

Favorable Day SB 617.pdf

Uploaded by: Derrick Day

Position: FAV

Subject: Favorable SB617

To: Senate Education, Health, and Environmental Affairs Committee

From: Derrick Day

1950 Fawn Way

Finksburg, MD 21048

February 16, 2022

Hello. My name is Derrick Day, and I am in the tenth grade at Westminster High School. I also have a sister Meredith who is also blind and is in the eighth grade at West Middle School. By voting in favor of SB617, you will be providing my sister and I, as well as other blind students, the opportunity to have a more seamless and accessible education.

One of the most frustrating things as a blind student is that there is no change in the inaccessible programs that we are required to use year after year. Every class I take, it seems we use one or two websites, apps, or pieces of software that I can't use as a blind student. You always hope "Maybe next time it'll be fixed" but it never ends up changing.

For example, I was unable to practice math skills because the school system used an inaccessible program called Khan Academy when I was in middle school. Now, my sister currently has the same problem because they still use the same inaccessible program years later and the school system has done nothing to change the situation despite efforts to inform them of the issues. This bill would provide some incentive for companies to change these inaccessible and obsolete software practices in favor of more modern, accessible standards that will allow these programs to be used by all.

As a tenth-grade student, I am taking two computer science classes, AP computer science principles and AP computer science A. As a part of these classes, I am required to use programs such as the SNAP code builder and other tools that are not accessible to me as a blind screen reader user. I am still expected to do the work and I want to do it. However, I have to overcome additional barriers that my sighted peers do not have because of the lack of accessibility. For example, during AP computer science principles, I couldn't use the SNAP program, so I had to use a program called Python. I had to create a program that had the same basic components that the other students had, but it was often different which means I was missing out on instruction that my sighted peers had access to and ultimately getting less out of the class as a whole. As a result, I did get the credit and a grade of over 100% in that class but I had multiple hours of work every day changing the code just so I could have the same program in front of me as my sighted peers were looking at on the board.

I do have a teacher that can help me with classes like English and math when I run into accessibility barriers, but code is something you have to be able to look through so having someone read it to me is not advantageous. I feel like I am always playing catchup, and this can be stressful and draining especially when I am taking 3 AP classes in one year and trying to go through life as any highschooler does. If these programs were accessible, I could access the material at the same time as my sighted peers as well as eliminate a tremendous workload from me and my teachers.

I want to get a job in the computer science field. I was very excited that my school allows freshmen to take introductory computer courses. Unfortunately, I was denied the opportunity to study computer science in my 9th grade year. I could not write programs because the class was required to use an inaccessible coding website, code.org. I should have been able to participate in this course but instead, I had to petition for a waiver possibly denying me eligibility from the computer science computer program my school offers and denying me college credit.

I believe, given the advancements in technology and the ease of developing accessible materials offered by modern technology and computing innovations, vendors should not sell local school systems inaccessible programs. If I, a 15-year-old boy who learned coding myself, can make a website or app completely accessible to blind as well as sighted users, then, Salman Khan, owner of Khan academy, someone making about \$37,000,000 and who is worth over \$250,000,000 could do the same. Not to mention, these inaccessible websites are not up to modern web standards because the modern standards take into account things like screen reader and low vision accessibility.

I would greatly appreciate it if you would vote in favor of SB617. I need a good stable and accessible education to allow me to advance into a productive independent member of society and hopefully aid in the implementation of the changes mentioned above. I recognize that I am lucky because although I have experienced barriers, I have the technical knowledge to try to fix them but that is rare. By voting this bill into law, you will be helping push the blind community forward and making America a better place for all!

SB_617_Lazar.pdf

Uploaded by: Jonathan Lazar

Position: FAV

Testimony on SB 617, February 16, 2022
Jonathan Lazar, Ph.D., LL.M.
Professor of Information Studies, University of Maryland

Testimony to the Senate Education Health and Environmental Affairs Committee

I am here today to state my support for SB 617, because SB 617 would ensure that students with disabilities are not faced with discrimination from inaccessible digital technologies and content, while at the same time reducing costs for county Boards of Education.

In the recent past, county Boards of Education in Maryland have frequently procured digital technologies and content that are inaccessible for students with disabilities. This has led to 1) increased costs for the counties as those digital technologies and content must then be remediated, 2) students with disabilities having unequal access to digital technologies and content until the remediations are made.

Simply put, it does not make sense to acquire inaccessible technologies and then spend extra time and money to make these technologies accessible for students with disabilities, when there are suitable, accessible alternatives available. The vendors, not the county Boards of Education, should be responsible for ensuring accessible technologies and content, not putting the responsibility on the county Boards of Education. I teach university courses on how to design technologies to be accessible, and when designed from the start with accessibility in mind, there is no additional cost to design technologies in an accessible manner. The costs are only incurred when a technology is designed as inaccessible, and then must be remediated ⁽¹⁾.

SB 617 is both a cost savings bill, and a civil rights bill. Maryland has laws already in place, requiring accessibility for technologies developed or procured by the state government⁽²⁾, and SB 617 would expand the use of those best practices in accessible technology procurement, to county Boards of Education. As a professor of information studies, I want county Boards of Education to copy the existing best practices used for procurement in state and federal government, which can 1) save money and 2) ensure that students with disabilities have equal access to technology. The core approaches proposed in SB 617 (requiring accessibility details in procurement contracts and requiring indemnification by vendors) are best practices for improving accessibility through procurement ⁽³⁾. When a county Board of Education acquires digital technology or content and later determines that it is inaccessible, it often requires extra expenses to remediate the technology, as well as a time delay in access for students with disabilities. But, the Board of Education should have never procured the technology in the first place, if the technology was not accessible. By having formal processes in place, the cost, risk, and responsibility are transferred to the vendor, rather than the county Boards of Education.

There are many existing resources for accessible procurement. Because procurement is a very effective method for ensuring accessible technology, there are many existing resources to help with the process. At the Federal level, the General Services Administration provides resources to support the accessibility of technology in procurement ⁽⁴⁾. A partnership of industry and government created the Voluntary Product Accessibility Template (VPAT, referred to in SB 617), to help vendors provide clear details about the accessibility features of their information technology products ⁽⁵⁾. The National Association of State CIOs (NASCIO) has clear guidance on including IT accessibility in procurement processes ⁽⁶⁾.

I enthusiastically support SB 617 because it helps remove barriers for students with disabilities, while at the same time reducing costs, by utilizing existing best practices in procurement of digital technologies and content.

References

1. Wentz, B., Jaeger, P. T., & Lazar, J. (2011). Retrofitting accessibility: The legal inequality of after-the-fact online access for persons with disabilities in the United States. First Monday 16(11), available at: <https://firstmonday.org/ojs/index.php/fm/article/view/3666>.
2. MD Code, State Finance and Procurement, § 3A-311, Nonvisual access clause for use in procurement of information technology.
3. Lazar, J., Goldstein, D., and Taylor, A. (2015). Ensuring Digital Accessibility Through Process and Policy. Waltham, MA: Elsevier/Morgan Kaufmann Publishers.
4. U.S. General Services Administration. (2017). Procuring Accessible Information Technology. Available at: <https://app.buyaccessible.gov>
5. U.S. General Services Administration. (2017). VPAT/GPAT. Available at: <https://www.section508.gov/sell/vpat>
6. National Association of State CIOs (2017). Accessibility in IT procurement. Available at: <http://www.nascio.org/PDAA>

Dr. Jonathan Lazar is a Professor in the College of Information Studies (iSchool) at the University of Maryland. At the University of Maryland, Dr. Lazar is the director of the Trace Research and Development Center, the nation's oldest research center on technology and disability, and is a faculty member in the Human-Computer Interaction Lab. Dr. Lazar joined the iSchool in 2019, after 19 years as a Professor of Computer and Information Sciences at Towson University, where he served as director of the information systems

program for 14 years. Dr. Lazar has authored or edited 14 books, including Research Methods in Human-Computer Interaction (2nd edition, co-authored with Heidi Feng and Harry Hochheiser), Ensuring Digital Accessibility Through Process and Policy (co-authored with Dan Goldstein and Anne Taylor), and Disability, Human Rights, and Information Technology (co-edited with Michael Stein). He has published over 150 refereed articles in journals, conference proceedings, and edited books, and has been granted two US patents for his work on accessible web-based security features for blind users. He frequently serves as an adviser to government agencies and regularly provides testimony at federal and state levels, and multiple US federal regulations cite his research publications. Dr. Lazar has recently been honored with the 2020 ACM SIGACCESS Award for Outstanding Contributions to Computing and Accessibility, the 2017 University System of Maryland Board of Regents Award for Excellence in Research, and the 2016 ACM SIGCHI Social Impact Award, given annually to an individual who has promoted the application of human-computer interaction research to pressing societal needs. The opinions expressed in this testimony are the opinions of Dr. Lazar and do not represent the University of Maryland or the University System of Maryland.

Dr. Lazar can be reached by e-mail at jlazar@umd.edu.

SB617_MSEA_Lamb_FAV.pdf

Uploaded by: Lauren Lamb

Position: FAV

**Testimony in Support of Senate Bill 617
Local School Systems - Equivalent Access Standards - Digital Tools
(Nonvisual Access Accountability Act for K-12 Education)**

Education, Health, and Environmental Affairs Committee

February 16, 2021

1:00 pm

**Lauren Lamb
Government Relations**

The Maryland State Education Association supports Senate Bill 617, legislation requiring that a local school system to provide equivalent access to digital tools for students with disabilities, including the development, purchase, and provision of certain digital tools, and requiring a local school system to establish a process to evaluate a digital tool under consideration for purchase for nonvisual access by an employee of the school system.

MSEA represents 76,000 educators and school employees who work in Maryland's public schools, teaching and preparing our almost 900,000 students for the careers and jobs of the future. MSEA also represents 39 local affiliates in every county across the state of Maryland, and our parent affiliate is the 3-million-member National Education Association (NEA).

MSEA members have long been tenacious advocates for policies and programs that will ensure our students are provided access to the resources and supports they need to achieve their full potential. This is particularly true of our most vulnerable students, including those with special needs. We take seriously our obligation to provide our students with special needs the fair and appropriate public education guaranteed to them in both federal and state law. By ensuring that the needs of our students with visual and physical limitations are considered when procuring digital devices to assist them in their learning, we are doing what is required to meet our



responsibilities to them, responsibilities they undeniably deserve. **We urge a favorable report on SB 617.**

MD SB617 Written Testimony - Newsela.pdf

Uploaded by: Lauren Bierman

Position: FAV

February 14, 2020

Senator Paul G. Pinsky, Chair
Senator Cheryl C. Kagan, Vice Chair

2 West
Miller Senate Office Building
Annapolis, Maryland 2140

SUBJECT: Senate Bill 617 – Nonvisual Access Accountability Act for K-12 Education

Chairman Pinsky,

I am Lauren Bierman, Vice President of Public Affairs at Newsela, an instructional content platform serving over 3.3 million teachers and 40 million students across the country. I appreciate the opportunity to express Newsela's support for Senate Bill 617 and House Bill 547, the Nonvisual Access Accountability Act for K-12 Education. We are also glad that these issues were discussed in previous versions of the legislation in the 2021 Legislative Session. Maryland is one of a small but growing group of states to have considered these important issues. **We urge a favorable report on Senate Bill 617.**

As you may be aware, in recent years Illinois and New Jersey also considered and passed legislation to set out requirements for digital tools that school districts purchase for student use. These earlier states made the [World Wide Web Consortium's Web Content Accessibility Guidelines](#) (WCAG) standard the focus of their legislation and we are pleased that this standard is used in the Maryland legislation being considered today.

As we continue through the third year of pandemic-disrupted learning, it is clear that students are struggling. [Studies](#) reveal that by the end of this past school year, K-12 students were on average five months behind in math and four months behind in reading.

At the same time, students' relationships to learning technologies have been evolving, especially as educators turn to new strategies to address disruptions in learning. This turn toward technology has the potential to benefit student learning – using tech in the classroom keeps students engaged, makes it easier to collaborate, and imparts 21st century skills that make students college and career ready. However, as we make this transition, we must be careful to ensure technologies are accessible to everyone, especially the nearly 14 percent of K-12 learners who have disabilities that make some technology platforms difficult or impossible to use.

The proposed legislation before the committee today will ensure that almost all students are able to utilize and benefit from learning technology. Requiring online education tools used in Maryland classrooms to comply with WCAG standards will ensure significant support for students with disabilities such as blindness and low vision, deafness and



hearing loss, and limited movement. This is a critical step toward increasing equity and accessibility in learning for all students, especially those who are often left behind.

While the realities of remote learning and increased reliance on technology are challenging in many ways, the awareness around accessibility in digital education tools is a welcome silver lining. Senate Bill 617 will lead to tangible, achievable, and easily implemented changes that can have a real impact on students.

As a company deeply committed to accessibility and delivering instructional materials that truly benefit every student, Newsela is proud to support this important legislation. Thank you for your consideration. Again, **we urge a favorable report on Senate Bill 617.**

Sincerely,

Lauren Bierman
Vice President of Public Affairs
Newsela

About WCAG Standard

WCAG stands for Web Content Accessibility Guidelines, which applies to web content. From the [World Wide Web Consortium \(W3C\)](#) Web Accessibility Initiative:

*Web Content Accessibility Guidelines (WCAG) is developed through the [W3C process](#) in cooperation with individuals and organizations around the world, with a goal of providing a **single shared standard for web content accessibility** that meets the needs of individuals, organizations, and governments internationally, making web content more accessible to people with disabilities.*

[Web “content” generally refers to the information in a web page or web application, including:](#)

- Natural information such as text, images, and sounds; and
- Code or markup that defines structure, presentation, etc.

About Newsela

Newsela takes authentic, real world content from trusted sources and makes it instruction ready for K-12 classrooms. Each text is published at five reading levels, so content is accessible to every learner.

Today, over 3.3 million teachers and 40 million students have registered with Newsela for content that’s personalized to student interests, accessible to everyone, aligned to instructional standards, and attached to activities and reporting that hold teachers accountable for instruction and students accountable for their work. With over 15,000



texts on our platform and 10 new texts published every day across 20+ genres, Newsela enables educators to go deep on any subject they choose.

Newsela is committed to maintaining a high level of accessibility, and delivering instructional materials that truly benefit every student. In keeping with our mission, we are committed to making continuous improvements across Newsela in accordance with WCAG standards. Newsela meets WCAG AA standards, which allows more users to access our content.

Testimony In Support of SB 617 - HB 547 - EHE - Eq

Uploaded by: Rich Ceruolo

Position: FAV



February 15, 2022

Maryland Senate
11 Bladen St.
Annapolis, MD. 21401

In Support of SB 617 / HB 547: Local School Systems – Equivalent Access – Digital / Non-Visual Tools

Members of the Maryland Senate’s Education, Health and Environment Committee.

We are an organization of military and non-military families with over 1400 members and fully support establishing a grant program for equal access to school curriculum by students with disabilities contained within SB 617.

This bill would be a huge help to re assign the roles of state officials in charge of accessing, test / fine tune and provide appropriate digital tools to students with disabilities. By doing so, granting equal access to students that may have issues with limited, or no sight.

This kind of support system needs to be baked into the recipe of educational support programs as we move forward with the education of all of our children. Often parents would be the ones to purchase such digital tools for their children out of their own pockets rather than wait for the school system to procure them for their child.

Maryland students need these types of support programs to be in place and to help them equally access their education, and as we help them build toward a brighter future and improved outcomes for children with disabilities. This grant program can also make a positive impact on many of Maryland’s working families, support working moms and dads as they work to pay their bills, and to feed their families.

Please support Senate Bill 617 and return a favorable report. Thank you for your time, and for considering our testimony today.

Mr. Richard Ceruolo | richceruolo@gmail.com
Parent, Lead Advocate and Director of Public Policy
Parent Advocacy Consortium (Find us on Facebook/Meta) |
<https://www.facebook.com/groups/ParentAdvocacyConsortium>

SB617_Zucker_FAV.pdf

Uploaded by: Senator Craig Zucker

Position: FAV

CRAIG J. ZUCKER
Legislative District 14
Montgomery County

Budget and Taxation Committee
Chair, Capital Budget Subcommittee

Chair, Senate Democratic Caucus



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Testimony of Senator Craig J. Zucker
Senate Bill 617 - Local School Systems - Equivalent Access Standards - Digital Tools
(Nonvisual Access Accountability Act for K-12 Education)
Senate Education, Health and Environmental Affairs Committee
February 16th, 2022
1:00pm
Position: SUPPORT

Good afternoon Chairman Pinsky, Vice Chairman Kagan, and distinguished members of the committee. It is my pleasure to testify today in **support of Senate Bill 617 - Local School Systems - Equivalent Access Standards - Digital Tools (Nonvisual Access Accountability Act for K-12 Education)**.

Fundamentally, this legislation is designed to ensure equivalent access to educational resources that are procured by local school districts for students with disabilities, including blindness. Too often, companies that provide educational technology inaccurately describe the capabilities of the program or tool they are selling.

Although school districts do their best to procure and create materials that are accessible to all students, there is currently limited recourse available if they inadvertently purchase a product with limited capabilities. Senate Bill 617 creates a civil liability for a vendor that does not meet legally mandated equivalent access standards and refuses to fix the product in a timely manner.

The legislative text has been updated from its original introduction in the 2021 Legislative Session to reflect a longer lead time for implementation, adjust the State agencies involved to ensure expertise, and indemnify State and local boards of education should a tool not meet equivalent access standards.

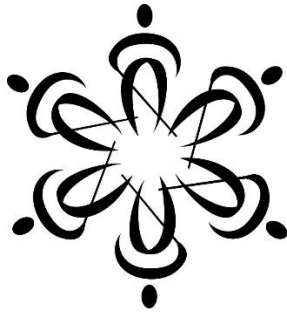
Senate Bill 617 is the culmination of months of work on the bill text with advocates, school systems, the Maryland State Department of Education, and stakeholders. Further and minor clarifying amendments may be necessary, but I am confident that its implementation will benefit all kids in Maryland public schools. This is a very important step to ensure all students have equal access to education.

I urge a favorable report on Senate Bill 617. Thank you for your kind consideration.

Favorable SB 617 Accountability.pdf

Uploaded by: Sharon Maneki

Position: FAV



NATIONAL FEDERATION OF THE BLIND

MARYLAND

Live the life you want.

Subject: Favorable SB617
To: Senate Education, Health, and Environmental Affairs Committee
From: Members of the National Federation of the Blind of Maryland
Contact: Sharon Maneki, Director of Legislation and Advocacy
National Federation of the Blind of Maryland
9013 Nelson Way
Columbia, MD 21045
Phone: 410-715-9596
Email: nfbmdsm@gmail.com

Date: February 16, 2022

THE PROBLEM

Please go to <https://youtu.be/J7tQr2YeoXM> .

Blind students in grades K-12 cannot access their educational content because local school systems use inaccessible instructional technologies. Although federal and state laws require the accessibility of information and communication technology (ICT), digital content and services such as educational apps and websites, local school systems and the Maryland State Department of Education (MSDE) have not enforced the requirement for developers to ensure accessibility before purchasing and implementing technologies and have not prohibited staff members from using inaccessible materials that they find on their own. Local school systems and MSDE have no accountability for accessibility. Consequently, blind students are denied the opportunity to fully participate in their education.

PROPOSED ACTION

The Maryland General Assembly should enact SB617, legislation that provides accountability for accessibility by both local school systems and the MSDE. This legislation will include procurement procedures that force local school systems to comply with Section 508 of the Rehabilitation Act. This bill will create a penalty for non-compliance by developers. The MSDE will be required to annually publicize the record of accessibility compliance by all jurisdictions on its website. The need for action is urgent. Barriers to full participation in education that blind students face must be eliminated.

BACKGROUND

Blind students encounter accessibility problems whether their instruction is in-person or virtual. Accessibility problems are exacerbated during this pandemic because of the need to shift between in-person instruction and virtual instruction. The trend in K-12 education today is to make greater use of computers and interactive instructional technologies. Students are expected to use technology to access digital content, complete and submit their homework, participate in class discussions, complete pop quizzes and tests, or check their grades. Blind students can no longer perform these tasks independently when instructional technologies are inaccessible. In other words, inaccessible technologies shut blind students out of their education. Additionally, blind parents and blind teachers cannot help students who must use these technologies. Federal laws such as the Americans with Disabilities Act and Section 504 of the Rehabilitation Act have required elementary and secondary schools to use accessible ICT to provide students with disabilities full and equal access to programs. Since 2002, Maryland law has also required that online instruction must be accessible to students with disabilities. Since these laws have existed for decades, why does this problem remain?

Screen access software makes electronic information accessible by rendering information in either a text-to-speech, magnified, or refreshable Braille format. These screen access devices will work only if websites, document formats, or other hardware and software are designed and coded to accommodate nonvisual access. The methods for nonvisual access are well known and well documented. The first publicly available accessibility guidelines were published in 1995 and have been updated periodically. These guidelines have been incorporated into Section 508 requirements of the Rehabilitation Act of 1973. The law requires accessibility, and developers already know how to provide accessibility. What is missing is accountability and enforcement.

BENEFITS OF THE PROPOSED LEGISLATION

- 1. By ensuring accountability, the proposed legislation will prevent local school systems and the MSDE from overlooking or ignoring accessibility requirements.** This legislation will require local school systems to establish a process to evaluate the accessibility of ICT and digital content that it is considering for purchase. A local school system employee, knowledgeable in accessibility and the web content accessibility guidelines must be involved in this evaluation. When selecting the product, the local school system shall “prioritize the available product that best meets the specifications and has the greatest functionality for accessibility standards for students with disabilities, including blindness”. The legislation will also close an accessibility loophole by also requiring teacher prepared material to be accessible.

The proposed legislation strengthens the role of MSDE in monitoring the compliance of accessibility in the local school systems. The legislation will require the MSDE to annually publish the progress of all local school systems concerning accessibility on its website. Making this information publicly available demonstrates that accessibility is a

priority for the MSDE. Publishing this information on the website is also a valuable accountability tool because it allows the public to demand explanations.

2. **The proposed legislation introduces vendor accountability at the beginning of the procurement process.** Local school systems will be required to include in a procurement contract, for ICT or digital content, an indemnification clause making the vendor liable if the product does not meet the accessibility standards. The legislation clearly informs the vendor of accessibility requirements by getting the vendors attention in the request for proposals or bids.

In this legislation, the local school system must require the vendor to provide specific information of how the vendor intends to achieve accessibility in the product or software. For instance, the legislation will stipulate that “Beginning on September 1, 2023, an invitation for bids or request for proposals for a digital tool issued by the State or County board shall require a vendor to submit an accessibility conformance report” or Voluntary Product Accessibility Template (VPAT). The VPAT is a document that explains how ICT products such as software, hardware, electronic content, and support documentation meet (conform to) the Revised Section 508 Standards for ICT accessibility. Vendors are familiar with VPATs since they are already required by many federal government entities. Accessibility is less expensive and more effective if it is designed during the initial development of ICT. Thus, requiring an Accessibility Conformance Report or VPAT will help the developers in the long run.

3. **The proposed legislation enhances vendor accountability for accessibility by creating consequences.** Currently, a vendor has no incentive to comply with procurement accessibility requirements. Strengthening the procurement law by providing for vendor penalties will demonstrate the importance of the requirement to the vendor. Charging any vendor to remediate the product so it contains nonvisual access components will also save money for the local school systems. The proposed legislation states that local school systems shall notify vendors of any access barriers found upon a determination within eighteen months from procurement or latest upgrade. The vendor will be required to remediate said barriers at its own expense. Should that vendor fail to remediate the access barrier within twelve months from the date of notice, a civil penalty shall be applied. For the first offense, the fine shall not exceed \$5,000. For a subsequent offense, the fine shall not exceed \$10,000. No vendor should object to this requirement because it has a year to fix the problem before any penalty is invoked. The vendor shall indemnify the local school system for liability resulting from the use of information technology that does not meet the nonvisual access standards. In the long run, such a penalty will allow full accountability and enforcement of the contract while saving local school systems money.
4. **Precedent for a civil penalty against vendors for noncompliance with accessibility laws already exists in Maryland with the enactment of HB1088/SB286 in 2018.** Assessing a civil penalty on vendors for noncompliance with accessibility requirements has not had a detrimental effect on other agencies in the executive branch of government. The legislature should demand the same accountability for accessible education that it demands from the rest of the executive branch.

CONCLUSION

The use of inaccessible ICT and digital content by local school systems has denied full and equal participation to blind students in K-12 education. Although accessibility to ICT is required by state and federal laws, it does not occur because there is no accountability or enforcement by local school systems and the MSDE. There are no consequences for vendors who fail to deliver accessible ICT. SB617 will reduce accessibility barriers by establishing methods of enforcement and accountability. Blind students deserve the same opportunities for full participation in education that are afforded to non-disabled students. This legislation will fulfill the demand that accessibility must become a reality. If blind students have the opportunity to obtain a quality education, they will be able to become successful taxpayers and productive members of society. Please vote in favor of SB617.

SB0617-EHE_MACo_SWA.pdf

Uploaded by: Brianna January

Position: FWA



Senate Bill 617

*Local School Systems - Equivalent Access Standards - Digital Tools
(Nonvisual Access Accountability Act for K-12 Education)*

MACo Position: **SUPPORT**
WITH AMENDMENTS

To: Education, Health, and Environmental
Affairs Committee

Date: February 16, 2022

From: Brianna January

The Maryland Association of Counties (MACo) **SUPPORTS SB 617 WITH AMENDMENTS**. While well-intentioned, this bill as drafted would place a costly mandate on school systems and county governments to carry out new state policy and provide all students with digital tools accessible for students with disabilities.

MACo recognizes the desire to create accommodations for all students and each county school board and leadership approaches these access issues with the proper gravity. However, SB 617 would substitute a one-size-fits-all state policy for that local judgment. Additionally, it would potentially place a costly mandate on school systems and county governments to carry out this new uniform state policy to provide all students with accessible digital tools regardless of whether the student is in need of this specialized tool.

The state funding for public schools is set via formula. Adding new cost components to the required school program belies the lengthy debates regarding these adequacy figures. Counties have no choice but to support these new costs—competing for limited local funds against school facilities, public safety, roadway maintenance, and the full range of other essential public services.

Local school jurisdictions currently provide reasonable accommodations, including accessible tools and resources in-line with the Americans with Disabilities Act (ADA), which sets nationwide standards. MACo requests an amendment so that counties may continue to follow the reasonable and flexible standards set by the ADA rather than the rigid standards as drafted in SB 617. Such an amendment would allow counties to continue serving students with disabilities in the most practicable manner best suited for the unique needs and abilities of each jurisdiction.

Local school systems work to meet the unique needs of each student through individualized services and develop responses to changing technology and learning factors accordingly. SB 617, as drafted, would upend this sensible policy. Accordingly, MACo urges a report of **FAVORABLE WITH AMENDMENTS** for SB 617.

SB 617.Nonvisual Access Accountability Act 2022.pd

Uploaded by: John Woolums

Position: FWA

BILL: Senate Bill 617
TITLE: Local School Systems - Equivalent Access Standards - Digital Tools
(Nonvisual Access Accountability Act for K-12 Education)
POSITION: SUPPORT WITH AMENDMENTS
DATE: February 16, 2022
COMMITTEE: Education, Health, and Environmental Affairs
CONTACT: John R. Woolums, Esq.

The Maryland Association of Boards of Education (MABE) supports Senate Bill 617 to ensure accessibility for disabled students, including vision-impaired students, to critically important digital tools and resources integral to their success whether in an in-person or virtual classroom. In this context, MABE is requesting several amendments to address serious concerns that the well-meaning intent of this bill not create confusion or unworkable procurement standards for school systems buying technology ranging from systemwide information technology platforms to individual instructional materials.

MABE joins all local school systems in the commitment to each student, regardless of disability, having access to challenging instruction from highly qualified professionals that addresses their unique learning needs and differences. MABE believes that current laws and regulations already establish a comprehensive array of standards, mandates, and dispute resolution processes to address the provision of accessible educational materials and technologies, including students who are blind or visually impaired. In addition, students receiving special education services are fully entitled to accommodations identified and addressed in their individualized education program (IEP), including any technology-based accommodations uniquely tailored to the individual student.

Maryland's boards and educators place a very high priority on ensuring that students receive high quality programs and instruction to meet the unique needs of every disabled student. Local boards of education recognize that the COVID-19 pandemic and resulting school closures presented unanticipated challenges for all students, families, and educators – and that sustaining high quality teaching and learning for students with disabilities was particularly difficult. However, MABE notes that the Fiscal and Policy Note describes the bill as requiring school system to “provide a student with disabilities access to digital tools that (1) are fully and equally accessible to and independently usable by the student.” This description, referring to one provision found late in the bill, does not reflect the much more complicated process of ensuring functional equivalency in the use of technology, and the procedures for determining any exceptions when this standard cannot be met.

Congress amended Section 508 of the Rehabilitation Act of 1973 in 1998 to strengthen requirements for accessibility to electronic and information technology (ICT) provided by the Federal Government. Section 508 mandates that Federal agencies “develop, procure, maintain, or use” ICT in a manner that ensures that Federal employees with disabilities have comparable access to, and use of, such information and data relative to other Federal employees.

Section 508 also requires Federal agencies to ensure that members of the public with disabilities have comparable access to publicly available information and data. Since 2002, Maryland has had a 508 compliance provision in state law governing school system operations, which MSDE has been administering. Federal Section 508 standards were updated most recently in 2018.

In 2021, legislation was introduced in Maryland for the first time in a generation to address concerns with the quality of access for students with disabilities to learning technology during the COVID pandemic and shift to virtual learning. To facilitate the passage of this bill in 2022, and successful implementation of the new standards and procurement processes called for in the bill, MABE requests the following amendments.

Initially, the bill includes a confusing and overly broad definition of “digital tool” that would trigger the bill’s new accessibility standards and restrictive purchasing rules for an unworkable range of products and services. Again, the federal Section 508 standards on which the bill is based refer to information and communications technology (ICT) and requires federal agencies to comply with purchasing standards for such technology. By contrast, the federal use of the term “tool” refers to software tools used to create other software, or “authoring tools” used to create or convert content into other formats. MABE requests a thorough revision of the definition of the ICT intended to be covered in the bill’s definition of digital tools based on the input of state and local educators and information technology professionals.

The bill includes in the definition of “equivalent access,” a specific reference to “substantially equivalent ease of use.” This “ease of use” standard is not mirrored in the federal regulations and could not be objectively measured or applied. The term should be “equivalent accessibility” or “equivalent facilitation” and refer more appropriately to ensuring that substantially equivalent or greater accessibility and usability is provided to students with disabilities.

MABE certainly appreciates that this bill is most attentive to ensuring accessibility to blind and visually impaired persons. However, in the context of the legislature adopting a comprehensive set of accessibility reforms, the applicable federal regulations are much more inclusive. Federal regulations define “functional performance criteria” for persons without vision, with limited vision, without perception of color, without hearing, with limited hearing, without speech, with limited manipulation, with limited reach and strength, and with limited language, cognitive, and learning abilities. MABE requests that references throughout the bill are more consistent with federal standards when applicable.

As stated at the outset, MABE does endorse refining the statute to clarify the roles and responsibilities of MSDE and local school systems in ensuring accessibility for students with disabilities. The bill calls for an evaluation of “technology-based instructional products” and, beginning on October 1, 2024, the requirement that school systems purchase the available product that best meets the equivalent access standards and greatest functionality for equivalent access for students with disabilities. This provision appears to encapsulate the core mission of the legislation and should form the basis of further discussion on the definitions and standards described above. Similarly, MABE endorses the provisions referring to technology-based instructional products and requirements to use other technology to achieve the same instructional outcomes consistent with a student’s Individualize Education Program (IEP) or 504 Plan. MABE believes that these are meaningful requirements to ensure accessibility in a manner that is consistent with current law.

However, as mentioned earlier, following the requirements for accessibility and MSDE oversight, the bill includes a provision that would require that “a local school system shall provide a student with disabilities access to digital tools that: (i) are fully and equally accessible to and independently usable by a student with disabilities; and (ii) enable a student with disabilities 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.” Again, the broadly undefined requirements of subsection (F)(2) do not appear to reflect the standards provided elsewhere in the bill, although essential to its successful implementation. For example, earlier in the bill, the accessibility standards are applied, prospectively, to “teacher-developed instructional materials.” Clearly, not all such materials could meet the “fully and equally accessible” standard proposed under subsection (F)(2).

Importantly, and of serious concern, the bill would also eliminate the provision of current law that allows local school systems to “obtain a product that does not meet the equivalent access standards but provides the best equivalent access functionality.” Instead, the bill would have the Maryland State Department of Education (MSDE) “ensure that another product is purchased that will offer an effective educational option.” MSDE’s review must be done in consultation with the Departments of Information Technology (DoIT) and Disabilities (MDOD). MABE appreciates the retention of some flexibility in cases of undue burden, but is concerned that this is not a workable agency review and decision-making process regarding local school system procurements.

The bill’s stringent requirement for compliance reports from prospective vendors appears reasonable, but only in so far as it refers to a much clearer revised definition of ICT intended to be covered. In addition, the requirement for an evaluation process to be conducted by a school employee who specializes in accessibility or specifically blind accessibility appears to mandate the hiring of a local school system equivalent of a federal 508 compliance officer. MABE does not believe such a requirement is necessary or cost effective. For example, an existing employee could conduct the review, but not be a specialist, or the school system or State could contract for compliance review services.

In 2021, when similar legislation was introduced, advocates urged an amendment to require that local school system contracts for ICT include an indemnification clause to put vendors on notice and hold them legally and financially responsible for noncompliant technology. Unfortunately, the bill includes this provision for the State Board, but not for local boards, and therefore, MABE requests an amendment to do so.

Lastly, near the very end of the bill, MSDE would be required to “annually update the requirements for accessibility of technology-based instructional products under COMAR.” This provision, if enacted, would make it impossible for school systems to develop the new procurement policies and related contracts for products and services mandated throughout this bill. Again, MABE urges as much clarity and consistency as possible in defining terms and standards throughout this important bill, aiming toward the goal of its successful implementation and benefits to the teaching and learning of students with disabilities.

For these reasons, MABE requests a favorable report on Senate Bill 617, with the amendments described above.

EACtestimony2022.SB617.pdf

Uploaded by: Leslie Margolis

Position: FWA

Education Advocacy Coalition

for Students with Disabilities

Senate Education, Health, and Environmental Affairs Committee

**SB 617: Local School Systems—Equivalent Access Standards—Digital Tools (Nonvisual Access
Accountability Act for K-12 Education)**

February 16, 2022

Position: Support with Sponsor Amendment

The Education Advocacy Coalition for Students with Disabilities (EAC), a coalition of approximately 40 organizations and individuals concerned with education policy for students with disabilities in Maryland, supports Senate Bill 617, which would ensure local school system and Maryland State Department of Education accountability for accessible digital tools. The bill would require local school systems to develop a process to evaluate digital tools under consideration for development or purchase, and would require vendors responding to an invitation for bid or a request for proposal issued by a local school system or the Maryland State Board of Education to submit an accessibility conformance report that includes a voluntary product accessibility template. Beginning in October, 2024, after evaluation of technology-based instructional products, local school systems must select the available product that has the greatest functionality for equivalent access for students with disabilities. Senate Bill 617 further provides that vendors who fail to meet accessibility standards will be fined.

Although the ability to access digital instruction has long been an issue for a number of students with disabilities, the COVID-19 pandemic laid bare the extent of the problem. When school buildings closed in March, 2020 and education shifted to digital learning, students who are blind or otherwise unable to access learning through visual means were denied the opportunity to participate or to participate fully in distance learning. Although accessible information and communication technology is required by law, lack of enforcement by local school systems and the Maryland State Department of Education made this requirement ring hollow for the students who were unable to learn effectively during the pandemic because their technology was not accessible to them. The problem continues for students who have as yet been unable to return to school in-person.

It is our understanding that this year's legislation is broader than the previous version of this bill, and that if implemented, it would ensure equal access to digital tools for all students with disabilities. We recommend the following amendments to underscore the importance of equal access:

On Page 2, line 13: add **INCLUDING by nonvisual means**

On Page 2, line 16: add **“Equivalent Access” includes BUT IS NOT LIMITED TO:”**

On Page 3, line 25: add **EQUIVALENT AND “nonvisual access”**

Senate Bill 617 would address the problem of digital inaccessibility by creating the accountability that has been missing, and would enable all students who require access to information and communication technology to more easily obtain that access. For these reasons, the EAC supports Senate Bill 617 with the sponsor amendments.

Please feel free to contact Leslie Seid Margolis, chairperson, at lesliem@disabilityrightsmd.org or 410-370-5730 for more information.

Respectfully submitted,

Selene A. Almazan, Esq., Selene A. Almazan Law

Rene Averitt-Sanzone, The Parents' Place of Maryland

Linda Barton, MSED, Education Consultant

Beth Benevides, Howard County Autism Society

Ellen A. Callegary, Law Offices of Ellen A. Callegary, P.A.

Rich Ceruolo, Parent Advocacy Consortium

Michelle Davis, M.S.Ed., ABCs for Life Success

Jennifer Engel Fisher, Weinfeld Education Group

Ann Geddes, Maryland Coalition of Families

Beth Ann Hancock, Charting the Course

Kalman Hettleman, Independent Advocate

Morgan Horvath, M.Ed., Abilities Network

Nicole Joseph, Esq., Law Offices of Nicole Joseph

Rosemary Kitzinger and Marjorie Guldan, Bright Futures, LLC

Ande Kolp, The Arc Maryland

Sharon Maneki, National Foundation of the Blind of Maryland

Leslie Seid Margolis, Disability Rights Maryland

Ellen O'Neill, Atlantic Seaboard Dyslexia Education Center

Maria Ott, Attorney

Rebecca Rienzi, Pathfinders for Autism

Jaime Seaton, BGS Law

Ronnetta Stanley, M.Ed., Loud Voices Together

Guy Stephens, Alliance Against Seclusion and Restraint

Maureen van Stone, Mallory Legg, and Alyssa Thorn, Project HEAL at Kennedy Krieger Institute

Jessica R. Williams, M.Ed., Education Due Process Solutions, LLC

Liz Zogby, Maryland Down Syndrome Advocacy Coalition

SB 617 digital access PSSAM FWA.pdf

Uploaded by: Mary Pat Fannon

Position: FWA



BILL: Senate Bill 617

TITLE: Local School Systems – Equivalent Access Standards – Digital Tools
(Nonvisual Access Accountability Act for K–12 Education)

DATE: February 16, 2022

POSITION: Favorable with amendments

COMMITTEE: Senate Education, Health, and Environmental Affairs Committee

CONTACT: Mary Pat Fannon, Executive Director, PSSAM

This bill requires each local school system to provide a student with disabilities access to 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 in accordance with technical standards issued under specified federal law or any other widely accepted or freely available technical standard. Each local school system must establish an evaluation process for 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 Public Schools Superintendents’ Association of Maryland (PSSAM) **supports SB 617 with amendments**. PSSAM supports the intent of this bill to ensure that every public school student in Maryland, regardless of disability, has the digital access they need to enable them to succeed, and to expect that local school systems make their websites and other on-line content comply with accessibility guidelines. Unfortunately, Senate Bill 617 includes specific requirements that might make it more difficult to procure appropriate digital tools, and it includes undefined terms that are confusing or overly-broad.

Even though local boards would support the bill’s provisions that would place much of the burden of compliance on their vendors, it might not always be possible and affordable to find vendors who would be willing to accept the liability and other mandates required by the bill. Even some of the largest education technology suppliers in the country may choose to forego the responsibilities set out in the bill by not offering their services to Maryland school systems. The unintended consequence may result in fewer available options for accessible digital technology.

PSSAM offers the following amendments:

We request that the bill replace all references to “Technology-Based Instructional Products” with “Digital Tool” which is defined on page 2 A (2). In order to avoid any confusion, “hardware” would need to be deleted on page 3, line 16.

PAGE 2 LINE 5

(II) ~~A COURSE;~~

Justification: The term “course” is too broad and is not otherwise consistent with the other parts of the definition of “digital tool” that are in fact technology/digital based.

PAGE 2, LINE 6-7

(III) INFORMATION AND COMMUNICATION TECHNOLOGY SERVICES, INCLUDING SOFTWARE AND OPERATING SYSTEMS, **TIED DIRECTLY TO STUDENT INSTRUCTION;**

Justification: The term “communication technology services” is broad enough to include the phone system used in school offices which use a display screen. It could be prohibitively expensive to make every individual phone compliant for every individual with a disability, as opposed to current law that may require an employer to make an individual phone used by a person with a disability be accessible for that individual.

PAGE 2, LINES 11-15

(3) (I) “EQUIVALENT ACCESS” MEANS THE ABILITY TO RECEIVE, USE, AND MANIPULATE INFORMATION AND OPERATE CONTROLS NECESSARY TO ACCESS AND USE INFORMATION TECHNOLOGY ~~BY NONVISUAL MEANS, SO THAT A STUDENT WITH DISABILITIES CAN ACCESS THE SAME SERVICES AS A STUDENT WITHOUT DISABILITIES WITH SUBSTANTIALLY EQUIVALENT EASE OF USE~~ **TECHNOLOGY NECESSARY FOR THAT STUDENT TO ACHIEVE THE INSTRUCTIONAL OUTCOMES CONSISTENT WITH THE STUDENT’S IEP PLAN, AS DEFINED IN § 8-408 OF THIS ARTICLE, OR THE STUDENT’S 504 PLAN, AS PROVIDED UNDER THE FEDERAL REHABILITATION ACT OF 1973**

*Justification: The bill should not be limited to visual disabilities and the **title** of the bill should be changed to reflect the applicability to all students with IEPs or 504 plans. Additionally, the access needed by an individual student should be tied to that student’s needs, as opposed to using undefined standard of “substantially equivalent ease of use” compared to a broad group of non-disabled students.*

PAGE 3, LINES 3-4

(C) (1) This subsection {does not apply} ~~APPLIES~~ to teacher-developed instructional materials {until fiscal year 2005} **USED BY THE INDIVIDUAL TEACHER.**

Justification: The local school system cannot ensure that every tool used by every teacher in every classroom be accessible to any student with disabilities, whether or not an affected student with disabilities is even in that classroom. Rather, the teacher must ensure that each students' IEPs or Section 504 plan is fully met, and any provision in either the IEP or Section 504 plan that requires specific digital accessibility must be followed, which would be addressed in other sections of the bill.

PAGE 3, LINES 23-30

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

1. ~~SPECIALIZES~~ **HAS KNOWLEDGE** IN ACCESSIBILITY AND WEB CONTENT ACCESSIBILITY GUIDELINES; ~~OR~~

~~2. IS A BLINDNESS SPECIALIST WHO IS KNOWLEDGEABLE IN ACCESSIBILITY.~~

Justification: The school system should be allowed to use a contractor for this service. In addition, it is unclear what "specializes" means, and there is no current certification or licensure for a "blindness specialist".

PAGE 3, LINES 31-34

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

Justification: This subsection seems to be misplaced and not directly connected to Section (4) where it currently falls. The subsection should be made its own Section (5) (also requiring the current Section (5) on page 4, line 1 to be renumbered as (6)).

PAGE 4, LINE 22-26

(II) AFTER THE DEPARTMENT RECEIVES A NOTICE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE DEPARTMENT SHALL CONSULT WITH THE DEPARTMENT OF INFORMATION TECHNOLOGY AND THE DEPARTMENT OF DISABILITIES TO ~~ENSURE THAT ANOTHER PRODUCT IS PURCHASED THAT WILL OFFER AN EFFECTIVE EDUCATIONAL OPTION~~ **ALLOW THE LOCAL SCHOOL SYSTEM TO OBTAIN A PRODUCT THAT DOES NOT MEET THE EQUIVALENT ACCESS STANDARDS BUT PROVIDES THE BEST EQUIVALENT ACCESS FUNCTIONALITY.**

Justification: This amendment recognizes that there may be circumstances where another product is not available, but leaves it up to the local school system to determine what product can be obtained in the best interests of the students.

PAGE 5, LINE 3-4

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

Justification: Although the terms “widely accepted” and “freely available” are not well-defined, the bill would be too broad if the digital tool purchased could simply meet standards that are solely “freely available”, a term that could apply to anything found on the Internet.

PAGE 5, LINES 5-12

(2) A LOCAL SCHOOL SYSTEM SHALL PROVIDE A STUDENT WITH DISABILITIES ACCESS TO DIGITAL TOOLS THAT **ARE NECESSARY FOR THAT STUDENT TO ACHIEVE THE INSTRUCTIONAL OUTCOMES CONSISTENT WITH THE STUDENT’S IEP PLAN, AS DEFINED IN § 8-408 OF THIS ARTICLE, OR THE STUDENT’S 504 PLAN, AS PROVIDED UNDER THE FEDERAL REHABILITATION ACT OF 1973.**

~~(I) ARE FULLY AND EQUALLY ACCESSIBLE TO AND INDEPENDENTLY USABLE BY A STUDENT WITH DISABILITIES; AND~~

~~(II) ENABLE A STUDENT WITH DISABILITIES 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~~

Justification: The term “student with disabilities” is a very broad term including not just fully functional students who happen to have a visual impairment, which is the assumption being made throughout the bill. There are some students with disabilities who cannot independently use any digital tool due to either severe physical or mental disabilities. In addition, the term “substantially equivalent ease of use” is an undefined standard that cannot easily be measured.

PAGE 6, LINES 1-4

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

Justification: It is not clear why the bill limited the indemnification in this provision just to the State Board.

We appreciate the opportunity to work on this legislation over the interim along with other education advocates, and look forward to working with the committee during their deliberations.

For the reasons stated above, PSSAM requests a **favorable report on SB 617 with our proposed amendments** described above.

One Voice, One Vision for Maryland's Students
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SB617.DDCouncil.SWA.pdf

Uploaded by: Rachel London

Position: FWA



Maryland Developmental Disabilities Council

CREATING CHANGE • IMPROVING LIVES

Senate Education, Health, and Environmental Affairs Committee

February 16, 2022

SB 617: Local School Systems—Equivalent Access Standards—Digital Tools
(Nonvisual Access Accountability Act for K-12 Education)

Position: Support with Sponsor Amendments

The Maryland Developmental Disabilities Council (DD Council) is a statewide public policy organization that creates change to make it possible for people with developmental disabilities to live the lives they want with the support they need. The DD Council is led by people with developmental disabilities and their families. From that perspective, the DD Council strongly supports equal access to digital tools for all students with disabilities.

It is our understanding that this year’s legislation is broader and should ensure equal access, not just nonvisual access, to digital tools for all students with disabilities. To support that intent, we recommend the following amendments that strengthen the intent of equal access:

- On Page 2, line 13: **add INCLUDING, by nonvisual means**
- On Page 2, line 16: add “Equivalent Access” includes, **BUT IS NOT LIMITED TO:**
- On Page 3, lines 25: **add EQUIVALENT AND “nonvisual access”**

WHY is this legislation important?

- Access to information technology has been an issue for a number of students with disabilities. The pandemic created greater barriers, especially for students with “significant” developmental disabilities.
- Accessible information and technology is required by law, yet some students with disabilities still struggle to receive, use, and manipulate information. **Enforcement by local school systems and the Maryland State Department of Education (MSDE) is critical to change this.**

WHAT does this legislation do?

- Requires local school systems to develop a process to evaluate digital tools under consideration for development or purchase.
- Requires vendors responding to a request for proposal by a local school system or the Maryland State Board of Education to submit an accessibility report that includes a product accessibility template.
- Requires local school systems, beginning in October 2024, to evaluate digital products and ensure they select the available product that will provide equivalent access for students with disabilities.

Students with disabilities must have equal access to information and technology in order to learn and succeed. SB 617 addresses some of the barriers facing students with disabilities, and enables students with disabilities to get and receive the same information, access the same services, and meaningfully participate in the same interactions as students without disabilities. For these reasons, the DD Council supports SB 617 with the amendments outlined above.

Contact: Rachel London, Executive Director: RLondon@md-council.org

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Kalani Brown, *Chairperson* • Rachel London, Esq., *Executive Director*

SB617 Digital Tools 2.16.22.pdf

Uploaded by: Jeanette Ortiz

Position: UNF



SB617 LOCAL SCHOOL SYSTEMS - EQUIVALENT ACCESS STANDARDS - DIGITAL TOOLS (NONVISUAL ACCESS ACCOUNTABILITY ACT FOR K-12 EDUCATION)

February 16, 2022

EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS

SUPPORT WITH AMENDMENTS

Jeanette Ortiz, Esq., Legislative & Policy Counsel (410.703.5352)

Anne Arundel County Public Schools (AACPS) supports with amendments **SB617 Local School Systems - Equivalent Access Standards - Digital Tools (Nonvisual Access Accountability Act for K-12 Education)**. This bill would require 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.

AACPS believes that all students are entitled to challenging instruction from highly qualified professionals that addresses their unique learning needs and differences. AACPS also believes that all students should be afforded the opportunity to participate in challenging educational experiences that expand outcomes after graduation. Accordingly, AACPS clearly makes every effort to support the academic needs of each student. Students needs are addressed through various methods, including instructional materials, technology, and other necessary supports. In the case of a student receiving special education services, such accommodations are addressed in a student's Individualized Education Program (IEP), and the accommodations are uniquely tailored to the individual student. Determinations are made via comprehensive student assessments. Accordingly, AACPS has an established process for the review and evaluation of digital tools that align with the requirements of accessibility of technology-based instructional products set forth in COMAR 134A.05.02. AACPS has a comprehensive approval process regarding materials of instruction, which includes digital tools. The school system currently provides digital tools for students who receive special education instruction if it is determined that a student requires such an accommodation. This determination is made via the IEP process. As such, AACPS meets the requirement for students of nonvisual access to participate in their educational setting.

AACPS has concerns with the various undefined terms used throughout the legislation and requests that the Committee define terms to ensure accuracy and clarity. For example, "communication technology services" need to be defined. What standard is "equivalent ease of use" and how is that measured? The bill also requires the employee who conducts the evaluation of each tool has to be an employee who "specializes" in accessibility and the guidelines, or who is a "blindness specialist" –what does this mean?

AACPS also requests that the conflicting terms also be addressed as retaining conflicting terminology would result in difficulties in implementing the requirements set forth in the legislation. For example, how can a "digital tool" also be considered a "course" for purposes of instruction? Additionally, this bill seems to assume that a student with a disability only has a visual impairment. However, the term "student with disabilities" is a very broad term including

not just fully functional students who happen to have a visual impairment, which is the assumption being made. There are some students with disabilities who cannot independently use any digital tool due to either for severe physical or mental disabilities.

AACPS strongly supports preserving the exception which is in current statute. In addition, the language regarding indemnification language, and highlighting that if the law has conflicting or overly technical terms then it's much more difficult to address in implementing regulations.

On page 3, lines 31-34, the reference to indemnifying the State Board of Education is misplaced in this subsection, which solely deals with the local school system. This subsection should probably be its own stand-alone section of the bill.

On page 4, lines 17-26, the current language in the law is preferable to the added language in the bill. Currently, if no product is available that meets the standards, a local school system may obtain one that "provides the best equivalent access functionality." The bill would delete that provision and instead require the local school system notify the state which shall "ensure that another product is purchased that will offer an effective educational option." The mandates seem to require local school systems to purchase a product regardless of costs or programmatic needs. This could result in a significant unfunded mandate which AACPS opposes.

Accordingly, AACPS respectfully requests a **FAVORABLE WITH AMENDMENTS** committee report on SB617.