

Module 8

NIMAS— National Instructional Materials Accessibility Standard

Written in Partnership
by:

Skip Stahl and Chuck Hitchcock
NIMAS Development and Technical
Assistance Centers

Bonnie D. Jones
Office of Special Education Programs
U.S. Department of Education

Theresa Rebhorn and Lisa Küpper
NICHCY



A Product of...

NICHCY, the National Dissemination Center for Children with Disabilities

PO Box 1492, Washington, DC 20013

1.800.695.0285 (V/TTY) • nichcy@aed.org • www.nichcy.org

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NICHCY is here for you.

This training curriculum is designed and produced by NICHCY, the National Dissemination Center for Children with Disabilities, at the request of our funder, the Office of Special Education Programs (OSEP) at the U.S. Department of Education.

We have a tremendous amount of information available on our Web site, in our library, and in the combined expertise of our staff. Please feel free to contact NICHCY for the latest information and connections in research and disabilities. We'd also love for you to visit our Web site and help yourself to all that's there.

Background and Discussion

This module is part of a training package on the 2004 Amendments to the Individuals with Disabilities Education Act (IDEA), developed by NICHCY for the Office of Special Education Programs at the U.S. Department of Education. The training curriculum is entitled *Building the Legacy*; this module is entitled *NIMAS—National Instructional Materials Accessibility Standard*.

NIMAS, Short and Sweet

NIMAS stands for—you'll never guess—the National Instructional Materials Accessibility Standard. Brand new in IDEA with the 2004 Amendments, NIMAS is designed to maximize access to the general education curriculum for blind or other print-disabled children through the timely provision of accessible instructional materials created from NIMAS source files.

Whoa, that's a mouthful! Timely provision... accessible instructional materials... NIMAS source files... Not to worry. All are terms that will soon flow off your tongue like you were born saying them. They also represent some of the key concepts discussed in this module.



New in
IDEA!

How This Discussion Section is Organized

As with the other modules in this curriculum, this discussion section is organized by PowerPoint® slides. A thumbnail picture of each slide is presented, along with brief instructions as to how the slide operates. This is followed by a discussion intended to provide trainers with background information about what's on the slide.

These trainer notes assume that information about NIMAS may be of interest to five main groups: State-level administrators, local-level administrators, assistive or instructional technology practitioners, regular or special education classroom personnel, and parents. Accordingly, trainer notes are provided to guide discussion targeted to each of these groups. Any or all of this information might be appropriate to share with one or more audiences, but that decision is left up to trainers.

In other modules, you've seen the "New in IDEA 2004" icon that periodically appears as an easy tool for identifying new aspects of the regulations.¹ But NIMAS is *all new*! So we won't be using our trusty "new" icon in this module except for here, in this introductory page.



New in
IDEA!

Pronunciation of NIMAS

So you're going to be talking about NIMAS. Guess it's important to know how NIMAS is being pronounced. Is it NIMAS (as in *nigh*-rhymes with *high*-muss) or is it NIMAS (as in *knee*-muss)?

It's NI as in *nigh*, rhymes with *high*. And buy, dye, lie, sty, my, tie, pie, guy. NIMAS. My-oh-my-nuss.

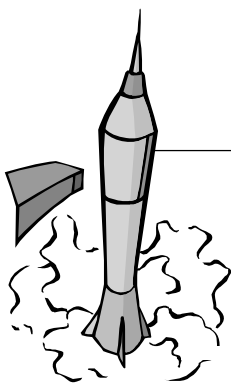
Files You'll Need for This Module

Module 8 includes the following components provided in separate files. If you need or want the entire module, be sure to download each of the components in either Word® or PDF format.



Trainer's Note

Throughout this training module, all references in the discussion section for a slide are provided at the *end* of that slide's discussion.



To launch the PowerPoint presentation, double-click the **PLAY.bat** file

- **Trainer's Guide Discussion.**

The discussion text (what you're reading right now) describes how the slides operate and explains the content of each slide, including relevant requirements of the statute signed into law by President George W. Bush in December 2004 and the final regulations for Part B published in August 2006.

The discussion is provided via three PDF files, with the equivalent content also available in one accessible Word file. Here are the files' full names and where to find them on NICHCY's Web site:

PDF of discussion for Slides 1-13
www.nichcy.org/training/8-discussionSlides1-13.pdf

PDF of discussion for Slides 14-27
www.nichcy.org/training/8-discussionSlides14-27.pdf

PDF of discussion for Slides 28-38
www.nichcy.org/training/8-discussionSlides28-end.pdf

The entire discussion in an accessible Word® file
www.nichcy.org/training/8-discussion.doc

- **Handouts in English.** The handouts for this module are provided within an integrated package of handouts for the entire umbrella topic of **Theme B, IDEA and General Education**, which includes six different modules. These handouts are available in both PDF and Word® files as follows:

PDF version of the Handouts.
www.nichcy.org/training/D-handouts.pdf

Word® version of the Handouts, for participants who need an accessible version of the handouts or if you'd like to create large-print or Braille versions:

www.nichcy.org/training/D-handouts.doc

- **PowerPoint® slide show.** NICHCY is pleased to provide a slide show (produced in PowerPoint) around which trainers can frame their presentations on NIMAS. Find this presentation at:
www.nichcy.org/training/8slideshow.zip

Important note: You do NOT need the PowerPoint® software to use these slide shows. It's set to display, regardless, because the PowerPoint Viewer® is included. You may be asked to agree to Viewer's

licensing terms when you first open the slideshow.

This Module in Time and Space

This module on NIMAS is the last module in a 6-module series called **IDEA and General Education, Theme B** in this training curriculum. (A synopsis of the curriculum, showing all the themes, is provided on the next page.) **Theme B** includes the following modules:

- *NCLB and IDEA*, currently on hold pending reauthorization of NCLB, will provide an overview of the No Child Left Behind (NCLB) Act and how many of IDEA 2004's new provisions have purposefully been aligned to NCLB.
- *Statewide and Districtwide Assessments*, also on hold pending reauthorization of NCLB, will take a closer look at IDEA 2004's provisions that require children with disabilities to participate in large scale assessment programs.
- *Disproportionality and Overrepresentation* focuses on IDEA's provisions addressing the overidentification of specific racial and ethnic groups for special education.
- *Early Intervening Services and Response to Intervention* examines two new sets of provisions in IDEA intended to allow districts to catch learning or behavior problems early and to permit methods of identification of children with specific learning disabilities that focus on children's responses to appropriate instruction in regular education.

- *Highly Qualified Teachers* provides an overview of another new area within IDEA that comes to us from NCLB and that sets new standards of quality for special educators.
- *NIMAS* (this module), also new to IDEA, discusses a set of accessibility standards that will greatly improve access to the general education curriculum for children with print disabilities.

All of these modules have been designed so that trainers can either condense the presentation of information to the essentials, when training time is limited, or expand the training to cover the material in more depth. The background discussion for each module is extensive and detailed, to support trainers in adapting training to correspond to participant need and interest.

Themes in *Building the Legacy*

Theme A

Welcome to IDEA

Theme B

IDEA
and General Education

Theme C

Evaluating Children
for Disability

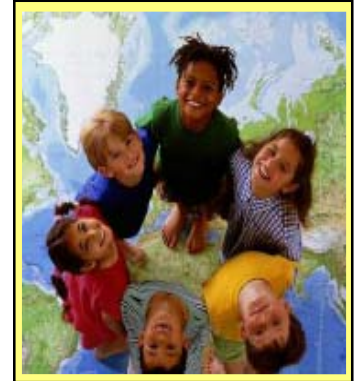
Theme D

Individualized Education
Programs (IEPs)

Theme E

Procedural Safeguards

Available online at:
www.nichcy.org/training/contents.asp



Thanks Go Out To...

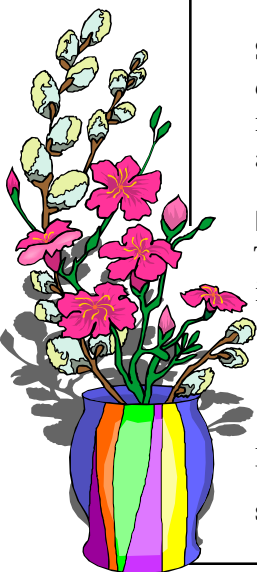
This module was produced through a partnership between NICHCY, the NIMAS Development and Technical Assistance Centers, and the Office of Special Education Programs (OSEP). NICHCY would like to express its appreciation to the following individuals and co-authors:

Skip Stahl and **Chuck Hitchcock**, of the NIMAS Development and Technical Assistance Centers, for so readily and fully sharing their expertise, materials, graphics, and existing slide shows on this new and exciting subject; and

Bonnie D. Jones, OSEP's Project Officer for the NIMAS Development and Technical Assistance Centers, for her technical expertise, collaborative initiative, and commitment to bringing NIMAS to fruition.

And To...

NICHCY would also like to thank **Jeffrey Rosen**, Office of General Counsel, U.S. Department of Education, for his review of this module for its legal sufficiency with the statute and final Part B regulations of IDEA.



Looking for IDEA 2004?

The Statute:

- www.nichcy.org/reauth/PL108-446.pdf
- <http://idea.ed.gov>

Final Part B Regulations:

- www.nichcy.org/reauth/IDEA2004regulations.pdf
 - <http://idea.ed.gov>
-

Finding Specific Sections of the Regulations: 34 CFR

As you read the explanations about the final regulations, you will find references to specific sections, such as §300.173. (The symbol § means “Section.”) These references can be used to locate the precise sections in the federal regulations that address the issue being discussed. In most instances, we’ve also provided the verbatim text of the IDEA regulations so that you don’t have to go looking for them.

The final Part B regulations are codified in Title 34 of the *Code of Federal Regulations*. This is more commonly referred to as 34 CFR or 34 C.F.R. It’s not unusual to see references to specific sections of IDEA’s regulations include this—such as 34 CFR §300.173. We have omitted the 34 CFR in this training curriculum for ease of reading.

Citing the Regulations in This Training Curriculum

You’ll be seeing a lot of citations in this module—and all the other modules, too!—that look like this: 71 Fed. Reg. at 46738.

This means that whatever is being quoted may be found in the *Federal Register* published on August 14, 2006—Volume 71, Number 156, to be precise. The number at the end of the citation (in our example, 46738) refers to the page number on which the quotation appears in that volume. Where can you find Volume 71 of the *Federal Register*? NICHCY is pleased to offer it online at:

www.nichcy.org/reauth/IDEA2004regulations.pdf

Here's your history book for the year



How to Operate the Slide:

Slide loads completely. No clicks are necessary except to advance to the next slide.

CLICK to advance to next slide.

Slides 1 and 2 are stage-setters. Together, they draw a picture that many children with disabilities face in school.

At the beginning of the academic year, the teacher usually hands out the textbook to every child in the class. Past elementary school, the likelihood increases that children will receive *several* textbooks—one for science, one for English, one for math... Then, throughout the year, various other books may be distributed to children: grammar work books, spelling workbooks, a nightly homework assignment straight out of the teacher's set of supplemental materials and designed to reinforce learning at home. We've all been there. We know how this goes.

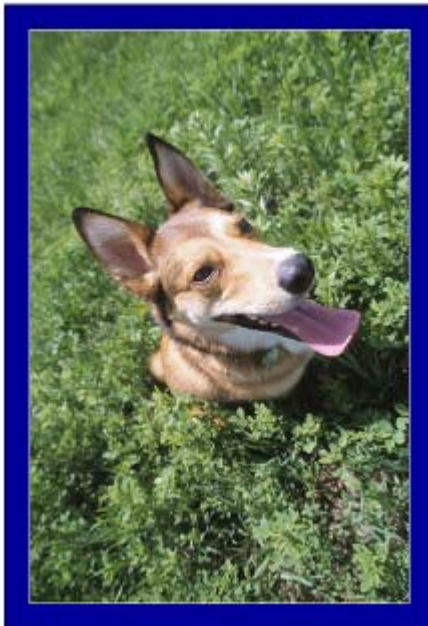
But what if you can't read or process printed material? You're not going to get much out of that textbook. When a child is blind, that's pretty obvious, so schools know it's foolishness to hand the child a book unless it's in Braille. Much *less* obvious is that literally tens of thousands of children have disabilities that severely impair their ability to read printed text.

Nevertheless—here's your book. Go study hard, little one. Learn. Achieve.

Discussing the Slide

Is it necessary to say anything or explain what this first slide is suggesting? That's a personal decision for every trainer to make. We'd suggest waiting until the next slide, which builds upon the story begun here of receiving a textbook. Under the next slide's discussion, you'll find an activity for involving participants or "talking about it." You could also use that activity here, if you prefer.

View I



—
Your guide dog is
eager to help,
but clueless

Slide loads
with this view.

Click I




Your guide dog is
eager to help,
but clueless

You need...

Click 1:
"You need..." appears.

CLICK AGAIN to advance to next slide.

(discussion on next page) 



Slide 2 embellishes the context introduced in Slide 1. You've been given the history textbook the class will be using this year. How unfortunate that your guide dog, however eager to help, can't read.

So, realistically speaking, what *are* you going to do with that textbook?

What to Do With This Slide

Here, you can either **CLICK** once to bring up the "You need..." at the bottom of the slide and then **CLICK** again to go directly to the Title Slide for the module (thus completing the sentence with "...NIMAS"), or you can let the slide load and hang there while you engage the audience in an activity such as described below. If it's the latter, don't **CLICK** until you're done with the activity and want to advance to the next slide.

An Opening Activity

If you'd like to engage the audience right off the bat, here's a possibility for stimulating participant involvement in the context for these first two slides.

Before the training session

Gather a small pile of textbooks (or what could pass as "printed instructional material") to distribute to individual participants (or pairs or larger groups). Make sure that at least one of them is in a foreign, hopefully little-known language. (Check your local library to see what's available. If you're thinking of distributing worksheets, not textbooks, try the Internet.)

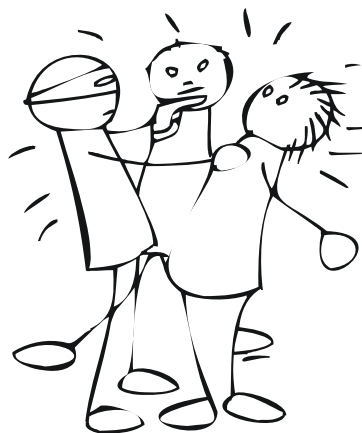
Develop an activity

Want a quick-engage activity or one that involves more time but every participant in the room? Here are suggestions for both types.

—*Quick-engage activity.* You won't necessarily need any other props (beside the textbooks) for what's about to be described, just a *plan*. Plan to ask for three volunteers from the audience. It's always fun to embellish how you invite them—who's brave in here, who's intrepid, who has a birthday in March, or just plain old "I need three stout-hearted volunteers."

Assign each volunteer his or her "role." Do this so the entire audience knows what each role is. For example:

- V1 is a person who can't physically see, either because of blindness or due to a severe visual impairment.
- V2 is a person who is a movie star you figure most people in the room will know (e.g., Brad Pitt, Denzel Washington, George Clooney, Halle Berry, Julia Roberts, Katherine Hepburn).



- V3 is a person with a reading disability. His or her visual acuity is perfectly fine; it's the *processing* of print that's the obstacle.
- The three participants will have 30 seconds to complete the task you give them when you give them the books. Each is to complete the task in the guise of the assigned persona. For example:
- V1 can either close his or her eyes to simulate the lack of vision, put hands-over-eyes, or otherwise re-create the inability to see (blindfolds are not especially recommended—they usually require a large measure of trust, especially in public).
 - V2 can pose and twirl or otherwise get ready for being a movie star.
 - V3, of course, gets the foreign-language book.

Hand out the books, one to a volunteer. The task? Any reasonable one that involves reading and understanding will do. For example: "Open the book to the Table of Contents and tell us what the last three chapter titles are."

Chances are, only the movie star will be able to complete this task accurately in the 30 seconds.

—*Develop a full-group activity.*

Develop a little fast activity sheet that gives pairs or groups of participants five minutes to find several pieces of information in a book. To avoid having to create a separate set of questions for every book (unless you've gotten your hands on a stack of the same textbook), you can ask generic information such as:

- Author of book
- Title of book
- Copyright date of book
- Publisher
- Number of pages in book
- Title of third chapter of book
- A two-sentence summary of the first full paragraph on page 13 of book



Each pair or group would be assigned a "role" to play, like described above under "quick-engage." If you have a goodly number of pairs or groups, have them count off as 1, 2, or 3, and assume the roles of V1, V2, or V3.

During the training session

Start the slide show, so the first slide displays. It won't advance to the next slide until you **CLICK**, so don't click unless you want to move on.

Do your activity, either quick-engage or full-group. Or one of your own design!

Talk about participants' experiences or observations. Could they do the task? Why or why not? How does this activity relate to blindness, visual impairments, and reading disabilities?

NIMAS — the National Instructional Materials Accessibility Standard



Slide loads completely. No clicks are necessary except to advance to the next slide.

CLICK to advance to next slide.

Slide 3 both completes the sentence begun in Slide 1 (“You need...” and introduces the title of this module (...NIMAS).

Pronunciation of NIMAS

On page 8-3 of this module, we provided a short list of rhyming words, so you’ll know how to pronounce NIMAS. Make sure you share these with participants and ask for their contributions to the rhyming list, all of which will solidify the currently favored pronunciation.

Some more examples, you say? Okay. Hi, bye, eye, rye, sigh, why...NIMAS.

Anyone Ever Heard of NIMAS?

Does anyone in the audience know anything about NIMAS? What it is, what it’s intended to do? Ask for a show of hands.

Summarize NIMAS for participants—offering a brief statement such as:

NIMAS is a brand-new provision in IDEA designed to maximize access to the general education curriculum for blind or other print-disabled children. Some concepts central to NIMAS are timely, accessible instructional materials, and NIMAS source files.

When we’re done, you’ll know what those terms mean, be able to describe what NIMAS is intended to accomplish, and explain to your colleagues and friends how the new NIMAS provisions in IDEA are to be implemented in States and local educational agencies (LEAs).

Bottom line? Improving results for children with disabilities.

View I**This module looks at:****NIMAS**

- What NIMAS is
- Why it's part of IDEA 2004
- What IDEA requires
- Key terms and definitions
- How NIMAS process works

Slide loads
with this view.

This module looks at:**NIMAS**

- What NIMAS is
- Why it's part of IDEA 2004
- What IDEA requires
- Key terms and definitions
- How NIMAS process works

Click I

Click 1:
NIMAC
appears, then
its meaning
("National
Instructional...").

NIMAC

National Instructional Materials
Access Center

CLICK AGAIN to advance to next slide.

Slide 4: Background and Discussion**I Click**

Slide 4 is an advance organizer for the audience as to what content they're going to hear and discuss in this module.

It's also an early warning about acronyms that look remarkably alike! NIMAS... and NIMAC. Oh, premonitions of fun...



What is NIMAS?

N	National
I	Instructional
M	Materials
A	Accessibility
S	Standard

View I

Slide automatically loads the question at the top and, one by one, the letters of NIMAS and their meanings.

What is NIMAS?


N	National
I	Instructional
M	Materials
A	Accessibility
S	Standard

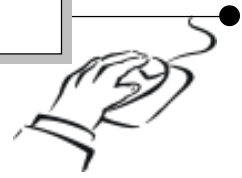
Click I

A new national technical standard with specifications for the production of print instructional materials in accessible formats

Click 1:
"A new national..." paragraph appears.

CLICK AGAIN to advance to next slide.

(discussion on next page) 



Slide 5 is the first of two slides addressing “What is NIMAS?” First, the meaning of each individual letter in the acronym is given, then (upon your **CLICK**) a summary of NIMAS appears at the bottom of the slide.

Roots of NIMAS

NIMAS has been a long time coming. Its implementation establishes, for the first time, an efficient and cost-effective means by which blind or other print-disabled children may receive instructional text materials in the alternate, accessible formats that meet their needs.

To facilitate the provision of accessible, timely, and consistent versions of print textbooks, the Department of Education (Department) funded the National Center on Accessing the General Curriculum (NCAC) and charged it with establishing technical specifications for a voluntary standard that all publishers can use to create electronic files of the print instructional materials they produce. In November 2002, a panel of experts was convened; three public meetings were held in 2003; and extensive teleconference and online discussions took place. In the end, the panel developed “a common standard for digital source files that can be used to accurately and reliably produce instructional materials in a variety of alternate formats using the same source file” (70 Fed. Reg. at 37303).¹

This standard is NIMAS.

Why the Need for NIMAS?

Although the question of why NIMAS is needed is also addressed elsewhere in this training module (including the two introductory slides!), you may wish to identify the two primary reasons given by the Department in the preamble to the Notice of Proposed Rulemaking (NPRM) for NIMAS issued June 29, 2005 (*Id.*). As the Department states:

The adoption of the NIMAS is expected to provide long-term cost savings for publishers of educational materials. Currently, 26 States have laws requiring publishers to provide State or local educational agencies with electronic files suitable for converting print instructional materials into Braille versions. Depending on what requirements each State has enacted, publishers may be required to produce a conversion file in as many as 6 different file formats. This process wastes time and effort on the part of publishers and is unnecessarily costly. Adoption of the NIMAS means that publishers won’t have to convert their materials to several different file formats. (*Id.*)

The second reason, you say?

... NIMAS is expected to be highly valuable to students who are blind or who have print disabilities because they will have access to accessible versions of textbooks in a timely manner. Current methods of converting print textbooks into Braille and other specialized formats are complex and time consuming, and the process can take months to complete. In many cases students who are blind or who have print disabilities now receive accessible textbooks and other instructional materials well after the beginning of the instructional period. The adoption of the NIMAS will improve both the speed of the process and the quality and consistency of books converted into specialized formats. (*Id.*)



¹ U. S. Department of Education. (2005, June 29). National Instructional Materials Accessibility Standard (Notice of proposed rulemaking). *Federal Register*, 70(124), 37302-37306. (Available online at: www.ed.gov/legislation/FedRegister/proprule/2005-2/062905a.pdf)

View I

NIMAS is a technical standard established for use by book publishers to produce **source files** (in XML) that may be used to develop multiple **specialized formats** for **children with print disabilities**

← Slides loads only this intro paragraph.

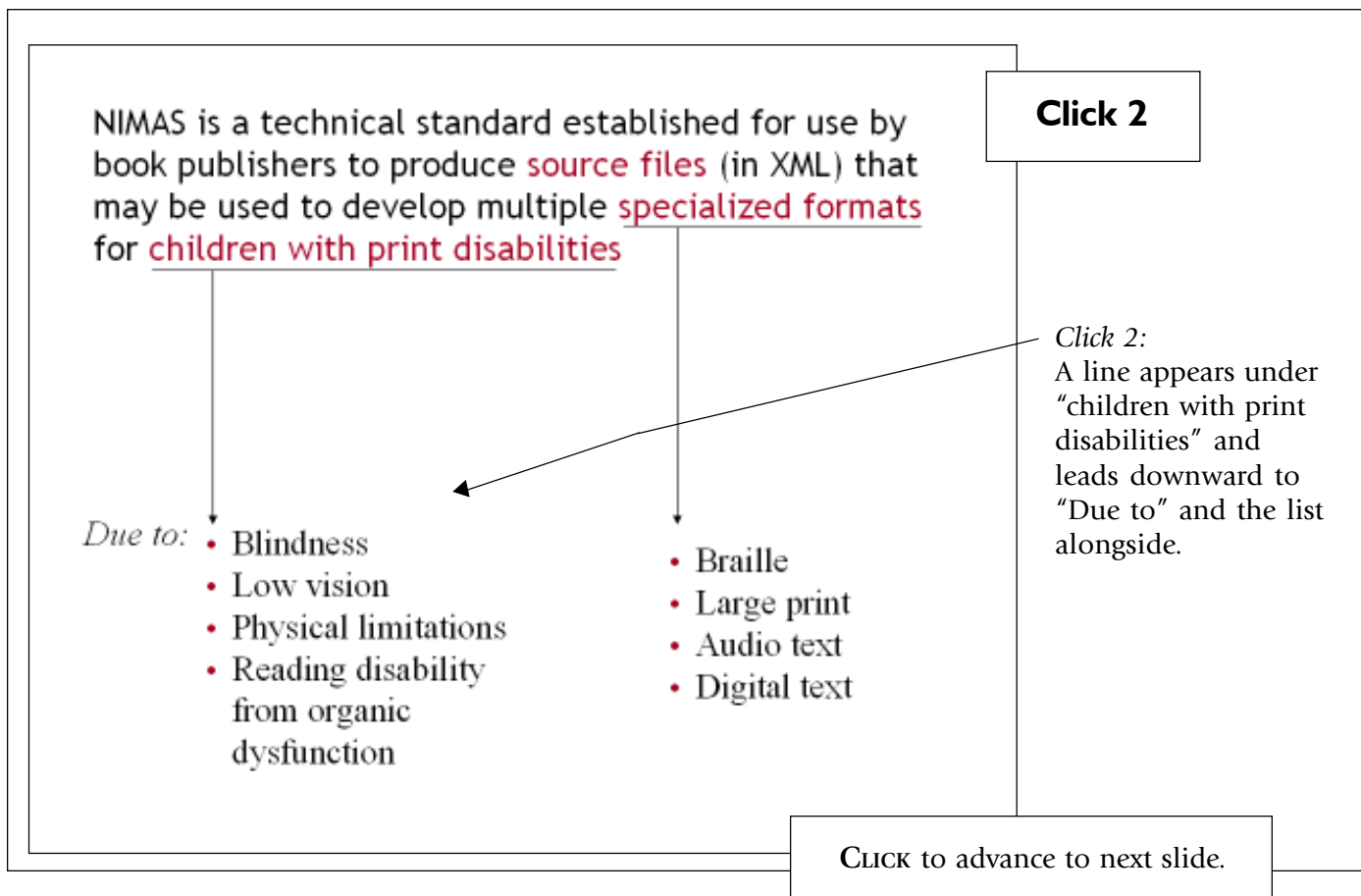
Click I

NIMAS is a technical standard established for use by book publishers to produce **source files** (in XML) that may be used to develop multiple **specialized formats** for **children with print disabilities**

- Braille
- Large print
- Audio text
- Digital text

Click 1:
A line appears under "specialized formats" and leads downward to the appearing list of formats ("Braille, large print...").

(continued on next page) 



Slide 6: Background and Discussion

2 Clicks



This second slide providing a basic description of NIMAS introduces some very key elements and terms. You’ll want to note for the audience four in particular:

- source file,
- XML,
- children with print disabilities, and
- specialized formats.

They’ll be hearing much more about each of these terms shortly but here, on this slide, the point is how they go *together*.

From Source Files to Accessible Materials

In plain terms, NIMAS establishes a uniform electronic (or digital) format for textbooks and related materials called a *source file*. On its own, this source file (which is coded in XML—more on that in a moment) is not sufficient for direct use by children. However, the source file is the means by which specialized, accessible formats are created—Braille, audio, or digital text, and large print, as listed on the slide. These accessible formats can then be used by children who are blind or otherwise print-disabled.

The importance of this approach is that all these specialized formats can be created from the *same* NIMAS source file.

What’s XML?

XML stands for Extensible Markup Language. It’s a flexible way to create common information formats and share both the format and the data on the World Wide Web, intranets, and elsewhere. XML is a formal recommendation from the World Wide Web Consortium

(W3C) similar to the language of today's Web pages, the Hypertext Markup Language (HTML).¹

Wow, this is huge! NIMAS (the standard) and NIMAS (in the IDEA regulations) will enable children with documented needs to obtain instructional materials in the accessible format they need, when they need them.

Fear Not—Nor Rush!

While the techno-talk may seem a little intimidating at first, for you and your audience, do not fear! This is only an introduction to the techno-talk that's involved in NIMAS at its most root level—and how terms such as “children with print disabilities” and “specialized formats” are defined by IDEA. This is the broad-brush “meet NIMAS.” Much more detail will come in upcoming slides.

For the ansy participant who wants to know *now*—especially about the precise dimensions of “children with print disabilities”—you may need to make promises of “later, later, more, more.”

Fortunately, those will be easy promises to keep!



¹ Netproject. (n.d.). *G. Glossary*. Retrieved June 26, 2007, at <http://www.netproject.com/docs/migoss/v1.0/glossary.html>

Why is NIMAS
part of IDEA?



Slide loads completely.
No clicks are necessary
except to advance to the
next slide.

CLICK to advance to next slide.

This slide operates like a chapter title, indicating that the next few slides will take a look at why NIMAS has been added to IDEA. Participants should already have an inkling of “why” but here we go, taking a more formal look at this new element of our nation’s special education law.

View I.

Slide loads
this quote from
the IDEA
statute.

*A*lmost 30 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by—




...having high expectations for such children and **ensuring their access to the general education curriculum** in the regular classroom, to the maximum extent possible...

Click 1:
The quote
disappears and
the summary
"NIMAS plays a
key role..."
appears.

**NIMAS plays
a key role in
maximizing
access**



CLICK AGAIN to advance to next slide.

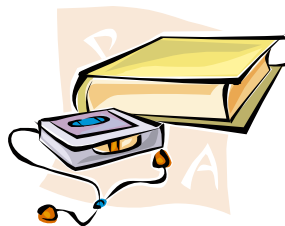
(discussion on next page) 



The opening quote on this slide comes from Public Law 108-446, IDEA's statute passed by Congress in 2004 and signed by President Bush into law on December 3, 2004.¹ The quote comes from the "Findings" of Congress that begin the statute; this is the introductory paragraph from the fifth finding.

Looking at this language in IDEA, it's easy to see why NIMAS was developed and is now part of IDEA's great legacy. NIMAS and IDEA are all about maximizing access to the general education curriculum. Unarguably, access to the curriculum is an essential element in learning. But what about children who cannot access traditional text materials because they cannot see or otherwise process the words or images? By preparing the material in an accessible format, NIMAS supplies the tool to support these children, so that they can reach for the higher, standards-based expectations embedded in IDEA and NCLB.

The provision of accessible instructional materials, in a timely manner, is also an essential component of making a free appropriate public education (FAPE) available to children who, due to their disability, cannot access standard text materials. With NIMAS in IDEA,



States and local school districts must ensure full access to instructional materials/curriculum for children who are blind or otherwise print-disabled, *and* ensure that these children receive accessible materials at the same time that other children receive instructional materials.

Before NIMAS:

- Children with disabilities who needed instructional materials in "specialized formats" didn't always get them on time. Sometimes they never got them.
- Many different file types were produced by publishers to meet State and local school district specifications, which led to increased production time and costs.
- The availability and distribution of instructional materials in specialized formats was fragmented and inconsistent.

Consequently, children with disabilities did not receive accessible instructional materials of consistent quality.² Needless to say, lacking the assigned class materials that other children have and are expected to use and learn from has posed a serious obstacle to the involvement of children with print disabilities in the general education curriculum.

IDEA's Emphasis on the General Education Curriculum

Theme B focuses broadly on the importance IDEA places upon involving children with disabilities in the general curriculum. The six modules under Theme B examine different aspects of that emphasis. It's also visible (and discussed) in other modules, especially Module 13, *Content of the IEP*. You might want to talk with participants and explore what they know about this theme within IDEA. Here's a short list of just some of the requirements within IDEA intended to foster and support children with disabilities in general education.

- Children with disabilities are expected to participate in Statewide and districtwide assessments. While exceptions are possible, the main thrust is clear: participation.
- Similarly (and not the least bit unconnected), the academic standards that States establish for children with disabilities must be the same as or aligned with the standards they establish for children without disabilities. These are the standards to which children are expected to learn and perform.

- The IEPs of children with disabilities must be written to assure their involvement in, and progress in, the general education curriculum to the maximum extent appropriate.
- Supplementary aids and services may be necessary (and, if so, must be provided) to support each child's access to the general education curriculum and all of the other

activities and settings in which children in school typically participate. This (the provision of supplementary aids and services) goes beyond the classroom. It also includes extracurricular activities and settings, and nonacademic activities and settings.

- If a child with a disability is not going to be participating in the regular education environment with his or her peers without disabilities, an explanation as to "why not" must be included in that child's IEP.

Within that context, it's easy to see how NIMAS has come to be added to IDEA. How it works to maximize a child's access (the point on the slide) will hopefully be quite evident by the end of this module.



¹ Public Law 108-446 is available online at: www.nichcy.org/reauth/PL108-446.pdf and at <http://idea.ed.gov>

² National Center on Accessing the General Curriculum (NCAC). (Revised October 14, 2004). *National Instructional Materials Accessibility Standard report-Version 1.0*. Retrieved June 22, 2007, from <http://nimas.cast.org/about/report/index.html>

View I



Imagine not being
able to read any of
these books

And your teacher
has just assigned a
report project on
the Civil War


Slide loads the
picture and the
opening two
sentences.

55,200 Children in U.S.
who are legally blind

26,113 Children 6-21
served under “Visual
Impairment” category

Click I

Click 1:
The screen clears,
and the two
statistics on
children (55,200
and 26,113) load.

(continued on next page) 

55,200 Children in U.S.
who are legally blind

26,113 Children 6-21 served
under IDEA's category of
"Visual Impairment"

Nearly 2.9 million
Children 6-21 served under
"Specific Learning Disability"

74,065—"Orthopedic Impairments"
392,671—"Other Health Impairments"
131,682—"Multiple Impairments"

Clicks 2-3

Click 2:
The statistic "Nearly
2.9 million" loads.

Click 3:
The next three
statistics for OI,
OHI, and multiple
disabilities load.

55,200 Children in U.S.
who are legally blind

26,113 Children 6-21 served
under IDEA's category of
"Visual Impairment"

Nearly 2.9 million
Children 6-21 served under
"Specific Learning Disability"


74,065—"Orthopedic Impairments"
392,671—"Other Health Impairments"
131,682—"Multiple Impairments"

Click 4

Click 4:
The last sentence
loads ("Not all
will need...").

**Not all will need
what NIMAS can
offer, but
many will**

CLICK AGAIN to advance to next slide.

(discussion on next page) 



This slide looks at both the reality of not being able to read (and being assigned a project) and some statistics on the number of children who may face that reality. Learning about the Civil War is a common expectation we have for children attending public school, and that includes children who have disabilities. Yet tens of thousands of children may have great difficulty in completing an assignment on the Civil War that involves reading.

Children Who Are Blind or Visually Impaired

How many children are affected? Here are some basic statistics.

- Children in U.S. who are legally blind: 55,200¹
- Children 6-21 in U.S. served under IDEA's category "Visual Impairments": 26,113²
- Children in U.S. using Braille as their primary reading medium: 5,500¹

NIMAS will significantly improve these children's access to instructional materials they can actually use. It bears mentioning that IDEA also addresses the needs of these children during IEP development, via the "special factors" described at §300.324(2) that IEP Teams must consider. When developing the IEP of a child who is blind or visually impaired, the IEP Team must:

...provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an

evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child... [§300.324(2)(iii)]

IEP Teams who represent the interests of children with blindness or visual impairment will want to know more about NIMAS!

Children with Specific Learning Disabilities

Specific learning disabilities (SLD) is one of the disability categories under which eligible children with disabilities may be served in IDEA. SLD is defined at §300.8(c)(10) and begins as follows:

Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, **that may manifest itself in the imperfect ability to listen,**



think, speak, read, write, spell, or to do mathematical calculations....

Within that definition, you can clearly see that the ability to read can be adversely affected by an SLD. It is not *always* affected, however. Some children with SLD read quite well; their disability may manifest itself in math class, in gym class (if a child has difficulty with sensory-motor integration or coordination), or in one of the other skill areas noted in IDEA's definition of SLD.

While much more information about SLD is available in Module 11, *Identification of Children with Specific Learning Disabilities*, the point to be made here is:

- Nearly 2.9 million children with disabilities receive special education and related services under the primary disability category of SLD.²
- At least 80% of all individuals identified as having a learning disability, have a specific reading disability.³
- While not all children with SLD have a learning disability that severely impacts their ability to read and process print instructional materials, many do and thus, may be excellent candidates for NIMAS-prepared materials.

Here are some additional, quite telling statistics from the National Center for Learning Disabilities (NCLD):

- The vast majority of individuals with SLD have difficulties in the area of reading.
- Two-thirds of students with SLD in secondary school are reading three or more grade levels behind, with 20% reading more than five grade levels behind.
- More than 38% drop out of high school (compared to 11% of the general population).⁴

Thus, while it's hard to say how many children with SLD will have a need for accessible print materials in school, it's *not* hard to see that we're talking about a sizeable number of children who will. Each child's IEP Team will be responsible for

determining the child's need for materials in another format and for seeing that this need is documented in the IEP, with appropriate supports offered. Hurray for NIMAS!

Children with Orthopedic, Other Health Impairments, or Multiple Disabilities

Who are some of the other children who have physical, health, or multiple impairments that restrict or limit their ability to access print materials?

- 74,065 children ages 6-21 are served under IDEA's category of "Orthopedic Impairments."²
- 392,671 children are served under "Other Health Impairments."²
- 131,682 children are served under "Multiple Disabilities."²

Again, not all of these children need alternative format materials in order to access the curriculum, but many of them certainly might. A child with cerebral palsy or muscular dystrophy who cannot hold a book, turn pages, or coordinate eye movements smoothly may require large print, audio, and/or digital text all rolled into one accessible file that they can then access on a computer. The deciding factor is *not* the name of the disability, nor the IDEA category under which the child receives services. What determines a child's need for accessible, alternate format print materials is the totality of how the child's disability impacts or interferes with his or her ability to interact with print materials. This determination of need must be made by the child's IEP Team and included in the IEP. May we say once again, "Hurray for NIMAS!"

References

¹ American Foundation for the Blind (2006). *Blind statistics*. Retrieved October 11, 2006, from <http://www.afb.org/Section.asp?SectionID=15>

² Office of Special Education and Rehabilitative Services, U.S. Department of Education. (2006). *26th annual report to Congress on the implementation of IDEA: Vol. 2*. Washington, DC: Author. (Available online at: www.ed.gov/about/reports/annual/osep/2004/index.html)

³ Shaywitz, S.E., & Shaywitz, B.A. (2003). Dyslexia (specific reading disability). *Pediatrics in Review*, 24, 147-153.

⁴ National Center for Learning Disabilities. (January 9, 2006). *LD Fast Facts*. Retrieved June 28, 2007, at <http://www.nclld.org/index.php?option=content&task=view&id=483>



View I

For children with print disabilities —



Slide loads with this view of a boy struggling to read and the lead-in "For children with print disabilities..." at the top.

For children with print disabilities —



Click I

Click 1:
Picture changes to the Apollo moon walk and the sentence is completed with "NIMAS is a giant leap forward."

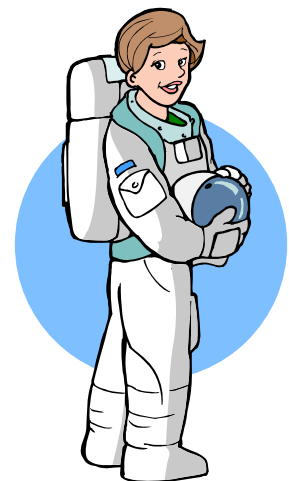
CLICK AGAIN to advance to next slide.

(discussion on next page) ➡



Visually, this slide says it all. The image from the Apollo moon walk resonates with most of us, especially Neil Armstrong's words when he became the first human being ever to step down onto the moon's surface. You can argue about how his words did not transmit fully across the vast distance between the moon and earth, but the meaning of what came through was unmistakable: "That's one small step for [a] man, one giant leap for mankind."¹

NIMAS is intended to help children with print disabilities leap forward, too. The establishment of NIMAS and the intended collaboration between publishers, States, LEAs, NIMAC, and the NIMAS Development and Technical Assistance Centers is "one giant leap" towards fully realizing the promise of IDEA and improving educational results for children.



¹ Mikkelsen, B., and Mikkelsen, D.P. (2006). *One small misstep*. Retrieved on June 28, 2007, from www.snopes.com/quotes/onesmall.asp

**NIMAS:
What IDEA
Requires**



Slide loads completely.
No clicks are necessary
except to advance to the
next slide.

CLICK to advance to next slide.

As with Slide 7 (and a few upcoming slides as well), this slide operates like a chapter title, indicating that the next few slides will take a look at IDEA's specific requirements with respect to NIMAS. There will be nine slides in total, seven of them looking at key definitions within the final Part B regulations that will drive how NIMAS-prepared print materials will be made available to children with print disabilities.

Each State must—



Click 1

Each State must—

Click 1:
Picture of books
disappears, and
"Adopt NIMAS"
paragraph
appears.

→ **Adopt NIMAS**
in order to provide
instructional materials to blind
persons or other persons with
print disabilities in a timely
manner




(continued on next page) →

Each State must—

Adopt NIMAS
in order to provide
instructional materials to blind
persons or other persons with
print disabilities in a timely
manner

Establish a State
definition of “timely
manner”



Click 2

Click 2:
Picture of wristwatch
disappears, and
“Establish...”
paragraph appears.

CLICK to advance to next slide.

Slide 12: Background and Discussion

2 Clicks

Here we go, into IDEA’s provisions. Get ready for a legalistic journey that’s critical to participant understanding, not to mention implementation and use of NIMAS.

Where in the Regs?

The NIMAS-related sections of the IDEA regulations can be found in:

- §300.172 Access to instructional materials (SEA Eligibility);
- §300.210 Purchase of instructional materials (LEA Eligibility);
- Appendix C (Technical Specifications and effective date of NIMAS); and

- Analysis of Comments and Changes (71 Fed. Reg. at 46616-46621 and 46625-46626).

One Handout for Participants

Reproduced in the participant handouts that accompany this module (**Theme B’s** handouts, in other words) are the sections from the final Part B IDEA regulations noted above as well as sections from other related legislation. They are all found on **Handout B-15**, the only handout for this module on NIMAS.

Introducing the Slide’s Content

On the slide are two basic requirements that States have for NIMAS:

- adopt NIMAS, and
- establish a State definition of “timely manner.”

These opening requirements are found at §300.172(a), appear on **Handout B-15**, and are provided in the box on the next page.

Lots of references there to other stuff, eh? Don't worry about it now. The bottom line is that States must adopt NIMAS, which is expected to greatly facilitate their ability to provide print instructional materials in accessible formats to eligible children with disabilities—in a timely manner!

Why No Specific Timeline for Adopting NIMAS?

During the public comment period following release of the draft regulations for IDEA, the Department received many comments expressing concern that the regulations did not specify a deadline by which States must adopt NIMAS. They also wondered what the term “adopt” meant and asked for clarification. Here's the Department's response.

We decline to require a specific adoption date for all States, however, given the lack of specificity in the Act. We also decline to include a definition of “adopt” in these regulations because requirements for adopting new rules and policies may vary from State to State. The Department's view is that it is inherent in the adoption requirement that, at a minimum, upon “adoption” of the NIMAS, a State must accept and use electronic copies of instructional materials in the NIMAS format for the purpose of providing instructional materials to blind or other persons with print disabilities. (71 Fed. Reg. at 46616)

Final NIMAS Regulations

The final NIMAS regulations were issued on July 19, 2006 (71 Fed. Reg. at 41084),¹ separately from the final Part B regulations published on August 14, 2006 (71 Fed. Reg. at 46540). In the final Part B regulations, the final NIMAS regulations are included as Appendix C.

The NIMAS final regulations detail the technical specifications publishers must follow in preparing electronic source files for submission to the NIMAC and subsequent conversion into multiple accessible formats by third parties. The NIMAS regulations also establish the effective date for application of the standard: “NIMAS applies to print instructional materials published after August 18, 2006” (71 Fed. Reg. at 41086).

Defining “Timely Manner”

With all this talk of timelines, it's easy to think that the State's obligation to define the meaning of “timely manner” is referring to when it will adopt NIMAS. It's not. This requirement of IDEA is referring to the State's obligation to provide instructional materials in specialized formats to children who need them due to blindness, visual impairment, or other print disabilities. As we'll see toward the end of this training module, it also applies to children who are not included under IDEA's definition of “blind or other persons with print disabilities” but who nonetheless need such materials (see IDEA at §300.172(b)(3), discussed on Slide 35).



§ 300.172 Access to instructional materials.

(a) *General.* The State must—

(1) Adopt the National Instructional Materials Accessibility Standard (NIMAS), published as appendix C to part 300, for the purposes of providing instructional materials to blind persons or other persons with print disabilities, in a timely manner after publication of the NIMAS in the Federal Register on July 19, 2006 (71 FR 41084); and

(2) Establish a State definition of “timely manner” for purposes of paragraphs (b)(2) and (b)(3) of this section if the State is not coordinating with the National Instructional Materials Access Center (NIMAC) or (b)(3) and (c)(2) of this section if the State is coordinating with the NIMAC.

What is a timely manner for fulfilling this obligation? Do children who need instructional materials in alternate formats receive them at the beginning of the course when the rest of the class gets the textbook, two weeks after the course has begun, a month later? Six months? What's timely? That's what the State must define for itself and its LEAs.

Even while giving States the authority to define this term, IDEA is clear that SEAs and LEAs must take all reasonable steps to

provide the instructional materials in alternate formats that children need *at the same time* as other children receive their instructional materials [§300.172(b)(4)]. This "may not be possible in all circumstances," the Department recognizes (71 Fed. Reg. at 46617). Thus, the definition of "timely manner" is important because it essentially specifies the boundaries of an acceptable timeframe within which a State or LEA must provide needed alternate materials.

IDEA's requirements for timely provision of alternate formats and the Department's discussion of the same will be more fully discussed under Slide 35.



¹ National Instructional Materials Accessibility Standard, Final Rule, 71 Fed. Reg. 41084 (July 19, 2006) (to be codified at 34 C.F.R. pt.300). Available online at:

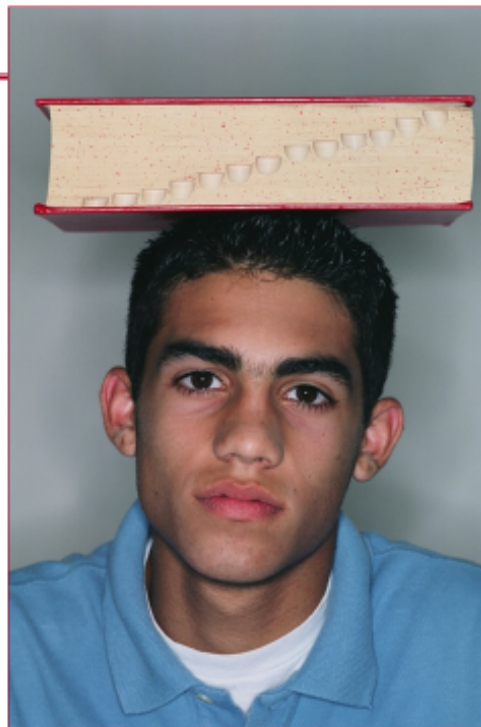
- <http://www.nichcy.org/reauth/nimas-finalregs.pdf>
- <http://idea.ed.gov>

View 1

Slide loads with "Key Definition" title, the term to be being defined, and the picture of a teen with a dictionary on his head.

Key Definitions

1—
Blind persons or other
persons with print
disabilities



Click 1

Key Definitions

1—
Blind persons or other
persons with print
disabilities

Click 1:
The regulation's
location appears,
along with the
paragraph
beginning
"...means
children served...."

§300.172(e)(1)(i)

...means children served under Part B of IDEA
who may qualify to receive books and other publications
produced in specialized formats

(continued on next page) 

Key Definitions

1—

**Blind persons or other
persons with print
disabilities**

...in accordance with
“An Act to provide books for adult blind,”
approved March 3, 1931, 2 U.S.C. 135a

§300.172(e)(1)(i)

...means children served under Part B of IDEA
who may qualify to receive books and other publications
produced in specialized formats

Click 2

Click 2:
The last paragraph
appears in the
middle of the screen.

CLICK to advance to next slide.

Slide 13: Background and Discussion

2 Clicks

As you can see, the term “blind persons and other persons with print disabilities” is defined in the IDEA regulations by referring to another, much older piece of legislation—the Act to Provide Books for Adult Blind, which passed in 1931. This law also established the National Library Service for the Blind and Physically Handicapped (NLS) at the Library of Congress to provide alternate format materials (Braille and audiobooks), initially just for adults who were blind. Note the out-of-fashion terminology used: “adult blind.”

This original 1931 legislation has been amended several times over the years, and now encompasses children who are blind, or who have visual impairments or physical disabilities.

The text on the slide is drawn verbatim from the final IDEA Part B regulations at §300.172(e)(1)(i), which appears on **Handout B-15** and reads as a single paragraph:

(i) *Blind persons or other persons with print disabilities* means children served under this part who may qualify to receive books and other publications produced in specialized formats in accordance with the Act entitled “An Act to provide books for adult blind,” approved March 3, 1931, 2 U.S.C 135a...

Let’s go find out more about “An Act to provide books for adult blind”...



View 1

Library of Congress Regulations Related to the Act to Provide Books for the Adult Blind



Slide loads with
the title and the
picture of a
beautiful library.

Library of Congress Regulations Related to the Act to Provide Books for the Adult Blind

Click 1

**"Blind persons or other persons with print disabilities"
includes:**

- those whose visual acuity is 20/200 or less*

Click 1:
Picture disappears,
lead-in phrase "blind
persons..." appears,
and Bullet 1. The
meaning of the
asterisk ("as certified
by competent
authority") also
appears.

* as certified by competent authority

(continued on next page) 

Library of Congress Regulations Related to the Act to Provide Books for the Adult Blind

Clicks 2-4

“Blind persons or other persons with print disabilities” includes:

- those whose visual acuity is 20/200 or less*
- those whose visual disability, with correction, prevents the reading of standard printed material*
- those who are unable to read or unable to use standard printed material as a result of physical limitations*
- those who have a reading disability resulting from organic dysfunction and of sufficient severity to prevent the reading of printed material in a normal manner*

** as certified by competent authority*

Clicks 2-4:
Bullets 2-4 appear,
one per click.

CLICK to advance to next slide.

Slide 14: Background and Discussion

4 Clicks

Here we have the applicable description of “blind persons or other persons with print disabilities” from the regulations related to the 1931 “Act to provide books for adult blind.” The full text for this definition, as shown in 36 CFR 701.6(b)(1), is given in the box on the next page and provided on **Handout B-15**.

When reviewing the definition, notice the recurring use of the phrase “certified by competent authority.”



Note to Trainers



As mentioned in the introductory pages of this module, CFR stands for *Code of Federal Regulations*. You can find a copy of this final rule published June 27, 2005 in the Federal Register (70 Fed. Reg. at 36843) at:

<http://a257.g.akamaitech.net/7/257/2422/01jan20051800/edocket.access.gpo.gov/2005/05-12632.htm>

Considering the Definition

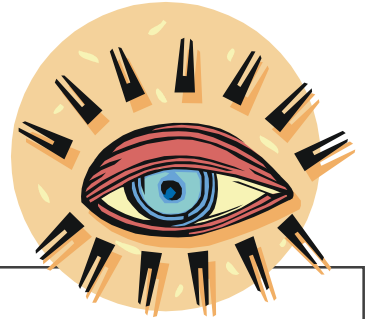
Remember the list that appeared on Slide 6, when we were talking about children with print disabilities? That list read:

- Blindness
- Visual impairments
- Physical limitations
- Reading disability from organic dysfunction

While that list was helpful in giving a general understanding of the types of disabilities that may bring with them a *print* disability, the terms are broad and undefined. We each may have a

different understanding (and application) of these terms. So it's important to spell out what these terms mean, *specifically*. You'll notice each of them are tagged with the phrase, "certified by competent authority"—which is a good indication that consistent standards are required when establishing a child's print-related disability.

Clearly, a competent authority is necessary to certify each of these particular disabilities. And how is "competent authority" defined? The definition is also found in the Library of Congress regulations at 36 CFR 701.6(b)(2) and is the subject of the next slide.



"Blind Persons or Other Persons with Print Disabilities" from the Library of Congress Regulations

The Library of Congress regulations related to the Act to Provide Books for the Adult Blind (approved March 3, 1931, 2 U.S.C. 135a) provide that "blind persons or other persons with print disabilities" include:

- Blind persons whose visual acuity, as determined by competent authority, is 20/200 or less in the better eye with correcting glasses, or whose widest diameter of visual field subtends an angular distance no greater than 20 degrees.
- Persons whose visual disability, with correction and regardless of optical measurement, is certified by competent authority as preventing the reading of standard printed material.
- Persons certified by competent authority as unable to read or unable to use standard printed material as a result of physical limitations.
- Persons certified by competent authority as having a reading disability resulting from organic dysfunction and of sufficient severity to prevent their reading printed material in a normal manner. [36 CFR 701.6(b)(1)]

View 1

Key Definitions

2— Competent authority

36 CFR §701.6(b)(2)

In cases of
blindness, visual
disability, or
physical
limitations, the
term includes:



Slide loads the title, the term to be defined, the relevant regulation, and the lead-in phrase ("in cases of blindness...").

Key Definitions

2— Competent authority

36 CFR §701.6(b)(2)


In cases of
blindness, visual
disability, or
physical
limitations, the
term includes:

- doctors of medicine
- doctors of osteopathy
- ophthalmologists
- optometrists
- registered nurses
- therapists
- professional staff of hospitals, institutions, and public or welfare agencies

Click 1

Click 1:
All bullets
appears.

CLICK AGAIN to advance to next slide.

(discussion on next page) 



The slide displays the first part of the definition of “competent authority.” The full regulatory text of the definition is provided in the box below and on **Hand-out B-15**.

The second part of the definition, “a competent authority in the case of a reading disability from organic dysfunction” is shown on the next slide.



36 CFR 701.6(b)(2):
Definition of “Competent Authority”

Competent authority is defined as follows:

In cases of blindness, visual disability, or physical limitations “competent authority” is defined to include doctors of medicine, doctors of osteopathy, ophthalmologists, optometrists, registered nurses, therapists, professional staff of hospitals, institutions, and public or welfare agencies (e.g., social workers, case workers, counselors, rehabilitation teachers, and superintendents). In the absence of any of these, certification may be made by professional librarians or by any persons whose competence under specific circumstances is acceptable to the Library of Congress.

In the case of a reading disability from organic dysfunction, competent authority is defined to include doctors of medicine who may consult with colleagues in associated disciplines.

Key Definitions

2— Competent authority

36 CFR §701.6(b)(2)

In the case of a
reading disability
from organic
dysfunction,
the term includes:



View 1

Slide loads the title, the term to be defined, the relevant regulation, and the lead-in phrase ("in the case of a reading disability...").

Click 1

Key Definitions

2— Competent authority

36 CFR-§701.6(b)(2)

In the case of a
reading disability
from organic
dysfunction,
the term includes:

- doctors of medicine who may consult with colleagues in associated disciplines

Click 1:
This single
bullet appears.

CLICK AGAIN to advance to next slide.

(discussion on next page) ➡



As you saw in the previous slide, there are a wide variety of professionals who can certify disability with regard to blindness, visual, or physical impairments. These professionals range from doctors of medicine and other medical personnel to social workers, rehab counselors, and/or librarians.

For individuals who have a reading disability stemming from a physical or organic basis, however, the person certifying must be *medically* able to judge whether the disability has a physical or organic basis. The National Library Service explains these requirements in the Frequently Asked Questions section of its Web site and in the *NLS Factsheet: Talking Books and Reading Disabilities*, available online at: www.loc.gov/nls/reference/factsheets/readingdisabilities.html

NLS's discussion of competent authority is extremely relevant to the discussion of these two slides and, in the real world, to the qualification process through which children with print disabilities must go. Consider sharing NLS's discussion (provided in the box on this page) with the audience.

What's a Reading Disability from Organic Dysfunction?

This term is not defined in the regulations for IDEA or elsewhere. It requires a competent authority—a medical doctor, say—to judge whether the roots of a child's reading disability lie in an organic dysfunction.

Your audience might wonder if this term applies to SLD (specific learning disabilities). Under IDEA, no such connection is made. In the field, in practice, SLD is typically considered an organic dysfunction that can manifest itself by difficulty in processing language and affect a child's ability to read.² But as the NLS states in its factsheet:

The following groups of individuals are not *automatically* eligible: those who have learning disabilities, dyslexia, attention deficit disorder,

attention deficit-hyperactivity disorder, chronic-fatigue syndrome, autism, functional illiteracy, or mental retardation, unless there is a specific accompanying visual or physical handicap. (NLS, 1997, emphasis added)

NLS also observes in a separate FAQ that the definition of learning disabilities varies

National Library Services' Discussion of "Competent Authority"

Competent Authority

For most eligible people served by this program, the cause of the inability to read printed material—such as blindness, paralysis, loss of arms or hands, extreme weakness, or palsy—is readily observable. In these cases, professionals in various fields related to health care, education, or rehabilitation are acceptable as certifying authorities. With persons classified as reading disabled, usually only the effect is readily apparent. The cause, when physical, lies within the central nervous system, and, under the existing regulation, this cause can be determined only by competent medical authority.

The signature of a doctor of medicine is required by federal regulation on the application to certify not only that a reading disability exists and is serious enough to prevent reading regular printed material in a normal manner, but also that the identified condition has a physical basis. Nonorganic factors—such as emotional or environmental causes, intellectual or educational deficiencies, or other possible nonorganic or nonphysical causes—must be ruled out and cannot be taken into consideration. When certifying applications for service for persons with reading disabilities, certifying medical authorities are encouraged to consult with colleagues in associated disciplines."¹

widely, making it impossible to straightforwardly say whether or not a child with SLD will be necessarily eligible as a person with a reading disability from an organic dysfunction.³

In conclusion, then, for a child with SLD to be considered eligible to receive NIMAS-prepared instructional materials, a competent authority must certify that the child's SLD represents an organic dysfunction that severely affects reading ability or that there is a specific accompanying visual or physical disability that qualifies.

Now that we have a thorough understanding of the meaning behind "competent authority," and the role of such an authority in certifying a child as being in need of specialized format materials, how might these requirements impact schools and IEP Teams? This is a question the Department answers in their

January 2007 document, *Questions and Answers on NIMAS*, posted at <http://idea.ed.gov>

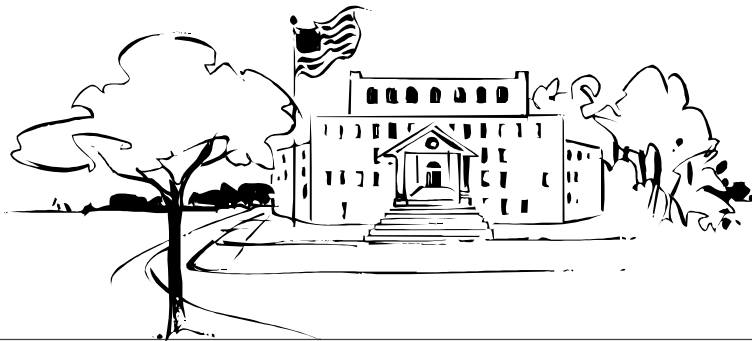
Question A-10: Are IEP Teams authorized to determine if a student requires accessible instructional materials? Are LEAs required to pay for additional medical certification to verify that a student's print disabilities are organic in nature?

Answer: The IEP Team determines the instructional program, modifications, and accommodations needed for students with disabilities, including the need for accessible instructional materials. However, according to the Library of Congress regulations (36 CFR §701.6(b)), only a competent authority can certify students eligible to use instructional materials

produced in specialized formats from NIMAS files. In the case of a reading disability from organic dysfunction, these regulations define a competent authority as doctors of medicine who may consult with colleagues in associated disciplines. In the case of an individual who is blind, has a visual disability, or has physical limitations, other medical professionals and school officials such as social workers and counselors are included among those who are competent authorities. LEAs have the responsibility, including the assumption of any costs, to obtain the appropriate certification for the students.⁴

Something Simpler, Please

Next up in terms and definitions: "print instructional materials" and "specialized formats." As should become clear, these next two terms represent the bulk of the bricks and mortar of NIMAS in IDEA. Happily, they are also simple and straightforward.



¹ National Library Service. (1997, March). NLS Factsheets: *Talking books and reading disabilities*. Retrieved June 22, 2007, from <http://www.loc.gov/nls/reference/factsheets/readingdisabilities.html>

² See, for example, the FAQ page at: <http://talkingbooks.nypl.org/faq/index.cfm>

³ National Library Service for the Blind and Physically Handicapped. (2007). *That all may read: Frequently asked questions*. Retrieved June 28, 2007, from <http://www.loc.gov/nls/faq.html>

⁴ U.S. Department of Education. (January 2007). *Questions and answers on the National Instructional Materials Accessibility Standards (NIMAS)*. Retrieved July 28, 2007, from <http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CQaCorner%2C5%2C>

View 1

Key Definitions

3—
**Print instructional
materials**
20 USC 1474(e)(3)(C)



Key Definitions

3—
**Print instructional
materials**
20 USC 1474(e)(3)(C)

- Printed textbooks
- Related printed core materials

Click 1

Click 1:
Picture disappears,
and Bullets 1 and 2
appear.

(continued on next page) 

Key Definitions

**3—
Print instructional materials**
20 USC 1474(e)(3)(C)

- Printed textbooks
- Related printed core materials
- Materials written and published primarily for use in elementary and secondary schools and required by an SEA or LEA for use by children in the classroom

Click 2

Click 2:
Bullet 3 appears.

CLICK to advance to next slide.

Slide 17: Background and Discussion

And we advance to our third key term to be defined: print instructional materials. The term's definition comes from the IDEA statute, Public Law 108-446,¹ at 20 USC 1474(e)(3)(C), which states:

(C) PRINT INSTRUCTIONAL MATERIALS.—The term “print instructional materials” means printed textbooks and related printed core materials that are written and published primarily for use in elementary school and secondary school instruction and are required by a State educational agency or local

educational agency for use by students in the classroom.

Oddly, there's no direct reference to this definition in the final Part B regulations. But we have it, nonetheless, given that the statute is the authorizing authority for the regulations.



2 Clicks



The Definition in Practice

An especially powerful element in the definition of print instructional materials is that the definition includes not only printed textbooks but also “related printed core materials.” This effectively answers any questions about whether NIMAS requirements also apply to the student workbooks and supplemental materials that typically accompany published textbook series. Yes, they do apply. In practice, this means that eligible

children with print disabilities will have access to accessible formats of those materials as well.

You may be wondering what types of materials would *not* be covered under NIMAS requirements. Examples would include teacher editions of textbooks, teacher supplementary materials, and materials designed for parents.

Quick Look at Textbooks and the Publishing Industry

IDEA's definition of "print instructional materials" sweeps very broadly when it includes those materials "written and published primarily for use in elementary school and secondary school instruction and are

required by a State educational agency or local educational agency for use by students in the classroom." The publishing industry devoted to producing textbooks and related core materials for elementary and secondary instruction is enormous. Just visit the Association of American Publishers' School Division (www.aapschool.org/index.html), and you'll see. In 2006 alone, sales in the K-12 category (which includes both basal and supplemental materials) exceeded \$130 billion.²

There's no doubting that textbooks and related core materials designed for K-12 instruction are being bought by schools constantly and in large numbers. For schools and the

public agencies that operate them, having those same materials readily available in source files means that they can straightforwardly and in a much more timely manner meet their obligation to provide children with print disabilities with those materials in accessible formats. Further, with NIMAS, duplication of effort can be significantly reduced. A national repository of source files, as required (see upcoming slide), means that States can *pool* their efforts and their materials, thereby reducing the efforts that each must make.



¹ IDEA's statute is available online at: www.nichcy.org/reauth/PL108-446.pdf

² Association of American Publishers. (2007, February 7). *Book sales hold at over \$10 billion in 2006*. Retrieved June 28, 2007, from http://www.publishers.org/main/PressCenter/Archives/2007_Feb/Feb_03.htm

View 1.

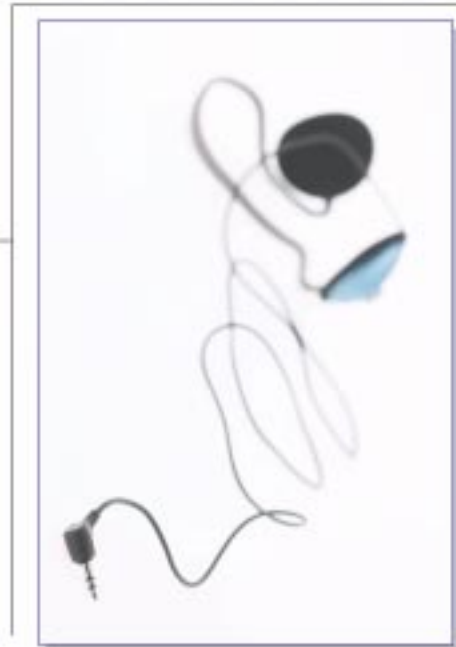
Slide loads the title, the term to be defined, and where to find the relevant provision of law. All four bullets also load.

Key Definitions

4— Specialized formats

*Copyright Act
[17 USC 121(d)(3)]*

- Braille
- Audio text
- Digital text
- Large-print formats*



Key Definitions

4— Specialized formats

*Copyright Act
[17 USC 121(d)(3)]*

- Braille
- Audio text
- Digital text
- Large-print formats*



* when such materials are distributed exclusively for use by blind or other persons with disabilities

Click 1:
The meaning of the asterisk appears.

CLICK AGAIN to advance to next slide.

(discussion on next page)



We've cruised now to the key term *specialized formats*—surely a vital definition to know.

Following the Interlocking Threads

The slide indicates that the definition comes from the Copyright Act [17 USC 121(d)(4)]. The IDEA regulations define the term by reference to IDEA, the law, as follows:

(iv) *Specialized formats* has the meaning given the term in section 674(e)(3)(D) of the Act. [§300.172(e)(iv)]

Follow the thread now... section 674(e)(3)(D) of the Act...which says:

(D) SPECIALIZED FORMATS.—The term “specialized formats” has the meaning given the term in section 121(d)(3) of title 17, United States Code. (which is the Copyright Act)

Tangled up? You're back at the provision of law identified on the slide. And you still don't know what the term means! And just to confuse you further, the 2004 Amendments to IDEA also amended part of the Copyright Act so that it now reads as shown a little further below.

“Specialized Formats” from the Copyright Act

Let the Department make finding the meaning of specialized formats a bit easier. It included the definition of the term in the Copyright Act in the Analysis of Comments and Changes that accompanied the final Part B regulations. Here it is:

Specialized formats has the meaning given the term in section 121(d)(4) of title 17, United States Code:

(A) Braille, audio, or digital text which is exclusively for use by blind or other persons with disabilities.

(B) With respect to print instructional materials, includes large print formats when such materials are distributed exclusively for use by blind or other persons with disabilities. (71 Fed. Reg. at 46621)

Which, by way of following the thread, is nearly verbatim what appears on the slide. Participants will also find this definition on **Handout B-15**.



Copyright and NIMAS

It's no small wonder that the Copyright Act comes into play in NIMAS. What NIMAS essentially requires is the production and

sharing of source files of materials copyrighted by the publishing industry and others. How can this be anything *but* a violation of copyright law?

Well, the Copyright Act includes a “limitation to exclusive rights” when materials are being reproduced for “blind or other people with disabilities.” This limitation appears at Title 1, Chapter 1, Section 121 of the Act, and includes the following:

(c) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a publisher of print instructional materials for use in elementary or secondary schools to create and distribute to the National Instructional Materials Access Center copies of the electronic files described in sections 612 (a)(23)(C), 613 (a)(6), and section 674(e) of the Individuals with Disabilities Education Act that contain the contents of print instructional materials using the National Instructional Material Accessibility Standard (as defined in section 674(e)(3) of that Act), if—

(1) the inclusion of the contents of such print instructional materials is required by any State educational agency or local educational agency;



(2) the publisher had the right to publish such print instructional materials in print formats; and

(3) such copies are used solely for reproduction or distribution of the contents of such print instructional materials in specialized formats.
[Section 121(c) of title 17, United States Code¹]

Discussing Copyright

As we'll see in upcoming slides, NIMAS *does* take into account protection of publishers' copyright. Violating copyright law is a legitimate concern for schools, publishers, SEAs and LEAs, and the federal government.

The above referenced provision within the Copyright Act makes it clear that it is not an infringement of copyright if the copies being made "are used solely for reproduction or distribution of the contents of such print instructional materials in specialized formats." Ah, one of NIMAS' stated purposes.

Now is probably not the time to discuss this issue, but you might mention it in passing and promise to get back to it, if the audience is interested in the subject or has a specific reason to know (such as ensuring that their practices don't infringe on publishers' copyrights). It's discussed more under Slide 30.



¹ The entirety of section 121 is available online at http://straylight.law.cornell.edu/uscode/html/uscode17/usc_sec_17_00000121---000-.html

View 1

Key Definitions

5—
NIMAC

National
Instructional
Materials
Access
Center



The national repository of
NIMAS source files



Slide loads with this view: the title, the term to be defined (NIMAC), and where to find the relevant provision in IDEA. Then the meaning of each letter in NIMAC appears, as well as the summary “The national repository....”

Key Definitions

5—
NIMAC

National
Instructional
Materials
Access
Center



The national repository of
NIMAS source files

Maintained and coordinated
by the American Printing
House for the Blind (APH)
in Louisville, Kentucky

Click 1

Click 1:
Picture fades away,
and “Maintained and
coordinated...”
appears.

CLICK AGAIN to advance to next slide.

(discussion on next page) ➡



The last term to be defined—yes! This slide looks at NIMAC, the National Instructional Materials Access Center, which has been authorized by Congress to serve as a national repository of NIMAS source files. IDEA defines NIMAC in the following way:

(ii) *National Instructional Materials Access Center* or *NIMAC* means the center established pursuant to section 674(e) of the Act... [§300.172(e)(ii)]

NIMAC established full operations effective December 3, 2006. It represents a key spoke in the wheel of NIMAS turning on behalf of children with print disabilities. The Department describes it as “a distribution center for NIMAS files obtained from publishers, SEAs, and LEAs” (71 Fed. Reg. at 46619).



Here We Go Again

Another thread to follow. And what does section 674(e) of IDEA’s statute have to say the term NIMAC means? Well, have a look at the provisions in the box at the right. These also appear on **Handout B-15**.

Summarizing NIMAC

The statute lays out clear duties for the NIMAC. These will be the subject of upcoming Slides 26 and 27, where we’ll be looking at how States and LEAs may coordinate with the NIMAC, if they so choose, to obtain source files of the instructional texts they require children in their schools to use. SEAs and LEAs may then render those source files into accessible formats for children with print disabilities who need them.

How IDEA’s Statute Defines NIMAC

(e) NATIONAL INSTRUCTIONAL MATERIALS ACCESS CENTER.—

(1) IN GENERAL.—The Secretary shall establish and support, through the American Printing House for the Blind, a center to be known as the “National Instructional Materials Access Center” not later than 1 year after the date of enactment of the Individuals with Disabilities Education Improvement Act of 2004.

(2) DUTIES.—The duties of the National Instructional Materials Access Center are the following:

(A) To receive and maintain a catalog of print instructional materials prepared in the National Instructional Materials Accessibility Standard, as established by the Secretary, made available to such center by the textbook publishing industry, State educational agencies, and local educational agencies.

(B) To provide access to print instructional materials, including textbooks, in accessible media, free of charge, to blind or other persons with print disabilities in elementary schools and secondary schools, in accordance with such terms and procedures as the National Instructional Materials Access Center may prescribe.

(C) To develop, adopt and publish procedures to protect against copyright infringement, with respect to the print instructional materials provided under sections 612(a)(23) and 613(a)(6). [section 674(e)(1) and (2)]

It's not necessary to delve into what NIMAC's duties are at this point, when upcoming slides focus on that subject. For now, it's sufficient to summarize NIMAC in keeping with the slide, making the two points there:

- NIMAC will serve as a national repository of source files of instructional materials used in elementary and secondary schools nationwide. SEAs and LEAs may access and use these source files, if they choose to work with the Center.

- NIMAC has been established by Congressional authority, which specifically designates the American Printing House for the Blind as the entity to maintain and coordinate its operations.

Having laid this foundation for the term, indicate to participants that they'll be hearing more about NIMAC in this module.

Space for Notes

Following the Yellow
Brick Road:

Implementing IDEA's
NIMAS Requirements



Slide loads completely.
No clicks are necessary
except to advance to the
next slide.

CLICK to advance to next slide.

As with Slides 7 and 11, this slide operates like a chapter title, indicating that the next group of slides will take a look at the practical matter of implementing IDEA's NIMAS requirements. There will be 13 slides in total, 9 of which will focus on how States, LEAs, publishers, and other stakeholders can work with NIMAC as part of fulfilling their obligation to provide accessible instructional materials to children with disabilities.

Two Paths

- To work with NIMAC
- To *not* work with NIMAC



Slide loads completely.
No clicks are necessary
except to advance to the
next slide.

CLICK to advance to next slide.

This is another divider slide, separating out discussion of implementation into two paths: the path if SEAs and LEAs choose to coordinate with NIMAC, and the path if they don't.

The Choice

IDEA clearly indicates that States have a choice of whether they wish to coordinate with NIMAC or not. This provision is found at §300.172(b) (refer participants to **Handout B-15**) and reads:

(b) *Rights and responsibilities of SEA.* (1) Nothing in this section shall be construed to require any SEA to coordinate with the NIMAC.

What could be clearer than that?

The Department states in the Analysis of Comments and Changes that it will compile a list of the States that have chosen to coordinate with the NIMAS and those that do not (71 Fed. Reg. at 46618). This list will be made available on OSEP's monitoring Web site, at: www.ed.gov/policy/speced/guid/idea/monitor/index.html

What's required of States if they choose *not* to coordinate with the Center will be the subject of Slides 31 and 32. First, though, let's look at what's required of States that do decide to work with NIMAC.

View 1

Slide loads with the circle of parts. The only part not visible is the center, which is covered by the text of #5 ("Guess what happens here...").

Path A: Working with NIMAC



Clicks 1-4

Path A: Working with NIMAC



Clicks 2-4:
Each click brings up the summary text surrounding the NIMAS wheel, moving in order clockwise (#1, #2, #3, and #4).

Path A: Working with NIMAC

Click 5

Click 5:
The “Guess what happens here” in the center of the NIMAS wheel flies away, revealing the center of the circle, which reads: “Students with print disabilities obtain specialized formats.”

CLICK to advance to next slide.

Slide 22: Background and Discussion

5 Clicks

Here, on Slide 22, is a graphic representation of how the NIMAS process will flow from SEAs and LEAs to K-12 publishers, to the NIMAC, to Authorized Users, and ultimately back to SEAs, LEAs, and children with print disabilities. The last step (that students obtain accessible instructional materials) is covered by a blue circle to obscure the conclusion of the NIMAS process, but soon all will be revealed!

The Slide’s Design

With the graphic representation of the NIMAS process on the screen as a starting point, each click will move us around the circle and through the steps, giving you the opportunity to

acquaint the audience with each step in overview until they have the big picture (save that fantastic last step that’s hidden). The upcoming slides, however, look at each step individually and in detail, including IDEA’s relevant provisions. So the slide serves as an advance organizer for the audience and a summary. Details can be covered in the slides devoted to each individual step.

Summarizing the Content

In conjunction with adopting NIMAS, the State or LEA has chosen to work with the NIMAC. Here’s a brief summary of each step along that path.

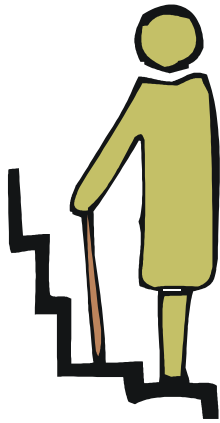
Step 1: SEA/LEA “adoption.”
Adoption, here, refers to a process many in the audience

will be familiar with—when an SEA or LEA “adopts” print instructional materials for use in its school systems. “Adoption” committees may be set up to review available textbooks, especially textbook series, and analyze their contents and activities against some list of criteria that the SEA or LEA has established for selecting textbooks that their children and teachers will use.

In most places, adopting a textbook or other materials to be used in schools is a big deal, representing the commitment of

substantial funds and setting the SEA or LEA on a track that will shape teaching and learning for many years to come. It's at this point, then, that the NIMAS process begins. In making any such purchase of print instructional materials, the SEA or LEA must enter into a written contract with the publisher of the instructional materials to accomplish several NIMAS-related ends. Those "ends"—or what the publisher must agree to provide in return for the SEA or LEA adopting the publisher's materials—will be amply discussed on the next slide. At this point, we're in overview mode, so you may want to draw the audience into a guessing game as to what those "ends" might be.

FYI: One of the chief elements of the agreement requires the publisher to prepare and, on or before delivery of the print instructional materials, provide to NIMAC electronic files containing the contents of the print instructional materials using the NIMAS [§300.172(c)(1)(i)].



Step 2: K-12 publishers submit filesets. As agreed in Step 1, the publisher now prepares the filesets (i.e., source files) for the instructional materials—in the NIMAS, of course. What does NIMAS stand for, again? It's a *standard* for preparing accessible materials.

Using that standard, the publisher prepares the filesets and submits them to the NIMAC, the repository established by Congress. Now we're getting somewhere! Those filesets will then become available to other SEAs and LEAs coordinating with the NIMAC.

Step 3: NIMAC does its magic! Don't mind those people behind the curtain, they're working some kind of magic to benefit us all.

As previously mentioned, IDEA has assigned specific duties for the NIMAC. These will be discussed in some detail in a few minutes, on another slide, but can be summarized (as the circle on the slide does) as NIMAC now "validates, catalogs, and provides secure access to NIMAS filesets." In other words, the

Center serving as the national repository of NIMAS filesets will integrate the new filesets sent by the publishers in Step 2 into its repository system and make them available to authorized users.

Step 4: Authorized users prepare specialized formats for students. Speaking of authorized users, they now enter the picture. These authorized users—call them AUs—are individuals designated by States and are responsible for obtaining the source files from NIMAC and seeing that they are rendered into the specific accessible formats that individual children with print disabilities need.

Step 5: Guess what happens here! You got it, children with print disabilities obtain the specialized formats they need in order to access required instructional materials.

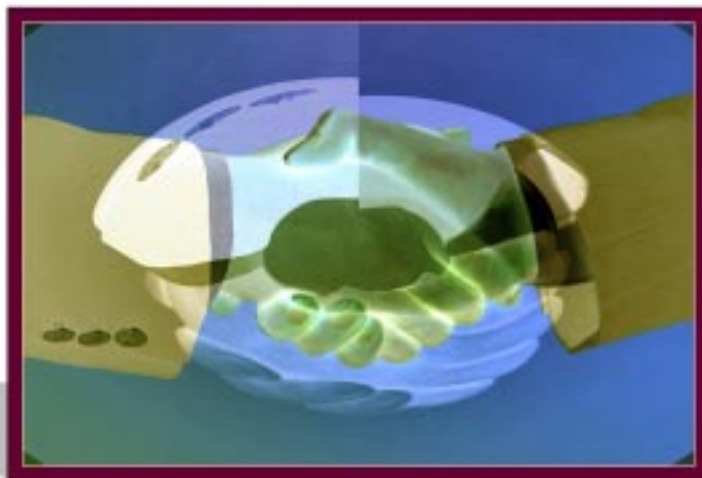
The circle is now complete, end goal accomplished. And that's the NIMAS process.

Now let's look at each of these steps in conjunction with IDEA's provisions, which spell out critical details and responsibilities.

View 1

1—SEAs or LEAs “Adoption”

When purchasing/acquiring print instructional materials, State must enter into a written contract with publisher to:



Slide loads the title and the intro paragraph.

Clicks 1-2

1—SEAs or LEAs “Adoption”

When purchasing/acquiring print instructional materials, State must enter into a written contract with publisher to:

Click 1:
Picture disappears,
and Bullet 1 loads.

- Require publisher to prepare electronic NIMAS files of text materials and provide the files to NIMAC on or before delivery of print materials, *or*

Click 2:
Bullet 2 loads.

- Purchase instructional materials from publisher that are (or may be rendered) in specialized formats

CLICK AGAIN to advance to next slide.

(discussion on next page) ➡



Time for specifics and IDEA's provisions. In Step 1 of the NIMAS process, SEAs and/or LEAs are addressing textbook adoption. For those SEAs and LEAs that have elected to coordinate with the national repository NIMAC, the process of textbook option must now involve establishing formal agreements with the publishers of adopted materials. IDEA's relevant provisions are found at §300.172(c) (see **Handout B-15** and the box below).

Key Points

Procurement and adoption procedures vary from place to place. The language of IDEA may strike many as rather cumbersome (it's a mouthful, to be sure: "...as part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials..."), but this phrasing takes into account the varying adoption and procurement processes used by States and LEAs. Whatever that process is, it must now include entering into a written contract with the publisher to ensure specific NIMAS-related outcomes.

What the publisher must do. It's pretty clear what publishers must now do when States or LEAs enter into a written contract with them for the purchase or adoption of print instructional materials. But for the sake of clarity, let's spell it out. The written contract between the publisher and the public agency requires that the publisher do one of two things:

- prepare the instructional materials according to the technical specifications established for NIMAS and provide the resulting electronic files to the NIMAC; *or*
- produce said instructional materials in specialized formats or in files that can be rendered into specialized formats, so that the State or LEA may purchase them.

What's tricky in that phrasing and important to point out to the audience is the use of the word "*or*." The Department cannot *require* publishers to submit their materials in the NIMAS format to the national repository of NIMAC where those materials will then become available to other SEAs and LEAs. However, should publishers choose to not submit their materials to the NIMAC, they

must make their materials available to SEAs or LEAs either in specialized formats or in files that can be rendered into specialized formats by the SEA or LEA.

Timelines. Exciting timelines! Important timelines, too, expressed in IDEA as "on or before delivery of the print instructional materials." This means that the NIMAS-formatted filesets that



Step 1: Contracting with Publishers §300.172(c)

(c) *Preparation and delivery of files.* If an SEA chooses to coordinate with the NIMAC, as of December 3, 2006, the SEA must—

(1) As part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials, enter into a written contract with the publisher of the print instructional materials to—

(i) Require the publisher to prepare and, on or before delivery of the print instructional materials, provide to NIMAC electronic files containing the contents of the print instructional materials using the NIMAS; or

(ii) Purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats.

the publisher produces for its instructional materials must be provided at the same time or before the printed materials are delivered to the SEA or LEA.

This requirement is clearly in tandem with the SEA/LEA obligation to “take all reasonable steps” to ensure that children who need materials in specialized formats receive them at the same time that others in the class receive the same material in printed form [§300.172(b)(4)]. (This important obligation will be fully discussed under Slide 35.)

Remember the opening slide in this module? Here’s your history textbook for the year...now it may be given to you as a book or in a specialized format.

Overall Timelines for NIMAS

The NIMAS regulations and Appendix C of the IDEA regulations established August 18, 2006 as the effective date for NIMAS. Beginning on that date, the NIMAS applied to print instructional materials submitted by publishers to the NIMAC.

This should not be confused with meaning that materials published *before* that date are not subject to being prepared in such a way that they can be rendered into a variety of specialized formats. SEAs and LEAs still have the obligation to provide required instructional materials in accessible formats to children who need them. Nothing exempts them from this obligation and most definitely *not* the date on which a textbook or



other required material was published. Be very clear with the audience about this. We bring this to your attention because it’s come to *our* attention that there’s some confusion afoot in the field as to what the effective date of NIMAS means for school systems. The effective date of NIMAS is quite separate from an SEA or LEA’s obligations toward children who need printed instructional materials in another format in order to use and learn from them.

The Department clarifies the meaning and intent with the following discussion from the Analysis of Comments and Changes.

The Department interprets “publish” to have the plain meaning of the word, which is to issue for sale or distribution to the public. The NIMAC’s duties, therefore, apply to print instructional materials made available to the public for sale after the NIMAS is published in the Federal Register. However, this does not relieve SEAs and LEAs of their responsibility to provide accessible instructional materials in a timely manner, regardless of when the instructional materials were “published.” (71 Fed. Reg. at 46620)



Useful Examples

When considering the above guidance, examples might help illustrate how implementation of NIMAS plays out in reality for materials published before and after the effective date of August 18, 2006.

Example 1: Materials published after NIMAS’ effective date: A local school district is acquiring a 4th grade English textbook and workbook, with a copyright/publication date of September 2006. In conjunction with delivery of the textbook (and companion workbook), the publisher will also deliver to the NIMAC source files of the textbook and workbook. As need arises, the school district will arrange to access these source files to render the books (or have them rendered) in alternate formats that meet the needs of their children.

Example 2: Materials published before the effective date but purchased after the date. Take the same scenario and swap out the September 2006 date for September 2005, or perhaps 2004. The conclusion is the same: The publisher will deliver to the NIMAC source files for the textbook and workbook. Why, you ask? Simply stated, the publisher offers these materials (with a variety of copyright dates) for sale and the school district has contracted to purchase them. The school district is obligated to require the publisher to submit source files to the NIMAC, and the publisher is obligated to do so.

Let's look at another example that will no doubt capture the reality found in many a school system.

Example 3: Materials adopted before the effective date. A local high school offers an elective psychology course that uses a 3rd edition textbook with a copyright date of 2001. The publisher is now selling the 5th edition of this text, which has a 2007 copyright, and no longer offers the 3rd edition for sale. The district has no plan (or available funds) to purchase the newer edition. Is the publisher required to provide the NIMAC with source files of the 2001 edition?

No, it is not. Until such time as this high school, or another district/State, contracts to purchase the new edition, the publisher is not obligated to provide the NIMAC with source files of it.

However, as pointed out above, this does not relieve the SEA or LEA from *its* obligation to pro-



vide the 2001 edition textbook in the specialized format that a child with a print disability needs in order to use and learn from the material. If a child who needs alternate-format materials enrolls in the class, and the school system requires that textbook as part of taking the class, then its obligation is clear. The public agency must provide the appropriate accessible materials to this student in a timely manner.

How will the school meet its obligation to this child if the publisher doesn't have alternative formats of this text available and the NIMAC doesn't have a source file for the text? Ah, here we're talking about the pre-NIMAS reality! There are a number of options available to an SEA or LEA in this situation, including:

- arranging for production of the accessible format through coordination with the State's technology program;
- arranging for production of the accessible format via an alternate media producer such

as Bookshare.org, Recording for the Blind & Dyslexic, or the American Printing House for the Blind; or

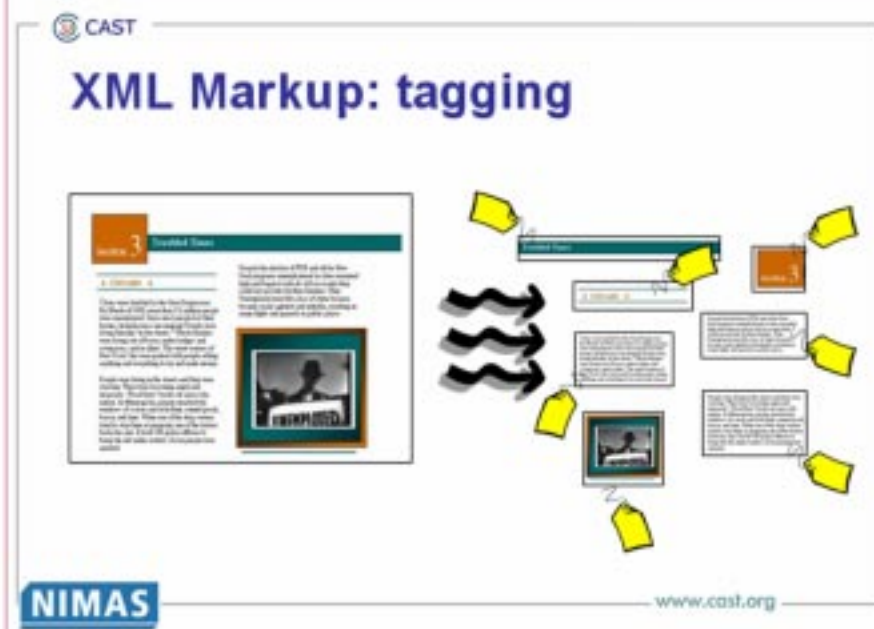
- scanning the textbook and producing the accessible materials on its own.

In Conclusion

The requirements reflected on Slide 23 represent a real nitty-gritty step in how accessible instructional materials ultimately get into the hands of the children who need them. For States and LEAs that choose to coordinate with the NIMAC, IDEA's provisions lay out the relationship that States and local school districts must establish with publishers, either to contract with the publisher to require the preparation and delivery of NIMAS filesets to the NIMAC or to purchase directly from the publisher materials that are (or may be produced) in specialized formats.

2-K-12 publishers prepare and submit filesets to NIMAS

View 1



Slide loads the title and the complicated graphic of a text-book page and how the same page would be prepared with XML tags. Ahhh!

2-K-12 publishers prepare and submit filesets to NIMAS

Click 1

Time for techno-speak.
(You knew it was coming.)



Click 1:
Graphic lifts away and
"Techno-speak..."
alarm appears.

(continued on next page)

2-K-12 publishers prepare and submit filesets to NIMAC

Click 2



You start with the textbook

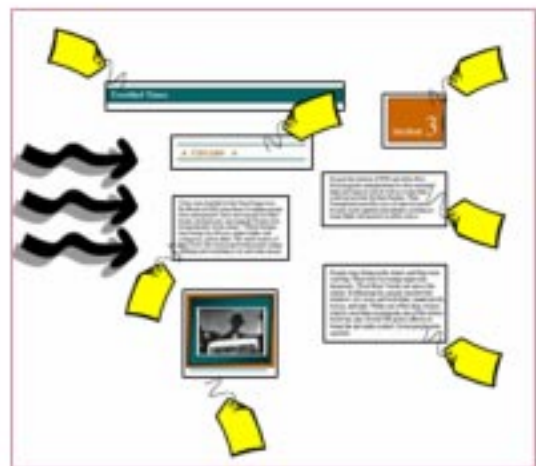
The screen clears and "You start with the textbook" appears, with the graphic of the textbook page alongside.

2-K-12 publishers prepare and submit filesets to NIMAC

Click 3

Screen clears again, and a new graphic appears: The textbook page split apart, with each part "XML tagged."

Its parts get XML tagged



CLICK AGAIN to advance to next slide.

(discussion on next page) ➡



Here's a look at Step 2 in the NIMAS process for States and LEAs choosing to coordinate with the NIMAC: **K-12 publishers prepare and submit filesets to the NIMAC** (as agreed via written contract when States or LEAs adopt their materials).

Preparing the Filesets

How many of us need to know the technical aspects of how a textbook would be transformed into a source file complete with XML tagging? Thankfully, most of us don't. The individuals who *do* need to know how to do this will likely be those responsible for preparing the files to be submitted to the NIMAC or overseeing the process. This select group should refer closely to Appendix C of IDEA, which spells out the technical specifications for NIMAS-valid file preparation. The NIMAS Development and Technical Assistance Centers (<http://nimas.cast.org/>) are also extremely knowledgeable sources of assistance and clarity.

For the rest of us, it's enough to know that somewhere technical magic occurs and that it is an essential part of creating source files that can be readily converted

into a variety of specialized formats. This slide contrasts the textbook page in "print" (on the left) with the same textbook page (on the right) separated into its pieces—text and images—and each piece "tagged."

As the slide progresses, you'll get a closer look at the actual tagged text (and the next slide takes a real close-up look). Most audiences will only need to understand the *concept* of preparing filesets of printed materials, not the actual technical aspects, but it's helpful to see how systematic and specific preparing filesets must be.

What may be apparent to some in the audience, however, is that the coding added to the components of the textbook page in electronic form bears a recognizable resemblance to HTML, the code often used to display Web pages. For those familiar with HTML (and many people are), these codes will ring a useful conceptual and technical bell. In a nutshell, the XML-

tagged version of the text page includes instructions to the computer identifying (or tagging) components of the text page, such as:

- which page you're on (`<pagenum id="page_3">`), or
- whether text is a title or content header (`<h2 id="L001.002.H01" class="mainsection">Section 3. Troubled Times</h2>`).

Looking at the text page itself, people *without* print disabilities can clearly see that this page begins a section entitled **Troubled Times**. But that will not be apparent to a child *with* a print disability. In the second bullet above, the same text is XML tagged, so that it can be identified and rendered as a title when converted to a specialized format the child can access.

Submitting the Filesets to the NIMAC

Once the filesets are prepared according to NIMAS specifications, the publishers send the filesets to the NIMAC according to the protocols the NIMAC has established. These protocols are described on its Web site (www.nimac.us/) for all who wish or need to know.



Voilà!

```

</level2>
<pageum id="page_3" page="normal">3</pageum>
<div id="L001.002" class="mainsection">
  <h2 id="L001.002.H01" class="mainsection">Section 3: Troubled Times</h2>
  - <p id="L001.002.P001">
    Cities were hard hit by the Great Depression. By March of 1930, more than 3.2 million people were
    unemployed. Since most people lost their homes, homelessness ran rampant. People were living literally
    "in the streets." Whole families were living in boxes, under bridges and overpasses, and in alleys. The
    street corners of New York City were packed with people selling anything and everything to try and make
    money.
    <q>"Desperate times began to put into question the old American notion that if a man worked hard enough,
    he could always take care of himself and his family. The effect of the Depression on poor children was
    particularly severe.... Most elderly Americans did not have personal savings or retirement pensions to
    support them in normal times, let alone during a national economic crisis.... Even skilled workers,
    business owners, successful farmers, and professionals of all kinds found themselves in severe economic
    difficulty as one out of four in the labor force lost their jobs." (CRF, www.crf-usa.org.)</q>
  </p>
  - <table id="L001.002.001.003.T01" width="50%" border="1">
    - <thead>
      - <tr id="L001.002.001.003.T01">
        - <td id="L001.002.001.003.TD01" align="center" rowspan="1" colspan="1">
          - <p>
            <strong>Year</strong>

```

You have an XML-tagged file
of that textbook page.

Slide loads completely.
No clicks are necessary
except to advance to
the next slide.

CLICK to advance to next slide.

And here we see the result of the XML-tagging process. This is the same textbook page we saw earlier, now tagged and ready to roll with NIMAS-valid formatting. Anyone in the audience recognize the functions of various tags you can see, and care to share what they know with their compatriot participants? It's not necessary to elaborate, of course, or understand what the codes mean unless your duty is going to be implementing this step in the NIMAS process.

With this XML source file, the original text materials can be produced in Braille, as an audiobook, as a Web page, as digital text, as a Daisy talking book—in any alternative format needed that makes it accessible to a child. Is this too cool or what!? And guess what else? Today's technology lesson ends here, with the proviso: more information, how-to, and help on all things NIMAS (technical and otherwise) is only a Web site away at the NIMAS Development and TA Centers at CAST (<http://nimas.cast.org>).

View 1

3—**NiMAC** National Instructional Materials Access Center **does its magic!**

Slide loads the title (3—NiMAC does its magic!") and the 1st paragraph.

NiMAC checks to make sure that files from publishers are in valid NIMAS format



Clicks 1-2

NiMAC National Instructional Materials Access Center **does its magic!**

NiMAC checks to make sure that files from publishers are in valid NIMAS format

Click 1: 2nd paragraph loads.

Files are catalogued into a Web-based database



Click 2: 3rd paragraph loads—and the picture of the magic rabbit!

Authorized users can search database for needed materials and download files directly

CLICK AGAIN to advance to next slide.

(discussion on next page)



What NIMAC does with the filesets received from K-12 publishers will seem like magic from the outside, but it involves specific duties and responsibilities. Two slides will be devoted to those responsibilities, beginning with the three tasks listed on this slide.

What's Involved in Step 3

As Step 3 was summarized in the circle process shown on Slide 22, NIMAC must now validate, catalog, and provide secure access to the NIMAS filesets. A bit more detail about each of these steps? Okay.

"Validate" means that the Center must check to see that what the publisher has submitted is, in fact, prepared according to NIMAS' technical specs (detailed in Appendix C of IDEA's regulations). The Center has also developed a "validation tool" that publishers will use to conduct their own validation. If the fileset is rejected by the NIMAC, the publisher receives an error report. The publisher may resubmit the fileset once it's corrected and will receive a certificate when a valid file is accepted by the NIMAC.

Cataloguing. Files that pass the validation check are then catalogued into a database that's online and can be searched from locations nationwide. Happily, the database is already up and available to authorized users. Have a look at: www.nimac.us/

"Providing secure access" is closely connected with copyright protection and the subject of authorized users. We've already talked about copyright issues (see Slide 18) and will talk about authorized users more fully on Slide 28, just around the corner. Summarized here, each State (or LEA) designates a limited number of authorized users who will have access to the repository of source files. Through the system of secure access that the NIMAC has set up, authorized users will be able to identify and download the source files for needed textbooks and other print instructional material for the purposes of preparing materials in specialized formats for children with print disabilities.

Thus, NIMAC is responsible for setting up and maintaining a secure system by which NIMAS-validated source files can be downloaded. The system must be secure in the same way that your bank account online must be secure—only someone authorized by a State or LEA will be able to download. This protects the rights of the publishers to their own materials, but does not block the access of authorized users or their role in making accessible instructional materials available to children who need them.





Role and Responsibilities

- NIMAC will:
- maintain a catalog of print instructional materials prepared in the NIMAS made available to the Center by the textbook publishing industry, SEAs, and LEAS

← Slide loads the title, "NIMAS will" and Bullet 1.



Role and Responsibilities

- NIMAC will:
- maintain a catalog of print instructional materials prepared in the NIMAS made available to the Center by the textbook publishing industry, SEAs, and LEAS
 - provide access to print instructional materials, including textbooks, in accessible media, free of charge, to blind or other persons with print disabilities in elementary schools and secondary schools
 - develop, adopt and publish procedures to protect against copyright infringement with respect to the print instructional materials

← Click 1: Bullet 2 loads.

← Click 2: Bullet 3 loads.

CLICK to advance to next slide.

More on NIMAC's magic-doing—or, actually, on the duties that Congress has assigned to the Center. The full text from the statute is provided below and on **Handout B-15**. It was also provided under Slide 19, so you'll recognize it, but perhaps it will be helpful to have it right before your eyes for reference.

The Catalog

The NIMAC is clearly responsible for receiving and maintaining the catalog of NIMAS-validated source files it receives. This catalog is already available on its Web site; as of the last day of April 2007, 840 files were ready for downloading.¹ This number can be expected to grow steadily as publishers, SEAs, and LEAs contribute their instructional materials in NIMAS to the Center. Anyone may search the

database to see what's available. However, to download materials, you must be an authorized user. Have a look-see at: www.nimac.us/

Providing Access

The last slide brought up the NIMAC duty of providing secure access to materials in the repository via authorized users. As specified by IDEA, the NIMAC has the right to establish the

terms and procedures under which such access is provided and used and copyrighted materials downloaded and made available to children with print disabilities ("in accordance with such terms and procedures as the National Instructional Materials Access Center may prescribe" are IDEA's exact words). Those terms and procedures are spelled out in detail on the Web site and in NIMAC's materials and forms. Authorized users of the NIMAC must agree to those terms and use the files they download only to produce accessible instructional materials for children. In return, authorized users are given access to NIMAS filesets free of charge.

The NIMAC does not work directly with schools, children, parents, or teachers.² Important point from the Department:

The NIMAC is not responsible for converting NIMAS files to the accessible formats needed by the children eligible to receive print instructional materials derived from NIMAS files. All States will need to arrange to have the NIMAS files converted to student-ready versions of instructional materials in the accessible formats needed by these children. (71 Fed. Reg. at 46619)

Protecting Against Copyright Infringement

It's a bit of a sticky wicket to ensure that, when a textbook publisher enters into a written contract with an SEA or LEA to provide its textbook materials in NIMAS-valid source files, it is not also throwing open the door to copyright infringement. Thus,

Duties of the NIMAC

As defined in the IDEA Statute, 20 USC 1474 (e)(2)

(2) DUTIES.—The duties of the National Instructional Materials Access Center are the following:

(A) To receive and maintain a catalog of print instructional materials prepared in the National Instructional Materials Accessibility Standard, as established by the Secretary, made available to such center by the textbook publishing industry, State educational agencies, and local educational agencies.

(B) To provide access to print instructional materials, including textbooks, in accessible media, free of charge, to blind or other persons with print disabilities in elementary schools and secondary schools, in accordance with such terms and procedures as the National Instructional Materials Access Center may prescribe.

(C) To develop, adopt and publish procedures to protect against copyright infringement, with respect to the print instructional materials provided under sections 612(a)(23) and 613(a)(6).

as part of its duties, the NIMAC must also "develop, adopt, and publish procedures to protect against copyright infringement" [20 USC 1474 (e)(2)(C)]. We've already seen that one of its chief mechanisms is to restrict the availability of those files to only those users who are authorized by a State or LEA. Further, SEAs must agree to limited use of the files (via what the NIMAC calls a "Limitation of Use" agreement.

Other elements of the NIMAC's protections against copyright infringement include:

- Files are digitally fingerprinted and watermarked before downloading, identifying who and when the fileset was downloaded.
- Filesets include publisher, copyright, and rights information.
- The NIMAC system captures and stores data on which account downloaded which NIMAS filesets. The data will be accessible via reports for review by publishers.



¹ Myers, J. (2007, May). *National Instructional Materials Access Center: Overview*. Retrieved June 22, 2007, from www.nimac.us/aapNIMACrev430.ppt

² Myers, J. (2007, March). *NIMAC: Overview and status report*. Retrieved June 22, 2007, from www.nimac.us/5NIMACNY.ppt

View 1

4—Authorized users prepare specialized formats for students



Who's an authorized user?

Slide loads
Step 4 text (at
top) and "who's
an authorized
user?" (at
bottom).

4—Authorized users prepare specialized formats for students

- State coordinator designates up to 5 AUs and registers them with NIMAC
- Each AU must sign and submit NIMAC's Limitation of Use Agreement
- AUs can search database, download materials in source files, or assign files to an Accessible Media Producer (AMP)

Clicks 1-3

Clicks 1-3:
Bullets 1-3 appear,
one per click.

Who's an authorized user?

CLICK AGAIN to advance to next slide.

(discussion on next page) ➡



Step 4—we're almost around the circle introduced in Slide 22. Authorized users have been mentioned repeatedly, so the audience hopefully already has a basic understanding of this important cog in the NIMAS wheel. But it's a critical cog, so let's take a closer look.

Establishing Who's an Authorized User

The term "authorized user" (AU) has been coined by the NIMAC to represent those agencies, organizations, or individuals designated by an SEA to download NIMAS filesets and see that they are converted to specialized formats for qualified children with disabilities (see <http://nimac.us/faq.html#g>). AUs are designated by the State NIMAS coordinator. Up to five AUs may be designated, with the State coordinator registering their names, affiliations, and other required information with the NIMAC. (Note: If additional accounts are needed, the coordinator may contact NIMAC at NIMAC@aph.org.)

The NIMAC identifies several types of entities or individuals that States might consider designating as their AUs: Vision Resource Centers of the American Foundation for the Blind (available in most States), Special Education Resource Centers, and alternate media producers (e.g., Daisy book producers, audio producers, nationally authorized entities such as Recording for the Blind and Dyslexic or Bookshare.org).



Authorized Entities

Remember back on Slide 18 when the Copyright Act was discussed, the "limitation of exclusive rights" was mentioned, and the definition of the term "specialized formats" was given? You may recall that IDEA adopts the definition of that term used in the Copyright Act at section 121(d)(4) of title 17, United States Code.

Well, another pertinent term comes from that section of the Copyright Act—*authorized entities*—and has clear connections to the term *authorized user*, or AU, as coined by the NIMAC. The AU of the NIMAC is a type of authorized entity. The Chafee Amendment of 1996, which added section 121, begins by stating that:

Notwithstanding the provisions of section 106, it is not an infringement of copyright for an authorized entity to reproduce or to distribute copies or phonorecords of a previously published, nondramatic literary work if such copies or phonorecords are reproduced or distributed in specialized formats exclusively for use by blind or other persons with disabilities. [section 121(a), title 17, USC]

It then defines the term *authorized entity* as:

(1) "authorized entity" means a nonprofit organization or a governmental agency that

has a primary mission to provide specialized services relating to training, education, or adaptive reading or information access needs of blind or other persons with disabilities... [section 121(d)(1), title 17, USC]

In essence, the Chafee Amendment allows an authorized entity to reproduce or distribute specific types of copyrighted material if this is done exclusively for use by blind or other persons with disabilities. It works in tandem with the provision discussed under Slide 18 that limited the exclusive rights of publishers when distribution of their materials involved the same purposes, for the same group of individuals.

For more information on this term and the Copyright Act, both of which have clear relevance to the NIMAC, we refer you to the National Library Service's factsheet *Copyright Law Amendment, 1996: PL 104-197*, available online at: <http://www.loc.gov/nls/reference/factsheets/copyright.html>



Limitation of Use Agreement

Before an AU may download files from the NIMAC database, he or she must sign the Limitation of Use Agreement (LUA) available on the NIMAC Web site. Conveniently, when the State coordinator registers an AU, this agreement is automatically sent to the email address registered for that AU. The NIMAC requires that this agreement be signed and mailed back in hard copy. When the LUA is received by the NIMAC, the AU receives a user identification (ID) and password via email, as well as instructions on how to log into the repository.

Up and Running!

Registered and equipped with user ID and password, the AU now has a green light to log in at the NIMAC and search for and download files. With files in hand, the AU can then convert those materials to the needed specialized format (Braille, audio, or digital text, large print, etc.). Alternatively—as the last bullet on the slide indicates—the AU may also assign the files to what is known as an Accessible Media Producer (AMP). As an agent of the authorized user, the AMP then converts the files into the specialized format(s) needed by eligible children with disabilities.

More on AMPs

In many States and LEAs, specialized formats for children with disabilities are routinely created by AMPs who specialize in producing accessible materials such as Braille, large print, and Daisy books. Some may be



nationally authorized entities (e.g., Recording for the Blind and Dyslexic), while others may be commercial content conversion companies with which the SEA or LEA contracts to have the source files rendered into necessary and accessible formats. The Department summarizes as follows:

Accessible, student-ready versions of instructional materials are created from NIMAS source files by national third-party conversion organizations; regional or State conversion sources; desktop applications created by software developers; or curriculum publishers that produce accessible alternate format versions for direct sale to SEAs and LEAs. (71 Fed. Reg. at 46619)

To act as an agent of an AU, the AMP must be designated as such by the AU and must sign the same LUA. These are among the terms and procedures that the NIMAC is authorized by the statute to prescribe as it sees fit [see section 674(e)(2)(B)], discussed under Slide 19. Once that agreement is received by the NIMAC, the AMP may download

files directly from the repository database—but only those files assigned by the AU.

Responding to commenter concerns with verifying the accuracy and completeness of the electronic source files against the original textbooks, the Department considered both NIMAC's role and that of AMPs, beginning with NIMAC's as follows:

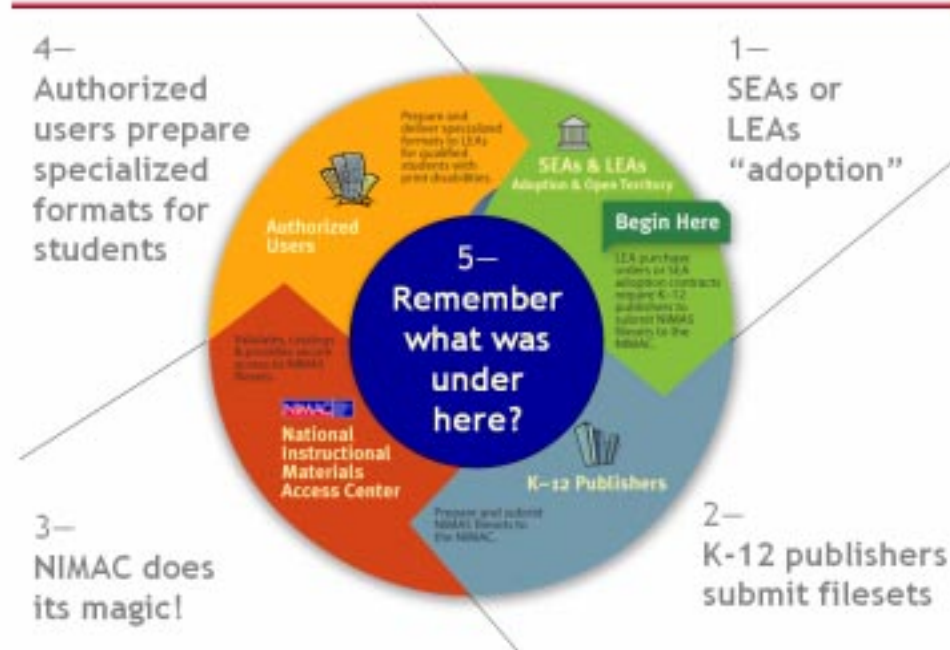
We understand and appreciate the importance of having a copy of the original material to ensure accuracy of the files. However, the NIMAC is not responsible for ensuring the accuracy of materials, aligning page numbers, or describing pictures. Rather, the NIMAC is a distribution center for NIMAS files obtained from publishers, SEAs, and LEAs. (*Id.*)

Does the IDEA define the AMP's role in verifying the accurate and complete rendering of a textbook into a specialized format? No, it certainly does not. The Department states:

The Act does not authorize the Department to impose obligations on such entities to provide accurate materials. States and LEAs that contract with such entities, however, may wish to require the accuracy of such materials, including the alignment of page numbers and descriptions of pictures, as part of their agreements. (*Id.*)

View 1

Path A: Working with NIMAC



Look familiar?

Slide loads the graphic from Slide 22. The center circle is covered in blue and says "5-Remember what was under here?"

Path A: Working with NIMAC



Click 1

Click 1:
The blue circle lifts away, and the last step is revealed:
"Students with print disabilities obtain specialized formats."

CLICK AGAIN to advance to next slide.

(discussion on next page) ➡

This is a quick slide. It presents again the circle overview of the NIMAS process from Slide 22 and asks the audience if they remember what Step #5 was. Can they?

Once you click, the circle will lift away, and the fifth step will

be stated. This is the outcome of all previous steps—that the children with print disabilities who need instructional materials in specialized formats actually *receive* them. This is stated on this slide and shown vividly on the next slide.



Slide 30

Implementing IDEA's NIMAS Requirements (*Slide 11 of 13*)

5—Students with print disabilities obtain specialized formats

This student is now hard at work in her history book



Slide loads completely. No clicks are necessary except to advance to the next slide.

CLICK to advance to next slide.

While the slide may appear to repeat the conclusion just reached in Slide 29, it connects back to the very first slide in this module—here's your history book for the year. We now see the purpose of NIMAS come full circle. Yes, you can be hard at work in your history book with headphones on your ears. Clearly, this teenager has been provided that history book in

the accessible format of tape or CD. She is no longer left out of classroom learning, activities, and assignments associated with the required textbook or (we can suppose) related core instructional materials.

With this slide, Path A—what happens when a State or LEA decides to coordinate with the NIMAC—is complete. Time to

find out what happens in States and LEAs that decide *not* to coordinate with the national repository.

What about the road not taken?

- To work with NIMAC
- To *not* work with NIMAC



Slide loads completely. No clicks are necessary except to advance to the next slide.

CLICK to advance to next slide.

Earlier, Slide 21 divided the implementation of NIMAS into two paths. Here, 10 slides later, that presentation is recapitulated here, this time emphasizing the option of *not* working with NIMAC.

The slide is intended to remind participants of this earlier division (which by now they've probably forgotten) and to let them know that we're now going to take a look at this other road in the NIMAS story. As they may recall, IDEA leaves the choice to coordinate with the NIMAC up to the State. Nothing in

§300.172, NIMAS' core provisions, may be construed to "require any SEA to coordinate with the NIMAC" [§300.172(b)(1)].

So—what's a State to do without the NIMAC? What does IDEA require? Here it comes.

View 1

Path B: If A State Chooses *Not* To Work With NIMAC

State must **provide assurance** that it will provide instructional materials to blind persons or others with print disabilities in a timely manner



Slide loads title and intro paragraph ("State must provide assurance...").

Click 1

Path B: If A State Chooses *Not* To Work With NIMAC

State must **provide assurance** that it will provide instructional materials to blind persons or others with print disabilities in a timely manner

- The State may:**
- Purchase available source files directly from publishers and arrange to use those files to produce child-ready specialized formats, and/or
 - Purchase available child-ready versions directly from publishers, and/or
 - Establish a workflow for scanning print materials and self-producing (or otherwise obtaining) appropriate specialized formats

Click 1:
"The State may..." and
Bullet 1 load.

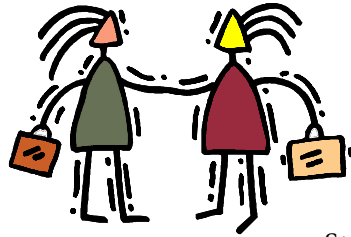
Clicks 2-3:
Bullets 2 and 3
load, one per
click.

CLICK AGAIN to advance to next slide.

(discussion on next page) ➡



Last slide in the “implementation” section of this module! After this, we’re closing in on the final slides.



Providing Assurance

What does it mean to “provide assurance?”

As stated previously, in conjunction with adopting NIMAS, States may choose to coordinate with the NIMAC, although they are not required to do so. If a State chooses not to coordinate with the NIMAC, they are required to “provide assurance” to the Department, in accordance with §300.172(b)(2), which says:

(2) If an SEA chooses not to coordinate with the NIMAC, the SEA must provide an assurance to the Secretary that it will provide instructional materials to blind persons or other persons with print disabilities in a timely manner.

This requirement holds true for LEAs as well; LEAs must provide similar assurance to the State in accordance with §300.210(b)(2), which states:

(2) If an LEA chooses not to coordinate with the NIMAC, the LEA must provide an assurance to the SEA that the LEA will provide instructional materials to blind persons or other persons with print disabilities in a timely manner.

States are required to submit an annual application for Part B funds to the Department. One component of the application is to provide assurances that policies and procedures are in place that conform to the requirements of IDEA and its implementation. Essentially, this means that States document and assert they are fulfilling the requirements and responsibilities under IDEA and, therefore, remain eligible for continued funding in order to provide services to children with disabilities in the State. The assurance language displayed on Slide 32 is but one example of when an assurance is required (when the State chooses not to coordinate with the NIMAC) “to ensure that the State meets the conditions of eligibility” (71 Fed. Reg. at 46618).

As mentioned earlier in this module, the Department intends to compile a list of the States that have chosen to coordinate with the NIMAC and those that have chosen not to coordinate and will make this list available on OSEP’s monitoring Web site

at: <http://www.ed.gov/policy/speced/guid/idea/monitor/index.html>

This information, as posted on the Department’s Web site, is a matter of public record and reflects one aspect of how the Department monitors implementation of IDEA across States.

Timely Manner

The timeliness with which an SEA or LEA provides instructional materials in specialized formats to children who need them is not an insignificant matter in IDEA. You’ll recall that, as part of adopting NIMAS, each State must define what the term “timely manner” means. This was discussed under Slide 12. Found at §300.172(a)(2), this requirement applies equally to States who choose to coordinate with the NIMAC and those who don’t.

Even as IDEA gives States the authority to define “timely manner” for itself and its LEAs, IDEA provides a very clear target toward which to strive: providing materials in specialized



formats at the same time as other children receive their materials in print [§300.172(b)(4)]. This will be discussed more fully under Slide 34. The point to be made on the current slide is that a State or LEA choosing not to coordinate with the NIMAC must provide the Secretary with its assurance that children with disabilities who need instructional materials

in specialized formats will receive those materials in a timely manner, as that term is defined by the State.

From Promises to Concrete Processes

If a State or LEA is not coordinating with the NIMAC, how, then, does it provide instructional materials in specialized

formats in a timely manner? The rest of Slide 32 lists several options (the three bullets, which appear on three separate Clicks).

The options stated on the slide are also available to States and LEAs that choose to coordinate with the NIMAC.

Slide 33

Final Points (*Slide 1 of 5*)



Slide loads completely. No clicks are necessary except to advance to the next slide.

CLICK to advance to next slide.

Here we have another section divider, closing down the 13-slide-long topic of implementing IDEA's provisions related to NIMAS and opening up a 5-slide look at additional points to be made about NIMAS.

View 1

Slide loads with this view, including Bullet 1.

A State must also:

Ensure that all its LEAs take all reasonable steps to provide instructional materials in accessible formats to:

- children with disabilities who need those instructional materials



A State must also:

Ensure that all its LEAs take all reasonable steps to provide instructional materials in accessible formats to:

- children with disabilities who need those instructional materials

Click 1: Bullet 2 appears.

- *at the same time as* other children receive their instructional materials



CLICK AGAIN to advance to next slide.

(discussion on next page) ➡



Two final points are made on Slide 34 and come directly from §300.172(b)(4), which appears on **Handout B-15** and reads as follows:

(4) In order to meet its responsibility...to ensure that children with disabilities who need instructional materials in accessible formats are provided those materials in a timely manner, the SEA must ensure that all public agencies take all reasonable steps to provide instructional materials in accessible formats to children with disabilities who need those instructional materials at the same time as other children receive instructional materials.

This obligation has been mentioned several times already in this training module (see Slides 12 and 32). We've saved its fullest discussion for here, among the final points to be made about NIMAS, because it is a very important obligation. When trainees leave the session, it will be among the last things they've talked about and examined, hopefully making it prominent in their minds.

Point 1: The High Bar

IDEA uses unusually powerful language at §300.172(b)(4): must ensure...all its public agencies...all reasonable steps. The obligation described there clearly sets a high bar of expectation: that instructional materials will be provided in accessible formats to children with disabili-

ties who need those materials *at the same time* as other children receive their instructional materials in print.

The Analysis of Comments and Changes provides insight into the importance of this high bar to Congress and the Department.

... States should make every effort to provide children with disabilities accessible instructional materials at the same time as other children receive their instructional materials. The Department's position is consistent with S. Rpt. No. 108-185, p. 19, which states, "The committee feels strongly that instructional materials should be provided to blind and print disabled students at the same time their fellow students without print disabilities are receiving the same materials." This position also is consistent with H. Rpt. No. 108-77, pp. 97-98. (71 Fed. Reg. at 46617)



Point 2: Understanding "All Reasonable Efforts"

IDEA and the Department both recognize that it may not be possible in all circumstances to achieve the high bar of providing accessible materials to children who need them at the same time that other children receive their instructional materials. This is evident in IDEA's use of terms such as "all reasonable efforts" and "in a timely manner." We already know that IDEA requires each State to define the term "timely manner." Is there any clarification in the statute, regulations, or elsewhere as to what "all reasonable efforts" means?

In law and regulation, no. Additional information on the interpretation of the term comes from the Department. The Department's comments are excerpted in the box on the next page. Take a moment and read them.

As you can see, taking "all reasonable efforts" can include:

- requiring publishers or other contractors to provide instructional materials in accessible formats by the beginning of the school year for children whom the public agency has reason to believe will be attending its schools; and



- having a means of acquiring instructional materials in accessible formats as quickly as possible for children who might transfer into the public agency in the middle of the year.

In contrast, “[r]easonable steps would not include withholding instructional materials from other children until instructional materials in accessible formats are available” (71 Fed. Reg. at 46617).

Excerpts from the
Department’s Discussion of “All Reasonable Efforts”

Found at 71 Fed. Reg. at 46617

...[T]he Department recognizes that this [providing children with disabilities accessible instructional materials at the same time as other children receive their instructional materials] may not be possible in all circumstances, for example, when a child with a disability transfers to a new school in the middle of a school year. Additionally, there could be circumstances beyond the control of the public agency that could prevent children with disabilities who need instructional materials in accessible formats from receiving them at the same time as instructional materials are provided to other children, such as if the public agency’s contractor is unable to produce the instructional materials in an accessible format because of some unforeseen circumstance. In situations such as these, it is understandable that the accessible format materials may not be immediately available. Therefore, we will add a provision to the regulations to specify that in order to meet their obligation to provide accessible format instructional materials in a timely way, public agencies must take all reasonable steps to make those instructional materials available at the same time as instructional materials are provided to other children. Reasonable steps, for example, would include requiring publishers or other contractors to provide instructional materials in accessible formats by the beginning of the school year for children whom the public agency has reason to believe will be attending its schools. Reasonable steps also might include having a means of acquiring instructional materials in accessible formats as quickly as possible for children who might transfer into the public agency in the middle of the year. Reasonable steps would not include withholding instructional materials from other children until instructional materials in accessible formats are available. (71 Fed. Reg. at 46617)

View 1

States (and LEAs) must also:

Ensure that children with disabilities who need instructional materials in accessible formats receive those materials in a timely manner

*You already
knew this, right?*



Slide loads
through "You
knew this
already,
right?"

Click 1

States (and LEAs) must also:

Ensure that children with disabilities who need instructional materials in accessible formats receive those materials in a timely manner

*But did you know
that...*



Click 1:
"But did
you know
that..."
appears.

(continued on next page) ➡

States (and LEAs) must also:

Ensure that children with disabilities who need instructional materials in accessible formats receive those materials in a timely manner

This includes:

- Children who are not included under the definition of “blind or other persons with print disabilities”
- Children who need materials that cannot be produced from NIMAS files

Clicks 2-3

Click 2:
Bullet 1 appears.

Click 3:
Bullet 2 appears.

CLICK to advance to next slide.

Slide 35: Background and Discussion

3 Clicks



The top part of the slide recapitulates what’s already been said, which is why the slide also loads with “You knew this already, right?”

What participants may not realize is that the SEA and LEA obligation to ensure that children with disabilities who need instructional materials in accessible formats receive those materials in a timely manner *also includes children who do not meet IDEA’s NIMAS-related definition of “blind or other persons with print disabilities”* (Bullet 1’s point). Nor do NIMAS requirements relieve States and LEAs from ensuring that, if a child needs materials that cannot be produced from NIMAS files, the child still receives the accessible

materials he or she needs (Bullet 2’s point) in order to participate in and make progress in the general education curriculum.

Relevant provisions in IDEA are found at §300.172(b)(3), are presented for participants on **Handout B-15**, and state:

(3) Nothing in this section relieves an SEA of its responsibility to ensure that children with disabilities who need instructional materials in accessible formats, but are not included under the definition of blind or other persons with print disabilities in §300.172(e)(1)(i) or who need materials that cannot be produced from NIMAS

files, receive those instructional materials in a timely manner.

The above provision applies to States. A separate provision—at §300.210(b)(3) and on **Handout B-15**—applies to LEAs and reads:

(3) Nothing in this section relieves an LEA of its responsibility to ensure that children with disabilities who need instructional materials in accessible formats but are not included under the definition of blind or other persons with print

disabilities in §300.172(e)(1)(i) or who need materials that cannot be produced from NIMAS files, receive those instructional materials in a timely manner.



participate in the general curriculum as specified in their IEPs. (71 Fed. Reg. at 46618)

Thus, the provisions cited above [§§300.172(b)(3) and 300.210(b)(3)] are included in IDEA to make it crystal clear that the advent of NIMAS does not relieve an

SEA or LEA of its responsibility to ensure that children with disabilities who need instructional materials in accessible formats receive them in a timely manner—including those who do not fall within the category of children who are eligible to receive materials produced from NIMAS files and those who need materials that cannot be produced from NIMAS files. As the Department states, “... we believe these regulations are necessary to fully implement the Act” (*Id.*).

Considering the Magnitude

As the two provisions cited above make clear, both States and LEAs are responsible for ensuring that accessible format materials are provided to children with disabilities who need them. As one of the final points to make in this training session, it’s a biggie. NIMAS-related provisions though they are, they indicate that the SEA and LEA’s obligation to provide accessible format materials is not limited to those children who qualify under NIMAS definitions. The obligation includes *all* children who need such materials.

While the magnitude of the obligation may be striking, it’s not really new. SEAs and LEAs have always had the obligation to ensure that children receive instructional materials in accessible formats if they need them in that form. A child does not have to be NIMAS-eligible in order for this to be true. As the Department concisely states:

Timely access to appropriate and accessible instructional materials is an inherent component of a public agency’s obligation under the Act to ensure that FAPE is available for children with disabilities and that children with disabilities

States must also:

Work collaboratively with the State agency responsible for **assistive technology programs**



View 1

Slide loads "States must also" and the first paragraph ("Work collaboratively with...").

States must also:

Work collaboratively with the State agency responsible for **assistive technology programs**

NIMAS TA Center suggests:

Identifying and sharing LEA best practices regarding accessible materials and access hardware & software

Click 1

Click 1: "NIMAS TA Center suggests" loads, along with the paragraph "Identifying and sharing...."

(continued on next page) ➡

States must also:

Work collaboratively with the State agency responsible for **assistive technology programs**

NIMAS TA Center suggests:

Identifying and sharing LEA best practices regarding accessible materials and access hardware & software

Such as:

- Identifying children's needs
- Identifying reading tools
- Training staff
- Monitoring progress
- Sharing info with NIMAC

Clicks 2-3

Click 2:
"Such as" and Bullets 1 and 2 load.

Click 3:
Bullets 3-5 load.

CLICK to advance to next slide.

Slide 36: Background and Discussion

Believe it or not, we are almost done with the final (but important) points of this module. Here, the focus is on IDEA's requirement that States work collaboratively with the State agency responsible for assistive technology (AT) programs. This requirement is found at §300.172(d), appears in the box at the right, and is available to participants on **Handout B-15**.

About AT Programs

What are these technology programs? The Assistive Technology Act of 1998 provides federal funding to support comprehensive state-wide technology programs in each State and Territory. State technology programs are de-

signed to assist individuals with disabilities, of all ages, in the identification, acquisition, training, and use of AT leading to increased independence, education, and employment. State technology programs serve individuals throughout the lifespan and certainly complement and support education, so it's logical for there to be collaboration between these programs and the agencies responsible for education.

IDEA's Requirement at §300.172(d)

(d) *Assistive technology*. In carrying out this section, the SEA, to the maximum extent possible, must work collaboratively with the State agency responsible for assistive technology programs.

Finding Your State's AT Program

Irrespective of IDEA's requirement that the State work collaboratively with the agency responsible for the State's AT program, there may be participants in the audience who are interested in learning more about what the AT program in their State has to offer. Put your participants in touch with the contacts and centers in their State, which they can identify through these two sources of information:



- NICHCY's State Resource Sheets, under the headings *Technology-Related Assistance; Special Format Books for Children and Youth* and *Regional ADA & IT Technical Assistance Center*, at: www.nichcy.org/states.htm
- Family Center on Technology and Disability (FCTD) members page, at: www.fctd.info/members/search.php

You'll also find a scad of additional information on AT in Module 13, *Content of the IEP* and in Module 14, *Meetings of the IEP Team* (see Slide 16 in that module), if you feel that the audience could benefit from more detailed content on this subject. There, you'll find information on:

- IDEA's definitions of the two key AT terms, assistive technol-

ogy devices and assistive technology services;

- examples of AT for children with disabilities;
- benefits of AT for children with disabilities;
- IEP Team consideration of AT as a special factor when developing a child's IEP; and
- resources of more information on AT.

Working Together with AT Programs

Back to AT as it pertains to NIMAS-related matters. The NIMAS TA Center has posted suggestions for State special education directors concerning implementation of NIMAS and recommends the following activities in collaboration with State technology programs.¹

These are captured on the slide and in the short table below, and serve as good examples of what can emerge from effective collaborative arrangements. There's no sense in duplicating work that's already been fully or partially done, or in rediscovering the wheel from scratch. The State AT program is very likely to have information already compiled and ready to go on issues relevant to NIMAS initiatives, such as how to determine a child's need for accessible materials, what reading tools are available, and how to train school staff about the use of AT in the classroom to support the learning of children with disabilities. By working together with the AT program, SEAs can maximize use of that information and possibly share initiatives with the AT program for their mutual benefit and effectiveness.

Action	Suggested Activities
In coordination with the State Assistive Technology (AT) agency or agencies, identify and share LEA best practices regarding accessible materials and appropriate access hardware and software	<p>Categories might include—</p> <ul style="list-style-type: none"> • Determining children's needs • Reading tools (TTS-text to speech, screen readers, etc.) • Training general and special education staff • Monitoring progress • Applying skills to Statewide testing • Providing information regarding available student-ready versions to the American Printing House for the Blind's LOUIS database at www.aph.org/louis.htm
<p>¹ NIMAS Technical Assistance Center. (2006). <i>State director of special education suggested responsibilities regarding NIMAS and NIMAC</i>. Retrieved June 19, 2007, from http://nimas.cast.org/about/resources/sea_sped.html</p>	

Names You Can't Live Without

NIMAS Development and Technical Assistance Center

<http://nimas.cast.org/>

Primary State Contacts for NIMAS/NIMAC

http://nimas.cast.org/about/resources/nimas_nimac_contacts.html

National Instructional Materials Access Center

www.nimac.us/

Louis Database of Accessible Materials

www.aph.org/louis.htm

Slide loads completely. No clicks are necessary except to advance to the next—and LAST!—slide.

CLICK to advance to next slide.

Almost there, one more small step that's a giant leap...this time, connecting folks in the audience to resources of additional information on NIMAS, technical assistance, guidance, and accessible materials themselves. There are four resources that "you can't live without" listed on the slide and briefly discussed below.

NIMAS Development and Technical Assistance Centers

The NIMAS Development and TA Centers have already been mentioned in this module as the premiere source of technical assistance on the actual technical specifications of NIMAS, the standard. The Centers and the flood of its available information can be found on the Web at: <http://nimas.cast.org/>

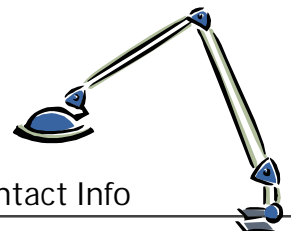
The two centers operate collaboratively through two five-year cooperative agreements between CAST (the Center for Applied Special Technology) and OSEP (Office of Special Education Programs) at the Department. The work of the two centers is described as follows:

The NIMAS Development Center improves the original standard by identifying new research and technological advances relevant to the standard. The Center also explores existing and new distribution models for the provision of accessible materials to students with disabilities.

The NIMAS TA Center works with key stake-

holders such as states, school boards, and publishers to raise awareness of the benefits of accessible materials. It also advises stakeholders on the efficient production and distribution of NIMAS-compliant materials.¹

The Center's contact information is listed in the box below.



Contact Info

NIMAS at CAST
40 Harvard Mills Square, Suite 3
Wakefield, MA 01880-3233
781.245.2212
nimas@cast.org (email)
<http://nimas.cast.org/> (Web)

State Contacts for NIMAS/NIMAC

One of the resources you'll find on the Web site of the NIMAS Development and TA Center (just discussed) is a list of the primary State contacts for NIMAS/NIMAC. The TA Center describes these as follows:



Names and contact information for those who have been designated as primary contacts regarding NIMAS and NIMAC within each State education agency (SEA).

For the list of State Contacts, go to:

In most cases, the primary contact also serves as the NIMAS/NIMAC Coordinator (NNC) for the state or territory, has registered with the NIMAC as the Coordinator, and has or will name the State's Authorized Users (AUs).²

http://nimas.cast.org/about/resources/nimas_nimac_contacts.html

NIMAC—National Instructional Materials Access Center

Everyone in the audience should recognize this name! This is the NIMAC, the national repository IDEA has established to play a pivotal role in increasing the availability of printed instructional materials in NIMAS source files that are readily convertible to specialized formats. It's been discussed across

many, many slides in this training module. Use its name here as a way to review NIMAC with the audience: its duties, for example, some of the terms and procedures it has prescribed for its work, and how its work fits into the circle of the NIMAS process examined earlier.

The NIMAC's Web Site:
www.nimac.us/

Louis Database of Accessible Materials

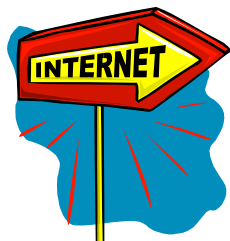
Now, here's a resource that hasn't been mentioned yet. It's always nice to have a fresh face in the crowd, isn't it?

The Louis Database of Accessible Materials³ (Louis, for short and pronounced *lew-is*) is located at the American Printing House

for the Blind, the same organization that Congress designated to operate the NIMAC. Louis is available for everyone to use and is free of charge, providing information about materials in accessible media from more than 180 different agencies nationwide. It lists the location information for over 180,000 books and other products in Braille, large print, computer file (i.e., digital text), and audio.

Louis Web Site:
www.aph.org/louis/index.html

Telephone Reference Service:
1.800.223.1839



¹ NIMAS at CAST. (2007). *NIMAS Development & Technical Assistance Centers*. Retrieved July 3, 2007, at <http://nimas.cast.org/>

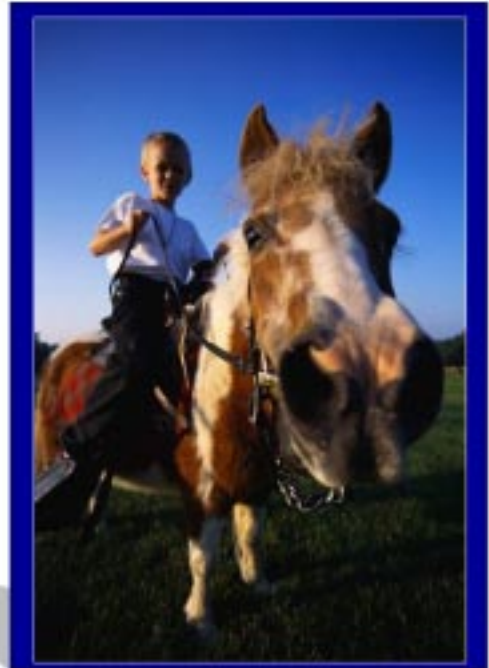
² NIMAS at CAST. (2007). *NIMAS resources*. Retrieved July 3, 2007, at <http://nimas.cast.org/about/resources/index.html>

³ American Printing House for the Blind, Inc. (2004). *Louis database of accessible materials and APH file repository*. Retrieved July 3, 2007, at <http://www.aph.org/louis/louis.html>

View 1

Slide loads with this view, and "See ya on the NIMAS trail."

See ya
on the NIMAS trail



Clicks 1-2

Click 1:
Graphic changes
to the high-
stepping horse
and the words
"Let's get this
done" appear.

Let's get
this done



CLICK AGAIN to END the slide show.

(discussion on next page) ➡



This last slide in the training curriculum is unusual in that it requires a click to move from the opening image and message (see ya on the NIMAS trail) to the final image and message (let's get this done). It's meant to reinforce how eminently do-able NIMAS is and how much impact will result if we "get this done"—meaning, implementing NIMAS fully and making it a well-established part of how we address the individualized needs of children with disabilities in our schools. Its potential to affect the lives and educations of scores of children with disabilities is really exciting.

Review with the audience how the process of NIMAS broadly works (e.g., those five steps on the circle), the responsibilities that SEAs and LEAs have in the

process, and why NIMAS' "time has come." Emphasize the personal application of information here—for example, ask participants to identify how NIMAS is relevant to their lives back home, what they intend to do with the information they learned today, and who else back home needs this information or could be enlisted as a change agent to further NIMAS implementation. You can also use this last slide to open up the floor for a question-and-answer period.

Now, let's go home and get this done.