

Purpose: to require Local Education Agencies to include in the individualized education programs (IEPs) of Blind students (as defined by this Act) provisions for instruction in Braille and the use and mastery of Braille (unless the IEP team finds that Braille is inappropriate for the student, pursuant to 20 U.S.C. section 1414(d)(3)(B)(iii)), provisions for the home and school use of accessible assistive technology devices as well as accessible assistive technology services, including instruction, that allows the student to achieve age-appropriate mastery of such technology; provisions for instruction in orientation and mobility and the use and mastery of orientation and mobility, and; to require the certification and re-certification, or comparable examination and comparable re-examination of the teacher of blind students' proficiency in accordance with their areas of expertise; to require that instructional technology and technology-mediated learning methods are accessible to all students, parents, educators, and administrative staff, including those who are blind; and to require local education agencies to offer instruction of nonvisual skills outside of school hours.

Section 1: This act may be cited as the Blind Students' Rights to Independence, Training and Education Act or the "BRITE Act".

Section 2: Findings

a. The Legislature finds the following:

1. Seventy percent of all working age blind people are either unemployed or underemployed, and that approximately 50 percent of all blind students drop out of high school.
2. Blind individuals who exhibit literacy in Braille have statistically and historically been more likely to be employed and earn higher wages as opposed to those who do not possess basic Braille literacy.
3. Improving the instruction of nonvisual skills to blind students will improve graduation rates and employment opportunities.
4. By providing increased flexibility for the provision of nonvisual services like Braille instruction, accessible assistive technology instruction, and orientation and mobility instruction to their students, Local Educational Agencies (LEAs) can increase graduation and employment rates among blind students.
5. Technology-mediated learning environments and methods have become an integral part of the education landscape, but many Blind students do not have access to the necessary instruction or accessible assistive technology tools to learn, practice, and master the most basic grade-level-appropriate expectations.

b. Therefore, it is the intent of the Legislature to enact legislation to ensure that Blind students, as defined below, receive the grade-level-appropriate instruction, services, and accessible assistive technology that they need to receive a free appropriate public education.

Section 3. Definitions

- a. Accessible assistive technology—The term "Accessible assistive technology" refers to assistive technology, as defined at 20 U.S.C. 1401(1)(A) that provides Blind students the benefits of their educational program in an equally effective and integrated manner as that provided to non-disabled students.
- b. Adequate Instruction—The term "Adequate Instruction" refers to the quality teaching of blind students, as it pertains to general education and necessary blindness skills, in alignment with the US Department of Education's definition of "appropriate education."
- c. Blind student(s)—The term "Blind student(s)" means any child with an individualized education plan and identified as having the disability of "visual impairment, including blindness" and/or the disability of "deaf-blindness" pursuant to the Individuals with Disabilities in Education Act (IDEA) and successor legislation thereto.
- d. Grade-Level Instruction—The term "Grade-Level Instruction" refers to instruction that aligns with State-designated content standards and curriculum for students of the same age or level of maturity, based on the development of intellectual, emotional, physical, and behavioral capacity that is typical for the student's age or age group.

- e. Local Educational Agency—The term “Local Educational Agency” has the meaning given in the Individuals with Disabilities Education Act at 20 U.S.C. 1401(19).
- f. Nonvisual access—The term “nonvisual access” means the ability of a Blind student to use all functions of a device, without utilizing their vision, in an equally effective, equally integrated manner, and with equivalent ease of use as their sighted peers.
- g. Nonvisual Skills—The term “Nonvisual Skills” refers to skills that are taught in such a way that the student does not need to use any vision.
- h. State Educational Agency—The term “State Educational Agency” has the meaning given in the Individuals with Disabilities Education Act at 20 U.S.C. 1401(32).
- i. Technology-Mediated Learning Environments and Methods—The term “Technology-Mediated Learning Environments and Methods” refers to the settings in which electronic and information technology, to include computer-based applications and simulations, personal and mobile computing devices such as smartphones or tablets, web-based platforms, online or distance-learning programs, video games, exhibits or installations that feature digital media, wearable technology, or other tools that support participants’ engagement with new knowledge, skills, or practices is used.
- j. United States Access Board—The term “United States Access Board” refers to the independent federal agency created in 1973 that promotes equality for people with disabilities through leadership in accessible design and the development of accessibility guidelines and standards.

Section 4: Eligibility and Commencement of Services

a. Use and Instruction

- (1) Braille—In conjunction with the US Department of Education’s Braille presumption requirement (20 U.S.C. 1414(d)(3)(B)(iii)), instruction in Braille reading and writing shall be sufficient to enable each Blind student to communicate effectively and efficiently at a level commensurate with their same-age and with their non-disabled peers of comparable intellectual ability. The Blind student's individualized education program shall specify:
 - A. the results obtained from an evaluation of the Blind student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the blind student's future needs for instruction in Braille or the use of Braille);
 - B. how Braille will be implemented as the primary mode for learning through integration with other classroom activities;
 - C. the date on which Braille instruction will commence;
 - D. the length of the period of instruction and the frequency and duration of each instructional session, which shall include at least as much instruction in literary and mathematical Braille as is provided to non-disabled print learners;
 - E. the level of competency in Braille reading and writing to be achieved by the end of the period, which shall be comparable to that of non-disabled print-reading peers.
- (2) Accessible assistive technology—In conjunction with accessible assistive technology requirements of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1412(a)(12)(B)(i)), the Blind student must receive grade-level instruction that will equip the Blind student with the appropriate technology-mediated learning environments and methods to perform on the same level of proficiency expected of peers of comparable intellectual ability and grade level. The Blind student's individualized education program shall specify:
 - A. the results obtained from an assessment of the Blind student’s skills, needs, and appropriate accessible assistive technology including an evaluation of the future needs for nonvisual accessible assistive technology training or the use of nonvisual accessible assistive technology;
 - B. how nonvisual accessible assistive technology will be implemented as the primary mode for learning through integration with other classroom activities;
 - C. the date on which accessible assistive technology instruction will commence;
 - D. the length of the period of instruction and the frequency and duration of each instructional session;
 - E. the level of mastery of the accessible assistive technology specified by the blind student’s assessment to be achieved by the end of the period;
 - F. acknowledgment that either:

- (i) the blind student may transport the accessible assistive technology to and from school without the need for payment, family assumption of liability for loss or damage, or any other cost to the student or the family; or
 - (ii) if the accessible assistive technology remains at school, the LEA will provide duplicate accessible assistive technology in the Blind student's home without requiring payment, family assumption of liability for loss or damage, or any other cost to the Student or the family.
- (3) In conjunction with related services requirement of the IDEA, orientation and mobility instruction must be sufficient and shall equip each Blind student with the age-appropriate tools, techniques, and nonvisual skills to navigate in and around their homes, schools, communities, and other environments as applicable, and as expected of peers of comparable intellectual ability and grade level.
 - A. (i) Assessments—An orientation and mobility evaluation shall be conducted by a person who is appropriately certified by the National Blindness Professional Certification Board (NBPCB) with a National Orientation and Mobility Certification (NOMC), or through the Academy for Certification of Vision Rehabilitation and Education Professionals (ACVREP) as a Certified Orientation and Mobility Specialist (COMS).
 - (ii) The orientation and mobility evaluations described in paragraph (i) shall occur in familiar and unfamiliar environments and around the home, school, and community, as determined age-appropriate by the Blind student's IEP.

Section 5. Certifications

- a. Braille—As part of the state educational agency's certification and renewal process, educators hired to teach Braille must hold current and valid certification in Unified English Braille (NCUEB), or a comparable examination of the teacher's proficiency in Braille.
- b. Accessible assistive technology—As part of the state department of education's certification and renewal process, educators hired to teach accessible assistive technology must hold valid and current National Certification in Access Technology for the Blind (NCATB), or take a comparable examination of the teacher's proficiency in, and ability to teach accessible assistive technology.
- c. Orientation and Mobility—part of the state educational agency's certification and renewal process, educators hired to teach Orientation and Mobility should hold valid and current National Orientation and Mobility Certification (NOMC), Certified Orientation and Mobility Specialist (COMS), or another comparable nationally recognized certification standard.

Section 6. Delivery of Services

LEAs will deliver services to Blind Students in a manner that abides by IDEA, Title II of the Americans with Disabilities Act, and the Rehabilitation Act of 1973 requirements at all times, including during declared local, state, or national emergencies.

- a. An LEA shall not impose any preclusions or limitations of a student to receive instruction in orientation and mobility services in and around the home, school, or community setting.
- b. An LEA may require annual written parental consent to conduct effective instruction when those services are provided before or after regular school hours or when those services are provided away from the educational institution or the blind student's residence.
- c. If an LEA prohibits an orientation and mobility instructor from using their preferred mode of transportation to transport Blind students to and from outside environments, the LEA shall provide, without cost to the orientation and mobility instructor, an equally effective transportation alternative for that purpose.

Section 7. Other Provisions

- a. Eye Report—If an LEA requires an eye report, then the LEA must bear all costs associated with obtaining such report, and LEAs may not delay an evaluation for eligibility based on the absence or delay of such report.
- b. All electronic and information technology developed, procured, maintained or used by LEAs must be compliant with the United States Access Board's Section 508 standards promulgated on January 18, 2017, and all subsequent revisions.

- c. Presumption of Full Inclusion in the General Education Curriculum—It is crucial for LEAs to anticipate the need for nonvisual accessibility, and to put policies and procedures in place in order to reduce or eliminate common barriers experienced by Blind students, parents, educators, administrators, and other staff.