

107TH CONGRESS
2D SESSION

H. R. 4582

To improve access to printed instructional materials used by blind or other persons with print disabilities in elementary and secondary schools, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 24, 2002

Mr. PETRI (for himself, Mr. GEORGE MILLER of California, Mrs. ROUKEMA, Mr. KILDEE, Mr. GREENWOOD, Mr. TIERNEY, Mr. KIND, Mr. PLATTS, Mr. KUCINICH, Mrs. DAVIS of California, Mr. LEACH, Mr. FROST, Mr. KLECZKA, Mr. SMITH of Washington, Mr. NUSSLE, Mr. GREEN of Texas, Mr. BOSWELL, Mr. GANSKE, Mr. TURNER, Mr. SCHIFF, Mr. HORN, Mr. MURTHA, Mr. BARRETT of Wisconsin, Mrs. MORELLA, Mr. ABERCROMBIE, Mr. MORAN of Virginia, Mr. COOKSEY, Mr. BROWN of Ohio, Mr. LEWIS of Georgia, Mr. FRANK, Mr. FATTAH, Ms. KAPTUR, Ms. SCHAKOWSKY, Mr. SHAYS, Mr. WAXMAN, Mr. GREEN of Wisconsin, Mr. MATHESON, Mr. LATOURETTE, Mr. McDERMOTT, Mr. BALDACCI, Mr. SANDERS, and Mr. VITTER) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To improve access to printed instructional materials used by blind or other persons with print disabilities in elementary and secondary schools, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Instructional Materials
3 Accessibility Act of 2002”.

4 **SEC. 2. PURPOSE.**

5 The purpose of this Act is to improve access to print-
6 ed instructional materials used by blind persons, or other
7 persons with print disabilities, in elementary schools and
8 secondary schools through the creation of a coordinated
9 and efficient system for acquisition and distribution of in-
10 structional materials in the form of electronic files suitable
11 for conversion into a variety of specialized formats.

12 **SEC. 3. TECHNICAL STANDARDS.**

13 (a) STANDARDS.—

14 (1) PUBLICATION.—The Secretary of Edu-
15 cation, in consultation with the National Institute of
16 Standards and Technology of the Department of
17 Commerce, shall publish in the Federal Register
18 technical standards, to be known as the Instruc-
19 tional Materials Accessibility Standards—

20 (A) as a proposed rule, not later than 270
21 days after the date of enactment of this Act;
22 and

23 (B) as a final rule, not later than 360 days
24 after the date of enactment of this Act.

25 (2) PUBLIC COMMENT.—The Secretary shall
26 provide an opportunity for the submission by the

1 public of comments regarding a proposed rule for at
2 least 30 days before publication under paragraph
3 (1)(B) of a final rule.

4 (3) CONTENTS.—The Instructional Materials
5 Accessibility Standards shall—

6 (A) define the specific technical parameters
7 of the national electronic file format to be used
8 by publishers of instructional materials in the
9 preparation of electronic files suitable for effi-
10 cient conversion into specialized formats; and

11 (B) be consistent with and based upon ex-
12 isting and emerging standards relating to elec-
13 tronic publishing and translation technology
14 used to produce specialized formats.

15 (b) ADVISORY COMMITTEE.—

16 (1) ESTABLISHMENT.—In developing the In-
17 structional Materials Accessibility Standards under
18 subsection (a), the Secretary shall, in consultation
19 with the National Institute of Standards and Tech-
20 nology and not later than 90 days after the date of
21 enactment of this Act, establish an advisory com-
22 mittee, to be known as the National Instructional
23 Materials Accessibility Advisory Committee, which
24 shall provide technical expertise and guidance to the

1 Secretary for the creation of the national electronic
2 file format.

3 (2) MEMBERS.—The Committee shall consist of
4 individuals who shall include at least one and not
5 more than two representatives of each of the fol-
6 lowing:

7 (A) Publishers of instructional materials.

8 (B) Producers of adaptive technology.

9 (C) Producers of materials in specialized
10 formats.

11 (D) Organizations for blind consumers.

12 (E) Special education programs.

13 (F) Developers of accessibility and pub-
14 lishing software and supporting technologies.

15 (G) Information technology standards or-
16 ganizations.

17 (H) Instructional materials resource cen-
18 ters with substantial experience in file format
19 preparation and automated conversion tech-
20 nology.

21 (I) Any other organization or interest that
22 the Secretary determines to be appropriate.

23 (c) REVIEW AND AMENDMENT.—The Secretary, in
24 consultation with the National Institute of Standards and
25 Technology and the National Instructional Materials Ac-

1 ccessibility Advisory Committee, shall periodically review
2 and, as appropriate, amend the technical standards pre-
3 scribed under subsection (a) to reflect technological ad-
4 vances or changes.

5 **SEC. 4. STATE REQUIREMENTS FOR ENSURING TIMELY**
6 **PROVISION OF INSTRUCTIONAL MATERIALS**
7 **TO STUDENTS.**

8 (a) STATE OBLIGATIONS.—

9 (1) STATEWIDE PLAN.—Not later than 2 years
10 after the date of enactment of this Act, a State edu-
11 cational agency receiving Federal financial assist-
12 ance under the Individuals with Disabilities Edu-
13 cation Act (20 U.S.C. 1400 et seq.) shall, as a con-
14 dition of receiving such assistance, develop and im-
15 plement a written statewide plan designed to ensure
16 that instructional materials for classroom use in ele-
17 mentary schools and secondary schools within the
18 State are made available in specialized formats to
19 individuals who are blind or have other print disabil-
20 ities at the same time such materials are provided
21 to individuals without such disabilities.

22 (2) COORDINATION.—A statewide plan sub-
23 mitted under paragraph (1) shall, to the maximum
24 extent practicable, be coordinated with the State Im-
25 provement Plan under subpart 1 of part D of the

1 Individuals with Disabilities Education Act (20
2 U.S.C. 1451 et seq.), and shall contain an outline
3 of the activities that the State intends to carry out
4 using amounts received under the grant to achieve
5 the purposes of this title.

6 (3) CONTENTS.—At a minimum, a statewide
7 plan developed under paragraph (1) shall—

8 (A) designate the entity responsible for col-
9 lecting and maintaining data related to identi-
10 fication of individuals who are blind or have
11 other print disabilities and who require instruc-
12 tional materials in specialized formats;

13 (B) establish the methods and procedures
14 by which instructional materials are provided in
15 specialized formats appropriate to the needs of
16 the individual, including the methods for con-
17 verting electronic files obtained under sub-
18 section (b) into specialized formats;

19 (C) identify the resources available for pro-
20 duction of instructional materials in specialized
21 formats;

22 (D) establish procedures that local edu-
23 cational agencies and any other agency with re-
24 sponsibility for carrying out the education of
25 children with disabilities will follow to ensure

1 the timely delivery of instructional materials in
2 specialized formats;

3 (E) provide assurances that contracts with
4 publishers meet the requirements of subsection
5 (b); and

6 (F) provide for periodic evaluation to en-
7 sure that instructional materials are made
8 available in appropriate specialized formats to
9 individuals who are blind or have other print
10 disabilities at the same time such materials are
11 provided to individuals without such disabilities.

12 (b) CONTRACTS WITH PUBLISHERS.—

13 (1) CONTRACTS FOR STANDARDIZED FILES.—

14 In addition to the requirements of subsection (a), a
15 State educational agency or local educational agency
16 receiving Federal financial assistance under the In-
17 dividuals with Disabilities Education Act (20 U.S.C.
18 1400 et seq.) shall, as part of any instructional ma-
19 terials adoption process, procurement contract, or
20 other practice or instrument used for the purchase
21 of instructional materials, enter into a written con-
22 tract with the publisher of the materials to prepare,
23 in conjunction with the provision of such materials,
24 electronic files containing the contents of the mate-
25 rials in the national electronic file format prescribed

1 under section 3(a). The contract shall be entered
2 into and take effect not later than 3 years after the
3 date of enactment of this Act.

4 (2) CONTENTS OF CONTRACTS.—A contract de-
5 scribed in paragraph (1) shall also provide for the
6 following:

7 (A) PUPIL EDITIONS.—Not later than 30
8 days after the date of ratification of the con-
9 tract, the publisher will transmit to the Na-
10 tional Instructional Materials Access Center
11 electronic files prepared in the national elec-
12 tronic file format prescribed under section 3(a)
13 that correspond to the most recent pupil edition
14 of the materials covered under the contract that
15 is in print on the date of ratification of the con-
16 tract, along with a print copy of such materials.
17 If the most current pupil edition of such in-
18 structional materials in print on the date of
19 ratification of the contract is, or will be, altered
20 prior to the use of the materials in the class-
21 room or if no such edition exists on such date,
22 the publisher will, by a date specified in the
23 contract, transmit to the Center—

1 (i) electronic files containing a com-
2 plete record of corrections and changes
3 made to such instructional materials; or

4 (ii) electronic files prepared in the na-
5 tional electronic file format prescribed
6 under section 3(a) that correspond to the
7 pupil edition of such instructional mate-
8 rials that will be used in the classroom.

9 (B) TEACHER EDITIONS.—Not later than
10 30 days after receipt of a request from the Na-
11 tional Instructional Materials Access Center
12 made on behalf of a teacher, the publisher will
13 transmit to the Center electronic files prepared
14 in the national electronic file format prescribed
15 under section 3(a) that correspond to the teach-
16 er edition of the requested instructional mate-
17 rials covered under the contract, if the request
18 includes—

19 (i) a specific description of the in-
20 structional materials needed by the teacher
21 (including, if applicable, an International
22 Standard Book Number (ISBN)); and

23 (ii) a certification that the teacher is
24 blind or has a print disability.

1 (c) **PREEMPTION OF INCONSISTENT STATE AND**
2 **LOCAL REQUIREMENTS.**—Except as provided in sub-
3 section (d), subsection (b) supersedes any inconsistent re-
4 quirements in the laws or regulations of any State or local
5 government, with respect to publishers providing instruc-
6 tional materials in the form of electronic files intended for
7 conversion into specialized formats to be used by blind or
8 other persons with print disabilities.

9 (d) **RIGHT OF CONTRACT.**—Notwithstanding the re-
10 quirements of this section, nothing in this Act may be con-
11 strued to impair the right of any State educational agency
12 or local educational agency to enter into a contract with
13 any publisher of instructional materials for the purpose
14 of directly obtaining from such publisher copies of elec-
15 tronic files prepared and transmitted in accordance with
16 this section.

17 **SEC. 5. NATIONAL INSTRUCTIONAL MATERIALS ACCESS**
18 **CENTER.**

19 (a) **ESTABLISHMENT.**—Not later than 2 years after
20 the date of enactment of this Act, the Secretary shall es-
21 tablish a center, to be known as the National Instructional
22 Materials Access Center, which shall coordinate the acqui-
23 sition and distribution of instructional materials in the na-
24 tional electronic file format prescribed under section 3(a).

1 (b) RESPONSIBILITIES.—The duties of the Center are
2 the following:

3 (1) To monitor the needs of State educational
4 agencies and local educational agencies for instruc-
5 tional materials in specialized formats and to take
6 appropriate administrative steps to assist such agen-
7 cies in ensuring that instructional materials in the
8 form of electronic files are submitted by publishers
9 to the Center under section 4(b).

10 (2) To receive instructional materials under sec-
11 tion 4(b) in the national electronic file format pre-
12 scribed under section 3(a) and to provide authorized
13 entities with access to such files, free of charge.

14 (3) To verify the receipt and compliance of the
15 materials received under section 4(b) with the na-
16 tional electronic file format prescribed under section
17 3(a).

18 (4) To prescribe and publish policies and guide-
19 lines which the Center will use for the submission,
20 cataloging, retrieval, and distribution of instructional
21 materials in the national electronic file format pre-
22 scribed under section 3(a).

23 (5) To prescribe and publish terms and proce-
24 dures for approval of authorized entities registering
25 with the Center to obtain access to the instructional

1 materials in the national electronic file format pre-
2 scribed under section 3(a).

3 (6) To provide access to the materials received
4 under section 4(b) to authorized entities and to co-
5 ordinate, as appropriate, with other programs pro-
6 viding access to instructional materials in specialized
7 formats.

8 (7) To take such administrative steps as may
9 be needed to coordinate the efficient acquisition and
10 distribution of instructional materials in the national
11 electronic file format prescribed under section 3(a).

12 (8) Promptly to forward to the appropriate
13 publisher of instructional materials a request made
14 under section 4(b)(2)(B) received for materials need-
15 ed for a teacher.

16 (9) To develop, adopt, and publish procedures
17 to protect against copyright infringement and other-
18 wise to administratively assure compliance with title
19 17, United States Code, with respect to the instruc-
20 tional materials provided under this Act.

21 (c) CONTRACT AUTHORIZED.—To assist in carrying
22 out subsection (a), the Secretary shall award, on a com-
23 petitive basis, a contract renewable on a biannual basis
24 with a nonprofit organization, or with a consortium of
25 such organizations, determined by the Secretary to be best

1 qualified to carry out the responsibilities described in sub-
2 section (b). The contractor shall report directly to the As-
3 sistant Secretary for Special Education and Rehabilitative
4 Services of the Department of Education.

5 **SEC. 6. GRANTS FOR CAPACITY BUILDING.**

6 (a) **AUTHORITY TO AWARD GRANTS.**—The Secretary
7 may award grants to the eligible entities under subsection
8 (b) (or a consortium of such entities) to provide or improve
9 the capacity of such entities to prepare or obtain instruc-
10 tional materials in specialized formats (including the na-
11 tional electronic format prescribed under section 3(a)).

12 (b) **ELIGIBLE ENTITIES.**—The following are entities
13 eligible for a grant under this section:

14 (1) State educational agencies.

15 (2) Regional consortia of State educational
16 agencies.

17 (3) Local educational agencies.

18 (4) Nonprofit organizations the primary mission
19 of which is to provide specialized services relating to
20 training, education, or adaptive reading or the infor-
21 mation access needs of blind persons or other per-
22 sons with print disabilities.

23 (c) **APPLICATION.**—An eligible entity that desires to
24 receive a grant under this section shall submit an applica-
25 tion to the Secretary at such time, in such manner, and

1 containing such information as the Secretary may require.

2 The application shall include each of the following:

3 (1) A description of the entity's current capac-
4 ity to prepare instructional materials in specialized
5 formats.

6 (2) The entity's assessment of needs to be met
7 within the geographic area to be served.

8 (3) A plan for working with other similar enti-
9 ties in order to ensure a coordinated approach in
10 meeting such needs.

11 (4) A description of proposed training of tran-
12 scribers and others who prepare instructional mate-
13 rials in specialized formats and, if appropriate, spec-
14 ification of the technology to be obtained and used
15 in the program.

16 (5) An assurance that the entity is, and shall
17 remain, in compliance with the provisions of section
18 121 of title 17, United States Code, regarding the
19 reproduction and distribution of copyrighted instruc-
20 tional materials in specialized formats.

21 (d) PROCEDURES.—The Secretary may prescribe
22 rules or procedures to carry out this section.

23 (e) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated to carry out this section

1 \$5,000,000 for fiscal year 2003 and such sums as may
2 be necessary for each of fiscal years 2004 through 2007.

3 **SEC. 7. ENFORCEMENT.**

4 (a) RIGHTS, REMEDIES, AND PROCEDURES.—The
5 rights, remedies, and procedures available to children and
6 parents under subsections (b)(6), (e), (f), and (g) of sec-
7 tion 615 of the Individuals with Disabilities Education Act
8 (20 U.S.C. 1415) and section 504 of the Rehabilitation
9 Act of 1973 (29 U.S.C. 794) shall be the rights, remedies,
10 and procedures available under this Act to children and
11 parents aggrieved by violations of this Act by any State
12 educational agency or local educational agency.

13 (b) RULE OF CONSTRUCTION.—This Act may not be
14 construed to limit any right, remedy, or procedure other-
15 wise available under any other provision of Federal law
16 that provides greater or equal protection for the rights of
17 blind persons or other persons with print disabilities.

18 **SEC. 8. RELATIONSHIP TO SECTION 121 OF THE COPYRIGHT**
19 **ACT.**

20 (a) AUTHORIZED ENTITY.—A publisher that provides
21 instructional materials to a State educational agency or
22 local educational agency in the national electronic file for-
23 mat prescribed under section 3(a), shall, for such pur-
24 poses, be considered an authorized entity within the mean-
25 ing of section 121 of title 17, United States Code.

1 (b) NONINFRINGEMENT USE.—Reproduction or distribu-
2 tion of instructional materials in a large print format ex-
3 clusively for use by blind persons, or other persons with
4 print disabilities, in elementary schools or secondary
5 schools shall be considered a noninfringing use of such
6 materials when conducted by an authorized entity (as that
7 term is defined in section 121 of title 17, United States
8 Code).

9 **SEC. 9. SUPPLEMENT, NOT SUPPLANT.**

10 Funds made available under this Act shall be used
11 to supplement, and not to supplant, any other Federal,
12 State, local, or non-Federal funds available to carry out
13 this Act.

14 **SEC. 10. RESEARCH AND REPORTS.**

15 (a) RESEARCH.—The Secretary shall conduct re-
16 search, directly or by grant or contract, about the effect
17 of this Act on the timely delivery of instructional materials
18 in specialized formats to students who are blind or have
19 other print disabilities.

20 (b) REPORTS.—Not later than 3 years after the date
21 of enactment of this Act, and biennially thereafter, the
22 Secretary shall submit to the appropriate committees of
23 Congress a report containing the results of the research
24 described in subsection (a) and additionally, at a min-
25 imum, the following information:

1 (1) The number of students directly affected by
2 this Act.

3 (2) The annual cost incurred to carry out this
4 Act by the Federal Government, State governments,
5 and nonprofit entities that may be involved in ad-
6 ministering this Act.

7 (3) The financial and in-kind contributions of
8 State and local governments, and private nonprofit
9 and for-profit entities, to activities conducted under
10 this Act.

11 (4) Changes in the percentage of individuals
12 who receive appropriate instructional materials in
13 specialized formats at the beginning of a school year
14 compared to the percentage for the beginning of the
15 preceding school year.

16 (5) Changes in the timeliness of delivery of ap-
17 propriate instructional materials in specialized for-
18 mats from the beginning of one school year to the
19 beginning of the next school year.

20 (6) The extent to which States and local edu-
21 cational agencies have been able to satisfy require-
22 ments of compliance agreements or take other cor-
23 rective actions regarding the timely delivery of ap-
24 propriate instructional materials.

1 (7) Such other matters as the Secretary con-
2 siders to be relevant and appropriate.

3 **SEC. 11. DEFINITIONS.**

4 In this Act:

5 (1) The term “print disability” means, with re-
6 spect to an individual, student, or teacher, eligibility
7 or qualification under the Act of March 3, 1931, en-
8 titled “An Act to provide books for the adult blind”
9 (2 U.S.C. 135a), to receive books and other publica-
10 tions produced in specialized formats.

11 (2) The term “instructional materials” means
12 printed textbooks and related core materials that are
13 written and published primarily for use in elemen-
14 tary school and secondary school instruction and are
15 required by a State educational agency or local edu-
16 cational agency for use in the classroom, including
17 teacher editions of such materials requested under
18 section 4(b)(2)(B).

19 (3) The term “national electronic file format”
20 means a well-organized, structured, and marked-up
21 electronic file that is suitable for efficient conversion
22 into specialized formats and that is in conformance
23 with the technical standards prescribed under sec-
24 tion 3(a).

1 (4) The term “Center” means the National In-
2 structional Materials Access Center established by
3 the Secretary under section 5.

4 (5) The term “Secretary” means the Secretary
5 of Education.

6 (6) The term “specialized format”, with respect
7 to instructional materials, means Braille, synthesized
8 speech, digital text, digital audio, or large print.

9 (7) The terms “State educational agency”,
10 “local educational agency”, “elementary school”,
11 and “secondary school” have the meanings given
12 those terms in section 9101 of the Elementary and
13 Secondary Education Act of 1965 (20 U.S.C. 7801).

14 **SEC. 12. EFFECTIVE DATE.**

15 This Act shall take effect upon its enactment and
16 shall apply to instructional materials published and copy-
17 righted after the date on which the technical standards
18 prescribed under section 3(a) take effect.

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