

SENATE BILL 617

F1

(2lr1012)

ENROLLED BILL

— Education, Health, and Environmental Affairs/Ways and Means —

Introduced by **Senators Zucker, Ferguson, Lam, Klausmeier, Hayes, Waldstreicher, Jackson, Hettleman, Beidle, and Jennings**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Local School Systems – Equivalent Access Standards – Digital Tools**

3 ~~(Nonvisual)~~ **(Equivalent and Nonvisual Access Accountability Act for K–12**
4 **Education)**

5 FOR the purpose of requiring a local school system to provide equivalent access to digital
6 tools for students with disabilities, including the development, purchase, and
7 provision of certain digital tools; requiring the Secretary of Disabilities, rather than
8 the Secretary of Commerce, to ensure jointly with the State Superintendent of
9 Schools that certain specifications are used in certain grants and procurement
10 contracts; requiring a procurement contract for a digital tool to require a vendor to
11 indemnify the State Board of Education or a local school system for certain liabilities
12 and costs; requiring a vendor who provided a local school system with a digital tool
13 that fails to meet certain standards to modify the digital tool at the vendor's expense
14 to meet certain equivalent access standards within a certain period of time; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 generally relating to equivalent access standards for digital tools developed or
2 purchased by local school systems.

3 BY repealing and reenacting, with amendments,
4 Article – Education
5 Section 7–910
6 Annotated Code of Maryland
7 (2018 Replacement Volume and 2021 Supplement)

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

10 **Article – Education**

11 7–910.

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

14 (2) “DIGITAL TOOL” MEANS:

15 (I) AN ONLINE PLATFORM;

16 (II) ~~A~~ AN ONLINE COURSE;

17 (III) INFORMATION AND COMMUNICATION TECHNOLOGY
18 SERVICES, INCLUDING SOFTWARE AND OPERATING SYSTEMS, THAT ARE DIRECTLY
19 CONNECTED TO STUDENT INSTRUCTION;

20 (IV) DIGITAL CONTENT; OR

21 (V) OTHER DIGITAL TECHNOLOGIES NOT REQUIRING SIGHT IN
22 AN EQUALLY EFFECTIVE AND INTEGRATED MANNER.

23 (3) (I) “EQUIVALENT ACCESS” MEANS THE ABILITY TO RECEIVE,
24 USE, AND MANIPULATE INFORMATION AND OPERATE CONTROLS NECESSARY TO
25 ACCESS AND USE INFORMATION TECHNOLOGY, INCLUDING BY NONVISUAL MEANS,
26 SO THAT A STUDENT WITH DISABILITIES CAN ACCESS THE SAME SERVICES AS A
27 STUDENT WITHOUT DISABILITIES WITH SUBSTANTIALLY EQUIVALENT EASE OF USE.

28 (II) “EQUIVALENT ACCESS” INCLUDES:

29 1. KEYBOARD CONTROLS USED FOR INPUT AND
30 SYNTHESIZED SPEECH;

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2. BRAILLE; AND

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3. OTHER AUDIBLE OR TACTILE MEANS USED FOR OUTPUT.

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(4) "NONVISUAL ACCESS" MEANS THE ABILITY TO RECEIVE, USE, AND MANIPULATE INFORMATION AND OPERATE CONTROLS NECESSARY TO ACCESS INFORMATION AND COMMUNICATIONS TECHNOLOGY THROUGH KEYBOARD CONTROLS, SYNTHESIZED SPEECH, BRAILLE, OR OTHER METHODS NOT REQUIRING SIGHT.

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[(a)] (B) (1) The State Superintendent and the Secretary of [Commerce] **DISABILITIES** jointly shall ensure that specifications used in all grants and procurement contracts for ~~technology-based instructional products~~ **DIGITAL TOOLS** require equivalent access for students with disabilities, including blindness, in accordance with the technical standards for electronic and information technology issued under subsection (a)(2) of Section 508 of the federal Rehabilitation Act of 1973, 29 U.S.C. § 794d(a)(2).

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(2) SPECIFICATIONS USED IN ALL GRANTS AND PROCUREMENT CONTRACTS FOR DIGITAL TOOLS SHALL GIVE PRIMARY CONSIDERATION TO THE PEDAGOGICAL VALUE OF THE DIGITAL TOOLS.

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[(b)] (C) (1) ~~This subsection [does not apply] APPLIES to teacher-developed instructional materials [until fiscal year 2005].~~

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~~(2)~~ 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 develop or obtain ~~technology-based instructional products~~ **DIGITAL TOOLS**.

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~~(3)~~ (2) (I) BEGINNING SEPTEMBER 1, 2023, AN INVITATION FOR BIDS OR REQUEST FOR PROPOSALS FOR A DIGITAL TOOL ISSUED BY THE STATE BOARD OR A LOCAL SCHOOL SYSTEM SHALL REQUIRE A VENDOR TO SUBMIT AN ACCESSIBILITY CONFORMANCE REPORT THAT INCLUDES A VOLUNTARY PRODUCT ACCESSIBILITY TEMPLATE.

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(II) THE ACCESSIBILITY CONFORMANCE REPORT REQUIRED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL EXPLAIN HOW INFORMATION AND COMMUNICATION TECHNOLOGY PRODUCTS, INCLUDING SOFTWARE, ~~HARDWARE,~~ ELECTRONIC CONTENT, AND SUPPORT DOCUMENTATION, CONFORM TO THE MOST RECENT SECTION 508 STANDARDS FOR INFORMATION TECHNOLOGY ACCESSIBILITY UNDER THE FEDERAL REHABILITATION ACT OF 1973.

1 ~~(4)~~ **(3)** **(I)** A LOCAL SCHOOL SYSTEM SHALL ESTABLISH A
2 PROCESS TO EVALUATE A DIGITAL TOOL BEING CONSIDERED FOR DEVELOPMENT OR
3 PURCHASE FOR CONFORMITY WITH THE REQUIREMENTS OF THIS SECTION.

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

8 1. SPECIALIZES IN ACCESSIBILITY AND WEB CONTENT
9 ACCESSIBILITY GUIDELINES; OR

10 2. IS A BLINDNESS SPECIALIST WHO IS
11 KNOWLEDGEABLE IN ACCESSIBILITY.

12 ~~(III)~~ ~~(5)~~ **(4)** A PROCUREMENT CONTRACT FOR A DIGITAL TOOL
13 SHALL REQUIRE A VENDOR TO INDEMNIFY THE STATE BOARD OR A LOCAL SCHOOL
14 SYSTEM FOR LIABILITY AND COSTS ARISING FROM THE FAILURE OF THE DIGITAL
15 TOOL TO MEET THE REQUIREMENTS OF THIS SECTION.

16 ~~(5)~~ ~~(6)~~ **(5)** EXCEPT AS PROVIDED IN SUBSECTION **(E)(2)** OF THIS
17 SECTION, THE STATE BOARD OR A LOCAL SCHOOL SYSTEM MAY NOT APPROVE A
18 PROCUREMENT CONTRACT FOR A DIGITAL TOOL THAT FAILS TO MEET THE
19 REQUIREMENTS OF THIS SECTION.

20 **[(c)] (D)** The State and each local school system shall also ensure that the
21 equivalent access standards are included in guidelines used for design specifications for
22 and evaluation and selection of ~~technology-based instructional products~~ DIGITAL TOOLS.

23 **[(d)] (E)** **(1)** **(I)** Following an evaluation of ~~technology-based instructional~~
24 ~~products~~ DIGITAL TOOLS, the State or local school system shall, ***FROM AMONG DIGITAL***
25 ***TOOLS THAT OFFER PEDAGOGICAL VALUE***, [select] **PRIORITIZE** the available product
26 that best meets the specifications and has the greatest functionality for equivalent access
27 for students with disabilities, including blindness.

28 **(II)** BEGINNING OCTOBER 1, 2024, FOLLOWING AN
29 EVALUATION OF ~~TECHNOLOGY-BASED INSTRUCTIONAL PRODUCTS~~ DIGITAL TOOLS,
30 A LOCAL SCHOOL SYSTEM SHALL SELECT, ***FROM AMONG THE AVAILABLE PRODUCTS***
31 ***THAT OFFER PEDAGOGICAL VALUE***, THE AVAILABLE PRODUCT THAT BEST MEETS
32 THE EQUIVALENT ACCESS STANDARDS AND HAS THE GREATEST FUNCTIONALITY
33 FOR EQUIVALENT ACCESS FOR STUDENTS WITH DISABILITIES, INCLUDING
34 BLINDNESS.

1 (2) (I) If A LOCAL SCHOOL SYSTEM DETERMINES THAT a product
2 that meets the equivalent access standards is not available, or if obtaining an available
3 product would fundamentally alter the nature of the instructional activity or would result
4 in an undue burden, the local school system [may obtain a product that does not meet the
5 equivalent access standards but provides the best equivalent access functionality] SHALL
6 NOTIFY THE DEPARTMENT.

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

15 (III) IF, AFTER THE CONSULTATION PROCESS, THE DEPARTMENT
16 DETERMINES THAT THERE IS AN AVAILABLE PRODUCT THAT MEETS THE
17 EQUIVALENT ACCESS STANDARD, A LOCAL SCHOOL SYSTEM SHALL OBTAIN THAT
18 PRODUCT.

19 (IV) IF, AFTER THE CONSULTATION PROCESS, THE DEPARTMENT
20 DETERMINES THAT THERE IS NO AVAILABLE PRODUCT THAT MEETS THE
21 EQUIVALENT ACCESS STANDARDS, A LOCAL SCHOOL SYSTEM MAY, WITH THE
22 DEPARTMENT'S APPROVAL, OBTAIN A PRODUCT THAT DOES NOT MEET THE
23 EQUIVALENT ACCESS STANDARDS BUT PROVIDES THE BEST EQUIVALENT
24 FUNCTIONALITY.

25 (3) The Department shall:

26 (i) Monitor compliance with the requirements of accessibility of
27 technology-based instructional products set forth in COMAR 13.A.05.02; and

28 (ii) Report its findings, in accordance with § 2-1257 of the State
29 Government Article, to the General Assembly on or before December 31 of each year.]

30 (F) (1) A DIGITAL TOOL DEVELOPED OR PURCHASED BY A COUNTY
31 BOARD FOR USE BY THE LOCAL SCHOOL SYSTEM SHALL INCLUDE SPECIFICATIONS
32 FOR ACCESS FOR STUDENTS WITH DISABILITIES, INCLUDING NONVISUAL ACCESS, IN
33 ACCORDANCE WITH THE TECHNICAL STANDARDS FOR ELECTRONIC AND
34 INFORMATION TECHNOLOGY ISSUED UNDER:

35 (I) SUBSECTION (A)(2) OF SECTION 508 OF THE FEDERAL
36 REHABILITATION ACT OF 1973; OR

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

3 (2) A LOCAL SCHOOL SYSTEM SHALL PROVIDE A STUDENT WITH
4 DISABILITIES ACCESS TO DIGITAL TOOLS THAT:

5 (I) ~~ARE FULLY AND EQUALLY ACCESSIBLE TO AND~~ PROVIDE
6 EQUIVALENT ACCESS TO AND ARE INDEPENDENTLY USABLE BY A STUDENT WITH
7 DISABILITIES; AND

8 (II) ENABLE A STUDENT WITH DISABILITIES TO ACQUIRE THE
9 SAME INFORMATION, PARTICIPATE IN THE SAME INTERACTIONS, AND ACCESS THE
10 SAME SERVICES AS A STUDENT WITHOUT DISABILITIES, WITH SUBSTANTIALLY
11 EQUIVALENT EASE OF USE.

12 (G) (1) (I) IF A LOCAL SCHOOL SYSTEM FINDS THAT A DIGITAL TOOL
13 FAILS TO MEET THE EQUIVALENT ACCESS STANDARDS UNDER SUBSECTION (F) OF
14 THIS SECTION, INCLUDING NONVISUAL ACCESS, WITHIN 18 MONTHS AFTER
15 DEVELOPMENT OR PURCHASE OF THE DIGITAL TOOL, THE LOCAL SCHOOL SYSTEM
16 SHALL SEND A WRITTEN NOTICE TO THE VENDOR OF THE VENDOR'S FAILURE TO
17 COMPLY WITH THE EQUIVALENT ACCESS STANDARDS REQUIRED UNDER THE
18 PROCUREMENT CONTRACT.

19 (II) ON RECEIPT OF NOTICE FROM A LOCAL SCHOOL SYSTEM
20 UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, A VENDOR, AT THE VENDOR'S
21 EXPENSE, SHALL MODIFY THE DIGITAL TOOL TO MEET THE REQUIRED EQUIVALENT
22 ACCESS STANDARDS WITHIN A TIMEFRAME AGREED ON BY THE LOCAL SCHOOL
23 SYSTEM AND THE VENDOR.

24 (2) A VENDOR THAT FAILS TO MEET THE EQUIVALENT ACCESS
25 STANDARDS IN ACCORDANCE WITH PARAGRAPH (1)(II) OF THIS SUBSECTION:

26 (I) IS SUBJECT TO A CIVIL PENALTY OF:

27 1. FOR A FIRST OFFENSE, A FINE NOT EXCEEDING
28 \$5,000; OR

29 2. FOR A SUBSEQUENT OFFENSE, A FINE NOT
30 EXCEEDING \$10,000; AND

31 (II) SHALL INDEMNIFY THE STATE BOARD OR COUNTY BOARD
32 FOR LIABILITY RESULTING FROM THE USE OF A DIGITAL TOOL THAT FAILS TO MEET

1 THE EQUIVALENT ACCESS STANDARDS UNDER SUBSECTION (F) OF THIS SECTION,
2 INCLUDING NONVISUAL ACCESS.

3 [(e) If technology-based instructional products are provided to students without
4 disabilities and not to a student with a disability, the State or local school system shall
5 implement an alternative method of instruction, including use of other technology-based
6 instructional products, if available, designed to enable a student with a disability to achieve
7 the same instructional outcomes consistent with the student's IEP Plan, as defined in §
8 8-408 of this article, or the student's 504 Plan, as provided under the federal Rehabilitation
9 Act of 1973.]

10 (H) (1) IF ~~TECHNOLOGY-BASED INSTRUCTIONAL PRODUCTS~~ DIGITAL
11 TOOLS ARE PROVIDED TO A STUDENT WITHOUT A DISABILITY AND NOT TO A
12 STUDENT WITH A DISABILITY, THE STATE OR LOCAL SCHOOL SYSTEM SHALL
13 IMPLEMENT AN ALTERNATIVE METHOD OF INSTRUCTION, INCLUDING USE OF
14 OTHER ~~TECHNOLOGY-BASED INSTRUCTIONAL PRODUCTS~~ DIGITAL TOOLS, IF
15 AVAILABLE, DESIGNED TO ENABLE A STUDENT WITH A DISABILITY TO ACHIEVE THE
16 SAME INSTRUCTIONAL OUTCOMES CONSISTENT WITH THE STUDENT'S IEP PLAN, AS
17 DEFINED IN § 8-408 OF THIS ARTICLE, OR THE STUDENT'S 504 PLAN, AS PROVIDED
18 UNDER THE FEDERAL REHABILITATION ACT OF 1973.

19 (2) AN ONLINE PLATFORM, ONLINE CONTENT, WEBSITE, WEB
20 SERVICE, WEBPAGE, EDUCATIONAL RESOURCE PRODUCT, OR ONLINE CURRICULUM
21 DEVELOPED OR PURCHASED BY A COUNTY BOARD THAT IS MADE AVAILABLE TO
22 ENROLLED STUDENTS OF THE LOCAL SCHOOL SYSTEM OR ONLINE TO THE PUBLIC
23 SHALL COMPLY WITH THE MOST RECENT VERSION OF THE WORLD WIDE WEB
24 CONSORTIUM'S WEB CONTENT ACCESSIBILITY GUIDELINES.

25 (I) (1) ON OR BEFORE OCTOBER 1, 2023, AND EACH OCTOBER 1
26 THEREAFTER, EACH LOCAL SCHOOL SYSTEM SHALL SUBMIT A REPORT TO THE
27 DEPARTMENT ON THE ACCESSIBILITY OF THE DIGITAL TOOLS THE LOCAL SCHOOL
28 SYSTEM DEVELOPED OR PURCHASED FOR USE DURING THE IMMEDIATELY
29 PRECEDING FISCAL YEAR.

30 (2) THE DEPARTMENT SHALL COMPILE THE INFORMATION
31 RECEIVED UNDER PARAGRAPH (1) OF THIS SUBSECTION AND MAKE THE
32 INFORMATION AVAILABLE ON THE DEPARTMENT'S WEBSITE, INCLUDING THE
33 STATUS OF THE ACCESSIBILITY OF THE DIGITAL TOOLS USED IN EACH LOCAL
34 SCHOOL SYSTEM.

35 (J) THE DEPARTMENT SHALL:

1 (1) MONITOR COMPLIANCE WITH THE REQUIREMENTS FOR
2 ACCESSIBILITY OF ~~TECHNOLOGY-BASED INSTRUCTIONAL PRODUCTS~~ DIGITAL
3 TOOLS UNDER COMAR ~~13A.05.02~~ 13A.06.05;

4 (2) ANNUALLY UPDATE THE REQUIREMENTS FOR ACCESSIBILITY OF
5 ~~TECHNOLOGY-BASED INSTRUCTIONAL PRODUCTS~~ DIGITAL TOOLS UNDER COMAR
6 ~~13A.05.02~~ 13A.06.05; AND

7 (3) ON OR BEFORE DECEMBER 31 EACH YEAR, REPORT ITS FINDINGS
8 TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE
9 GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
11 1, 2022.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.