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# A BILL FOR AN ACT

RELATING TO EDUCATION.

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

1           SECTION 1. The legislature finds that books and other  
2 instructional materials are needed in alternate accessible  
3 formats for use by elementary and secondary school students who  
4 are unable to use print as their primary learning media. The  
5 Individuals with Disabilities Education Improvement Act of 2004,  
6 P.L. 108-446, made important changes to the law, including the  
7 establishment of the National Instructional Materials  
8 Accessibility Standard and the National Instructional Materials  
9 Access Center, which serves as a central repository for files  
10 formatted in accordance with the National Instructional  
11 Materials Accessibility Standard and as a conduit for the  
12 distribution of those files to schools.

13           The legislature further finds that existing state law  
14 pertaining to instructional materials for exceptional children  
15 directs publishers to meet requirements that are now out of date  
16 and undesirable due to advances in technology. Thus, a revision  
17 is necessary to harmonize existing state law with the existing



1 federal law and practice, including technological advancements  
2 that make more instructional materials available in appropriate  
3 accessible formats.

4 Accordingly, the purpose of this Act is to:

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

8 (2) Ensure that such materials are distributed to eligible  
9 students in accordance with the Individuals with  
10 Disabilities Education Act, as amended, and the  
11 Copyright Act of 1976, as amended.

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

14 **"§302A-442.5 Instructional materials; exceptional**  
15 **children.** (a) Whenever used in this section, unless a  
16 different meaning clearly appears from the context:

17 "Accessible format" has the same meaning as in section  
18 121(d)(1) of the Copyright Act of 1976 (17 U.S.C. 121(d)(1)), as  
19 amended.

20 "Accessible instructional materials" means print  
21 instructional materials provided to eligible students in the



1 accessible format most appropriate to the needs of each eligible  
2 student.

3 "Assistive technology device" has the same meaning as in  
4 section 602(1) of the Individuals with Disabilities Education  
5 Act (20 U.S.C. 1401(1)), as amended.

6 "Assistive technology service" has the same meaning as in  
7 section 602(2) of the Individuals with Disabilities Education  
8 Act (20 U.S.C. 1401(2)), as amended.

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

11 "Eligible student" means an elementary or secondary school  
12 student who:

13 (1) Is eligible for services under the Individuals with  
14 Disabilities Education Act, as amended;

15 (2) Is approved as an eligible person, as defined in  
16 section 121(d)(3) of the Copyright Act of 1976  
17 (17 U.S.C. 121(d)(3)), as amended; and

18 (3) Attends a department school, a private school under  
19 chapter 302C, a public charter school under chapter  
20 302D, or an approved alternative education program  
21 under section 302A-1132(a)(5).



1 "National Instructional Materials Access Center" means the  
2 center established pursuant to section 674(e) of the Individuals  
3 with Disabilities Education Act (20 U.S.C. 1474(e)), as amended.

4 "National Instructional Materials Accessibility Standard"  
5 has the same meaning as in section 674(e)(3)(B) of the  
6 Individuals with Disabilities Education Act (20 U.S.C.  
7 1474(e)(3)(B)), as amended.

8 "Print instructional materials" means printed textbooks and  
9 related printed core materials that are written and published  
10 primarily for use in elementary school and secondary school  
11 instruction by students in the classroom, including:

12 (1) Digital instructional materials obtained in an  
13 appropriate accessible format for an eligible student;  
14 or

15 (2) Materials that can be provided by the National  
16 Instructional Materials Access Center in a valid  
17 National Instructional Materials Accessibility format.

18 "Technology mediated instruction" means learning that is  
19 aided or entirely accomplished through the use of computer-based  
20 technology.



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

10 section 612(a)(23) of the Individuals with Disabilities  
11 Education Act (20 U.S.C. 1412(a)(23)), as amended, the State  
12 adopts the United States Secretary of Education's National  
13 Instructional Materials Accessibility Standard as in effect on  
14 the effective date of Act           , Session Laws of Hawaii 2023, and  
15 as may be subsequently revised. The department shall coordinate  
16 with the National Instructional Materials Access Center to  
17 obtain the benefits of this service.

18           (c) ~~[This section shall not apply to publishers of~~  
19 ~~textbooks and instructional materials written in the Hawaiian~~  
20 ~~language.] The department, as part of any print instructional~~  
21 materials adoption process, procurement contract, or other



1 practice or instrument used for purchase of print instructional  
2 materials, including digital materials, shall:

3 (1) Obtain instructional materials from the publisher or  
4 other source that are in, or can be rendered in, the  
5 appropriate accessible format for the eligible student  
6 using the instructional material;

7 (2) If the needed instructional materials cannot be  
8 obtained in the eligible student's appropriate  
9 accessible format, the department may enter into a  
10 written contract with the publisher of the print  
11 instructional materials to require the publisher to  
12 prepare and, on or before delivery of the print  
13 instructional materials, provide to the National  
14 Instructional Materials Access Center electronic files  
15 containing the contents of the print instructional  
16 materials using the National Instructional Materials  
17 Accessibility Standard; or

18 (3) If the needed instructional materials cannot be  
19 obtained in the eligible student's appropriate  
20 accessible format due to being new or innovative  
21 start-up instructional materials or a Hawaii-based



1 publisher, the department may purchase materials as a  
2 pilot for up to one calendar year.

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

15 (e) Each eligible student shall receive accessible  
16 instructional materials without regard to whether the accessible  
17 instructional materials have been purchased in accordance with  
18 subsection (c). Eligible students shall receive accessible  
19 instructional materials at the same time the corresponding print  
20 instructional materials are provided to all other students in  
21 the classroom, including any assistive technology device and



1 assistive technology service to be provided in advance and  
2 needed for the eligible student to use the accessible  
3 instructional materials.

4 (f) Technology shall be provided to each eligible student  
5 receiving technology mediated instruction, including any  
6 assistive technology device and assistive technology service  
7 needed for the technology to be accessible to and usable by the  
8 eligible student.

9 (g) The individualized education program for an eligible  
10 student shall:

11 (1) Contain information sufficient to document approval of  
12 the student as an eligible person, as defined in  
13 section 121(d) (3) of the Copyright Act of 1976  
14 (17 U.S.C. 121(d) (3)), as amended;

15 (2) Identify:

16 (A) The print instructional materials and other  
17 materials to be used by the students without  
18 disabilities, including but not limited to  
19 textbooks, articles, handouts, posters, bulletin  
20 boards, maps, charts, graphics, audio-visual  
21 presentations, digital instructional materials,





1                   and all other printed materials available to  
2                   students in elementary and secondary classrooms;

3           (B) All accessible formats of the instructional  
4           materials; and

5           (C) The services and instruction to be provided to  
6           convert the print instructional materials into  
7           accessible instructional materials and enable the  
8           eligible student to use the instructional  
9           materials in one or more accessible formats  
10           usable by the eligible student;

11           (3) If the eligible student is blind and receiving  
12           instruction in braille or the use of braille, ensure  
13           that instructional materials are provided in braille  
14           and may be used by the eligible student in addition to  
15           other accessible formats available;

16           (4) List any assistive technology device and assistive  
17           technology service needed for the eligible student to  
18           use accessible instructional materials and technology  
19           mediated instruction, including timely and appropriate  
20           instruction to enable the eligible student to use the



1           technology to access age-appropriate content  
 2           independently;  
 3       (5) Ensure that any assistive technology device or  
 4           assistive technology service used for accessible  
 5           instructional materials is available for use by the  
 6           eligible student in school, at home, and in other  
 7           settings to the same extent that print instructional  
 8           materials are available to other students; and

9       (6) Identify and provide technology to be used by an  
 10           eligible student when receiving technology mediated  
 11           instruction, including any assistive technology device  
 12           and assistive technology service needed for the  
 13           technology to be accessible to and usable by the  
 14           eligible student."

15           SECTION 3. Statutory material to be repealed is bracketed  
 16 and stricken. New statutory material is underscored.

17           SECTION 4. This Act shall take effect on July 1, 3000.



**Report Title:**

Education; DOE; National Instructional Materials Accessibility Standard

**Description:**

Adopts the National Instructional Materials Accessibility Standard. Requires the Department of Education to obtain instructional materials in accessible formats for eligible students. Effective 7/1/3000. (SD1)

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

