

SENATE BILL 226

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SB 372/01 - EEA

2002 Regular Session  
2lr1441  
CF 2lr1519

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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**

Introduced and read first time: January 18, 2002  
Assigned to: Education, Health, and Environmental Affairs

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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: March 14, 2002

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CHAPTER \_\_\_\_\_

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  
13 for an exemption from the required selection of certain products that meet  
14 certain standards; requiring the State or a local school system to implement  
15 certain alternative methods of instruction under certain circumstances;  
16 requiring the State Board of Education to adopt certain regulations; ~~defining~~  
17 ~~certain terms; providing for the application of this Act to certain technology; and~~  
18 ~~generally relating to certain requirements regarding technology that is~~  
19 ~~developed or obtained for classroom use in certain schools~~ the provision of  
20 equivalent access to technology in the Technology for Education Program for  
21 students with disabilities.

22 BY ~~repealing and reenacting, with amendments, adding to~~  
23 Article - Education

1 Section ~~7-901 and 8-408~~ 7-910  
 2 Annotated Code of Maryland  
 3 (2001 Replacement Volume)

4 BY adding to repealing and reenacting, with amendments,  
 5 Article - Education  
 6 Section ~~7-910~~ 8-408  
 7 Annotated Code of Maryland  
 8 (2001 Replacement Volume)

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

11 **Article - Education**

12 ~~7-901.~~

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

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

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

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

23 (d) (E) ~~"Students" means students from a broad range of backgrounds and~~  
 24 ~~circumstances, including:~~

25 (1) ~~Disadvantaged students;~~

26 (2) ~~Students with diverse racial, ethnic, and cultural backgrounds;~~

27 (3) ~~Students with disabilities;~~

28 (4) ~~Students with limited English proficiency;~~

29 (5) ~~Students who have dropped out of school; and~~

30 (6) ~~Academically talented students.~~

31 (e) (F) ~~"Technology" means the latest state-of-the-art technology products~~  
 32 ~~and services, including:~~

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

10 7-910.

11       (A)     EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE STATE  
12 SUPERINTENDENT AND THE SECRETARY OF BUSINESS AND ECONOMIC  
13 DEVELOPMENT JOINTLY SHALL ENSURE THAT INVITATIONS FOR BIDS, REQUESTS  
14 FOR PROPOSALS OR GRANTS, AND PROCUREMENT CONTRACTS OR MODIFICATIONS  
15 OF CONTRACTS FOR COMPUTER-BASED INSTRUCTIONAL TECHNOLOGY THAT ARE TO  
16 BE DEVELOPED OR OBTAINED UNDER THIS SUBTITLE FOR CLASSROOM USE INCLUDE  
17 A CLAUSE GOVERNING NONVISUAL ACCESS.

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

22           (1)     MUST PROVIDE EQUIVALENT ACCESS FOR EFFECTIVE USE BY BOTH  
23 VISUAL AND NONVISUAL MEANS;

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

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

30           (4)     SHALL BE OBTAINED, WHENEVER POSSIBLE, WITHOUT  
31 MODIFICATION FOR COMPATIBILITY WITH SOFTWARE AND HARDWARE FOR  
32 NONVISUAL ACCESS.

33       (C)     FOLLOWING AN EVALUATION OF COMPUTER-BASED INSTRUCTIONAL  
34 TECHNOLOGY, IF A DETERMINATION IS MADE THAT COMPUTER-BASED  
35 INSTRUCTIONAL TECHNOLOGY THAT FULLY MEETS THE REQUIREMENTS OF

~~1 SUBSECTION (B) OF THIS SECTION IS NOT AVAILABLE, THE STATE AND THE LOCAL  
2 SCHOOL SYSTEMS SHALL:~~

~~3           (+)    (+)    SELECT THE COMPUTER-BASED INSTRUCTIONAL  
4 TECHNOLOGY WITH THE GREATEST FUNCTIONALITY FOR EQUIVALENT VISUAL AND  
5 NONVISUAL ACCESS THAT MEETS ALL OTHER SPECIFICATIONS; AND~~

~~6                   (H)    IMPLEMENT AN ALTERNATIVE METHOD OF INSTRUCTION  
7 DESIGNED TO ENABLE A STUDENT WHO IS BLIND OR VISUALLY IMPAIRED TO  
8 ACHIEVE THE SAME INSTRUCTIONAL OUTCOMES CONSISTENT WITH THE STUDENT'S  
9 IEP OR 504 PLAN; OR~~

~~10               (2)    IF COMPUTER-BASED INSTRUCTIONAL TECHNOLOGY WITH THE  
11 GREATEST FUNCTIONALITY FOR EQUIVALENT VISUAL AND NONVISUAL ACCESS  
12 THAT MEETS ALL OTHER SPECIFICATIONS IS NOT AVAILABLE, IMPLEMENT AN  
13 ALTERNATIVE METHOD OF INSTRUCTION DESIGNED TO ENABLE A STUDENT WHO IS  
14 BLIND OR VISUALLY IMPAIRED TO ACHIEVE THE SAME INSTRUCTIONAL OUTCOMES  
15 CONSISTENT WITH THE STUDENT'S IEP OR 504 PLAN.~~

16       (A)    THE STATE SUPERINTENDENT AND THE SECRETARY OF BUSINESS AND  
17 ECONOMIC DEVELOPMENT JOINTLY SHALL ENSURE THAT SPECIFICATIONS USED IN  
18 ALL GRANTS AND PROCUREMENT CONTRACTS FOR TECHNOLOGY-BASED  
19 INSTRUCTIONAL PRODUCTS REQUIRE EQUIVALENT ACCESS FOR STUDENTS WITH  
20 DISABILITIES, INCLUDING BLINDNESS, IN ACCORDANCE WITH THE TECHNICAL  
21 STANDARDS FOR ELECTRONIC AND INFORMATION TECHNOLOGY ISSUED UNDER  
22 SUBSECTION (A)(2) OF SECTION 508 OF THE FEDERAL REHABILITATION ACT OF 1973,  
23 29 U.S.C. § 794(A)(2).

24       (B)    INVITATIONS FOR BIDS, REQUESTS FOR PROPOSALS, PROCUREMENT  
25 CONTRACTS, GRANTS, OR MODIFICATIONS TO CONTRACTS OR GRANTS ISSUED BY  
26 THE STATE OR ANY LOCAL SCHOOL SYSTEM SHALL INCLUDE NOTICE OF THE  
27 EQUIVALENT ACCESS REQUIREMENT WHENEVER FUNDS AWARDED MAY BE USED TO  
28 DEVELOP, OBTAIN, OR USE TECHNOLOGY-BASED INSTRUCTIONAL PRODUCTS.

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

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

38               (2)    IF A PRODUCT THAT MEETS THE EQUIVALENT ACCESS STANDARDS  
39 IS NOT AVAILABLE, OR IF OBTAINING AN AVAILABLE PRODUCT WOULD  
40 FUNDAMENTALLY ALTER THE NATURE OF THE INSTRUCTIONAL ACTIVITY OR  
41 WOULD RESULT IN AN UNDUE BURDEN, THE STATE SUPERINTENDENT MAY  
42 APPROVE A WRITTEN REQUEST TO OBTAIN A PRODUCT THAT DOES NOT MEET THE

1 EQUIVALENT ACCESS STANDARDS BUT PROVIDES THE BEST EQUIVALENT ACCESS  
2 FUNCTIONALITY.

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

11 8-408.

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

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

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

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

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

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

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

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

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

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

36 (3) This section does not require the exclusive use of braille if other  
37 reading and writing media are appropriate to the child's educational needs. The use of

1 other reading and writing media does not preclude the use of braille or the instruction  
2 of braille.

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

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

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

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

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

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

26 (E) THE STATE BOARD SHALL ADOPT REGULATIONS CONSISTENT WITH §  
27 7-910 OF THIS ARTICLE TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

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