

JAN 18 2023

A BILL FOR AN ACT

RELATING TO INSTRUCTIONAL MATERIALS.

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 traditional formats as their primary learning
5 medium. Enacted in 2004, the Individuals with Disabilities
6 Education Improvement Act established a National Instructional
7 Materials Accessibility Standard and a National Instructional
8 Materials Access Center that receives electronic files from
9 publishers and provides the files to schools in a uniform
10 national format.

11 The legislature further finds that existing state law
12 pertaining to instructional materials directs publishers to meet
13 requirements that are now obsolete due to advancements in
14 technology and are inconsistent with the Individuals with
15 Disabilities Education Act to provide eligible students with
16 appropriate, accessible instructional materials crucial to
17 student progress and success. Therefore, revisions to current



1 practices are needed to conform the State to the Individuals
2 with Disabilities Education Act, including the expansion of
3 instructional materials in accessible formats and advancement of
4 current technology available for eligible students.

5 Accordingly, the purpose of this Act is to:

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

9 (2) Provide for the distribution of accessible materials
10 to eligible students in accordance with the
11 Individuals with Disabilities Education Act and the
12 Copyright Act of 1976.

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

15 "~~§302A-442.5 Instructional materials; [exceptional~~
16 ~~children.] accessible format; eligible students.~~ (a) Whenever
17 used in this section, unless a different meaning clearly appears
18 from the context:

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



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

4 "Assistive technology service" has the same meaning as in
5 the Individuals with Disabilities Education Act, 20 U.S.C.
6 section 1401(2)(A) through (F), as amended.

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

9 "Eligible student" means a student approved as an "eligible
10 person" as defined in the Copyright Act, 17 U.S.C. section
11 121(d)(3), as amended, attending an elementary or secondary
12 school, including:

13 (1) A public school;

14 (2) A private school;

15 (3) A public charter school as defined in section 302D-1;

16 or

17 (4) An approved alternative education program under
18 section 302A-1132(a)(5).

19 "National Instructional Materials Access Center" means the
20 center established pursuant to the Individuals with Disabilities
21 Education Act, 20 U.S.C. section 1474(e), as amended.



1 "National Instructional Materials Accessibility Standard"
2 has the same meaning as in the Individuals with Disabilities
3 Education Act, 20 U.S.C. section 1474(e)(3)(B), as amended.

4 "Print instructional materials" means printed textbooks and
5 related printed core materials that are written and published
6 primarily for use in elementary and secondary school instruction
7 and are required by the department for use by students in the
8 classroom, including:

9 (1) Digital instructional materials obtained in an
10 appropriate accessible format for an eligible student;

11 or

12 (2) Materials that can be provided by the National
13 Instructional Materials Access Center in valid
14 National Instructional Materials Accessibility format.

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

18 (b) In accordance with the Individuals with Disabilities
19 Education Act, 20 U.S.C. section 1412(a)(23), the department
20 shall adopt the National Instructional Materials Accessibility
21 Standard for the purposes of providing instructional materials



1 to eligible students in a timely manner, and the department
2 shall coordinate with the National Instructional Materials
3 Access Center to obtain appropriate instructional materials.

4 (c) The department, as part of any print instructional
5 materials adoption process, procurement contract, or other
6 practice or instrument used for the purchase of print
7 instructional materials, including digital materials, shall:

8 (1) Obtain instructional materials from the publisher or
9 other source that are formatted in, or can be rendered
10 in, an appropriate accessible format for the eligible
11 student using the material; or

12 (2) Enter into a written contract with the publisher of
13 the print instructional materials to require the
14 publisher to prepare and, on or before the delivery of
15 the print instructional materials, provide to the
16 National Instructional Materials Access Center
17 electronic files containing the contents of the print
18 instructional materials using the National
19 Instructional Materials Accessibility Standard if
20 instructional materials are not formatted in, or can
21 be rendered in, appropriate accessible format.



1 (d) In carrying out this section, the department shall
2 obtain instructional materials in accessible formats for
3 eligible students attending any public school and, to the
4 maximum extent allowed, assist any private school or public
5 charter school, or for any eligible student enrolled in an
6 approved alternative education program pursuant to section
7 302A-1132(a)(5), to obtain instructional materials in accessible
8 formats when the department receives a request from the school
9 or program; provided that the department shall not be liable for
10 the expense of any materials obtained other than the expense for
11 materials obtained for students attending public schools.

12 (e) Each eligible student shall receive instructional
13 materials in an accessible format most appropriate to the
14 content of the material and the student's needs. The material,
15 including any assistive technology device and assistive
16 technology service to be provided in advance and needed for the
17 student to use the material, shall be provided to the student at
18 the same time the print instructional materials are provided to
19 all other students.

20 (f) Technology shall be provided to each eligible student
21 receiving technology mediated instruction, including any



1 assistive technology device and assistive technology service
2 needed for the technology to be accessible to and usable by the
3 student.

4 (g) The individualized education program for an eligible
5 student shall:

6 (1) Contain information to document approval of the
7 student as an "eligible person" as defined in the
8 Copyright Act, 17 U.S.C. section 121(d)(3), as
9 amended;

10 (2) Identify:

11 (A) The print instructional materials to be used by
12 the students without disabilities to achieve
13 grade level progress, including but not limited
14 to posters, bulletin boards, and audiovisual
15 presentations;

16 (B) All accessible formats of the materials; and

17 (C) The instruction to be provided to enable the
18 eligible student to achieve grade level progress
19 using instructional materials in one or more
20 formats accessible to and usable by the eligible
21 student;



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



1 instruction, including any assistive technology device
 2 and assistive technology service needed for the
 3 technology to be accessible to and usable by the
 4 eligible student.

5 ~~[(b) All publishers of textbooks and instructional~~
 6 ~~materials sold to the State or any public school shall furnish~~
 7 ~~computer diskettes for literary subjects in the American~~
 8 ~~Standard Code for Information Interchange from which braille~~
 9 ~~versions can be produced. Publishers shall also furnish~~
 10 ~~computer diskettes in American Standard Code for Information~~
 11 ~~Interchange for nonliterary subjects including natural sciences,~~
 12 ~~computer science, mathematics, and music when braille specialty~~
 13 ~~code translation software is available.~~

14 ~~(e)]~~ (h) This section shall not apply to publishers of
 15 textbooks and instructional materials written in the Hawaiian
 16 language."

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 upon its approval.

20

INTRODUCED BY: Michelle N. Tedeni



Report Title:

Instructional Materials; Assistive Technology; Eligible Students; Technology Mediated Instruction; National Instructional Materials Accessibility Standard

Description:

Adopts the National Instructional Materials Accessibility Standard for use by the Department of Education in preparation of instructional materials for eligible students. Defines "eligible student" in accordance with the Individuals with Disabilities Education Act and the Copyright Act. Requires the Department of Education to obtain instructional materials in accessible formats whenever available from the publisher or the National Instructional Materials Access Center when materials are not available from the publisher in the appropriate, accessible format needed by an eligible student. Requires instructional materials to be sufficient for grade level progress by eligible students. Requires the Department of Education to provide assistive technology devices and services for eligible students. Repeals requirements for publishers to provide computer diskettes conforming to American Standard Code for Information Interchange.

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