

Chapter 430

(House Bill 535)

AN ACT concerning

Blind or Visually Impaired Children – Individualized Education Programs – Orientation and Mobility Instruction

FOR the purpose of requiring certain individualized education programs for certain blind or visually impaired children to include certain orientation and mobility instruction under certain circumstances; establishing a certain process for a certain individualized education program team to make a certain determination as to whether certain orientation and mobility instruction is appropriate for a certain child and to include it in a certain child’s individualized education program; requiring certain orientation and mobility ~~evaluations~~ assessments to be ~~provided~~ conducted under certain circumstances; requiring a certain orientation and mobility ~~evaluation~~ assessment to contain, at a minimum, certain content; requiring certain local school systems to provide certain parents and guardians with a certain verbal and written notice at a certain time; requiring certain orientation and mobility instruction to be provided by a certain qualified individual; requiring the State Department of Education to adopt certain regulations and provide certain guidelines on or before certain dates; defining certain terms; making certain stylistic changes; and generally relating to orientation and mobility instruction in individualized education programs for blind or visually impaired children.

BY repealing and reenacting, with amendments,

Article – Education

Section 8–408

Annotated Code of Maryland

(2014 Replacement Volume and 2014 Supplement)

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

Article – Education

8–408.

(a) (1) In this section the following words have the meanings indicated.

(2) “ASSESSMENT” MEANS THE PROCESS OF COLLECTING DATA TO BE USED BY AN IEP TEAM TO DETERMINE A STUDENT’S NEED FOR SPECIAL EDUCATION AND RELATED SERVICES.

(3) “BRAILLE” MEANS THE SYSTEM OF READING AND WRITING THROUGH TOUCH COMMONLY KNOWN AS STANDARD ENGLISH CONTRACTED BRAILLE.

~~(2)~~ **(4)** “Child who is blind or visually impaired” means a child who:

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

(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 Contracted Braille.~~

~~(4)~~ **(5)** “Individualized education program” and “IEP team” have the same meaning as provided by the Individuals with Disabilities Education Act.

~~(5)~~ **(6)** “National Instructional Materials Access Center” means the center established under § 674(e) of the federal Individuals with Disabilities Education Improvement Act of 2004.

~~(6)~~ **(7)** “NIMAS” means the National Instructional Materials Accessibility Standard established by the federal Secretary for Education under 20 U.S.C. 1412 to be used in the preparation of electronic files suitable and used solely for efficient conversion into specialized formats.

~~(7)~~ **(8)** **“ORIENTATION AND MOBILITY” MEANS INSTRUCTION PROVIDED TO A CHILD WHO IS BLIND OR VISUALLY IMPAIRED TO ENABLE THE CHILD TO ATTAIN SYSTEMATIC ORIENTATION TO AND SAFE MOVEMENT WITHIN THE CHILD’S SCHOOL, HOME, AND COMMUNITY ENVIRONMENTS.**

~~(7)~~ ~~(8)~~ **(9)** “Print instructional materials” means printed textbooks and related printed core materials that are written and published primarily for use in elementary school and secondary school instruction and are required by the Department or county board for use by students in the classroom.

~~(8)~~ ~~(9)~~ **(10)** “Specialized formats” means braille, large print, audio, or digital text that is used by blind or visually impaired individuals.

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

[(3)] (II) 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)] (2) For the purpose of achieving successful implementation of this [section] **SUBSECTION**, 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)] (3) (I) The Department shall collaborate with and provide support to the Instructional Resources Center to develop procedures to coordinate the statewide availability of textbooks and supplementary instructional materials that may be accessed using specialized formats that use NIMAS.

[(2) (i)] (II) 1. The procedures developed under [paragraph (1) of this subsection] **SUBPARAGRAPH (I) OF THIS PARAGRAPH** shall require the Department and a county board to include, in any procurement contract or other document or agreement used to purchase print instructional materials from a publisher, a provision that requires the publisher to:

[1.] **A.** On or before the delivery of the print instructional materials, prepare and provide the National Instructional Materials Access Center electronic files containing the contents of the print instructional materials using NIMAS; or

[2.] **B.** Purchase instructional materials from that publisher that are produced in, or may be rendered in, specialized formats.

[(ii)] 2. A publisher may not be required to provide an electronic copy of any instructional material copyrighted before July 1, 2007.

[(3)] (III) The State Board shall coordinate with the National Instructional Materials Access Center to facilitate the timely transfer to the Instructional Resources Center of:

[(i)] 1. Electronic files or instructional materials sent by publishers for the Instructional Resources Center to convert the instructional materials into specialized formats; and

[(ii)] 2. Electronic files or instructional materials purchased from a publisher in a specialized format.

[(4)] (IV) Beginning on July 1, 2007, the Instructional Resources Center shall make reasonable efforts to provide the instructional materials in specialized formats to students who are blind or visually impaired for use on the first day of classes each year or in a timely manner.

[(e)] (4) Beginning in fiscal year 2008 and annually thereafter, the Governor shall include \$150,000 in the annual budget submission for the Instructional Resources Center established by the Department.

[(f)] The State Board shall adopt regulations consistent with § 7–910 of this article to implement the provisions of this section.]

[(g)] (5) On or before September 1, 2012, the State Board shall establish standards for the mastery of braille for use in English, language arts, and mathematics instruction of blind and visually impaired students in pre-kindergarten through grade 12.

(C) (1) (I) ORIENTATION AND MOBILITY INSTRUCTION SHALL BE INCLUDED IN THE INDIVIDUALIZED EDUCATION PROGRAM OF A CHILD WHO IS BLIND OR VISUALLY IMPAIRED, UNLESS THE IEP TEAM DETERMINES, ~~AFTER AN EVALUATION~~ IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION, THAT ORIENTATION AND MOBILITY INSTRUCTION IS NOT APPROPRIATE FOR THE CHILD.

(II) A CHILD MAY NOT BE DENIED ORIENTATION AND MOBILITY INSTRUCTION SOLELY BECAUSE THE CHILD HAS SOME REMAINING VISION.

(2) (I) 1. IF THE IEP TEAM OBJECTS TO THE INCLUSION OF ORIENTATION AND MOBILITY INSTRUCTION IN THE CHILD'S INDIVIDUALIZED EDUCATION PROGRAM BECAUSE THE IEP TEAM HAS DETERMINED THAT ORIENTATION AND MOBILITY INSTRUCTION IS NOT APPROPRIATE FOR THE CHILD, THE IEP TEAM SHALL ORDER AN ORIENTATION AND MOBILITY ASSESSMENT TO BE CONDUCTED IN ACCORDANCE WITH PARAGRAPH (3) OF THIS SUBSECTION.

2. AN ORIENTATION AND MOBILITY ASSESSMENT SHALL BE CONDUCTED BY A QUALIFIED INDIVIDUAL IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE DEPARTMENT.

(II) WITHIN 30 DAYS AFTER THE DATE OF RECEIPT OF AN ORIENTATION AND MOBILITY ASSESSMENT, THE IEP TEAM THAT ORDERED THE ASSESSMENT SHALL MEET TO CONSIDER THE RESULTS OF THE ASSESSMENT AND DETERMINE WHETHER ORIENTATION AND MOBILITY INSTRUCTION IS APPROPRIATE FOR THE CHILD.

(III) IF THE IEP TEAM DETERMINES THAT ORIENTATION AND MOBILITY INSTRUCTION IS NOT APPROPRIATE FOR THE CHILD, THE IEP TEAM MAY NOT INCLUDE ORIENTATION AND MOBILITY INSTRUCTION IN THE CHILD'S INDIVIDUALIZED EDUCATION PROGRAM.

(IV) THE DETERMINATION OF AN IEP TEAM REGARDING THE PROVISION OF ORIENTATION AND MOBILITY INSTRUCTION UNDER THIS PARAGRAPH SHALL BE BINDING FOR THE ENTIRE SCHOOL YEAR IN WHICH THE DETERMINATION IS MADE, UNLESS THERE ARE SIGNIFICANT CHANGES IN THE CIRCUMSTANCES OF THE CHILD.

~~(2)~~ (3) AN INITIAL ORIENTATION AND MOBILITY EVALUATION ASSESSMENT, AT A MINIMUM, SHALL:

~~(I) BE PROVIDED TO A CHILD WHO IS BLIND OR VISUALLY IMPAIRED IF A MEMBER OF THE CHILD'S IEP TEAM STATES THAT ORIENTATION AND MOBILITY INSTRUCTION IS NOT APPROPRIATE FOR THE CHILD;~~

~~(H)~~ (I) CONTAIN INPUT FROM THE CHILD'S PARENT OR GUARDIAN;

~~(HH)~~ (II) CONTAIN INPUT FROM THE CHILD'S CLASSROOM TEACHER; AND

~~(IV)~~ (III) CONSIDER, AT A MINIMUM, THE CHILD'S:

- 1. AGE;
- 2. CURRENT AND FUTURE NEEDS;
- 3. ABILITY TO FUNCTION IN FAMILIAR AND UNFAMILIAR AREAS; AND
- 4. ABILITY TO FUNCTION UNDER VARIOUS LIGHTING CONDITIONS.

~~(3)~~ (4) EACH LOCAL SCHOOL SYSTEM SHALL PROVIDE VERBAL AND WRITTEN NOTICE TO THE PARENT OR GUARDIAN OF A CHILD WHO IS BLIND OR

VISUALLY IMPAIRED OF THE AVAILABILITY OF ORIENTATION AND MOBILITY INSTRUCTION AT LEAST ONE TIME EACH YEAR.

~~(4)~~ **(5) (I) ORIENTATION AND MOBILITY INSTRUCTION PROVIDED IN ACCORDANCE WITH THIS SUBSECTION SHALL BE PROVIDED BY A QUALIFIED INDIVIDUAL.**

(II) 1. ON OR BEFORE ~~AUGUST 1, 2016~~ JANUARY 1, 2017, THE DEPARTMENT SHALL ADOPT REGULATIONS THAT DEFINE HOW AN INDIVIDUAL IS DEEMED QUALIFIED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

2. THE DEPARTMENT MAY NOT ADOPT A REGULATION UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH THAT HAS THE EFFECT OF PROHIBITING A BLIND OR VISUALLY IMPAIRED INDIVIDUAL FROM BEING QUALIFIED TO PROVIDE ORIENTATION AND MOBILITY INSTRUCTION OR CONDUCT AN ORIENTATION AND MOBILITY ASSESSMENT.

(D) ON OR BEFORE ~~SEPTEMBER 1, 2016~~ MARCH 1, 2017, THE DEPARTMENT SHALL PROVIDE GUIDELINES TO EACH LOCAL SCHOOL SYSTEM ON CONDUCTING ORIENTATION AND MOBILITY ~~EVALUATIONS~~ ASSESSMENTS IN ACCORDANCE WITH SUBSECTION ~~(C)(2)~~ (C)(3) OF THIS SECTION.

(E) THE STATE BOARD SHALL ADOPT REGULATIONS:

- (1) CONSISTENT WITH § 7-910 OF THIS ARTICLE; AND**
- (2) TO IMPLEMENT THE PROVISIONS OF THIS SECTION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2015.

Approved by the Governor, May 12, 2015.