

# SENATE BILL 538

F1, F5

(5lr1287)

## ENROLLED BILL

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

Introduced by **Senators Conway and Middleton**

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

4 FOR the purpose of requiring certain individualized education programs for certain blind  
5 or visually impaired children to include certain orientation and mobility instruction  
6 under certain circumstances; establishing a certain process for a certain  
7 individualized education program team to make a certain determination as to  
8 whether certain orientation and mobility instruction is appropriate for a certain child  
9 and to include it in a certain child's individualized education program; requiring  
10 certain orientation and mobility ~~evaluations~~ assessments to be ~~provided~~ conducted  
11 under certain circumstances; requiring a certain orientation and mobility ~~evaluation~~  
12 assessment to contain, at a minimum, certain content; requiring certain local school  
13 systems to provide certain parents and guardians with a certain verbal and written  
14 notice at a certain time; requiring certain orientation and mobility instruction to be  
15 provided by a certain qualified individual; requiring the State Department of

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#### 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 Education to adopt certain regulations and provide certain guidelines on or before  
 2 certain dates; defining certain terms; making certain stylistic changes; and generally  
 3 relating to orientation and mobility instruction in individualized education programs  
 4 for blind or visually impaired children.

5 BY repealing and reenacting, with amendments,  
 6 Article – Education  
 7 Section 8–408  
 8 Annotated Code of Maryland  
 9 (2014 Replacement Volume and 2014 Supplement)

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

12 **Article – Education**

13 8–408.

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

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

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

21 ~~(2)~~ **(4)** “Child who is blind or visually impaired” means a child who:

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

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

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

29 ~~(3) “Braille” means the system of reading and writing through touch~~  
 30 ~~commonly known as Standard English Contracted Braille.~~

31 ~~(4)~~ **(5)** “Individualized education program” and “IEP team” have the same  
 32 meaning as provided by the Individuals with Disabilities Education Act.

1           ~~(5)~~ **(6)**       “National Instructional Materials Access Center” means the  
2 center established under § 674(e) of the federal Individuals with Disabilities Education  
3 Improvement Act of 2004.

4           ~~(6)~~ **(7)**       “NIMAS” means the National Instructional Materials  
5 Accessibility Standard established by the federal Secretary for Education under 20 U.S.C.  
6 1412 to be used in the preparation of electronic files suitable and used solely for efficient  
7 conversion into specialized formats.

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

12           **(7)** ~~(8)~~ **(9)** “Print instructional materials” means printed textbooks and  
13 related printed core materials that are written and published primarily for use in  
14 elementary school and secondary school instruction and are required by the Department or  
15 county board for use by students in the classroom.

16           **(8)** ~~(9)~~ **(10)**       “Specialized formats” means braille, large print, audio, or  
17 digital text that is used by blind or visually impaired individuals.

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

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

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

29           **(c)** **(2)** For the purpose of achieving successful implementation of this **[section]**  
30 **SUBSECTION**, the State Board and the Professional Standards and Teacher Education  
31 Board shall adopt certification standards for teachers of blind and visually impaired  
32 students.

33           **(d)** **(1)** **(3)** **(I)** The Department shall collaborate with and provide  
34 support to the Instructional Resources Center to develop procedures to coordinate the  
35 statewide availability of textbooks and supplementary instructional materials that may be  
36 accessed using specialized formats that use NIMAS.

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

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

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

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

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

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

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

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

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

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

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

1 (c) (1) (i) ORIENTATION AND MOBILITY INSTRUCTION SHALL BE  
 2 INCLUDED IN THE INDIVIDUALIZED EDUCATION PROGRAM OF A CHILD WHO IS BLIND  
 3 OR VISUALLY IMPAIRED, UNLESS THE IEP TEAM DETERMINES, ~~AFTER:~~

4 ~~1. AFTER AN EVALUATION,~~ IN ACCORDANCE WITH  
 5 PARAGRAPH (2) OF THIS SUBSECTION, THAT ORIENTATION AND MOBILITY  
 6 INSTRUCTION IS NOT APPROPRIATE FOR THE CHILD; ~~OR~~

7 ~~2. THAT THE CHILD HAS SIGNIFICANT COGNITIVE,~~  
 8 ~~MOTOR, OR SPEECH LANGUAGE PATHOLOGY DISABILITIES.~~

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

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

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

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

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

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

34 ~~(2)~~ (3) AN ~~INITIAL~~ ORIENTATION AND MOBILITY ~~EVALUATION~~  
 35 ASSESSMENT, AT A MINIMUM, SHALL:

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

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

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

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

9 1. AGE;

10 2. CURRENT AND FUTURE NEEDS;

11 3. ABILITY TO FUNCTION IN FAMILIAR AND UNFAMILIAR  
 12 AREAS; AND

13 4. ABILITY TO FUNCTION UNDER VARIOUS LIGHTING  
 14 CONDITIONS.

15 ~~(3) (4)~~ EACH LOCAL SCHOOL SYSTEM SHALL PROVIDE VERBAL AND  
 16 WRITTEN NOTICE TO THE PARENT OR GUARDIAN OF A CHILD WHO IS BLIND OR  
 17 VISUALLY IMPAIRED OF THE AVAILABILITY OF ORIENTATION AND MOBILITY  
 18 INSTRUCTION AT LEAST ONE TIME EACH YEAR.

19 ~~(4) (5)~~ (I) ORIENTATION AND MOBILITY INSTRUCTION  
 20 PROVIDED IN ACCORDANCE WITH THIS SUBSECTION SHALL BE PROVIDED BY A  
 21 QUALIFIED INDIVIDUAL.

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

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

30 (D) ON OR BEFORE ~~SEPTEMBER 1, 2016~~ MARCH 1, 2017, THE DEPARTMENT  
 31 SHALL PROVIDE GUIDELINES TO EACH LOCAL SCHOOL SYSTEM ON CONDUCTING

1 **ORIENTATION AND MOBILITY ~~EVALUATIONS~~ ASSESSMENTS IN ACCORDANCE WITH**  
2 **SUBSECTION ~~(C)(2)~~ (C)(3) OF THIS SECTION.**

3 **(E) THE STATE BOARD SHALL ADOPT REGULATIONS:**

4 **(1) CONSISTENT WITH § 7-910 OF THIS ARTICLE; AND**

5 **(2) TO IMPLEMENT THE PROVISIONS OF THIS SECTION.**

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
7 1, 2015.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.