CHAPTER_______

1 AN ACT concerning

Higher Education Institutions - Blind Individuals - Access to Technology

2 FOR the purpose of requiring the governing boards of public institutions of higher
education to ensure that certain contracts to purchase certain technology
include a certain clause relating to nonvisual access; requiring the boards to
ensure that certain blind individuals have access to certain technology and
materials; requiring the Maryland Higher Education Commission, in
consultation with the Department of Disabilities, to assist the public
institutions of higher education with the application of a nonvisual access clause
by developing certain guidelines on or before a certain date develop, by a certain
date, a certain clause relating to nonvisual access for use in the procurement of
certain technology; requiring the nonvisual access clause adopted by the
governing bodies of certain institutions to be consistent with certain standards
developed by the Department of Budget and Management; defining certain
and use of technology for blind individuals by public institutions of higher
education.

3 BY repealing and reenacting, without amendments,

Article—Education
Section 11-105(a)
Annotated Code of Maryland
(2004 Replacement Volume and 2004 Supplement)
BY repealing and reenacting, with amendments,
Article - Education
Section 11-105(b), 12-101, and 12-112, and 14-109
Annotated Code of Maryland
(2004 Replacement Volume and 2004 Supplement)

BY adding to
Article - Education
Section 12-301 to be under the new subtitle “Subtitle 3. Blind Individuals - Access to Technology”; 14-110, 14-409, 14-409 and 16-318
Annotated Code of Maryland
(2004 Replacement Volume and 2004 Supplement)

BY repealing and reenacting, without amendments,
Article - State Finance and Procurement
Section 3-412
Annotated Code of Maryland
(2001 Replacement Volume and 2004 Supplement)

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

Article - Education

(a) In addition to any other powers granted and duties imposed by this title and subject to any restrictions imposed by law, the Commission has the powers and duties set forth in this section.

(b) (1) The Commission shall coordinate the overall growth and development of postsecondary education in the State.

(2) (i) In consultation with the governing boards and agencies concerned with postsecondary education in the State, the Commission shall develop and periodically update an overall plan consistent with the Charter, known as the State Plan for Higher Education, that shall identify:

1. The present and future needs for postsecondary education and research throughout the State;

2. The present and future capabilities of the different institutions and segments of postsecondary education in the State; and

3. The long-range and short-range objectives and priorities for postsecondary education and methods and guidelines for achieving and maintaining them.
The Commission shall ensure that the State Plan for Higher Education complies with the State's equal educational opportunity obligations under State and federal law, including Title VI of the Civil Rights Act.

In developing the State Plan for Higher Education, the Commission shall incorporate the goals and priorities for higher education identified in this Division III and, for the University System of Maryland, including those identified in §§ 10-209 and 12-106 of this article.

The Commission shall submit to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly a biennial review of the plan by July 1, 1995 and by July 1 of each alternate year thereafter.

The biennial review shall include a report on the status and needs of postsecondary education in the State.

In accordance with Subtitle 3 of this title, the Commission shall review, negotiate as necessary, and approve the appropriate role, function, and mission of each public institution of postsecondary education in the State.

With respect to the College Park campus of the University of Maryland, the Commission shall direct the Board of Regents of the University of Maryland to develop and implement a plan for the enhancement of that campus as the State's flagship campus with programs and faculty nationally and internationally recognized for excellence in research and the advancement of knowledge.

With respect to the constituent institutions of the University System of Maryland in the Baltimore region, the Commission shall direct the Board of Regents of Maryland to maintain and enhance a coordinated Higher Education Center for Research and Graduate and Professional Study in the Baltimore area.

With respect to Morgan State University, the Commission shall direct the Board of Regents of Morgan State University to develop and implement a plan for the enhancement of that institution as the State's public urban university with the appropriate programs, faculty, and facilities.

The Commission has statewide coordinating responsibility for the community colleges and shall establish general policies for their operation.

The Commission has statewide coordinating responsibility for regional higher education centers.

The Commission may distribute strategic incentive funds to an institution of higher education or a regional higher education center to encourage attainment of the goals and priorities set forth in the State Plan for Higher Education.

IN CONSULTATION WITH THE DEPARTMENT OF DISABILITIES, ON OR BEFORE JANUARY 1, 2006, THE COMMISSION SHALL DEVELOP GUIDELINES FOR THE
IMPLEMENTATION OF THE NONVISUAL ACCESS CLAUSE IN INFORMATION TECHNOLOGY AND INFORMATION TECHNOLOGY SERVICES BIDS, REQUESTS FOR PROPOSALS OR GRANTS, CONTRACTS, AND MODIFICATION TO CONTRACTS, AS REQUIRED UNDER § 3-412 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, AS APPLICABLE TO:

(I) THE UNIVERSITY SYSTEM OF MARYLAND UNDER TITLE 12 OF THIS ARTICLE;

(II) MORGAN STATE UNIVERSITY UNDER § 14-110 OF THIS ARTICLE;

(III) ST. MARY'S COLLEGE OF MARYLAND UNDER § 14-409 OF THIS ARTICLE; AND

(IV) COMMUNITY COLLEGES UNDER § 16-318 OF THIS ARTICLE.

12-101.

(a) In order to foster the development of a consolidated system of public higher education, to improve the quality of education, to extend its benefits and to encourage the economical use of the State's resources, the University System of Maryland is established in accordance with the provisions of this title.

(b) In this title the following words have the meanings indicated.

(1) "Board" or "Board of Regents" means the Board of Regents of the University System of Maryland.

(2) "Chancellor" means the Chief Executive Officer of the University System of Maryland and the Chief of Staff for the Board of Regents.

(3) "President" means the Chief Executive Officer of a constituent institution of the University System of Maryland.

(4) "Constituent institutions", "institutions", or "campuses" means the following public senior higher education institutions under the jurisdiction of the Board of Regents:

(i) University of Maryland, Baltimore;

(ii) University of Maryland Baltimore County;

(iii) University of Maryland, College Park;

(iv) University of Maryland Eastern Shore;

(v) University of Maryland University College;

(vi) Bowie State University;

(vii) Coppin State University;
(viii) Frostburg State University;
(ix) Salisbury University;
(x) Towson University; and
(xi) University of Baltimore.

"Centers" or "Institutes" means the following components of the System under the jurisdiction of the Board of Regents:

(i) University of Maryland Center for Environmental Science;
(ii) Cooperative Extension Service and the Agricultural Experiment Station;
(iii) Statewide Medical Education and Training System;
(iv) Fire and Rescue Institute; and
(v) Any other center, component, or institute established and operated by the System in accordance with its mission.

"University" or "University of Maryland" or "University of Maryland System" means the University System of Maryland.

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

"TECHNOLOGY" MEANS THE LATEST STATE-OF-THE-ART TECHNOLOGY PRODUCTS AND SERVICES, INCLUDING:

(I) COPPER AND FIBER OPTIC TRANSMISSION;
(II) COMPUTER;
(III) VIDEO AND AUDIO LASER AND CD-ROM DISCS;
(IV) VIDEO AND AUDIO TAPES OR OTHER TECHNOLOGIES; AND
(V) TECHNOLOGY USED FOR ON-LINE LEARNING.

Except as provided in § 11-203(e) of the State Finance and Procurement Article, the University is exempt from Division II of the State Finance and Procurement Article.

Subject to review and approval by the Board of Public Works and the Administrative, Executive, and Legislative Review Committee of the General
Assembly, the Board of Regents shall develop policies and procedures governing procurements by the University.

(ii) The policies and procedures developed under subparagraph (i) of this paragraph shall promote the purposes of the State procurement law as set forth in § 11-201 of the State Finance and Procurement Article.

(b) The Board of Regents shall develop an information technology plan for the University System of Maryland that includes information technology policies and standards, including policies and standards for information management and telecommunication systems, that are functionally compatible with the State Information Technology Plan established under Title 3, Subtitle 4 of the State Finance and Procurement Article.

INVITATIONS FOR BIDS, REQUESTS FOR PROPOSALS OR GRANTS, AND PROCUREMENT CONTRACTS OR MODIFICATIONS OF CONTRACTS FOR COMPUTER-BASED INSTRUCTIONAL TECHNOLOGY TO BE DEVELOPED OR OBTAINED UNDER THIS SUBTITLE FOR USE BY FACULTY AND STUDENTS SHALL INCLUDE THE CLAUSE GOVERNING NONVISUAL ACCESS REQUIRED UNDER § 3-412 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(C) BY JANUARY 1, 2007, THE BOARD OF REGENTS SHALL DEVELOP A NONVISUAL ACCESS CLAUSE FOR USE IN THE PROCUREMENT OF COMPUTER-BASED INSTRUCTIONAL TECHNOLOGY.

(D) THE NONVISUAL ACCESS CLAUSE DEVELOPED UNDER SUBSECTION (C) OF THIS SECTION SHALL BE CONSISTENT WITH THE STANDARDS DEVELOPED BY THE DEPARTMENT OF BUDGET AND MANAGEMENT IN ACCORDANCE WITH THE PROVISIONS OF § 3-412 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

SUBTITLE 3. BLIND INDIVIDUALS – ACCESS TO TECHNOLOGY.

THE BOARD OF REGENTS SHALL DIRECT THAT EACH CONSTITUENT INSTITUTION ENSURE THAT:

(1) AT EVERY LOCATION WHERE TECHNOLOGY IS MADE AVAILABLE FOR STUDENT USE WITHIN THE INSTITUTION, AT LEAST ONE WORK STATION IS EQUIPPED AND CONFIGURED FOR EQUIVALENT ACCESS BY BOTH VISUAL AND NONVISUAL MEANS;

(2) INSTRUCTIONAL ENVIRONMENTS, DOCUMENTS, AND COMMUNICATIONS MEDIA USED IN ON-LINE INSTRUCTION IS DESIGNED FOR EQUIVALENT ACCESS BY BOTH VISUAL AND NONVISUAL MEANS; AND

(3) FACULTY-DEVELOPED, COMPUTER-BASED INSTRUCTIONAL TECHNOLOGY IS DESIGNED FOR EQUIVALENT ACCESS BY BOTH VISUAL AND NONVISUAL MEANS.
IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

"COMPUTER-BASED INSTRUCTIONAL TECHNOLOGY" HAS THE MEANING STATED IN § 12-101 OF THIS ARTICLE.

"TECHNOLOGY" HAS THE MEANING STATED IN § 12-101 OF THIS ARTICLE.

THE BOARD OF REGENTS OF MORGAN STATE UNIVERSITY SHALL ENSURE THAT:

INVITATIONS FOR BIDS, REQUESTS FOR PROPOSALS OR GRANTS, AND PROCUREMENT CONTRACTS OR MODIFICATIONS OF CONTRACTS FOR COMPUTER-BASED INSTRUCTIONAL TECHNOLOGY TO BE DEVELOPED OR OBTAINED UNDER THIS SUBTITLE FOR USE BY FACULTY AND STUDENTS AT MORGAN STATE UNIVERSITY SHALL INCLUDE THE CLAUSE GOVERNING NONVISUAL ACCESS REQUIRED UNDER § 3-412 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

AND

NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE:

(1) INVITATIONS FOR BIDS, REQUESTS FOR PROPOSALS OR GRANTS, AND PROCUREMENT CONTRACTS OR MODIFICATIONS OF CONTRACTS FOR COMPUTER-BASED INSTRUCTIONAL TECHNOLOGY TO BE DEVELOPED OR OBTAINED UNDER THIS SUBTITLE FOR USE BY FACULTY AND STUDENTS AT MORGAN STATE UNIVERSITY SHALL INCLUDE THE CLAUSE GOVERNING NONVISUAL ACCESS REQUIRED UNDER § 3-412 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

AND

(2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE:

(1) AT EVERY LOCATION WHERE TECHNOLOGY IS MADE AVAILABLE FOR STUDENT USE AT MORGAN STATE UNIVERSITY, AT LEAST ONE WORK STATION IS EQUIPPED AND CONFIGURED FOR EQUIVALENT ACCESS BY BOTH VISUAL AND NONVISUAL MEANS;

(II) INSTRUCTIONAL ENVIRONMENTS, DOCUMENTS, AND COMMUNICATIONS MEDIA USED IN ON-LINE INSTRUCTION IS DESIGNED FOR EQUIVALENT ACCESS BY BOTH VISUAL AND NONVISUAL MEANS;

(III) FACULTY-DEVELOPED, COMPUTER-BASED INSTRUCTIONAL TECHNOLOGY IS DESIGNED FOR EQUIVALENT ACCESS BY BOTH VISUAL AND NONVISUAL MEANS.

EXCEPT AS PROVIDED IN § 11-203(e) OF THE STATE FINANCE AND PROCUREMENT ARTICLE, THE UNIVERSITY IS EXEMPT FROM DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE.
(b) The Board of Regents shall develop an information technology plan for the University that includes information technology policies and standards, including policies and standards for information management and telecommunication systems, that are functionally compatible with the State Information Technology Plan established under Title 3, Subtitle 4 of the State Finance and Procurement Article.

(D) BY JANUARY 1, 2007, THE BOARD OF REGENTS SHALL DEVELOP A NONVISUAL ACCESS CLAUSE FOR USE IN THE PROCUREMENT OF COMPUTER-BASED INSTRUCTIONAL TECHNOLOGY.

(E) THE NONVISUAL ACCESS CLAUSE DEVELOPED UNDER SUBSECTION (D) OF THIS SECTION SHALL BE CONSISTENT WITH THE STANDARDS DEVELOPED BY THE DEPARTMENT OF BUDGET AND MANAGEMENT IN ACCORDANCE WITH THE PROVISIONS OF § 3-412 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

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

(2) "COMPUTER-BASED INSTRUCTIONAL TECHNOLOGY" HAS THE MEANING STATED IN § 12-101 OF THIS ARTICLE.

(3) "TECHNOLOGY" HAS THE MEANING STATED IN § 12-101 OF THIS ARTICLE.

(B) THE BOARD OF TRUSTEES OF ST. MARY'S COLLEGE SHALL ENSURE THAT:

(1) INVITATIONS FOR BIDS, REQUESTS FOR PROPOSALS OR GRANTS, AND PROCUREMENT CONTRACTS OR MODIFICATIONS OF CONTRACTS FOR COMPUTER-BASED INSTRUCTIONAL TECHNOLOGY TO BE DEVELOPED OR OBTAINED UNDER THIS SUBTITLE FOR USE BY FACULTY AND STUDENTS AT ST. MARY'S COLLEGE OF MARYLAND SHALL INCLUDE THE CLAUSE GOVERNING NONVISUAL ACCESS REQUIRED UNDER § 3-412 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND

(2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE:

(1) AT EVERY LOCATION WHERE TECHNOLOGY IS MADE AVAILABLE FOR STUDENT USE AT ST. MARY'S COLLEGE OF MARYLAND, AT LEAST ONE WORK STATION IS EQUIPPED AND CONFIGURED FOR EQUIVALENT ACCESS BY BOTH VISUAL AND NONVISUAL MEANS;

(II) INSTRUCTIONAL ENVIRONMENTS, DOCUMENTS, AND COMMUNICATIONS MEDIA USED IN ON-LINE INSTRUCTION IS DESIGNED FOR EQUIVALENT ACCESS BY BOTH VISUAL AND NONVISUAL MEANS; AND

(III) FACULTY-DEVELOPED, COMPUTER-BASED INSTRUCTIONAL TECHNOLOGY IS DESIGNED FOR EQUIVALENT ACCESS BY BOTH VISUAL AND NONVISUAL MEANS.
(B) BY JANUARY 1, 2007, THE BOARD OF TRUSTEES SHALL DEVELOP A NONVISUAL ACCESS CLAUSE FOR USE IN THE PROCUREMENT OF COMPUTER-BASED INSTRUCTIONAL TECHNOLOGY.

(C) THE NONVISUAL ACCESS CLAUSE DEVELOPED UNDER SUBSECTION (B) OF THIS SECTION SHALL BE CONSISTENT WITH THE STANDARDS DEVELOPED BY THE DEPARTMENT OF BUDGET AND MANAGEMENT IN ACCORDANCE WITH THE PROVISIONS OF § 3-412 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

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

(2) "COMPUTER-BASED INSTRUCTIONAL TECHNOLOGY" HAS THE MEANING STATED IN § 12-101 OF THIS ARTICLE.

(3) "TECHNOLOGY" HAS THE MEANING STATED IN § 12-101 OF THIS ARTICLE.

(B) EACH BOARD OF COMMUNITY COLLEGE TRUSTEES SHALL ENSURE THAT:

(1) INVITATIONS FOR BIDS, REQUESTS FOR PROPOSALS OR GRANTS, AND PROCUREMENT CONTRACTS OR MODIFICATIONS OF CONTRACTS FOR COMPUTER-BASED INSTRUCTIONAL TECHNOLOGY TO BE DEVELOPED OR OBTAINED BY THE COMMUNITY COLLEGE FOR USE BY FACULTY AND STUDENTS SHALL INCLUDE THE CLAUSE GOVERNING NONVISUAL ACCESS REQUIRED UNDER § 3-412 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND

(2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE:

(i) AT EVERY LOCATION WHERE TECHNOLOGY IS MADE AVAILABLE FOR STUDENT USE WITHIN THE COMMUNITY COLLEGE, AT LEAST ONE WORK STATION IS EQUIPPED AND CONFIGURED FOR EQUIVALENT ACCESS BY BOTH VISUAL AND NONVISUAL MEANS;

(ii) INSTRUCTIONAL ENVIRONMENTS, DOCUMENTS, AND COMMUNICATIONS MEDIA USED IN ON-LINE INSTRUCTION IS DESIGNED FOR EQUIVALENT ACCESS BY BOTH VISUAL AND NONVISUAL MEANS; AND

(iii) FACULTY-DEVELOPED, COMPUTER-BASED INSTRUCTIONAL TECHNOLOGY IS DESIGNED FOR EQUIVALENT ACCESS BY BOTH VISUAL AND NONVISUAL MEANS.

(B) BY JANUARY 1, 2007, THE BOARD OF COMMUNITY COLLEGE TRUSTEES FOR EACH COMMUNITY COLLEGE SHALL DEVELOP A NONVISUAL ACCESS CLAUSE FOR USE IN THE PROCUREMENT OF COMPUTER-BASED INSTRUCTIONAL TECHNOLOGY.

(C) THE NONVISUAL ACCESS CLAUSE DEVELOPED UNDER SUBSECTION (B) OF THIS SECTION SHALL BE CONSISTENT WITH THE STANDARDS DEVELOPED BY THE
Article - State Finance and Procurement

3-412.

(a) The Chief and the Board, in consultation with other units of State government, and after public comment, shall develop a nonvisual access clause for use in the procurement of information technology and information technology services which specifies that the technology and services:

(1) must provide equivalent access for effective use by both visual and nonvisual means;

(2) will present information, including prompts used for interactive communications, in formats intended for both visual and nonvisual use;

(3) can be integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired; and

(4) shall be obtained, whenever possible, without modification for compatibility with software and hardware for nonvisual access.

(b) (1) Except as provided in paragraph (2) of this subsection, the nonvisual access clause required under subsection (a) of this section shall be included in each invitation for bids or request for proposals and in each procurement contract or modification of a contract issued under Title 13 of this article, without regard to the method chosen under Title 13, Subtitle 1 of this article for the purchase of new or upgraded information technology and information technology services.

(2) Except as provided in subsection (a)(4) of this section, the nonvisual access clause required under paragraph (1) of this subsection is not required if:

(i) the information technology is not available with nonvisual access because the essential elements of the information technology are visual and nonvisual equivalence cannot be developed; or

(ii) the cost of modifying the information technology for compatibility with software and hardware for nonvisual access would increase the price of the procurement by more than 5 percent.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2005.