

SENATE BILL 226

Unofficial Copy
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2002 Regular Session
(2r1441)

ENROLLED BILL

-- Education, Health, and Environmental Affairs/Ways and Means --

Introduced by **Senators Conway, Astle, Baker, Bromwell, Collins, Currie, DeGrange, Della, Dyson, Exum, Forehand, Frosh, Green, Haines, Harris, Hoffman, Hogan, Hollinger, Hooper, Hughes, Jimeno, Kasemeyer, Kelley, Lawlah, McFadden, Middleton, Miller, Mitchell, Munson, Neall, Pinsky, Ruben, Sfikas, Stone, Teitelbaum, and Van Hollen**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER 457

1 AN ACT concerning

2 **Education - Technology for Education Program - ~~Nonvisual Access~~**
3 **Equivalent Access for Students with Disabilities**

4 FOR the purpose of requiring the State Superintendent of Education and the
5 Department of Business and Economic Development to include a certain clause
6 in any contract or grant awarded under the Technology for Education Program;
7 ~~specifying requirements that are to be included in the clause; specifying certain~~
8 ~~alternatives~~ requiring the State and each local school system to ensure that
9 equivalent access standards are included in certain grant and procurement
10 contract specifications and in certain guidelines concerning certain instructional
11 products; requiring the State or local school system, after evaluating certain
12 products, to select certain products that meet certain specifications; providing

1 for an exemption from the required selection of certain products that meet
 2 certain standards; requiring the State or a local school system to implement
 3 certain alternative methods of instruction under certain circumstances;
 4 requiring the State Board of Education to adopt certain regulations; *requiring*
 5 *the State Department of Education to monitor compliance with certain*
 6 *requirements and report to the General Assembly each year on or before a certain*
 7 *date; defining a certain term; providing for the application of certain provisions*
 8 *of this Act; defining certain terms; providing for the application of this Act to*
 9 *certain technology; and generally relating to certain requirements regarding*
 10 *technology that is developed or obtained for classroom use in certain schools the*
 11 *provision of equivalent access to technology in the Technology for Education*
 12 *Program for students with disabilities.*

13 BY ~~repealing and reenacting, with amendments, adding to~~
 14 Article - Education
 15 Section ~~7-901 and 8-408~~ 7-910
 16 Annotated Code of Maryland
 17 (2001 Replacement Volume)

18 BY ~~adding to~~ repealing and reenacting, with amendments,
 19 Article - Education
 20 Section ~~7-901 and 7-910~~ 8-408
 21 Annotated Code of Maryland
 22 (2001 Replacement Volume)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 24 MARYLAND, That the Laws of Maryland read as follows:

25 **Article - Education**

26 ~~7-901.~~

27 (a) ~~In this subtitle the following words have the meanings indicated.~~

28 (b) ~~"COMPUTER-BASED INSTRUCTIONAL TECHNOLOGY" MEANS COMPUTER~~
 29 ~~HARDWARE OR SOFTWARE USED BY TEACHERS AND STUDENTS IN THE DELIVERY OF~~
 30 ~~THE INSTRUCTIONAL PROGRAM.~~

31 (c) ~~"Eligible consortium" includes a local educational agency and a public or~~
 32 ~~private nonprofit organization.~~

33 (d) ~~(D) "Instructional programming" means the full range of audio and video~~
 34 ~~text, graphics, or additional state-of-the-art communications distributed through~~
 35 ~~interactive, command and control, or passive methods for the purpose of education~~
 36 ~~and instruction.~~

37 (e) ~~(E) "Students" means students from a broad range of backgrounds and~~
 38 ~~circumstances, including:~~

- 1 (1) ~~Disadvantaged students;~~
 2 (2) ~~Students with diverse racial, ethnic, and cultural backgrounds;~~
 3 (3) ~~Students with disabilities;~~
 4 (4) ~~Students with limited English proficiency;~~
 5 (5) ~~Students who have dropped out of school; and~~
 6 (6) ~~Academically talented students.~~
 7 ~~[(e)]~~ (F) "Technology" means the latest state of the art technology products
 8 ~~and services, including:~~

- 9 (1) ~~Closed circuit television systems;~~
 10 (2) ~~Educational television and radio broadcasting;~~
 11 (3) ~~Cable television;~~
 12 (4) ~~Satellite;~~
 13 (5) ~~Copper and fiber optic transmission;~~
 14 (6) ~~Computer;~~
 15 (7) ~~Video and audio laser and CD-ROM discs; [and]~~
 16 (8) ~~Video and audio tapes or other technologies; AND~~
 17 (9) ~~TECHNOLOGY USED FOR ON-LINE LEARNING.~~

18 7-901.

19 (a) *In this subtitle the following words have the meanings indicated.*

20 (b) *"COMPUTER-BASED TECHNOLOGY" MEANS COMPUTER HARDWARE OR*
 21 *SOFTWARE USED BY TEACHERS AND STUDENTS IN THE DELIVERY OF AN*
 22 *INSTRUCTIONAL PROGRAM.*

23 (C) *"Eligible consortium" includes a local educational agency and a public or*
 24 *private nonprofit organization.*

25 [(c)] (D) *"Instructional programming" means the full range of audio and video*
 26 *text, graphics, or additional state-of-the-art communications distributed through*
 27 *interactive, command and control, or passive methods for the purpose of education and*
 28 *instruction.*

29 [(d)] (E) *"Students" means students from a broad range of backgrounds and*
 30 *circumstances, including:*

- 1 (1) Disadvantaged students;
- 2 (2) Students with diverse racial, ethnic, and cultural backgrounds;
- 3 (3) Students with disabilities;
- 4 (4) Students with limited English proficiency;
- 5 (5) Students who have dropped out of school; and
- 6 (6) Academically talented students.
- 7 [(e)] (F) "Technology" means the latest state-of-the-art technology products
8 and services, including:
- 9 (1) Closed circuit television systems;
- 10 (2) Educational television and radio broadcasting;
- 11 (3) Cable television;
- 12 (4) Satellite;
- 13 (5) Copper and fiber optic transmission;
- 14 (6) Computer;
- 15 (7) Video and audio laser and CD ROM discs; and
- 16 (8) Video and audio tapes or other technologies.

17 7-910.

18 (A) ~~EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE STATE~~
19 ~~SUPERINTENDENT AND THE SECRETARY OF BUSINESS AND ECONOMIC~~
20 ~~DEVELOPMENT JOINTLY SHALL ENSURE THAT INVITATIONS FOR BIDS, REQUESTS~~
21 ~~FOR PROPOSALS OR GRANTS, AND PROCUREMENT CONTRACTS OR MODIFICATIONS~~
22 ~~OF CONTRACTS FOR COMPUTER-BASED INSTRUCTIONAL TECHNOLOGY THAT ARE TO~~
23 ~~BE DEVELOPED OR OBTAINED UNDER THIS SUBTITLE FOR CLASSROOM USE INCLUDE~~
24 ~~A CLAUSE GOVERNING NONVISUAL ACCESS.~~

25 (B) ~~THE CLAUSE GOVERNING NONVISUAL ACCESS REQUIRED UNDER~~
26 ~~SUBSECTION (A) OF THIS SECTION SHALL SPECIFY THAT THE COMPUTER-BASED~~
27 ~~INSTRUCTIONAL TECHNOLOGY THAT MEETS ALL OTHER SPECIFICATIONS AND WILL~~
28 ~~BE USED BY BLIND OR VISUALLY IMPAIRED INDIVIDUALS:~~

29 (1) ~~MUST PROVIDE EQUIVALENT ACCESS FOR EFFECTIVE USE BY BOTH~~
30 ~~VISUAL AND NONVISUAL MEANS;~~

1 (2) WILL PRESENT INFORMATION, INCLUDING PROMPTS FOR
2 INTERACTIVE COMMUNICATION, IN A FORMAT THAT ALLOWS FOR VISUAL AND
3 NONVISUAL USE;

4 (3) CAN BE USED WITHIN NETWORKED ENVIRONMENTS FOR
5 OBTAINING, RETRIEVING, AND DISSEMINATING INFORMATION USED BY
6 INDIVIDUALS WHO ARE NOT BLIND OR VISUALLY IMPAIRED; AND

7 (4) SHALL BE OBTAINED, WHENEVER POSSIBLE, WITHOUT
8 MODIFICATION FOR COMPATIBILITY WITH SOFTWARE AND HARDWARE FOR
9 NONVISUAL ACCESS.

10 (C) FOLLOWING AN EVALUATION OF COMPUTER-BASED INSTRUCTIONAL
11 TECHNOLOGY, IF A DETERMINATION IS MADE THAT COMPUTER-BASED
12 INSTRUCTIONAL TECHNOLOGY THAT FULLY MEETS THE REQUIREMENTS OF
13 SUBSECTION (B) OF THIS SECTION IS NOT AVAILABLE, THE STATE AND THE LOCAL
14 SCHOOL SYSTEMS SHALL:

15 (I) (1) SELECT THE COMPUTER-BASED INSTRUCTIONAL
16 TECHNOLOGY WITH THE GREATEST FUNCTIONALITY FOR EQUIVALENT VISUAL AND
17 NONVISUAL ACCESS THAT MEETS ALL OTHER SPECIFICATIONS; AND

18 (II) IMPLEMENT AN ALTERNATIVE METHOD OF INSTRUCTION
19 DESIGNED TO ENABLE A STUDENT WHO IS BLIND OR VISUALLY IMPAIRED TO
20 ACHIEVE THE SAME INSTRUCTIONAL OUTCOMES CONSISTENT WITH THE STUDENT'S
21 IEP OR 504 PLAN; OR

22 (2) IF COMPUTER-BASED INSTRUCTIONAL TECHNOLOGY WITH THE
23 GREATEST FUNCTIONALITY FOR EQUIVALENT VISUAL AND NONVISUAL ACCESS
24 THAT MEETS ALL OTHER SPECIFICATIONS IS NOT AVAILABLE, IMPLEMENT AN
25 ALTERNATIVE METHOD OF INSTRUCTION DESIGNED TO ENABLE A STUDENT WHO IS
26 BLIND OR VISUALLY IMPAIRED TO ACHIEVE THE SAME INSTRUCTIONAL OUTCOMES
27 CONSISTENT WITH THE STUDENT'S IEP OR 504 PLAN.

28 (A) THE STATE SUPERINTENDENT AND THE SECRETARY OF BUSINESS AND
29 ECONOMIC DEVELOPMENT JOINTLY SHALL ENSURE THAT SPECIFICATIONS USED IN
30 ALL GRANTS AND PROCUREMENT CONTRACTS FOR TECHNOLOGY-BASED
31 INSTRUCTIONAL PRODUCTS REQUIRE EQUIVALENT ACCESS FOR STUDENTS WITH
32 DISABILITIES, INCLUDING BLINDNESS, IN ACCORDANCE WITH THE TECHNICAL
33 STANDARDS FOR ELECTRONIC AND INFORMATION TECHNOLOGY ISSUED UNDER
34 SUBSECTION (A)(2) OF SECTION 508 OF THE FEDERAL REHABILITATION ACT OF 1973,
35 29 U.S.C. § 794(A)(2).

36 (B) (1) THIS SUBSECTION DOES NOT APPLY TO TEACHER-DEVELOPED
37 INSTRUCTIONAL MATERIALS UNTIL FISCAL YEAR 2005.

38 (2) INVITATIONS FOR BIDS, REQUESTS FOR PROPOSALS, PROCUREMENT
39 CONTRACTS, GRANTS, OR MODIFICATIONS TO CONTRACTS OR GRANTS ISSUED BY
40 THE STATE OR ANY LOCAL SCHOOL SYSTEM SHALL INCLUDE NOTICE OF THE
41 EQUIVALENT ACCESS REQUIREMENT WHENEVER FUNDS AWARDED MAY BE USED TO

1 ~~DEVELOP, DEVELOP OR OBTAIN, OR USE~~ TECHNOLOGY-BASED INSTRUCTIONAL
2 PRODUCTS.

3 (C) THE STATE AND EACH LOCAL SCHOOL SYSTEM SHALL ALSO ENSURE THAT
4 THE EQUIVALENT ACCESS STANDARDS ARE INCLUDED IN GUIDELINES USED FOR
5 DESIGN SPECIFICATIONS FOR AND EVALUATION AND SELECTION OF
6 TECHNOLOGY-BASED INSTRUCTIONAL PRODUCTS.

7 (D) (1) FOLLOWING AN EVALUATION OF TECHNOLOGY-BASED
8 INSTRUCTIONAL PRODUCTS, THE STATE OR LOCAL SCHOOL SYSTEM SHALL SELECT
9 THE AVAILABLE PRODUCT THAT BEST MEETS THE SPECIFICATIONS AND HAS THE
10 GREATEST FUNCTIONALITY FOR EQUIVALENT ACCESS FOR STUDENTS WITH
11 DISABILITIES, INCLUDING BLINDNESS.

12 (2) IF A PRODUCT THAT MEETS THE EQUIVALENT ACCESS STANDARDS
13 IS NOT AVAILABLE, OR IF OBTAINING AN AVAILABLE PRODUCT WOULD
14 FUNDAMENTALLY ALTER THE NATURE OF THE INSTRUCTIONAL ACTIVITY OR
15 WOULD RESULT IN AN UNDUE BURDEN, THE STATE SUPERINTENDENT LOCAL
16 SCHOOL SYSTEM MAY APPROVE A WRITTEN REQUEST TO OBTAIN A PRODUCT THAT
17 DOES NOT MEET THE EQUIVALENT ACCESS STANDARDS BUT PROVIDES THE BEST
18 EQUIVALENT ACCESS FUNCTIONALITY.

19 (3) THE DEPARTMENT SHALL:

20 (I) MONITOR COMPLIANCE WITH THE REQUIREMENTS OF
21 ACCESSIBILITY OF TECHNOLOGY-BASED INSTRUCTIONAL PRODUCTS SET FORTH IN
22 COMAR 13.A.05.02; AND

23 (II) REPORT ITS FINDINGS, IN ACCORDANCE WITH § 2-1246 OF THE
24 STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON OR BEFORE
25 DECEMBER 31 OF EACH YEAR.

26 (E) IF TECHNOLOGY-BASED INSTRUCTIONAL PRODUCTS ARE PROVIDED TO
27 STUDENTS WITHOUT DISABILITIES AND NOT TO A STUDENT WITH A DISABILITY, THE
28 STATE OR LOCAL SCHOOL SYSTEM SHALL IMPLEMENT AN ALTERNATIVE METHOD OF
29 INSTRUCTION, INCLUDING USE OF OTHER TECHNOLOGY-BASED INSTRUCTIONAL
30 PRODUCTS, IF AVAILABLE, DESIGNED TO ENABLE A STUDENT WITH A DISABILITY TO
31 ACHIEVE THE SAME INSTRUCTIONAL OUTCOMES CONSISTENT WITH THE STUDENT'S
32 IEP PLAN, AS DEFINED IN § 8-408 OF THIS ARTICLE, OR THE STUDENT'S 504 PLAN, AS
33 PROVIDED UNDER THE FEDERAL REHABILITATION ACT OF 1973.

34 8-408.

35 (a) (1) In this section the following words have the meanings indicated.

36 (2) "Child who is blind or visually impaired" means a child who:

37 (i) Has a visual acuity of 20/200 or less in the better eye with
38 correcting lenses or has a limited field of vision so that the widest diameter of the
39 visual field subtends an angle no greater than 20 degrees;

1 (ii) Has a medically indicated expectation of visual deterioration; or

2 (iii) Has a medically diagnosed limitation in visual functioning that
3 restricts the child's ability to read and write standard print at levels expected of other
4 children of comparable ability and grade level.

5 (3) "Braille" means the system of reading and writing through touch
6 commonly known as Standard English Grade 2 Braille.

7 (4) ~~"COMPUTER BASED INSTRUCTIONAL TECHNOLOGY" HAS THE~~
8 ~~MEANING STATED IN § 7-901 OF THIS ARTICLE.~~

9 (5) "Individualized education program" and "IEP team" have the same
10 meaning as provided by the Individuals with Disabilities Education Act Amendments
11 of 1997, P.L. 105-17, Section 614(d).

12 (b) (1) In developing the individualized education program for a child
13 who is blind or visually impaired, provisions shall be made for instruction in braille
14 and the use of braille unless the IEP team determines, after an evaluation of the
15 child's reading and writing skills, needs, and appropriate reading and writing media,
16 including an evaluation of the child's future needs for instruction in braille or the use
17 of braille, that such instruction or use is not appropriate for the child.

18 (2) A child may not be denied the opportunity for instruction in braille
19 reading and writing solely because the child has some remaining vision.

20 (3) This section does not require the exclusive use of braille if other
21 reading and writing media are appropriate to the child's educational needs. The use of
22 other reading and writing media does not preclude the use of braille or the instruction
23 of braille.

24 (c) For the purpose of achieving successful implementation of this section, the
25 State Board and the Professional Standards and Teacher Education Board shall adopt
26 certification standards for teachers of blind and visually impaired students.

27 (d) (1) The Department shall develop procedures to coordinate the statewide
28 availability of textbooks and supplementary instructional materials in nonvisually
29 accessible media.

30 (2) The State Board shall adopt regulations to require a publisher of a
31 textbook, including texts in electronic media adopted by a county board to furnish,
32 upon request, the instructional resource center established under paragraph (1) of
33 this subsection with an electronic version of pupil edition textbooks for literary
34 subjects, and for nonliterary subjects when the technology is available to convert
35 nonliterary subject textbooks to a format compatible with braille translations
36 software, in which the content:

37 (i) Is encoded in text suitable for conversion into braille or
38 synthesized speech; and

1 (ii) Has been prepared using a markup language that maintains
2 the structural integrity of the information and can be processed by braille translation
3 software.

4 ~~(E) THE STATE BOARD SHALL ADOPT REGULATIONS THAT REQUIRE THAT~~
5 ~~COMPUTER-BASED INSTRUCTIONAL TECHNOLOGY PURCHASED BY THE STATE OR A~~
6 ~~LOCAL SCHOOL SYSTEM FOR CLASSROOM INSTRUCTION COMPLIES WITH THE~~
7 ~~REQUIREMENTS GOVERNING NONVISUAL ACCESS SPECIFIED UNDER § 7-910 OF THIS~~
8 ~~ARTICLE.~~

9 (E) THE STATE BOARD SHALL ADOPT REGULATIONS CONSISTENT WITH §
10 7-910 OF THIS ARTICLE TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2002.