

HOUSE BILL 547

F1
HB 1181/21 – W&M

2lr1014
CF SB 617

By: **Delegates Guyton, Bartlett, Belcastro, Cardin, Feldmark, Foley, Forbes, Fraser-Hidalgo, Jackson, Johnson, D. Jones, Kaiser, Korman, Krebs, Lehman, Lierman, Love, Metzgar, Patterson, Ruth, Shetty, and Stein**

Introduced and read first time: January 31, 2022

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 30, 2022

CHAPTER _____

1 AN ACT concerning

2 **Local School Systems – Equivalent Access Standards – Digital Tools**
3 ~~(Nonvisual)~~ **(Equivalent and Nonvisual Access Accountability Act for K–12**
4 **Education)**

5 FOR the purpose of requiring a local school system to provide equivalent access to digital
6 tools for students with disabilities, including the development, purchase, and
7 provision of certain digital tools; requiring the Secretary of Disabilities, rather than
8 the Secretary of Commerce, to ensure jointly with the State Superintendent of
9 Schools that certain specifications are used in certain grants and procurement
10 contracts; requiring a procurement contract for a digital tool to require a vendor to
11 indemnify the State Board of Education or a local school system for certain liabilities
12 and costs; requiring a vendor who provided a local school system with a digital tool
13 that fails to meet certain standards to modify the digital tool at the vendor's expense
14 to meet certain equivalent access standards within a certain period of time; and
15 generally relating to equivalent access standards for digital tools developed or
16 purchased by local school systems.

17 BY repealing and reenacting, with amendments,
18 Article – Education
19 Section 7–910
20 Annotated Code of Maryland
21 (2018 Replacement Volume and 2021 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

3 **Article – Education**

4 7–910.

5 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
6 INDICATED.

7 (2) “DIGITAL TOOL” MEANS:

8 (I) AN ONLINE PLATFORM;

9 (II) ~~A~~ AN ONLINE COURSE;

10 (III) INFORMATION AND COMMUNICATION TECHNOLOGY
11 SERVICES, INCLUDING SOFTWARE AND OPERATING SYSTEMS, THAT ARE DIRECTLY
12 CONNECTED TO STUDENT INSTRUCTION;

13 (IV) DIGITAL CONTENT; OR

14 (V) OTHER DIGITAL TECHNOLOGIES NOT REQUIRING SIGHT IN
15 AN EQUALLY EFFECTIVE AND INTEGRATED MANNER.

16 (3) (I) “EQUIVALENT ACCESS” MEANS THE ABILITY TO RECEIVE,
17 USE, AND MANIPULATE INFORMATION AND OPERATE CONTROLS NECESSARY TO
18 ACCESS AND USE INFORMATION TECHNOLOGY, INCLUDING BY NONVISUAL MEANS,
19 SO THAT A STUDENT WITH DISABILITIES CAN ACCESS THE SAME SERVICES AS A
20 STUDENT WITHOUT DISABILITIES WITH SUBSTANTIALLY EQUIVALENT EASE OF USE.

21 (II) “EQUIVALENT ACCESS” INCLUDES:

22 1. KEYBOARD CONTROLS USED FOR INPUT AND
23 SYNTHESIZED SPEECH;

24 2. BRAILLE; AND

25 3. OTHER AUDIBLE OR TACTILE MEANS USED FOR
26 OUTPUT.

27 (4) “NONVISUAL ACCESS” MEANS THE ABILITY TO RECEIVE, USE, AND
28 MANIPULATE INFORMATION AND OPERATE CONTROLS NECESSARY TO ACCESS
29 INFORMATION AND COMMUNICATIONS TECHNOLOGY THROUGH KEYBOARD

1 CONTROLS, SYNTHESIZED SPEECH, BRAILLE, OR OTHER METHODS NOT REQUIRING
2 SIGHT.

3 [(a)] (B) (1) The State Superintendent and the Secretary of [Commerce]
4 **DISABILITIES** jointly shall ensure that specifications used in all grants and procurement
5 contracts for ~~technology-based instructional products~~ **DIGITAL TOOLS** require equivalent
6 access for students with disabilities, including blindness, in accordance with the technical
7 standards for electronic and information technology issued under subsection (a)(2) of
8 Section 508 of the federal Rehabilitation Act of 1973, 29 U.S.C. § 794d(a)(2).

9 (2) **SPECIFICATIONS USED IN ALL GRANTS AND PROCUREMENT**
10 **CONTRACTS FOR DIGITAL TOOLS SHALL GIVE PRIMARY CONSIDERATION TO THE**
11 **PEDAGOGICAL VALUE OF THE DIGITAL TOOLS.**

12 [(b)] (C) (1) ~~This subsection [does not apply] APPLIES to teacher-developed~~
13 ~~instructional materials [until fiscal year 2005].~~

14 ~~(2)~~ Invitations for bids, requests for proposals, procurement contracts,
15 grants, or modifications to contracts or grants issued by the State or any local school system
16 shall include notice of the equivalent access requirement whenever funds awarded may be
17 used to develop or obtain ~~technology-based instructional products~~ **DIGITAL TOOLS.**

18 ~~(3)~~ (2) (I) **BEGINNING SEPTEMBER 1, 2023, AN INVITATION FOR**
19 **BIDS OR REQUEST FOR PROPOSALS FOR A DIGITAL TOOL ISSUED BY THE STATE**
20 **BOARD OR A LOCAL SCHOOL SYSTEM SHALL REQUIRE A VENDOR TO SUBMIT AN**
21 **ACCESSIBILITY CONFORMANCE REPORT THAT INCLUDES A VOLUNTARY PRODUCT**
22 **ACCESSIBILITY TEMPLATE.**

23 (II) **THE ACCESSIBILITY CONFORMANCE REPORT REQUIRED IN**
24 **SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL EXPLAIN HOW INFORMATION AND**
25 **COMMUNICATION TECHNOLOGY PRODUCTS, INCLUDING SOFTWARE, ~~HARDWARE,~~**
26 **ELECTRONIC CONTENT, AND SUPPORT DOCUMENTATION, CONFORM TO THE MOST**
27 **RECENT SECTION 508 STANDARDS FOR INFORMATION TECHNOLOGY ACCESSIBILITY**
28 **UNDER THE FEDERAL REHABILITATION ACT OF 1973.**

29 ~~(4)~~ (3) (I) **A LOCAL SCHOOL SYSTEM SHALL ESTABLISH A**
30 **PROCESS TO EVALUATE A DIGITAL TOOL BEING CONSIDERED FOR DEVELOPMENT OR**
31 **PURCHASE FOR CONFORMITY WITH THE REQUIREMENTS OF THIS SECTION.**

32 (II) **THE EVALUATION PROCESS ESTABLISHED UNDER**
33 **SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCLUDE EVALUATION OF THE**
34 **DIGITAL TOOL FOR EQUIVALENT ACCESS AND NONVISUAL ACCESS BY AN EMPLOYEE**
35 **OR A CONTRACTOR OF THE LOCAL SCHOOL SYSTEM WHO:**

1 1. **SPECIALIZES IN ACCESSIBILITY AND WEB CONTENT**
 2 **ACCESSIBILITY GUIDELINES; OR**

3 2. **IS A BLINDNESS SPECIALIST WHO IS**
 4 **KNOWLEDGEABLE IN ACCESSIBILITY.**

5 ~~(H)~~ (4) **A PROCUREMENT CONTRACT FOR A DIGITAL TOOL**
 6 **SHALL REQUIRE A VENDOR TO INDEMNIFY THE STATE BOARD OR A LOCAL SCHOOL**
 7 **SYSTEM FOR LIABILITY AND COSTS ARISING FROM THE FAILURE OF THE DIGITAL**
 8 **TOOL TO MEET THE REQUIREMENTS OF THIS SECTION.**

9 (5) **EXCEPT AS PROVIDED IN SUBSECTION (E)(2) OF THIS SECTION,**
 10 **THE STATE BOARD OR A LOCAL SCHOOL SYSTEM MAY NOT APPROVE A**
 11 **PROCUREMENT CONTRACT FOR A DIGITAL TOOL THAT FAILS TO MEET THE**
 12 **REQUIREMENTS OF THIS SECTION.**

13 [(c)] (D) The State and each local school system shall also ensure that the
 14 equivalent access standards are included in guidelines used for design specifications for
 15 and evaluation and selection of ~~technology-based instructional products~~ **DIGITAL TOOLS.**

16 [(d)] (E) (1) (I) Following an evaluation of ~~technology-based instructional~~
 17 ~~products~~ **DIGITAL TOOLS**, the State or local school system shall, **FROM AMONG DIGITAL**
 18 **TOOLS THAT OFFER PEDAGOGICAL VALUE, [select] PRIORITIZE** the available product
 19 that best meets the specifications and has the greatest functionality for equivalent access
 20 for students with disabilities, including blindness.

21 (II) **BEGINNING OCTOBER 1, 2024, FOLLOWING AN**
 22 **EVALUATION OF ~~TECHNOLOGY-BASED INSTRUCTIONAL PRODUCTS~~ DIGITAL TOOLS,**
 23 **A LOCAL SCHOOL SYSTEM SHALL SELECT, FROM AMONG THE AVAILABLE PRODUCTS**
 24 **THAT OFFER PEDAGOGICAL VALUE, THE AVAILABLE PRODUCT THAT BEST MEETS**
 25 **THE EQUIVALENT ACCESS STANDARDS AND HAS THE GREATEST FUNCTIONALITY**
 26 **FOR EQUIVALENT ACCESS FOR STUDENTS WITH DISABILITIES, INCLUDING**
 27 **BLINDNESS.**

28 (2) (I) If **A LOCAL SCHOOL SYSTEM DETERMINES THAT** a product
 29 that meets the equivalent access standards is not available, or if obtaining an available
 30 product would fundamentally alter the nature of the instructional activity or would result
 31 in an undue burden, the local school system [may obtain a product that does not meet the
 32 equivalent access standards but provides the best equivalent access functionality] **SHALL**
 33 **NOTIFY THE DEPARTMENT.**

34 (II) **AFTER THE DEPARTMENT RECEIVES A NOTICE UNDER**
 35 **SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE DEPARTMENT SHALL CONSULT WITH**
 36 **THE DEPARTMENT OF INFORMATION TECHNOLOGY AND THE DEPARTMENT OF**

1 ~~DISABILITIES TO ENSURE THAT ANOTHER PRODUCT IS PURCHASED THAT WILL~~
 2 ~~OFFER AN EFFECTIVE EDUCATIONAL OPTION. DETERMINE HOW TO PROCEED.~~

3 (III) IF, AFTER THE CONSULTATION PROCESS, THE
 4 DEPARTMENT DETERMINES THAT THERE IS AN AVAILABLE PRODUCT THAT MEETS
 5 THE EQUIVALENT ACCESS STANDARD, A LOCAL SCHOOL SYSTEM SHALL OBTAIN
 6 THAT PRODUCT.

7 (IV) IF, AFTER THE CONSULTATION PROCESS, THE
 8 DEPARTMENT DETERMINES THAT THERE IS NO AVAILABLE PRODUCT THAT MEETS
 9 THE EQUIVALENT ACCESS STANDARDS, A LOCAL SCHOOL SYSTEM MAY, WITH THE
 10 DEPARTMENT'S APPROVAL, OBTAIN A PRODUCT THAT DOES NOT MEET THE
 11 EQUIVALENT ACCESS STANDARDS BUT PROVIDES THE BEST EQUIVALENT
 12 FUNCTIONALITY.

13 [(3) The Department shall:

14 (i) Monitor compliance with the requirements of accessibility of
 15 technology-based instructional products set forth in COMAR 13.A.05.02; and

16 (ii) Report its findings, in accordance with § 2-1257 of the State
 17 Government Article, to the General Assembly on or before December 31 of each year.]

18 (F) (1) A DIGITAL TOOL DEVELOPED OR PURCHASED BY A COUNTY
 19 BOARD FOR USE BY THE LOCAL SCHOOL SYSTEM SHALL INCLUDE SPECIFICATIONS
 20 FOR ACCESS FOR STUDENTS WITH DISABILITIES, INCLUDING NONVISUAL ACCESS, IN
 21 ACCORDANCE WITH THE TECHNICAL STANDARDS FOR ELECTRONIC AND
 22 INFORMATION TECHNOLOGY ISSUED UNDER:

23 (I) SUBSECTION (A)(2) OF SECTION 508 OF THE FEDERAL
 24 REHABILITATION ACT OF 1973; OR

25 (II) ANY OTHER WIDELY ACCEPTED ~~OR~~ AND FREELY AVAILABLE
 26 TECHNICAL STANDARD.

27 (2) A LOCAL SCHOOL SYSTEM SHALL PROVIDE A STUDENT WITH
 28 DISABILITIES ACCESS TO DIGITAL TOOLS THAT:

29 (I) ~~ARE FULLY AND EQUALLY ACCESSIBLE TO AND PROVIDE~~
 30 EQUIVALENT ACCESS TO AND ARE INDEPENDENTLY USABLE BY A STUDENT WITH
 31 DISABILITIES; AND

32 (II) ENABLE A STUDENT WITH DISABILITIES TO ACQUIRE THE
 33 SAME INFORMATION, PARTICIPATE IN THE SAME INTERACTIONS, AND ACCESS THE

1 SAME SERVICES AS A STUDENT WITHOUT DISABILITIES, WITH SUBSTANTIALLY
2 EQUIVALENT EASE OF USE.

3 (G) (1) (I) IF A LOCAL SCHOOL SYSTEM FINDS THAT A DIGITAL TOOL
4 FAILS TO MEET THE EQUIVALENT ACCESS STANDARDS UNDER SUBSECTION (F) OF
5 THIS SECTION, INCLUDING NONVISUAL ACCESS, WITHIN 18 MONTHS AFTER
6 DEVELOPMENT OR PURCHASE OF THE DIGITAL TOOL, THE LOCAL SCHOOL SYSTEM
7 SHALL SEND A WRITTEN NOTICE TO THE VENDOR OF THE VENDOR'S FAILURE TO
8 COMPLY WITH THE EQUIVALENT ACCESS STANDARDS REQUIRED UNDER THE
9 PROCUREMENT CONTRACT.

10 (II) ON RECEIPT OF NOTICE FROM A LOCAL SCHOOL SYSTEM
11 UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, A VENDOR, AT THE VENDOR'S
12 EXPENSE, SHALL MODIFY THE DIGITAL TOOL TO MEET THE REQUIRED EQUIVALENT
13 ACCESS STANDARDS WITHIN A TIMEFRAME AGREED ON BY THE LOCAL SCHOOL
14 SYSTEM AND THE VENDOR.

15 (2) A VENDOR THAT FAILS TO MEET THE EQUIVALENT ACCESS
16 STANDARDS IN ACCORDANCE WITH PARAGRAPH (1)(II) OF THIS SUBSECTION:

17 (I) IS SUBJECT TO A CIVIL PENALTY OF:

18 1. FOR A FIRST OFFENSE, A FINE NOT EXCEEDING
19 \$5,000; OR

20 2. FOR A SUBSEQUENT OFFENSE, A FINE NOT
21 EXCEEDING \$10,000; AND

22 (II) SHALL INDEMNIFY THE STATE BOARD OR COUNTY BOARD
23 FOR LIABILITY RESULTING FROM THE USE OF A DIGITAL TOOL THAT FAILS TO MEET
24 THE EQUIVALENT ACCESS STANDARDS UNDER SUBSECTION (F) OF THIS SECTION,
25 INCLUDING NONVISUAL ACCESS.

26 [(e) If technology-based instructional products are provided to students without
27 disabilities and not to a student with a disability, the State or local school system shall
28 implement an alternative method of instruction, including use of other technology-based
29 instructional products, if available, designed to enable a student with a disability to achieve
30 the same instructional outcomes consistent with the student's IEP Plan, as defined in §
31 8-408 of this article, or the student's 504 Plan, as provided under the federal Rehabilitation
32 Act of 1973.]

33 (H) (1) IF ~~TECHNOLOGY-BASED INSTRUCTIONAL PRODUCTS~~ DIGITAL
34 TOOLS ARE PROVIDED TO A STUDENT WITHOUT A DISABILITY AND NOT TO A
35 STUDENT WITH A DISABILITY, THE STATE OR LOCAL SCHOOL SYSTEM SHALL

1 IMPLEMENT AN ALTERNATIVE METHOD OF INSTRUCTION, INCLUDING USE OF
2 OTHER ~~TECHNOLOGY-BASED INSTRUCTIONAL PRODUCTS~~ DIGITAL TOOLS, IF
3 AVAILABLE, DESIGNED TO ENABLE A STUDENT WITH A DISABILITY TO ACHIEVE THE
4 SAME INSTRUCTIONAL OUTCOMES CONSISTENT WITH THE STUDENT'S IEP PLAN, AS
5 DEFINED IN § 8-408 OF THIS ARTICLE, OR THE STUDENT'S 504 PLAN, AS PROVIDED
6 UNDER THE FEDERAL REHABILITATION ACT OF 1973.

7 (2) AN ONLINE PLATFORM, ONLINE CONTENT, WEBSITE, WEB
8 SERVICE, WEBPAGE, EDUCATIONAL RESOURCE PRODUCT, OR ONLINE CURRICULUM
9 DEVELOPED OR PURCHASED BY A COUNTY BOARD THAT IS MADE AVAILABLE TO
10 ENROLLED STUDENTS OF THE LOCAL SCHOOL SYSTEM OR ONLINE TO THE PUBLIC
11 SHALL COMPLY WITH THE MOST RECENT VERSION OF THE WORLD WIDE WEB
12 CONSORTIUM'S WEB CONTENT ACCESSIBILITY GUIDELINES.

13 (I) (1) ON OR BEFORE OCTOBER 1, 2023, AND EACH OCTOBER 1
14 THEREAFTER, EACH LOCAL SCHOOL SYSTEM SHALL SUBMIT A REPORT TO THE
15 DEPARTMENT ON THE ACCESSIBILITY OF THE DIGITAL TOOLS THE LOCAL SCHOOL
16 SYSTEM DEVELOPED OR PURCHASED FOR USE DURING THE IMMEDIATELY
17 PRECEDING FISCAL YEAR.

18 (2) THE DEPARTMENT SHALL COMPILE THE INFORMATION
19 RECEIVED UNDER PARAGRAPH (1) OF THIS SUBSECTION AND MAKE THE
20 INFORMATION AVAILABLE ON THE DEPARTMENT'S WEBSITE, INCLUDING THE
21 STATUS OF THE ACCESSIBILITY OF THE DIGITAL TOOLS USED IN EACH LOCAL
22 SCHOOL SYSTEM.

23 (J) THE DEPARTMENT SHALL:

24 (1) MONITOR COMPLIANCE WITH THE REQUIREMENTS FOR
25 ACCESSIBILITY OF ~~TECHNOLOGY-BASED INSTRUCTIONAL PRODUCTS~~ DIGITAL
26 TOOLS UNDER COMAR ~~13A.05.02~~ 13A.06.05;

27 (2) ANNUALLY UPDATE THE REQUIREMENTS FOR ACCESSIBILITY OF
28 ~~TECHNOLOGY-BASED INSTRUCTIONAL PRODUCTS~~ DIGITAL TOOLS UNDER COMAR
29 ~~13A.05.02~~ 13A.06.05; AND

30 (3) ON OR BEFORE DECEMBER 31 EACH YEAR, REPORT ITS FINDINGS
31 TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE
32 GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
34 1, 2022.