

CHAPTER 299**(SB 243)**

AN ACT relating to the availability of textbooks and instructional materials in accessible formats for students with disabilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

- (1) *The following definitions shall apply to this section:*
 - (a) *"Alternative format" means any medium or format for the presentation of instructional materials that is needed by a student with an individualized education program or Section 504 Plan for a reading accommodation other than standard print, including but not limited to Braille, large print, audio recordings, digital text, and digital talking books;*
 - (b) *"Braille," "individualized education program," and "blind students" have the same meaning as defined under KRS 158.281;*
 - (c) *"Comparable version" denotes that all elements of the print version are present in the electronic version, including graphics with ALT tags though not necessarily in the same order or format;*
 - (d) *"Legacy materials" means images and graphics requiring release and permission from another source other than the publisher; and*
 - (e) *"Section 504 Plan" means a written statement developed for a student with a disability that includes the provision of regular or special education and related aids and services designed to meet individual educational needs in accordance with the federal regulations issued under 34 C.F.R. sec. 104.33.*
- (2) *The purpose of this section shall be to assure, to the extent feasible, that all students with disabilities in the public schools kindergarten through grade twelve (12) who require reading accommodations in accordance with an individualized education program or Section 504 Plan, including but not limited to students who are blind, visually impaired, or who have a specific learning disability as defined in KRS 157.200 or other disability affecting reading, shall have access to textbooks and instructional materials as defined by administrative regulations of the Kentucky Board of Education in alternative formats that are appropriate to their disability and educational needs.*
- (3) *Notwithstanding any other statute to the contrary, the Department of Education shall give preferential procurement status to textbook and instructional materials from publishers who make their materials available in alternative formats for use by students with disabilities, or who can verify that an accessible format textbook or instructional material is currently available from or is in the process of being created by the American Printing House for the Blind, Recording for the Blind and Dyslexic, or another authorized entity, as defined under 17 U.S.C. sec. 121 and who commonly provide alternative format materials for use by students in Kentucky schools. The Department of Education may assign additional procurement preferences designed to ensure that students with disabilities have access to appropriate alternative formats to meet their needs.*

- (4) *Effective July 1, 2003, the Department of Education shall require to the extent feasible any publisher of a textbook or program adopted for use in the public schools in kindergarten through grade twelve (12) to furnish computer files or electronic versions of the printed textbooks and instructional materials in formats comparable to the printed version that are compatible with commonly used Braille translation and speech synthesis software and include corrections and revisions as may be necessary to assure clarity in presentation and use. Navigation within and between files should be reasonably efficient so that the disabled learner is able to fully utilize the material in a manner that yields the same result as the print version affords a nondisabled learner. File format shall be limited to those formats that allow for a comparable version that is readable with text and screen readers such as HTML, XML, or other formats that meet the criteria stated in this subsection. For extreme cases where ALT tags are not feasible, a tag may read, "This item is too complicated to render with current technology." Legacy materials shall be exempt from the criteria for this preference. These files shall be provided to the Division of Exceptional Children Services and shall be provided at the same time and in composition and form comparable with the printed version and include corrections and revisions as may be necessary to assure clarity in presentation and use. The Department of Education may define further requirements regarding additional characteristics of digital files submitted in compliance with this section as needed to provide appropriate alternative formats to meet the needs of students with disabilities.*
- (5) *The Department of Education shall require publishers to make digital files, together with two (2) copies of the print version, available at no charge upon request to the American Printing House for the Blind for production of accessible Braille and other materials and to Recording for the Blind and Dyslexic or another authorized entity, as defined under 17 U.S.C. sec. 121, for production of accessible audio media, digital text, and digital talking books, which produce accessible format materials based on selection and scheduling needs.*
- (6) *Nothing in this section shall in any way lessen the obligation of the public schools to provide for the instruction of blind students in the use of Braille in accordance with KRS 158.282 nor lessen the provision of Braille textbooks for blind students under KRS 156.476.*

Approved April 9, 2002