

VIRGINIA DEPARTMENT OF EDUCATION

Policy on Accessible Instructional Materials

May 7, 2008[effective date]

Pursuant to the Individuals with Disabilities Education Act's (IDEA) mandate, the Virginia Department of Education (VDOE) shall provide instructional materials to students with disabilities who need accessible versions of print instructional materials pursuant to an individualized education program (IEP) developed for the student under IDEA.¹

1. Publishers shall grant permission to the VDOE shall obtain through an executed Memorandum(a) of Agreement ("MOA")with publishers the authority to have adopted instructional materials converted into accessible formats, including transcribed into Braille, large print, digital audio formats, and electronic text formats for each individual eligible student identified by the local school division. The MOA must provide that VDOE will bear no, without penalty, legal or otherwise, for such a conversion. The MOA must also provide that the publisher agrees to indemnify VDOE should a legal action arise. .
 - a. Contracts with publishers of core instructional materials, including textbooks, approved by the Virginia Board of Education mustshall require the publisher to furnish electronic files in the National Instructional Materials Accessibility Standards (NIMAS) format that will then be deposited in the National Instructional Materials Accessibility Center (NIMAC) from which accessible versions of the particular core instructional material may be only produced for each qualified students, as defined by NIMAC's User Agreement and the local school division. Publishers shall deliver the NIMAS files on or before the date of delivery of the printed core instructional material.
 - b. Contracts with publishers of core instructional materials, including textbooks, approved by the Virginia Board of Education must shall also require the publisher to furnish electronic files in the National Instructional Materials Accessibility Standards (NIMAS) format to the Accessible Instructional Materials Center of Virginia (AIM-VA) from which accessible versions of the particular core instructional material may be only produced for each individual studentstudents with disabilities, pursuant to an IEP. Publishers mustshall deliver the NIMAS files on or before the date of delivery of the printed core instructional material.
 - c. Contracts with publishers with publishers must shall stipulate that electronic files may be copied and distributed through the AIM-VA to a local school division, upon request, for instructional use for a designated student with a disability who requires the use of accessible instructional materials, pursuant to an IEP.

¹ This provision and the subsequent provisions in this document apply also to students with disabilities who are served under a 504 Plan pursuant to the Rehabilitation Act of 1973, as amended.

2. The VDOE shall adhere to the following procedures to prevent copyright violations in the creation and provision of accessible materials:
 - a. AIM-VA shall only receive, copy, convert and/or distribute instructional materials downloaded from NIMAC or obtained by any Memorandum(a) of Agreement obtained by VDOE to lawfully copy, reproduce, convert and distribute the adopted instructional materials for use in accordance with NIMAS provisions. AIM-VA shall not, however, copy, convert or distribute any adopted instructional materials which are not precipitated by Section 2bthe contractual agreement of this policy and are not specifically referenced in a MOA executed by VODE and the publisher. AIM-VA authority to distribute the converted materials is strictly governed by the provisions of NIMAC and the applicable MOA.
 - b. For a student who, pursuant to an IEP, requires the use of accessible instructional materials that are available or will be available through AIM-VA, then the local school division shall follow these guidelines in conjunction with its request to AIM-VA:
 - (1) The IEP team must document in the child's IEP that the student has a need for accessible instructional materials.
 - (2) Unless waived by the publisher in writing, the local school division must purchase, or have purchased, a print copy of the core instructional material for each student for whom it requests an accessible format.
 - (3) Each local school division shall designate Digital Rights Manager (DRMs) responsible for managing copyright compliance.
 - (4) Each accessible instructional material mustwill be assigned directly to one particular student using that student's unique testing identifier (STI) to ensure that non-eligible students are not permitted access to the material.
 - (5) A series of security features mustwill be embedded in electronic versions of accessible instructional materials to ensure time-limited use designed to limit the use to only the designated student.
 - c. For a student who, pursuant to an IEP, requires the use of accessible instructional materials that are not available through AIM-VA, then the local school division and/or student's teacher shall be required to follow these guidelines in making necessary and reasonable accommodations for providing the student with the required accessible instructional materials within the parameters permitted by the "fair use" exception to the Copyright Act, 17 U.S.C. 107: