

BILL:	Senate Bill 1091	DATE:	February 23, 2024
SUBJECT:	Education - Blind and Visually Impaired Students - Textbook Equity	COMMITTEE:	Education, Energy, and the Environment
POSITION:	Information Only		
CONTACT:	Akilah Alleyne, Ph.D. 410-767-0504 akilah.alleyne@maryland.gov		

EXPLANATION:

The Maryland State Department of Education (MSDE) is providing information for consideration regarding Senate Bill (SB) 1091– Blind and Visually Impaired Students - Textbook Equity. MSDE is in full support of the intention behind SB1091, which is to ensure that all students who need access to Braille textbooks and accessible learning materials receive them at the same time as their non-disabled peers, including materials that are required in large print. The Department expects all students to receive the accommodations outlined in their Individual Education Program (IEP) as requested, and too that end, the Department supports the suggestion of having an accountability measure, such as the Maryland Instructional Resource Center (MIRC)'s submission of a report to MSDE every year detailing the number of electronic files publishers provide to National Instructional Materials Accessibility Standard (NIMAS), the number of requests that could not be fulfilled, and the reasons that those requests were unfulfilled, to ensure that all students are receiving their necessary instructional materials in a timely manner.

We urge the committee to keep in mind that passing the legislative mandate proposed in SB1091, which would relieve LEAs from this very important fiscal and operational responsibility under federal law, will not immediately fix the concern that parents and students have regarding receiving high-quality instructional materials at the same time as their non-disabled peers.

Alternatively, the Department would like to suggest that changes be made to the Memorandum of Understanding (MOU) between the MSDE, the MIRC housed under the MD School for the Blind, and LEAs to include data reporting detailing the following:

- the number of electronic files publishers provide to National Instructional Materials Accessibility Standard (NIMAS);
- the number of requests that could not be fulfilled; and
- the reasons that those requests were unfulfilled.

The Department must understand what is impacting students' access to accessible instructional materials so that it can work with MIRC, housed under the MD School for the Blind, and the LEAs to provide students with the materials they need in a timely manner. For similar reasons, the Department is happy to provide guidelines through COMAR and other mechanisms to the LEAs and the Maryland Instructional Resource Center (MIRC) on collecting the appropriate data to share with MSDE every year detailing the number of electronic files publishers provide to National Instructional Materials Accessibility Standard (NIMAS), the number of requests that could not be fulfilled, and the reasons that those requests were unfulfilled.

Under State regulations, students that are blind and have low vision require access to Accessible Educational Materials (AEM). See COMAR 13A.05.02.04E. Students must receive their materials, including textbooks, at the same time as their peers. Following the passage of the Blind Students' Literacy Rights and Education Act in 1992, the

Maryland State Department of Education (MSDE) developed procedures to coordinate the statewide availability of textbooks and supplemental instructional materials for students that are blind or low, and in 1996, MSDE began a partnership with the Maryland School for the Blind (MSB) and Local Education Agencies (LEAs) to establish the Maryland Instructional Resource Center (MIRC) for Students with Visual Impairments.

MSDE appreciates that the proposed language of the bill does not reduce any funding for our partners at the MIRC, who is guaranteed \$150,000 of state funding, and under the current MOU, the MIRC may receive funding at up to \$500,000 annually to deliver appropriate instructional materials to Maryland's Blind and Visually Impaired students.

Under current law, MSDE may provide funding to other providers of Braille and Large Print materials as required by Maryland's students' needs. This leads to one of several areas of concern with this bill, which is language that expands the role of the MIRC and limits the ability for the Department to pursue other alternatives for producing instructional materials to meet the needs of Blind and Visually Impaired students. In naming the MIRC specifically in these new components of SB1091, the bill will legally make the MIRC the sole provider of Braille and accessible materials in Maryland. This bill could limit MSDE's flexibility in pursuing other avenues and options to provide funding to other producers to produce Braille and Large Print materials for students at reduced costs and expenditures for the Agency and State. Lastly, this bill would set a new, unnecessary precedent in requiring the Department to pay for accessible materials for students if an LEA selects a textbook that does not include access to a specialized format, which has historically been a fiscal responsibility of the LEAs. Currently, LEAs are responsible for providing their students with the materials needed to access their Free Appropriate Public Education or FAPE, and if passed, SB1091 introduces a new dynamic to that procurement structure.

The most significant impact of this bill will be the new requirement for all LEAs to determine their instructional materials by January 15th. We recognize that this timeline will be difficult for school systems to implement, as decisions about curriculum are not typically made until spring and summer due to a myriad of factors such as staffing, enrollment, credit requirements, and student programming. Before making an unprecedented state-wide decision about curricular timelines, additional feedback should be solicited from local superintendents and school leaders who can speak about how this deadline would impact their system's annual operations.

To reiterate, The Maryland State Department of Education fully supports the intent behind this bill, which is ensuring that Blind and Visually Impaired students have equitable access to textbooks and learning materials. MSDE's current expanded funding to the MIRC, which equates to \$350,000 more than what the Department is required to provide by law, reflects our commitment to that access. However, we strongly urge the committee to consider the Departments concerned related to SB1091, which seeks to put measures into law without concrete data on the number of unfulfilled NIMAS requests or a robust root cause analysis between MSDE and the MIRC on the reason for unfulfilled requests.

MSDE seeks to reaffirm that denying a student access to the materials required by their IEP may result in a denial of FAPE. In instances where a family feels their student's educational rights have been violated, there may be an increase in special education litigation at the local or county level because of delays in implementation.

We respectfully request that you consider this information as you deliberate **SB1091**. For further information, please contact Dr. Akilah Alleyne at 410-767-0504, or Akilah.alleyne@maryland.gov