in



1 section 121(d)(3) of the federal Copyright Act of 1976
2 (17 U.S.C. 121(d)(3)), as amended;

3 (2) Identify:

4 (A) The print instruction materials to be used by the
5 students without disabilities;

6 (B) All accessible formats of the instructional
7 materials; and

8 (C) The services and instruction to be provided to
9 convert the print instructional materials into
10 accessible instructional materials and enable the
11 eligible student to use the instructional
12 materials in one or more accessible formats
13 usable by the eligible student;

14 (3) If the eligible student is blind and receiving
15 instruction in braille or the use of braille, ensure
16 that instructional materials are provided in braille
17 and may be used by the eligible student in addition to
18 other accessible formats available;

19 (4) List any assistive technology device and assistive
20 technology service needed for the eligible student to
21 use accessible instructional materials and technology



1 mediated instruction, including timely and appropriate
2 instruction to enable the eligible student to use the
3 technology to access age-appropriate content
4 independently;

5 (5) Ensure that any assistive technology device or
6 assistive technology service used for accessible
7 instructional materials is available for use by the
8 eligible student in school, at home, and in other
9 settings to the same extent that print instructional
10 materials are available to other students; and

11 (6) Identify and provide technology to be used by an
12 eligible student when receiving technology mediated
13 instruction, including any assistive technology device
14 and assistive technology service needed for the
15 technology to be accessible to and usable by the
16 eligible student."

17 SECTION 3. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 4. This Act shall take effect on July 1, 3000.



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. Effective 7/1/3000. (HD1)

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