



## National Instructional Materials Access Center (NIMAC) Coordination Agreement

As an authorized representative of an educational agency that has chosen to coordinate with the National Instructional Materials Access Center (NIMAC), and as a condition to obtaining electronic file sets of printed textbooks and related printed core materials that are written and published primarily for use in elementary school and secondary school instruction in the National Instructional Materials Accessibility Standard (NIMAS) format, I hereby agree to the following terms:

I understand that the NIMAS files are provided for the sole, express purpose of producing student-ready instructional materials for elementary and secondary school students who are blind, visually impaired or print disabled as stipulated in IDEA of 2004 Part D Sec. 674(e)(3). Below are key definitions as provided in the legislation. As they apply to the NIMAC and NIMAS files, I concur with these definitions:

**(A) BLIND OR OTHER PERSONS WITH PRINT DISABILITIES**--The term 'blind or other persons with print disabilities' means children served under this Act<sup>1</sup> and who may qualify in accordance with the Act entitled 'An Act to provide books for the adult blind', approved March 3, 1931 (2 U.S.C. 135a; 46 Stat. 1487) to receive books and other publications produced in specialized formats.<sup>2</sup>

The Library of Congress regulations (36 CFR 701.6(b)(1)) related to 'An Act to provide books for the adult blind' provide that an “eligible person” means an individual who, regardless of any other disability—

(i) Is blind;

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<sup>1</sup> To be eligible to receive NIMAS-sourced accessible materials, students must have an Individualized Education Program (IEP) and a qualifying disability.

<sup>2</sup> The Marrakesh Treaty Implementation Act (MTIA) amended section 121 of the Copyright Act. The term “blind or other persons with print disabilities” has been replaced by “eligible person.” While IDEA 2004 has not yet been updated to align its language with these changes, the U.S. Department of Education, Office of Special Education Programs (OSEP) has advised that “[u]ntil such time as Congress makes technical amendments to the IDEA statute and the Department is able to make conforming technical amendments to the IDEA Part B regulations, States should rely on, and utilize, the terms and definitions as updated and implemented by the Marrakesh Treaty and found in the Copyright Act at 17 U.S.C § 121.” (<https://osep.grads360.org/services/PDCService.svc/GetPDCDocumentFile?fileId=35283>)

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(Initials)\_\_\_\_\_

(ii) Has a visual impairment or perceptual or reading disability that cannot be improved to give visual function substantially equivalent to that of a person who has no such impairment or disability and so is unable to read printed works to substantially the same degree as a person without an impairment or disability; or

(iii) Is otherwise unable, through physical disability, to hold or manipulate a book or to focus or move the eyes to the extent that would be normally acceptable for reading.

(2) Eligibility must be certified by one of the following: doctor of medicine, doctor of osteopathy, ophthalmologist, optometrist, psychologist, registered nurse, therapist, and professional staff of hospitals, institutions, and public or welfare agencies (such as an educator, a social worker, case worker, counselor, rehabilitation teacher, certified reading specialist, school psychologist, superintendent, or librarian).

**(B) NATIONAL INSTRUCTIONAL MATERIALS ACCESSIBILITY STANDARD**--The term 'National Instructional Materials Accessibility Standard' means the standard established by the Secretary of Education to be used in the preparation of electronic files suitable and used solely for efficient conversion into specialized formats.

**(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.<sup>3</sup>

**(D) SPECIALIZED FORMATS**--The term 'specialized formats' has the meaning given the term in section 121(d)(3) of title 17, United States Code.<sup>4</sup> With regard to NIMAS, 'specialized formats' include Braille, audio, digital text or large print which is exclusively for use by the blind or other persons with print disabilities as defined above.

To the extent that my educational agency contracts with publishers for the purchase of elementary and secondary level core instructional materials, the agency or its

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<sup>3</sup> The Final Notice of Interpretation published on May 26, 2020, clarified that the definition of “print instructional materials” in IDEA 2004 includes digital instructional materials, when these can be successfully supplied to the NIMAC in valid NIMAS format. For more information, see <https://www.govinfo.gov/content/pkg/FR-2020-05-26/pdf/2020-09273.pdf>.

<sup>4</sup> The MTIA replaced the term “specialized format” in section 121 of the Copyright Act with “accessible format.” The term “accessible format” means “an alternative manner or form that gives an eligible person access to the work when the copy or phonorecord in the accessible format is used exclusively by the eligible person to permit him or her to have access as feasibly and comfortably as a person without such disability” [17 U.S. Code § 121(d)(1)]. See Footnote 2 above for additional information.

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representative will direct the publisher to ensure that valid NIMAS file sets that correspond to these instructional materials are available through the NIMAC. I agree to provide the full name and contact information for each representative (authorized user) I authorize to download files from the NIMAC. I confirm that each of these authorized users are representatives of educational agencies in my state and/or are authorized entities that meet the exemption provided by the Copyright Act, 17 U.S.C. Sec. 121. An “authorized entity” is defined by the Copyright Act as “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.” I will provide information for each authorized user stating with which educational agencies, whether local, regional or state, the user is affiliated and the authorized user’s job title or role within that organization. In addition, I understand that the authorized user must provide the NIMAC and I will maintain in my agency’s own records a signed, dated NIMAC Limitation of Use Agreement for each representative designated as authorized to access NIMAS file sets from the NIMAC. I further agree to notify the appropriate NIMAC authority immediately of any change in status of any authorized user.

I, or any authorized users I designate, may choose to provide access to a third party working as our agent to download NIMAS file sets in order to convert these files into accessible instructional materials for use by a student in elementary or secondary school with a qualifying disability in our state. However, that third party agent must sign the NIMAC Limitation of Use agreement and be provided a user ID and password by NIMAC before access is granted to this third party. Access will be limited to those files assigned to this third party agent by a NIMAC authorized user. If a current NIMAC Limitation of Use agreement is already on file with NIMAC from this third party, a second copy need not be provided to NIMAC.

I stipulate that I will instruct, any authorized users I designate, or any third party agents provided access to NIMAC, to download only NIMAS files from the NIMAC that correspond to the instructional materials which representatives of our state, regional, or local educational agencies have either purchased, entered into a valid purchase contract, submitted a purchase order, or procured through other practice or instrument used for the purchase of instructional materials.

**NIMAC Privileges will be suspended if copyright holders' rights are violated.  
Violation could result in criminal or civil penalties.**

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**I agree to abide by the National Instructional Materials Access Center Coordination Agreement.**

**I confirm that I have read and agree to the NIMAC Limitation of Use Agreement and am authorized to sign this agreement on behalf of my state, outlying area, or the DoDEA.**

**Signed** \_\_\_\_\_ **Date** \_\_\_\_\_

**Name** \_\_\_\_\_

**Job Title** \_\_\_\_\_

**Educational Agency** \_\_\_\_\_

**Address** \_\_\_\_\_

**Address** \_\_\_\_\_

**City** \_\_\_\_\_ **State** \_\_\_\_\_ **ZIP** \_\_\_\_\_

**Tel** \_\_\_\_\_

**Email** \_\_\_\_\_

**Please email a scan of the complete, signed agreement to [nimac@aph.org](mailto:nimac@aph.org).**

**If you prefer, you are welcome instead to mail the original document to the NIMAC at the address found in the footer below.**

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