

Department of Legislative Services  
 Maryland General Assembly  
 2021 Session

FISCAL AND POLICY NOTE  
 First Reader

House Bill 1181 (Delegate Guyton)  
 Ways and Means

County Boards of Education - Accessibility Standards - Digital Tools (Nonvisual Access Accountability Act for Grades K-12 Education)

This bill requires each local board of education to provide a student with disabilities access to specified digital tools that (1) are fully and equally accessible to and independently usable by the student and (2) enable the student to acquire the same information, participate in the same interactions, and access the same services as a student without disabilities, with substantially equivalent ease of use. Each digital tool developed or purchased by a local board must include specifications for access for students with disabilities, including nonvisual access, in accordance with the technical standards for electronic and information technology used under specified federal law or any other widely accepted or freely available technical standard. Each local board must establish a process to evaluate digital tools being considered for development or purchase for conformity with the above requirements. The bill establishes certain procurement procedures regarding digital tools and civil penalties for vendors that fail to meet specified accessibility standards, after certain notification. **The bill takes effect July 1, 2021.**

Fiscal Summary

**State Effect:** General fund expenditures increase by \$98,300 in FY 2022, increasing to \$130,600 by FY 2026, for Maryland State Department of Education (MSDE) costs to implement the bill, as described below.

(in dollars)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	98,300	118,200	121,900	126,200	130,600
Net Effect	(\$98,300)	(\$118,200)	(\$121,900)	(\$126,200)	(\$130,600)

Note: ( ) = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

**Local Effect:** Beginning in fiscal 2022, expenditures for some local school systems may increase. Any revenue increases for local boards of education due to civil penalties are anticipated to be minimal.

**Small Business Effect:** Small businesses that provide digital tools and related services may incur additional costs in order to serve local public schools.

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## Analysis

**Bill Summary:** Beginning September 1, 2021, each invitation for bids or request for proposals issued by a local board for specified digital tools must require a vendor to submit a specified accessibility conformance report as part of the bid. A local board may not approve a procurement contract for a digital tool that does not meet standards established by the bill. If within 18 months after development or purchase of a digital tool, the tool is found to not meet specified standards, the local board must send written notice to the vendor. At the vendor's expense, the vendor must modify the digital tool to meet standards within 12 months of receiving notice. A vendor that fails to do so is subject to a civil penalty of up to \$5,000 for a first offense, and up to \$10,000 for a subsequent offense. A vendor must indemnify the State for liability resulting from use of tools that do not meet standards under the bill.

Each local board must establish a process to evaluate digital tools being considered for development or purchase for conformity with the above requirements. The evaluation must include evaluation of digital tools for nonvisual access by (1) a local school system vision services specialist and (2) a specialist from the Office for Blindness and Vision Loss Services within MSDE. Also, MSDE must compile, make available, and annually update information that local boards must report regarding the accessibility of digital tools.

**Current Law:** The federal Individuals with Disabilities Education Act (IDEA) requires that a child with disabilities be provided a free appropriate public education in the least restrictive environment from birth through the end of the school year in which the student turns 21 years old, in accordance with an individualized family service plan (IFSP) or Individualized Education Program (IEP) specific to the individual needs of the child. An IFSP is for children with disabilities from birth up to age 3, and up to age 5 under Maryland's Extended IFSP Option if a parent chooses the option. An IEP is for students with disabilities age 3 through 21. Local school systems are required to make a free appropriate public education available to students with disabilities from age 3 through 21. However, the State, under its supervisory authority required by IDEA, has the ultimate responsibility for ensuring that this obligation is met.

### *Blind Children*

MSDE, each local board of education, and the Maryland School for the Blind must work together to meet the educational needs of blind children. Other than a child whose physical condition makes the child's instruction inexpedient or impracticable, each blind child must attend a school or classes for the blind during the school year unless the child otherwise is receiving regular, thorough instruction during the school year in studies usually taught in the public schools to children of the same age.

### *Accessible Educational Materials*

The Code of Maryland Regulations directs 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 includes (among other things) policies and procedures related to the selection and availability of equitable 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. Each local board must 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. Each local board of education and public agency must comply with Web Content Accessibility Guidelines (WCAG, June 5, 2018) when purchasing or selecting digital learning resources to provide equitable learning opportunities for all students.

### *Federal Accessibility Law and Standards*

The federal Rehabilitation Act of 1973 requires access to programs and activities that are funded by federal agencies and to federal employment. Later amendments to the Act, under Section 508, strengthened requirements for access to electronic and information technology in the federal sector. Section 508 incorporates WCAG. The law also established the Access Board, an independent federal agency that promotes equality for people with disabilities through leadership in accessible design and the development of accessibility guidelines and standards.

The Americans with Disabilities Act (ADA) requires State and local government agencies to ensure that all electronic and information technology is accessible to individuals with disabilities. It establishes a right for such individuals to file civil lawsuits for noncompliance, even when the noncompliance is not intentional. The ADA Standards are based on minimum guidelines set by the Access Board.

**State Expenditures:** MSDE expenditures increase annually, beginning in fiscal 2022. One full-time program specialist within MSDE is needed to work with local boards to establish the standardized evaluation process, conduct the required Division of Rehabilitative Services evaluations of vendors' products, and compile and post, on the MSDE website, annual reports required by local school systems. Estimated costs assume an October 1, 2021 starting date for the new position, and include salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1.0
Salaries and Fringe Benefits	\$92,717
Operating Expenses and One-time Costs	<u>5,581</u>
<b>Total FY 2022 MSDE Expenditures</b>	<b>\$98,298</b>

Future-year expenditures reflect a full salary with annual increases and employee turnover and ongoing operating expenses.

**Local Fiscal Effect:** Beginning in fiscal 2022, expenditures for some local school systems may increase. The fiscal impact is assumed to be minimal based upon local school system responses. Any increase in revenues for local public schools, beginning in fiscal 2022, in the form of civil penalties assessed by local boards of education upon vendors, is also assumed to be minimal.

Baltimore County Public Schools advises that its current local policy is substantially similar to requirements under the bill, and therefore any effect of the bill can be absorbed with existing resources. Baltimore City Public Schools anticipates the need for the addition of one staff position to support vendors with the completion of the accessibility conformance report, coordinate required reviews with MSDE, and monitor vendor progress on conforming to the bill's requirements. Prince George's County Public Schools advises that its annual costs will increase by approximately \$250,000 to (1) add two staff positions to ensure compliance with federal and State accessibility standards and (2) procure and maintain software and related devices to test various digital tools.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** SB 921 (Senator Lam) - Education, Health, and Environmental Affairs.

**Information Source(s):** Baltimore City Public Schools; Baltimore County Public Schools; Prince George's County Public Schools; Maryland State Department of  
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Education; Maryland School for the Deaf; Maryland Department of Disabilities; Access Board; Department of Legislative Services

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