

107TH CONGRESS  
2D SESSION

# S. 2246

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.

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## IN THE SENATE OF THE UNITED STATES

APRIL 24, 2002

Mr. DODD (for himself, Mr. COCHRAN, Mr. HARKIN, and Mr. BUNNING) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## 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,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Instructional Materials  
5       Accessibility Act of 2002”.

6       **SEC. 2. PURPOSE.**

7       The purpose of this Act is to improve access to print-  
8       ed instructional materials used by blind persons, or other  
9       persons with print disabilities, in elementary schools and

1 secondary schools through the creation of a coordinated  
 2 and efficient system for acquisition and distribution of in-  
 3 structional materials in the form of electronic files suitable  
 4 for conversion into a variety of specialized formats.

5 **SEC. 3. TECHNICAL STANDARDS.**

6 (a) STANDARDS.—

7 (1) PUBLICATION.—The Secretary of Edu-  
 8 cation, in consultation with the National Institute of  
 9 Standards and Technology of the Department of  
 10 Commerce, shall publish in the Federal Register  
 11 technical standards, to be known as the Instruc-  
 12 tional Materials Accessibility Standards—

13 (A) as a proposed rule, not later than 270  
 14 days after the date of enactment of this Act;  
 15 and

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

18 (2) PUBLIC COMMENT.—The Secretary shall  
 19 provide an opportunity for the submission by the  
 20 public of comments regarding a proposed rule for at  
 21 least 30 days before publication under paragraph  
 22 (1)(B) of a final rule.

23 (3) CONTENTS.—The Instructional Materials  
 24 Accessibility Standards shall—

1 (A) define the specific technical parameters  
2 of the national electronic file format to be used  
3 by publishers of instructional materials in the  
4 preparation of electronic files suitable for effi-  
5 cient conversion into specialized formats; and

6 (B) be consistent with and based upon ex-  
7 isting and emerging standards relating to elec-  
8 tronic publishing and translation technology  
9 used to produce specialized formats.

10 (b) ADVISORY COMMITTEE.—

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

22 (2) MEMBERS.—The Committee shall consist of  
23 individuals who shall include at least one and not  
24 more than two representatives of each of the fol-  
25 lowing:

1 (A) Publishers of instructional materials.

2 (B) Producers of adaptive technology.

3 (C) Producers of materials in specialized  
4 formats.

5 (D) Organizations for blind consumers.

6 (E) Special education programs.

7 (F) Developers of accessibility and pub-  
8 lishing software and supporting technologies.

9 (G) Information technology standards or-  
10 ganizations.

11 (H) Instructional materials resource cen-  
12 ters with substantial experience in file format  
13 preparation and automated conversion tech-  
14 nology.

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

17 (c) REVIEW AND AMENDMENT.—The Secretary, in  
18 consultation with the National Institute of Standards and  
19 Technology and the National Instructional Materials Ac-  
20 cessibility Advisory Committee, shall periodically review  
21 and, as appropriate, amend the technical standards pre-  
22 scribed under subsection (a) to reflect technological ad-  
23 vances or changes.

1 **SEC. 4. STATE REQUIREMENTS FOR ENSURING TIMELY**  
2 **PROVISION OF INSTRUCTIONAL MATERIALS**  
3 **TO STUDENTS.**

4 (a) STATE OBLIGATIONS.—

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

18 (2) COORDINATION.—A statewide plan sub-  
19 mitted under paragraph (1) shall, to the maximum  
20 extent practicable, be coordinated with the State Im-  
21 provement Plan under subpart 1 of part D of the  
22 Individuals with Disabilities Education Act (20  
23 U.S.C. 1451 et seq.), and shall contain an outline of  
24 the activities that the State intends to carry out  
25 using amounts received under the grant to achieve  
26 the purposes of this title.

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

3           (A) designate the entity responsible for col-  
4 lecting and maintaining data related to identi-  
5 fication of individuals who are blind or have  
6 other print disabilities and who require instruc-  
7 tional materials in specialized formats;

8           (B) establish the methods and procedures  
9 by which instructional materials are provided in  
10 specialized formats appropriate to the needs of  
11 the individual, including the methods for con-  
12 verting electronic files obtained under sub-  
13 section (b) into specialized formats;

14           (C) identify the resources available for pro-  
15 duction of instructional materials in specialized  
16 formats;

17           (D) establish procedures that local edu-  
18 cational agencies and any other agency with re-  
19 sponsibility for carrying out the education of  
20 children with disabilities will follow to ensure  
21 the timely delivery of instructional materials in  
22 specialized formats;

23           (E) provide assurances that contracts with  
24 publishers meet the requirements of subsection  
25 (b); and

1 (F) provide for periodic evaluation to en-  
2 sure that instructional materials are made  
3 available in appropriate specialized formats to  
4 individuals who are blind or have other print  
5 disabilities at the same time such materials are  
6 provided to individuals without such disabilities.

7 (b) CONTRACTS WITH PUBLISHERS.—

8 (1) CONTRACTS FOR STANDARDIZED FILES.—

9 In addition to the requirements of subsection (a), a  
10 State educational agency or local educational agency  
11 receiving Federal financial assistance under the In-  
12 dividuals with Disabilities Education Act (20 U.S.C.  
13 1400 et seq.) shall, as part of any instructional ma-  
14 terials adoption process, procurement contract, or  
15 other practice or instrument used for the purchase  
16 of instructional materials, enter into a written con-  
17 tract with the publisher of the materials to prepare,  
18 in conjunction with the provision of such materials,  
19 electronic files containing the contents of the mate-  
20 rials in the national electronic file format prescribed  
21 under section 3(a). The contract shall be entered  
22 into and take effect not later than 3 years after the  
23 date of enactment of this Act.

(2) CONTENTS OF CONTRACTS.—A contract described in paragraph (1) shall also provide for the following:

(A) PUPIL EDITIONS.—Not later than 30 days after the date of ratification of the contract, the publisher will transmit to the National Instructional Materials Access Center electronic files prepared in the national electronic file format prescribed under section 3(a) that correspond to the most recent pupil edition of the materials covered under the contract that is in print on the date of ratification of the contract, along with a print copy of such materials. If the most current pupil edition of such instructional materials in print on the date of ratification of the contract is, or will be, altered prior to the use of the materials in the classroom or if no such edition exists on such date, the publisher will, by a date specified in the contract, transmit to the Center—

(i) electronic files containing a complete record of corrections and changes made to such instructional materials; or

(ii) electronic files prepared in the national electronic file format prescribed



1 under section 3(a) that correspond to the  
 2 pupil edition of such instructional mate-  
 3 rials that will be used in the classroom.

4 (B) TEACHER EDITIONS.—Not later than  
 5 30 days after receipt of a request from the Na-  
 6 tional Instructional Materials Access Center  
 7 made on behalf of a teacher, the publisher will  
 8 transmit to the Center electronic files prepared  
 9 in the national electronic file format prescribed  
 10 under section 3(a) that correspond to the teach-  
 11 er edition of the requested instructional mate-  
 12 rials covered under the contract, if the request  
 13 includes—

14 (i) a specific description of the in-  
 15 structional materials needed by the teacher  
 16 (including, if applicable, an International  
 17 Standard Book Number (ISBN)); and

18 (ii) a certification that the teacher is  
 19 blind or has a print disability.

20 (c) PREEMPTION OF INCONSISTENT STATE AND  
 21 LOCAL REQUIREMENTS.—Except as provided in sub-  
 22 section (d), subsection (b) supersedes any inconsistent re-  
 23 quirements in the laws or regulations of any State or local  
 24 government, with respect to publishers providing instruc-  
 25 tional materials in the form of electronic files intended for

1 conversion into specialized formats to be used by blind or  
 2 other persons with print disabilities.

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

11 **SEC. 5. NATIONAL INSTRUCTIONAL MATERIALS ACCESS**  
 12 **CENTER.**

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

19 (b) RESPONSIBILITIES.—The duties of the Center are  
 20 the following:

21 (1) To monitor the needs of State educational  
 22 agencies and local educational agencies for instruc-  
 23 tional materials in specialized formats and to take  
 24 appropriate administrative steps to assist such agen-  
 25 cies in ensuring that instructional materials in the

1 form of electronic files are submitted by publishers  
2 to the Center under section 4(b).

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

7 (3) To verify the receipt and compliance of the  
8 materials received under section 4(b) with the na-  
9 tional electronic file format prescribed under section  
10 3(a).

11 (4) To prescribe and publish policies and guide-  
12 lines which the Center will use for the submission,  
13 cataloging, retrieval, and distribution of instructional  
14 materials in the national electronic file format pre-  
15 scribed under section 3(a).

16 (5) To prescribe and publish terms and proce-  
17 dures for approval of authorized entities registering  
18 with the Center to obtain access to the instructional  
19 materials in the national electronic file format pre-  
20 scribed under section 3(a).

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

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

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

9           (9) To develop, adopt, and publish procedures  
10      to protect against copyright infringement and other-  
11      wise to administratively assure compliance with title  
12      17, United States Code, with respect to the instruc-  
13      tional materials provided under this Act.

14      (c) OPERATION.—To assist in carrying out sub-  
15      section (a), the Secretary shall award, on a competitive  
16      basis, a contract renewable on a biannual basis with a non-  
17      profit organization, or with a consortium of such organiza-  
18      tions, determined by the Secretary to be best qualified to  
19      carry out the responsibilities described in subsection (b).  
20      The contractor shall report directly to the Assistant Sec-  
21      retary for Special Education and Rehabilitative Services  
22      of the Department of Education.

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

24      (a) AUTHORITY TO AWARD GRANTS.—The Secretary  
25      may award grants to the eligible entities under subsection

1 (b) (or a consortium of such entities) to provide or improve  
2 the capacity of such entities to prepare or obtain instruc-  
3 tional materials in specialized formats (including the na-  
4 tional electronic format prescribed under section 3(a)).

5 (b) ELIGIBLE ENTITIES.—The following are entities  
6 eligible for a grant under this section:

7 (1) State educational agencies.

8 (2) Regional consortia of State educational  
9 agencies.

10 (3) Local educational agencies.

11 (4) Nonprofit organizations the primary mission  
12 of which is to provide specialized services relating to  
13 training, education, or adaptive reading or the infor-  
14 mation access needs of blind persons or other per-  
15 sons with print disabilities.

16 (c) APPLICATION.—An eligible entity that desires to  
17 receive a grant under this section shall submit an applica-  
18 tion to the Secretary at such time, in such manner, and  
19 containing such information as the Secretary may require.  
20 The application shall include each of the following:

21 (1) A description of the entity's current capac-  
22 ity to prepare instructional materials in specialized  
23 formats.

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

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

4           (4) A description of proposed training of tran-  
5       scribers and others who prepare instructional mate-  
6       rials in specialized formats and, if appropriate, spec-  
7       ification of the technology to be obtained and used  
8       in the program.

9           (5) An assurance that the entity is, and shall  
10      remain, in compliance with the provisions of section  
11      121 of title 17, United States Code, regarding the  
12      reproduction and distribution of copyrighted instruc-  
13      tional materials in specialized formats.

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

16      (e) AUTHORIZATION OF APPROPRIATIONS.—There  
17      are authorized to be appropriated to carry out this section  
18      \$5,000,000 for fiscal year 2003 and such sums as may  
19      be necessary for each of fiscal years 2004 through 2007.

20      **SEC. 7. ENFORCEMENT.**

21      (a) RIGHTS, REMEDIES, AND PROCEDURES.—The  
22      rights, remedies, and procedures available to children and  
23      parents under subsections (b)(6), (e), (f), and (g) of sec-  
24      tion 615 of the Individuals with Disabilities Education Act  
25      (20 U.S.C. 1415) and section 504 of the Rehabilitation

1 Act of 1973 (29 U.S.C. 794) shall be the rights, remedies,  
2 and procedures available under this Act to children and  
3 parents aggrieved by violations of this Act by any State  
4 educational agency or local educational agency.

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

10 **SEC. 8. RELATIONSHIP TO SECTION 121 OF THE COPYRIGHT**  
11 **ACT.**

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

18 (b) NONINFRINGEMENT USE.—Reproduction or distribu-  
19 tion of instructional materials in a large print format ex-  
20 clusively for use by blind persons, or other persons with  
21 print disabilities, in elementary or secondary schools shall  
22 be considered a noninfringing use of such materials when  
23 such activity is conducted by an organization or agency  
24 that is an authorized entity within the meaning of section  
25 121 of title 17, United States Code.

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

2 Funds made available under this Act shall be used  
3 to supplement, and not to supplant, any other Federal,  
4 State, local, or non-Federal funds available to carry out  
5 this Act.

6 **SEC. 10. RESEARCH AND REPORTS.**

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

12 (b) REPORTS.—

13 (1) IN GENERAL.—The Secretary shall submit  
14 a report containing the results of the research de-  
15 scribed in subsection (a), and the information de-  
16 scribed in paragraph (2), to the appropriate commit-  
17 tees of Congress not later than 3 years after the  
18 date of enactment of this Act, and biannually there-  
19 after.

20 (2) CONTENTS.—The report submitted under  
21 paragraph (1) shall include, but not necessarily be  
22 limited to, the following information:

23 (A) The number of students directly af-  
24 fected by this Act.

25 (B) The annual cost incurred to carry out  
26 this Act by the Federal Government, State gov-



ernments, and nonprofit entities that may be involved in administering this Act.

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

(D) Changes in the percentage of individuals who receive appropriate instructional materials in specialized formats at the beginning of a school year compared to the percentage for the beginning of the preceding school year.

(E) Changes in the timeliness of delivery of appropriate instructional materials in specialized formats from the beginning of one school year to the beginning of the next school year.

(F) The extent to which States and local educational agencies have been able to satisfy requirements of compliance agreements or take other corrective actions regarding the timely delivery of appropriate instructional material.

(G) Such other matters as the Secretary considers to be relevant and appropriate.

**SEC. 11. DEFINITIONS.**

In this Act:

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

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

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

21          (4) The term “Center” means the National In-  
22      structional Materials Access Center established by  
23      the Secretary under section 5.

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

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

4           (7) The terms “State educational agency” and  
5           “local educational agency” have the meanings given  
6           those terms in section 9101 of the Elementary and  
7           Secondary Education Act of 1965 (20 U.S.C. 7801).

8   **SEC. 12. EFFECTIVE DATE.**

9           This Act shall take effect on the date of enactment  
10          of this Act, and shall apply to instructional materials pub-  
11          lished and copyrighted after the date on which the tech-  
12          nical standards prescribed under section 3(a) take effect.

○