

JAN 20 2023

A BILL FOR AN ACT

RELATING TO ACCESS TO INSTRUCTIONAL MATERIALS.

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

1 SECTION 1. The legislature finds that there is a need for
2 textbooks and other instructional materials to be made available
3 in accessible formats for use by elementary and secondary school
4 students who are unable to use print material as their primary
5 learning media.

6 The legislature further finds that the Individuals with
7 Disabilities Education Improvement Act of 2004, P.L. 108-446,
8 made important amendments to existing federal law, including the
9 Individuals with Disabilities Education Act and United States
10 copyright law, with amendments to the former, including the
11 establishment of a National Instructional Materials
12 Accessibility Standard (NIMAS) designed to facilitate timely
13 access to alternate formats of print instructional materials for
14 students with visual impairments or other print disabilities;
15 and the establishment of the National Instructional Materials
16 Access Center, a federally funded national online repository of
17 K-12 instructional materials in NIMAS source-file format that



1 may be utilized by its users to produce instructional materials
2 in alternative formats, including braille, large print, and
3 digital text.

4 The legislature also finds that existing state law requires
5 publishers who sell textbooks and instruction materials to the
6 State or any public school to furnish computer diskettes for
7 literary and certain nonliterary subjects in the American
8 Standard Code for Information Interchange, or ASCII, which is a
9 character encoding standard for electronic communication that is
10 now obsolete.

11 Accordingly, the purpose of this Act is to update existing
12 state law to ensure that eligible students who need
13 instructional materials in accessible formats receive them in a
14 timely manner in accordance with the Individuals with
15 Disabilities Education Act and United States copyright law, as
16 amended.

17 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is
18 amended by adding a new section to be appropriately designated
19 and to read as follows:

20 "§302A- Instructional materials; accessible format;
21 individualized education program. (a) The State adopts the



1 National Instructional Materials Accessibility Standard for the
2 purposes of providing instructional materials to eligible
3 students in a timely manner, pursuant to section 612(a)(23) of
4 the Individuals with Disabilities Education Act, codified at
5 title 20 United States Code section 1412(a)(23). The department
6 shall coordinate with the National Instructional Materials
7 Access Center to provide the required information thereto and
8 use the information and services made available thereby.

9 (b) The department, as part of any print instructional
10 materials adoption process, procurement contract, or other
11 practice or instrument used for purchase of print instructional
12 materials, shall:

13 (1) Require publishers of print instructional materials
14 sold to the State or to any public elementary school
15 or public secondary school in the State, to furnish
16 the department with the instructional materials
17 produced in or that may be rendered in accessible
18 formats, which are appropriate for use by eligible
19 students currently attending a public elementary
20 school or public secondary school and using the
21 instructional material; provided that the department



1 shall pay to the publisher the cost incurred by the
2 publisher in preparing the alternative formats; and
3 (2) If a publishers of print instructional materials sold
4 to the State or to any public elementary school or
5 public secondary school in the State cannot furnish
6 the department with the publisher's print
7 instructional materials in the alternative forms
8 required in paragraph (1), the department shall enter
9 into a written contract with the publisher to require
10 the publisher to prepare and, on or before delivery of
11 the print instructional materials, provide to the
12 National Instructional Materials Access Center
13 electronic files containing the contents of the print
14 instructional materials using the National
15 Instructional Materials Accessibility Standard.
16 (c) The department may, upon request from any elementary
17 school or secondary school that is not a public school or from
18 any alternative educational program, assist the school or
19 program in obtaining instructional materials produced in or that
20 may be rendered in accessible formats that are appropriate for
21 use by eligible students currently attending the school or



1 participating in the program; provided that the department shall
2 not pay for the cost of the instructional materials produced in
3 alternative formats.

4 (d) All elementary schools, secondary schools, and
5 alternative educational programs in the State shall, at the same
6 time print instructional materials are provided to other
7 students, provide each eligible student attending the school or
8 participating in the program with:

9 (1) Instructional materials in an accessible format that
10 is most appropriate to the content of the
11 instructional material and the needs of the eligible
12 student, as set forth in the eligible student's
13 individualized education program; and

14 (2) Any assistive technology device and assistive
15 technology service needed for the eligible student to
16 access and use the instructional materials in
17 accessible format.

18 (e) All elementary schools, secondary schools, and
19 alternative educational programs in the State shall provide each
20 eligible student attending the school or participating in
21 program who is receiving any technology mediated instruction,



1 with technology, including any assistive technology device and
2 assistive technology service, needed to access and receive the
3 instruction.

4 (f) The individualized education program for an eligible
5 student attending an elementary school or secondary school in
6 the State or an eligible student participating in an alternative
7 educational program in the State shall:

8 (1) Include information sufficient to document approval of
9 the student as an "eligible person" as defined in
10 section 121(d)(3) of the United States copyright law,
11 codified at title 17 United States Code section
12 121(d)(3));

13 (2) Identify:

14 (A) The print instructional materials to be used by
15 students without disabilities to achieve grade
16 level progress, including posters, bulletin
17 boards, and audiovisual presentations;

18 (B) All accessible formats of the instructional
19 materials identified under subparagraph (B); and

20 (C) Instructions to be provided to enable the
21 eligible student to achieve grade level progress



1 using instructional materials in one or more
2 formats accessible to and usable by the eligible
3 student;

- 4 (3) If the eligible student is blind and is receiving
5 instruction in braille or uses braille, require
6 instructional materials to be provided in braille,
7 which may be used by the eligible student in addition
8 to other accessible formats available;
- 9 (4) Identify all assistive technology devices and
10 assistive technology services needed for the eligible
11 student to use instructional materials and receive
12 technology mediated instructions in accessible
13 formats, and require timely and appropriate
14 instructions to be provided to the eligible student to
15 allow the use of the technology to access age-
16 appropriate content independently;
- 17 (5) Identify technology to be used by the eligible student
18 to receive technology mediated instructions, including
19 any assistive technology device and assistive
20 technology service, needed for the technology to be
21 accessible to and usable by the eligible student; and



1 (6) Ensure that any assistive technology device and
2 assistive technology service used for instructional
3 materials in accessible formats is available for use
4 by the eligible student in school, at home, and in
5 other settings to the same extent that print
6 instructional materials are available to other
7 students.

8 (g) The department shall adopt rules in accordance with
9 chapter 91 to implement this section.

10 (h) As used in this section, unless the context clearly
11 indicates otherwise:

12 "Accessible format" means the same as defined in section
13 121(d) of the United States copyright law, codified at title 17
14 United States Code section 121(d).

15 "Alternative educational program" means an alternative
16 educational program that is approved by the superintendent or
17 the superintendent's authorized representative pursuant to
18 section 302A-1132(a)(5).

19 "Assistive technology device" means the same as defined in
20 section 602 of the Individuals with Disabilities Education Act,
21 codified at title 20 United States Code section 1401.



1 "Assistive technology service" means the same as defined in
2 section 602 of the Individuals with Disabilities Education Act,
3 codified at title 20 United States Code section 1401.

4 "Braille" means the system of reading and writing by touch,
5 commonly known as Unified English Braille.

6 "Eligible student" means a student who is:

7 (1) Attending any elementary school or secondary school in
8 the State, including:

9 (A) Any public elementary school or public secondary
10 school;

11 (B) Any private elementary school or private
12 secondary school that falls within the definition
13 of private school in section 302A-1132(d); and

14 (C) Any alternative education program;

15 (2) Eligible for services under the Individuals with
16 Disabilities Education Act; and

17 (3) Approved as an "eligible person", as defined in
18 section 121(d)(3) of the United States copyright law,
19 codified at title 17 United States Code section
20 121(d)(3).



1 "Individuals with Disabilities Education Act" means the
2 Individuals with Disabilities Education Act, P.L. 101-476, as
3 amended, codified at title 20 United States Code sections 1400
4 et seq.

5 "National Instructional Materials Access Center" means the
6 center established by the United States Secretary of Education
7 pursuant to title 20 United States Code section 1474(e)(1).

8 "National Instructional Materials Accessibility Standard"
9 means the standard to be used in the preparation of electronic
10 files suitable and used solely for efficient conversion into
11 specialized formats, established by the United States Secretary
12 of Education pursuant to title 20 United States Code section
13 1474(e)(3) and published as appendix C to title 34 Code of
14 Federal Regulations, part 300.

15 "Print instructional materials" means printed textbooks and
16 related printed core materials that are written and published
17 primarily for use in elementary and secondary school instruction
18 and are required by the department for use by students in the
19 classroom. "Print instructional materials" include digital and
20 electronic versions of the printed textbooks and related printed



1 core materials that are not in National Instructional Materials
2 Accessibility Standard format.

3 "Public elementary school" means any elementary school that
4 falls within the definition of public schools in section
5 302A-101, including public charter schools.

6 "Public secondary school" means any elemental school that
7 falls within the definition of public schools in section
8 302A-101, including public charter schools.

9 "Technology mediated instruction" means an instruction that
10 uses digital or computer-based technology to facilitate the
11 acquisition of knowledge by students."

12 SECTION 3. Section 302A-442.5, Hawaii Revised Statutes, is
13 repealed.

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

19 ~~(b) All publishers of textbooks and instructional~~
20 ~~materials sold to the State or any public school shall furnish~~
21 ~~computer diskettes for literary subjects in the American~~



1 ~~Standard Code for Information Interchange from which braille~~
2 ~~versions can be produced. Publishers shall also furnish~~
3 ~~computer diskettes in American Standard Code for Information~~
4 ~~Interchange for nonliterary subjects including natural sciences,~~
5 ~~computer science, mathematics, and music when braille specialty~~
6 ~~code translation software is available.~~

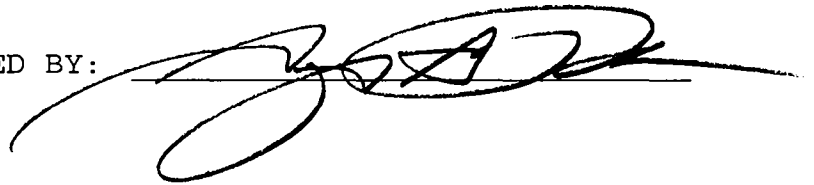
7 ~~(c) This section shall not apply to publishers of~~
8 ~~textbooks and instructional materials written in the Hawaiian~~
9 ~~language."]~~

10 SECTION 4. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 5. This Act shall take effect upon its approval.

13

INTRODUCED BY:

A large, stylized handwritten signature in black ink, written over a horizontal line. The signature is cursive and appears to be the name of the person who introduced the bill.

S.B. NO. 607

Report Title:

Deaf and Blind Task Force; Instructional Materials; National Instructional Materials Accessibility Standard; National Instructional Materials Access Center; Department of Education

Description:

Adopts the National Instructional Materials Accessibility Standard for the purposes of providing instructional materials to eligible students in a timely manner and requires the Department of Education to coordinate with the National Instructional Materials Access Center. Authorizes the Department to assist non-public elementary and secondary school and alternative educational program in obtaining accessible instructional materials. Requires all elementary schools, secondary schools, and alternative educational programs to provide eligible students with accessible instructional materials, assistive technology devices, and assistive technology services at the same time print instructional materials are provided to other students.

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

