

## **Initial Comments from American Printing House for the Blind, Inc. in Response to Notice of Inquiry and Request for Comments on the Topic of Facilitating Access to Copyrighted Works for the Blind or Other Persons With Disabilities**

In 1879, the Congress of the United States passed the Act to Promote the Education of the Blind. This act designates the American Printing House for the Blind, Inc. (APH) as the official supplier of educational materials to all students in the U.S. who meet the definition of blindness and who are working at less than college level.

APH continues today to carry out this role that Congress designated for it in 1879 and annually reaffirms. APH undertakes an annual census of all students who meet the definition of blindness. Congress then appropriates funds that trustees in each state use to acquire textbooks and other educational materials from APH for those students. As such, APH plays a fundamental role in serving students who are blind and visually impaired, and its key position places APH in close and regular contact with those in the state and local educational agencies who provide the accessible textbooks to students. APH also works directly with the vision teachers who assist students in developing the skills they need to cultivate literacy and to access textual, graphic, and other educational content in accessible formats. APH's experience and research into the educational needs of students affirm strongly the continued need for embossed braille and print-based large print right along with other accessible formats.

Students with visual disabilities need timely materials. They also need materials that truly provide them access to the complete educational content of instructional materials, and in the formats that are most appropriate for the specific educational undertaking. In many cases, this requires students to utilize numerous formats, learning to read and write braille or large print for literacy and to access complex texts; learning to decipher tactile graphics to access and understand complex graphical materials; employing digital braille and audio for note-taking and recreational reading; and using text-to-speech for online research, recreational reading, and to support textbook access (braille plus text-to-speech; large print plus text-to-speech). Typically, print textbooks that are converted quickly and automatically into digital formats lack some or much of the educational content of the print version.

There are numerous students who are blind or visually impaired who utilize large print, and thousands more who use braille. Many or most access their educational materials using more than one format. Indeed, the key is to find the best fit for a particular student and his or her learning style and needs. There is also the matter of subject matter: geometry and geography are but two subjects where the audio format is limited in its ability to serve as a fully accessible, fully equivalent version of a textbook. Tactile graphics and/or large print are essential tools for conveying much educational content for these subjects and for a wealth of other educational content as well.

APH also developed and manages the National Instructional Materials Access Center (NIMAC) (<http://www.nimac.us/>) as designated by Congress in IDEA 2004. NIMAC houses more than 16,000 electronic files of textbooks and related print core materials in a special source file format—NIMAS. These files are used to produce accessible formats for students at the elementary and secondary school level. Chafee, while not part of IDEA, is amended by IDEA to provide copyright protection for publishers who create the NIMAS files and deposit them in NIMAC for use by those in the states to prepare the accessible version. IDEA 2004 also expanded Chafee to cover large print for educational materials for students working in elementary and secondary schools. NIMAC began operations on December 3, 2006, and currently has available 16,068 textbooks and core related educational files in NIMAS format that may be used to produce accessible educational materials.

APH's unique position and 130 years of experience in serving students who are blind and visually impaired has meant that APH has a clear understanding of the numerous barriers and opportunities for providing access to educational materials to these students. These include limitations in the current copyright act as well as inadequate resources.

Inadequate resources affect every level:

1. Training and equipment for accessible format producers, including, but not limited to, braille transcribers and tactile graphics producers;
2. Limited access and supplies for vision teachers, who work with students to teach them to utilize accessible formats and assistive technology in their numerous and varied formats;

Opportunities to Reduce Duplication of Effort

APH developed and manages the Louis Database of Accessible Materials (<http://louis.aph.org/pages/about.aspx>), which is a federally supported national database of more than 196,000 books in accessible formats for use by the blind and print disabled. You may think of Louis as a type of union list, as it provides holding information for these materials from over 170 agencies. Due to the costs and time involved in creating accessible materials, it is critical that these materials be shared and that work done once is not repeated by other agencies. Chafee relates to Louis in that we require that all accessible materials listed in Louis adhere with US copyright law, including Chafee.

The APH File Repository reduces the duplication of effort by providing braille-ready files produced by transcribers and making them available to others. This year, it will also provide a mechanism for enabling the sharing of other student-ready electronic files to benefit students who are blind, visually impaired, and print disabled.

APH will also make available this year a unified search system that will allow those needing accessible formats to perform a single search and retrieve results from multiple repositories of accessible materials. The first step will be to produce a unified search of Louis and NIMAC so it is immediately apparent to searchers if a textbook is already available in a student-ready format through an agency listing in Louis, and if not, if a source file is available through the NIMAC. This system can and will be expanded to facilitate access to other repositories as well.

## Barriers

One barrier is the burden on the system by state textbook adoptions that ensure that textbooks in one state, once converted into an accessible format, can be not used by students in other states, meaning effort must be duplicated.

Another barrier is that copyright concerns make some states reluctant to share the specialized formats they have produced from NIMAS across state lines.

Yet another barrier is the exclusion in Chafee of large print for materials used by K-12 students that are trade books, not textbooks. APH has received strong, longstanding support from the publishing community in creating accessible textbooks in large print for the visually impaired. However, due to the complex nature of rights, the process of obtaining rights to produce a trade book for a student who is blind or visually impaired can still be very time consuming, as the publisher may not have all rights necessary to grant us our permission request. Where we must seek permission from the authors and illustrators, we can have delays of many months. Given how frequently students in elementary and secondary schools are assigned readings in addition to textbooks, this remains a barrier. Because relatively few students are visually impaired, the number of reproductions we need to make of any one work is quite limited, usually between 1 and 3 copies per year, if that. We do not feel that this constitutes a financial impediment to the rights holders, and they usually agree once we are able to locate them and present our request. If an exception can be crafted to protect the rights holders but permit "one copy" reproduction in large print of a work for a student who is blind or visually impaired—without requiring formal permission—this would be of great benefit to students.

Another significant omission in Chafee of great consequence to the student who is blind or visually impaired is testing and assessments. We must seek permission even to reproduce braille versions of standardized tests. Again, though the test publishing community is supportive, the complexity of rights holder issues and security concerns means that we have significant delays in being able to provide the testing and assessment tools the students need. Given the critical importance of testing in today's educational environment and the general high stakes nature of testing, it is absolutely critical that the student who is blind or visually impaired be tested using tools that are

truly a accessible to them and of the same quality and high standards as the non accessible test.

Finally, a new barrier will be created if the challenge to text-to-speech by the Authors' Guild is affirmed. Should the Guild prevail in its contention that text-to-speech constitutes a different publication format, it would be essential that text-to-speech receive the same protection as braille under Chafee. (<http://www.readingrights.org/>)

#### Inter-library Loan (ILL)

The National Library Service (<http://www.loc.gov/nls/>) and its network of Talking Book Libraries do not focus on elementary and secondary school level materials. Lists such as IRCBVI and the Louis database are two key media for sharing information about materials that may be loaned. The traditional ILL system is seldom used, as there are few resources available through it for textbooks and educational materials for this population. Textbook publishers do not create large print editions of their books, as the market for these materials is tiny. However, Thorndike and a few other publishers do create large print books that may fit in well with the literacy goals and recreational reading needs of blind students. With these exceptions noted, it is fair to say that there are very few commercially available accessible k-12 educational materials that could be accessed via ILL.

Sincerely,  
Tuck Tinsley III, EdD  
President, American Printing House for the Blind