

**Superintendent's Memo #189-12****COMMONWEALTH of VIRGINIA  
Department of Education**

August 3, 2012

TO: Division Superintendents

FROM: Patricia I. Wright, Superintendent of Public Instruction

**SUBJECT: Provision of Accessible Instructional Materials for Students with Print Disabilities**

On March 9, 2012, the Virginia Department of Education issued Superintendent's Memo #067-12 regarding the requirements for providing accessible instructional materials for students with print disabilities. The provisions in that Memo remain accurate, except for the reference to Section 504 for students with disabilities. Specifically, the first provision on page 2 states that:

The IEP team or 504 committee must document in the child's IEP or 504 plan that the student has a need for accessible instructional materials... (emphasis in the original)

The reference to 504 is inconsistent with the current law and should be considered deleted from the March 9 Memo. The U.S. Department of Education's Office of Special Education and Rehabilitative Services (OSERS) issued "Questions and Answers on the National Instructional Materials Accessibility Standard (NIMAS)" on August 1, 2010. This document specifically concludes that students who receive services under Section 504 of the Rehabilitation Act are not eligible to receive specialized formats from NIMAS-derived files through the National Instructional Materials Access Center (NIMAC). OSERS concludes in Question A-4 that only if the student is otherwise eligible to receive these materials under the Individuals with Disabilities Education Improvement Act of 2004 (IDEIA, 2004) would the student be eligible to access NIMAS-derived materials. OSERS further states that State Educational Agencies and local school divisions are required to provide accessible materials to all students who need them regardless of whether or not they qualify for accessible materials produced from NIMAS-derived files. OSERS' document is consistent with the IDEIA statute that mandated the creation of the NIMAC and NIMAS. (see 20 U.S.C. § 674(e)(2) and (3) (A)). OSERS' Q&A document is available at: <http://www2.ed.gov/policy/speced/guid/idea/nimas-qa.pdf> (/home\_files/leaving/redirect.cfm?url=http://www2.ed.gov/policy/speced/guid/idea/nimas-qa.pdf).

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