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
for an exemption from the required selection of certain products that meet
certain standards; requiring the State or a local school system to implement
certain alternative methods of instruction under certain circumstances;
requiring the State Board of Education to adopt certain regulations; requiring
the State Department of Education to monitor compliance with certain
requirements and report to the General Assembly each year on or before a certain
date; defining a certain term; providing for the application of certain provisions
of this Act; defining certain terms; providing for the application of this Act to
certain technology; and generally relating to certain requirements regarding
technology that is developed or obtained for classroom use in certain schools the
 provision of equivalent access to technology in the Technology for Education
Program for students with disabilities.

BY repealing and reenacting, with amendments, adding to
Article - Education
Section 7-901 and 8-408 and 7-910
Annotated Code of Maryland
(2001 Replacement Volume)

BY adding to repealing and reenacting, with amendments,
Article - Education
Section 7-901 and 8-408
Annotated Code of Maryland
(2001 Replacement Volume)

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

Article - Education
7-901.
(a) In this subtitle the following words have the meanings indicated.
(b) "COMPUTER-BASED INSTRUCTIONAL TECHNOLOGY" MEANS COMPUTER
HARDWARE OR SOFTWARE USED BY TEACHERS AND STUDENTS IN THE DELIVERY OF
THE INSTRUCTIONAL PROGRAM.
(C) "Eligible consortium" includes a local educational agency and a public or
private nonprofit organization.
(e) (D) "Instructional programming" means the full range of audio and video
text, graphics, or additional state of the art communications distributed through
interactive, command and control, or passive methods for the purpose of education
and instruction.
(e) (D) "Students" means students from a broad range of backgrounds and
circumstances, including:
Disadvantaged students;

Students with diverse racial, ethnic, and cultural backgrounds;

Students with disabilities;

Students with limited English proficiency;

Students who have dropped out of school; and

Academically talented students.

"Technology" means the latest state-of-the-art technology products and services, including:

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

In this subtitle the following words have the meanings indicated:

"COMPUTER-BASED TECHNOLOGY" MEANS COMPUTER HARDWARE OR SOFTWARE USED BY TEACHERS AND STUDENTS IN THE DELIVERY OF AN INSTRUCTIONAL PROGRAM.

"Eligible consortium" includes a local educational agency and a public or private nonprofit organization.

"Instructional programming" means the full range of audio and video text, graphics, or additional state-of-the-art communications distributed through interactive, command and control, or passive methods for the purpose of education and instruction.

"Students" means students from a broad range of backgrounds and circumstances, including:
Disadvantaged students;
Students with diverse racial, ethnic, and cultural backgrounds;
Students with disabilities;
Students with limited English proficiency;
Students who have dropped out of school; and
Academically talented students.

"Technology" means the latest state-of-the-art technology products and services, including:

- Closed circuit television systems;
- Educational television and radio broadcasting;
- Cable television;
- Satellite;
- Copper and fiber optic transmission;
- Computer;
- Video and audio laser and CD ROM discs; and
- Video and audio tapes or other technologies.

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

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

MUST PROVIDE EQUIVALENT ACCESS FOR EFFECTIVE USE BY BOTH VISUAL AND NONVISUAL MEANS.
WILL PRESENT INFORMATION, INCLUDING PROMPTS FOR INTERACTIVE COMMUNICATION, IN A FORMAT THAT ALLOWS FOR VISUAL AND NONVISUAL USE;

CAN BE USED WITHIN NETWORKED ENVIRONMENTS FOR OBTAINING, RETRIEVING, AND DISSEMINATING INFORMATION USED BY INDIVIDUALS WHO ARE NOT BLIND OR VISUALLY IMPAIRED; AND

SHALL BE OBTAINED, WHENEVER POSSIBLE, WITHOUT MODIFICATION FOR COMPATIBILITY WITH SOFTWARE AND HARDWARE FOR NONVISUAL ACCESS.

FOLLOWING AN EVALUATION OF COMPUTER-BASED INSTRUCTIONAL TECHNOLOGY, IF A DETERMINATION IS MADE THAT COMPUTER-BASED INSTRUCTIONAL TECHNOLOGY THAT FULLY MEETS THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION IS NOT AVAILABLE, THE STATE AND THE LOCAL SCHOOL SYSTEMS SHALL:

SELECT THE COMPUTER-BASED INSTRUCTIONAL TECHNOLOGY WITH THE GREATEST FUNCTIONALITY FOR EQUIVALENT VISUAL AND NONVISUAL ACCESS THAT MEETS ALL OTHER SPECIFICATIONS; AND

IMPLEMENT AN ALTERNATIVE METHOD OF INSTRUCTION DESIGNED TO ENABLE A STUDENT WHO IS BLIND OR VISUALLY IMPAIRED TO ACHIEVE THE SAME INSTRUCTIONAL OUTCOMES CONSISTENT WITH THE STUDENT'S IEP OR 504 PLAN; OR

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


THIS SUBSECTION DOES NOT APPLY TO TEACHER-DEVELOPED INSTRUCTIONAL MATERIALS UNTIL FISCAL YEAR 2005.

INVITATIONS FOR BIDS, REQUESTS FOR PROPOSALS, PROCUREMENT CONTRACTS, GRANTS, OR MODIFICATIONS TO CONTRACTS OR GRANTS ISSUED BY THE STATE OR ANY LOCAL SCHOOL SYSTEM SHALL INCLUDE NOTICE OF THE EQUIVALENT ACCESS REQUIREMENT WHENEVER FUNDS AWARDED MAY BE USED TO
S E N A T E  B I L L  2 2 6

1 DEVELOP, DEVELOP OR OBTAIN, OR USE TECHNOLOGY-BASED INSTRUCTIONAL
2 PRODUCTS.

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

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

12 (2) IF A PRODUCT THAT MEETS THE EQUIVALENT ACCESS STANDARDS
13 IS NOT AVAILABLE, OR IF OBTAINING AN AVAILABLE PRODUCT WOULD
14 FUNDAMENTALLY ALTER THE NATURE OF THE INSTRUCTIONAL ACTIVITY OR
15 WOULD RESULT IN AN UNDUE BURDEN, THE STATE SUPERINTENDENT LOCAL
16 SCHOOL SYSTEM MAY APPROVE A WRITTEN REQUEST TO OBTAIN A PRODUCT THAT
17 DOES NOT MEET THE EQUIVALENT ACCESS STANDARDS BUT PROVIDES THE BEST
18 EQUIVALENT ACCESS FUNCTIONALITY.

19 (3) THE DEPARTMENT SHALL:

20 (I) MONITOR COMPLIANCE WITH THE REQUIREMENTS OF
21 ACCESSIBILITY OF TECHNOLOGY-BASED INSTRUCTIONAL PRODUCTS SET FORTH IN
22 COMAR 13.A.05.02; AND

23 (II) REPORT ITS FINDINGS, IN ACCORDANCE WITH § 2-1246 OF THE
24 STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON OR BEFORE
25 DECEMBER 31 OF EACH YEAR.

26 (E) IF TECHNOLOGY-BASED INSTRUCTIONAL PRODUCTS ARE PROVIDED TO
27 STUDENTS WITHOUT DISABILITIES AND NOT TO A STUDENT WITH A DISABILITY, THE
28 STATE OR LOCAL SCHOOL SYSTEM SHALL IMPLEMENT AN ALTERNATIVE METHOD OF
29 INSTRUCTION, INCLUDING USE OF OTHER TECHNOLOGY-BASED INSTRUCTIONAL
30 PRODUCTS, IF AVAILABLE, DESIGNED TO ENABLE A STUDENT WITH A DISABILITY TO
31 ACHIEVE THE SAME INSTRUCTIONAL OUTCOMES CONSISTENT WITH THE STUDENT'S
32 IEP PLAN, AS DEFINED IN § 8-408 OF THIS ARTICLE, OR THE STUDENT'S 504 PLAN, AS

34 8-408.

35 (a) (1) In this section the following words have the meanings indicated.
36
37 (2) "Child who is blind or visually impaired" means a child who:

38 (i) Has a visual acuity of 20/200 or less in the better eye with
39 correcting lenses or has a limited field of vision so that the widest diameter of the
40 visual field subtends an angle no greater than 20 degrees;
Senator Bill 226

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

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

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

(4) "COMPUTER-BASED INSTRUCTIONAL TECHNOLOGY" HAS THE MEANING STATED IN § 7.901 OF THIS ARTICLE.

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

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

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

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

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

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

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

(i) Is encoded in text suitable for conversion into braille or synthesized speech; and
(ii) Has been prepared using a markup language that maintains
the structural integrity of the information and can be processed by braille translation
software.

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

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

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