



Karen B. Salmon, Ph.D.
State Superintendent of Schools

TO: Members of the State Board of Education

FROM: Karen B. Salmon, Ph.D.

DATE: May 21, 2019

SUBJECT: COMAR 13A.06.05
School Supplies and Equipment
PERMISSION TO PUBLISH – REPEAL

COMAR 13A.06.05
Purchase and Use of Accessible Teaching and Learning Materials
PERMISSION TO PUBLISH – REPLACE

PURPOSE:

The purpose of this action is to review comments received on COMAR 13A.06.05 *Purchase and Use of Accessible Teaching and Learning Materials* which was published in the Maryland Register and to request permission to republish with amendments to the regulation.

REGULATION PROMULGATION PROCESS:

Under Maryland law, a state agency, such as the State Board of Education, may propose a new or amended chapter whenever the circumstances arise to do so. After the State Board votes to propose such a chapter, the proposed chapter is sent to the Administrative, Executive, and Legislative Review (AELR) Committee for a 15-day review period. If the AELR Committee does not delay the proposed chapter for further review, it is published in the Maryland Register for a 30-day public comment period. At the end of the comment period, the Maryland State Department of Education (MSDE) staff review and summarize the public comments. Thereafter, the MSDE staff will present a recommendation to the State Board of Education to either: (1) adopt the chapter in the form it was proposed; or (2) revise the chapter and adopt it as final because the suggested revision is not a substantive change; or (3) revise the chapter and re-propose it because the suggested revision is a substantive change. At any time during this process, the AELR Committee may terminate the promulgation process and hold a hearing. Thereafter, it may recommend to the Governor that the chapter not be adopted as a final chapter or the AELR Committee may release the chapter for final adoption.

BACKGROUND:

The current chapter COMAR 13A.06.05 – *School Supplies and Equipment* focuses on the management and accessibility of print textbooks. Over the past 10 years, a transformation in teaching and learning has occurred that includes digital formats of textbooks, resources, and equipment. A repeal and replacement of the current chapter is required in order to address this transformation.

At the January 22, 2019 State Board meeting, the State Board granted permission to publish a request to repeal COMAR 13A.06.05 – *School Supplies and Equipment* and to replace with COMAR 13A.06.05 *Purchase and Use of Accessible Teaching and Learning Materials*. The repealed and proposed COMAR regulations were published in the Maryland Registry from March 29, 2019 to April 29, 2019. Comments were received from one group, the National Federation of the Blind. The information below includes the comments from the National Federation and MSDE’s responses to the comments:

(1) Definition .03B(11):

Published language: “*Web Content Accessibility Guidelines (WCAG) 2.0 Level AA*” means a single shared standard for web content accessibility that meets the needs of individuals, organizations, and governments internationally.

Revision requested: “*Web Content Accessibility Guidelines (WCAG) 2.1 AA (June 5, 2018)*” means a single shared standard for web content accessibility that meets the needs of individuals, organizations, and governments internationally.

(2) Section .04C Requirements – Additional language requested and recommended by MSDE: C. *Each local board of education shall annually train special education directors, principals, and other purchase specialists on the policies and procedures for purchasing and using accessible teaching and learning materials to ensure enforcement of the policies and procedures.*

(3) Section .05A Accessibility of Print Materials

Recommendation: Change “may” to “shall”

(A) *When acquiring print materials, each local board of education and public agency ~~may~~ shall coordinate with the National Instructional Materials Access Center (NIMAC) when acquiring print or textbook-related supplemental resources for students who meet the NIMAC eligibility criteria.*

(4) Section .06 Accessibility of Digital Learning Resources

Published language: *Each local board of education and public agency shall comply with WCAG 2.0 Level AA when purchasing or selecting digital learning resources to provide equitable learning opportunities for all students.*

Revision requested: *Each local board of education and public agency shall comply with WCAG 2.1 Level AA (June 5, 2018) when purchasing or selecting digital learning resources to provide equitable learning opportunities for all students.*

The MSDE supports the recommended revisions. Counsel has determined that the additional language in Section 04, labeled (2) above, is a substantive change and therefore the MSDE is requesting permission to publish the regulation with the additional language.

EXECUTIVE SUMMARY:

The existing chapter does not effectively support today's instructional practices. The repeal and replacement of the existing chapter will direct school systems to develop policies and procedures for the purchase and acquisition of accessible textbooks and supplemental curricular resources, in print and in digital formats, that support teaching and learning in and out of the classroom.

ACTION:

Request permission to publish the repeal of COMAR 13A.06.05 *School Supplies and Equipment* and replace with COMAR 13A.06.05 *Purchase and Use of Accessible Teaching and Learning Materials* that includes the new language.

Attachments:

COMAR 13A.06.05 *School Supplies and Equipment*

COMAR 13A.06.05 *Purchase and Use of Accessible Teaching and Learning Materials*

Comments from the National Federation of the Blind

Title 13A
STATE BOARD OF EDUCATION
Subtitle 06 SUPPORTING PROGRAMS
Chapter 05 [School Supplies and Equipment]

Authority: Education Article, §§2-205 and 8-408, Annotated Code of Maryland; 34CFR §§300.210 and 300.172(e)(1)(i)

[.01 Textbooks.

A. In this regulation, "textbook" means a text or printed supporting material for a subject matter.

B. Each local board of education shall prepare procedures for the distribution and care of books furnished to students, and shall notify all students, parents, and guardians of these procedures.

C. Each local board of education and public agency may coordinate with the National Instructional Materials Access Center

(NIMAC) when purchasing print instructional materials in the same manner and subject to the same conditions as the Department

as described in COMAR 13A.05.02.04E and .13M and in accordance with 34 CFR §300.210 and Education Article, §8-408(d),

Annotated Code of Maryland.

D. Accessible Formats.

(1) If a local board of education or public agency chooses not to coordinate with NIMAC, the local board of education or

public agency shall provide an assurance to the Department that blind persons or other persons with print disabilities are provided

instructional materials in a timely manner.

(2) It is the responsibility of each local board of education and public agency to ensure that students with disabilities who

need instructional materials that cannot be produced from NIMAC files or in accessible formats but are not included under the

definition of blind persons or other persons with print disabilities in accordance with 34 CFR §300.172(e)(1)(i) receive those

instructional materials in a timely manner.

E. Any dispute as to the implementation of this regulation shall be submitted to the Department's Division of Instruction and

Division of Special Education/Early Intervention Services, for joint resolution.]

Administrative History

Effective date: April 3, 1964

Regulation .01 amended effective January 15, 1989 (15:27 Md. R. 3135)

Regulation .01 repealed and new Regulation .01 adopted effective April 29, 2002 (29:8 Md. R. 701)

Regulation .01C, D amended effective July 28, 2008 (35:15 Md. R. 1350)

COMAR 13A.06.05 Purchase and Use of Accessible Teaching and Learning Materials

.01 Purpose.

The purpose of this chapter is to direct school systems to develop policies and procedures for the purchase and acquisition of accessible textbooks and supplemental curricular resources, in print and digital formats, that support teaching and learning in and out of the classroom.

.02 Incorporation by Reference.

In this chapter, the following document is incorporated by reference:

A. The Web Content Accessibility Guidelines (WCAG) 2.0 Level AA (December 2008), which has been incorporated by reference in COMAR 13A.04.15.03.

.03 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Accessible Educational Materials (AEM)" means print- and technology-based educational materials, including printed and electronic textbooks and related core materials that are designed or converted in a way that makes them usable across the widest range of individual variability regardless of format (print, digital, audio, video, etc.).

(2) "Accessible technology" means any device, hardware, software or handheld equipment that provides access to activities for everyone, including those with disabilities, and is designed to provide all individuals the opportunity to acquire the same information, engage in the same interactions and enjoy the same services with equivalent ease of use.

(3) "Digital device" means an electronic device that uses discrete, numerable data and processes for all its operations.

(4) "Digital learning" means any instructional practice that uses technology to support the student and/or educator learning experience.

(5) "Digital learning resources" means digital materials and technologies that support teaching and learning.

(6) "eTextbook or e-book" means a book made available in a digital format for display on a digital device.

(7) The "National Instructional Materials Access Center (NIMAC)" means a service that provides a national repository of source files for accessible media production of textbooks and related print core materials for use by eligible PreK-12 students.

(8) "Open Educational Resources (OERs)" means free and openly licensed digital educational materials that can be used for teaching, learning, research, and other purposes. They are used and modified based on open licensing and may include full courses, course materials, modules, textbooks, streaming videos, tests, software, and any other tools, materials, or techniques used to support access to knowledge.

(9) "Public agency" means an institution that provides educational services to students with disabilities from 3 to 21 years and in accordance with the student IEP. This includes the Maryland State Department of Education, local school systems, the SEED School, the Department of Health, the Department of Juvenile Services, the Maryland School for the Blind, the Maryland School for the Deaf, and the Department of Labor, Licensing, and Regulation.

(10) "Textbook" means a book available in print or digital formats or a compilation of digital instructional resources that support content standards and curriculum.

(11) "Web Content Accessibility Guidelines (WCAG) 2.1 Level AA (June 5, 2018)" means a single shared standard for web content accessibility that meets the needs of individuals, organizations, and governments internationally.

.04 Requirements.

A. Each local board of education shall prepare policies and procedures related to:

(1) The selection, acquisition, equitable distribution and sustainability of available, quality-assured digital formats of textbooks (i.e., eTextbooks, e-books, or a compilation of OERs), digital devices and digital learning resources for all students;

(2) The selection and availability of equitable Accessible Educational Materials (AEM) to meet the needs of all students; and

(3) The privacy and acceptable use of digital devices and resources.

B. Each local board of education shall notify all students' parents and guardians of these policies and procedures.

C. Each local board of education shall annually train special education directors, principals, and other purchase specialists on the policies and procedures for purchasing and using accessible teaching and learning materials to ensure enforcement of the policies and procedures.

.05 Accessibility of Print Materials.

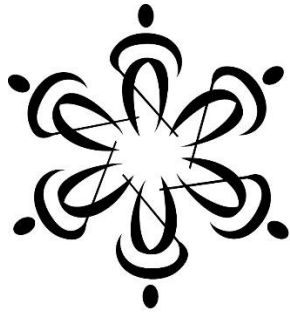
A. When acquiring print materials, each local board of education and public agency shall coordinate with the National Instructional Materials Access Center (NIMAC) when acquiring print or textbook-related supplemental resources for students who meet the NIMAC eligibility criteria.

B. Each local board of education and public agency shall provide equitable access to print instructional materials in a timely manner to students with disabilities who do not meet the NIMAC eligibility criteria.

C. If a local board of education or public agency chooses not to coordinate with the NIMAC, the local board of education or public agency shall provide an assurance to the Department that purchases meet standards set in 34CFR §300.172

.06 Accessibility of Digital Learning Resources.

Each local board of education and public agency shall comply with WCAG 2.1 Level AA (June 5, 2018) when purchasing or selecting digital learning resources to provide equitable learning opportunities for all students.



**NATIONAL FEDERATION
OF THE BLIND**
MARYLAND

Live the life you want.

Subject: Comments on 13A.06.05 Purchase and Use of Accessible Teaching and Learning Materials

To: Director of Instructional Technology

From: Members of the National Federation of the Blind of Maryland

**Contact: Sharon Maneki, Director of Legislation and Advocacy
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The National Federation of the Blind of Maryland (NFBMD) offers the following comments on 13A.06.05 Purchase and Use of Accessible Teaching and Learning Materials.

We applaud Maryland State Department of Education (MSDE) for developing a regulation to “direct school systems to develop policies and procedures for the purchase and acquisition of accessible textbooks and supplemental curricular resources, in print and digital formats, that support teaching and learning in and out of the classroom.” This regulation is critical in ensuring access to the curriculum for blind and visually impaired students. The following recommendations will enhance this important regulation.

In .04 Requirements, add a new point (letter C) regarding training. “C. Each local board of education shall annually train special education directors, principals and other purchase specialists on the policies and procedures for purchasing and using accessible teaching and learning materials that the local school system has developed to ensure that they are enforced.” Without continual training, policies will be ignored. Since many people are responsible for selecting and purchasing accessible teaching and learning materials, and people change roles frequently, training must occur on an annual basis.

In .05 Accessibility of Print Materials, “A. When acquiring print materials, each local board of education and public agency may coordinate...” the word “may” should be changed to the word “shall”. The NIMAC was created by IDEA 2004 to ensure that blind and visually impaired students would receive instructional material on time and in an accessible format. The NIMAC repository must continue to grow if it is going to achieve this goal. The only way for the repository to grow is for each local school system to make sure that NIMAC receives electronic files of all materials purchased by the school system. Using the word “may” is much too weak. Allowing school systems to decide whether to coordinate with NIMAC will have a detrimental effect on the timeliness of receipt of accessible materials. Blind and visually impaired students must receive their materials at the same time as their sighted peers.

.06 Accessibility of Digital Learning Resources. The regulation currently reads “Each local board of education and public agency shall comply with WCAG 2.0 Level AA when purchasing or selecting digital learning resources to provide equitable learning opportunities for all students.” The NFBMD AGREES THAT ALL LOCAL EDUCATION AGENCIES MUST COMPLY WITH A STANDARD. However, why didn’t you select WCAG 2.1 instead of 2.0? The WCAG 2.1 standard has updated the low vision requirements and has also enhanced the requirements to meet the needs of people with learning disabilities and cognitive disabilities. The regulation should cite this updated standard.

This regulation is timely and recognizes the changing technology in the development of teaching and learning materials. The regulation will decrease the possibility that blind and visually impaired students will be left behind in the educational process. The three suggestions offered by the NFBMD will strengthen this regulation and make equity a reality. Thank you for considering our recommendations.