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Chapter No. 474
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HOUSE BILL NO. 960

Originated in House _____ Clerk

HOUSE BILL NO. 960

AN ACT TO REVISE CERTAIN PROVISIONS OF THE BLIND PERSONS' LITERACY RIGHTS AND EDUCATION ACT; TO AMEND SECTION 37-23-193, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITIONS OF CERTAIN TERMS AND TO DEFINE ADDITIONAL TERMS USED IN THE ACT; TO AMEND SECTION 37-23-194, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT BLIND AND VISUALLY IMPAIRED STUDENTS SHOULD RECEIVE EDUCATIONAL SERVICES FROM CERTIFIED TEACHERS OF THE VISUALLY IMPAIRED; TO AMEND SECTION 37-23-195, MISSISSIPPI CODE OF 1972, TO REQUIRE EACH APPROPRIATE EDUCATIONAL ENTITY TO PROVIDE FOR INSTRUCTION IN BRAILLE AND THE USE OF BRAILLE UNLESS THE IEP COMMITTEE DETERMINES, AFTER AN EVALUATION OF THE CHILD'S NEEDS, IF INSTRUCTION IN BRAILLE OR THE USE OF BRAILLE IS NOT APPROPRIATE FOR THE CHILD; TO REQUIRE ASSESSMENTS FOR STUDENTS TO INCLUDE A MINIMUM RESEARCH-BASED LEARNING MEDIA ASSESSMENT; TO PROHIBIT THE DENIAL OF INSTRUCTION IN BRAILLE TO STUDENTS WITH SOME RESIDUAL VISION; TO AMEND SECTION 37-23-197, MISSISSIPPI CODE OF 1972, TO ESTABLISH THE STANDARD PROCEDURE TO BE USED BY THE IEP OR 504 TEAM THAT BRAILLE INSTRUCTION OR THE USE OF BRAILLE IS REQUIRED FOR BLIND STUDENTS; TO REQUIRE THE IEP OR 504 TEAM TO BASE ITS DECISION ON THE CURRENT ABILITY AND NEEDS AND FUTURE NEEDS OF STUDENTS, WHILE CONSIDERING THE APPROPRIATE READING AND WRITING MEDIA FOR CHILDREN WITH SOME RESIDUAL VISION; TO AMEND SECTION 37-23-199, MISSISSIPPI CODE OF 1972, TO REQUIRE TEXTBOOK PUBLISHERS THAT SELL BOOKS TO MISSISSIPPI SCHOOL DISTRICTS TO FURNISH AMERICAN STANDARD CODE FOR INFORMATION INTERCHANGE (ASCII) OR OTHER ELECTRONICALLY FORMATTED FILES COMPATIBLE WITH BRAILLE CONVERSION FOR ALL BOOKS AND SUPPLEMENTARY MATERIALS FOR LITERARY AND NONLITERARY SUBJECTS; TO REQUIRE THE STATE BOARD OF EDUCATION TO PROMULGATE AND PUBLISH REGULATIONS, POLICIES AND PROCEDURES FOR THE ADMINISTRATIVE OPERATION OF THE MISSISSIPPI INSTRUCTIONAL RESOURCE CENTER; TO AMEND SECTION 37-23-201, MISSISSIPPI CODE OF 1972, TO ESTABLISH THE CERTIFICATION QUALIFICATIONS FOR SPECIALISTS IN BRAILLE WHO SERVE ON THE ADVISORY COMMITTEE; TO ESTABLISH THE TIME WITHIN WHICH THE STATE SUPERINTENDENT OF PUBLIC EDUCATION HAS TO RESPOND TO THE RECOMMENDATIONS OF THE ADVISORY COMMITTEE; TO AMEND SECTION 37-23-203, MISSISSIPPI CODE OF 1972, TO REQUIRE THE STATE DEPARTMENT OF EDUCATION TO RECOGNIZE BRAILLE AND ORIENTATION MOBILITY AS CORE SUBJECT AREAS FOR ALL BLIND STUDENTS; TO REQUIRE THE DEPARTMENT TO ADOPT A MINIMUM STANDARD FOR TEACHERS OF THE BLIND CERTIFIED AFTER JANUARY 1, 2010; TO ESTABLISH THE METHOD FOR DETERMINING COMPETENCY IN READING AND WRITING OF LITERARY BRAILLE AND NEMETH CODE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 37-23-193, Mississippi Code of 1972, is amended as follows:

37-23-193. For purposes of Sections 37-23-191 through 37-23-203, the following terms shall have the meanings respectively ascribed to them in this section unless the context clearly indicates otherwise:

(a) "Blind student" means an individual who is eligible for special education services or 504 services and who has an impairment in vision that, even with correction, adversely affects the student's educational performance. This includes a student 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 such that the widest diameter subtends an angular distance of less than twenty-one (21) degrees;

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

(iii) Is functionally blind due to visual problems affecting reading and writing skills.

(b) "Braille" means the system of reading and writing through touch and includes literary code, designated commonly as the Unified English Braille Code or the Standard English Braille Code, Nemeth Braille Code for Mathematics and Science Notation, Music Braille Code and Computer Braille Code.

(c) "Individualized educational program" (IEP) means a statement developed for a student eligible for special education services under Section 602(a)(20) of Part B of the Individuals with Disabilities Education Act.

(d) "Assistive technology service" means any service or provision of devices which directly assists the functional capabilities of a blind or visually impaired student.

(e) "Compensatory skills" or "alternative techniques" means those skills or techniques needed by blind or visually

impaired students to access all areas of the Mississippi Curriculum Frameworks. These skills include, but are not limited to: the use of Braille, large print, optical devices, tactile symbols, calendar systems and abacus; study and organizational skills; listening skills; concept development; the use of assistive technology and recorded materials; social interaction; independent living; recreation and leisure skills; and career education.

(f) "504 Plan" means a legal document under the provisions of the Rehabilitation Act of 1973 which is designed to plan a program of instructional services to assist a student with specialized needs who is in a general education setting.

SECTION 2. Section 37-23-194, Mississippi Code of 1972, is amended as follows:

37-23-194. Contingent upon appropriated funding for teacher scholarships authorized under House Bill No. 1032, 2012 Regular Session, students who are blind or visually impaired shall receive educational services from the following types of specialized professionals:

(a) Certified Teachers of the Visually Impaired (TVI), who are trained professionals having specialized knowledge and skills in the education of students with visual impairments. These teachers shall provide consultative services and instruction to blind or visually impaired students in the areas of communication literacy, daily living, social and emotional skills, academic support and career education.

(b) Orientation and Mobility (O&M) Specialists, who are professionals trained and certified in orientation and mobility. O&M Specialists shall provide consultative services and instruction to blind or visually impaired students in tools and techniques used by blind or visually impaired individuals to orient themselves and move independently and safely in their environments.

(c) Teachers of the Visually Impaired (TVI), who are competent in reading and writing Literary Braille and Nemeth Code as certified by successful passage of the Mississippi Praxis II Braille Competency Exam.

SECTION 3. Section 37-23-195, Mississippi Code of 1972, is amended as follows:

37-23-195. (1) Each appropriate educational entity shall provide for the development of an IEP or 504 Plan for each blind or visually impaired student eligible for educational services or equipment, or both, under Sections 37-23-1 through 37-23-157. In developing the written IEP or 504 Plan for each blind or visually impaired student, there shall be a presumption that proficiency in Braille reading and writing is essential for the student to achieve satisfactory educational progress.

(2) Each appropriate educational entity, in compliance with 20 USCS Section 1414(d)(3)(B)(iii), the Individuals with Disability Education Act, as reauthorized in 2004, shall provide for instruction in Braille and the use of Braille unless the IEP Committee 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 instruction in Braille or the use of Braille is not appropriate for the child.

(3) The assessment required for each student shall be conducted by a TVI and shall include, at a minimum, a research-based learning media assessment and functional vision assessment, and if necessary in the determination of the IEP Committee, a comprehensive assistive technology evaluation. The assessment shall include a statement of the student's academic and functional strengths, deficits and future needs. If, in the course of developing a student's IEP or 504 Plan or in the review of the research-based assessment and consideration of a student's future needs, the majority of the members of the team concur that

the student's visual impairment and future needs do not affect reading and writing performance commensurate with ability, then Braille instruction and its use shall not be required by this section for that student. Nothing in this section shall require the exclusive use of Braille when other specialized educational services and assistive technology devices are determined more appropriate by the IEP Committee for the student's educational needs. * * *

(4) No student shall be denied the opportunity for instruction in Braille reading and writing only because the student has some residual vision.

SECTION 4. Section 37-23-197, Mississippi Code of 1972, is amended as follows:

37-23-197. (1) Each blind student, as determined by the IEP Committee, shall be eligible for instruction in Literary and Nemeth Braille reading and writing codes which will sufficiently enable that student to communicate effectively and efficiently with the same level of proficiency expected of the student's peers of comparable ability and grade level.

(2) It shall be the standard procedure for the IEP or 504 Team under Section 37-23-195 that Braille instruction or the use of Braille is required for the student, and the student's IEP or 504 Plan must be written in consultation with a Certified Teacher of the Visually Impaired.

(3) If the IEP or 504 team determines procedures other than the standard for the appropriate reading and writing media of a student are required, its decision must be based on the current ability and needs as well as the future needs of the student, considering the following:

(a) For a student with some residual vision where the team decides that large print, or large print in combination with Braille, is the appropriate reading and writing media, then that decision must be supported by a statement from a TVI declaring

that the appropriate reading and writing media for that student is not Braille; and

(b) The reading and writing media of a student with some residual vision shall be determined after a TVI has administered and reviewed the results of a research-based learning media assessment and reviewed a student's current reading and writing skill level in comparison to levels expected of the student's sighted peers as determined by the IEP Committee.

SECTION 5. Section 37-23-199, Mississippi Code of 1972, is amended as follows:

37-23-199. (1) All textbook publishers that sell textbooks published after December 2008 to school districts within the state must furnish the State Department of Education with computer files for literary and nonliterary subjects in the National Instructional Media Access Standard (NIMAS) from which Braille, audio and large print versions of the textbooks can be produced. The publishers also shall furnish the department with NIMAS files, American Standard Code for Information Interchange (ASCII) or other electronically formatted files compatible with Braille conversion for all adopted textbooks and supplementary materials, in both literary and nonliterary subjects, including natural sciences, computer science, mathematics and music, published after December 2008. All books purchased must have appropriate accompanying reproduction files.

(2) The State Board of Education shall promulgate and publish regulations, policies, and procedures for the administrative operation of the Mississippi Instructional Resource Center (MIRC) to further assure that blind and visually impaired students are annually identified and registered in order that all materials and textbooks required by blind and visually impaired students are received and distributed at the same time and in the same manner as textbooks and materials for their sighted peers.

The MIRC manual must address, but is not limited to, addressing the following:

(a) The Federal Quota Program, established to promote the educational interests of blind and visually impaired students, which qualifies the state for funds from American Printing House for the Blind;

(b) The on-time delivery of textbooks and materials to blind and visually impaired students, so that the delivery of Braille and large print textbooks and all related supplementary materials will be commensurate with the delivery of regular print textbooks and materials for sighted students as outlined in textbook policies and procedures effective January 1, 2013; and

(c) Communication policies between MIRC, the department and local school districts designating a timeline for book orders, confirmations of orders, status and tracking of orders, delivery dates of orders and the return of books at the end of use by a district.

(3) The board also shall develop and publish policies and procedures for support for district level production of literary and nonliterary Braille textbooks and materials by August 1, 2013, in order to better facilitate the on-time delivery of textbooks to blind and visually impaired students.

SECTION 6. Section 37-23-201, Mississippi Code of 1972, is amended as follows:

37-23-201. (1) Before December 1, 2008, the State Board of Education shall appoint an ongoing Advisory Committee to expedite the implementation of Sections 37-23-191 through 37-23-203. The Advisory Committee shall be composed of at least twelve (12) persons nominated by the State Superintendent of Public Education from within or outside of the state, including, but not limited to, representatives of the following groups:

(a) The National Federation of the Blind;

(b) The Mississippi Council of the Blind;

(c) A parent or guardian of a blind student;

(d) The Coalition for Citizens with Disabilities;

(e) Special education directors having one or more blind or visually impaired students in their respective school districts;

(f) Specialists in Braille education or deaf-blindness or certified teachers of the blind and visually impaired students, or both. Specialists in Braille shall be deemed competent in reading and writing Literary Braille and Nemeth Code as certified by successful passage of the Mississippi Praxis II Braille Competency Exam and/or certified under National Certification in Literary Braille;

(g) Employees of the State Department of Education;

(h) Consumers, or an advocate of consumers, of Braille materials;

(i) The Mississippi School for the Blind;

(j) The Mississippi Instructional Resource Center; and

(k) Individuals from higher education programs that address issues specific to visual impairment.

(2) The State Superintendent of Public Education shall appoint a chairperson from among the members of the Advisory Committee. The committee shall meet at least semiannually upon the call of the superintendent, and its functions shall be to perform the duties prescribed in subsection (3) of this section. Members of the committee shall receive no compensation or per diem, but each member shall be entitled to reimbursement for all actual and necessary expenses incurred by his participation in the committee's activities.

(3) The committee shall perform the following duties:

(a) Provide expertise to maximize collaboration with the National Instructional Materials Access Center (NIMAC) at the American Printing House for the Blind and, when necessary, textbook publishers on the development of NIMAS and associated

graphics files to be converted into accessible textbooks with translation software;

(b) Recommend potential authorized users for the NIMAS program to the State Director of Special Education to ensure that all accessible textbook needs are met within the state on a timely basis, being no later than such time that all other students receive their corresponding textbooks;

(c) Study any other issues that the committee determines are relevant and necessary to the implementation of this article and to the improvement of the education of students who are blind or visually impaired in Mississippi; and

(d) Assist the State Department of Education in promulgating regulations, policies and procedures in implementing Sections 37-23-191 through 37-23-203.

(4) The State Superintendent of Public Education shall respond to the recommendations of the Advisory Committee within sixty (60) days of the annually published report.

SECTION 7. Section 37-23-203, Mississippi Code of 1972, is amended as follows:

37-23-203. (1) As part of the certification process, teachers certified in the education of blind and visually impaired students shall be required to demonstrate competence in reading and writing Braille after January 1, 2010. The State Department of Education shall adopt procedures to assess such competencies.

(2) The department shall recognize Braille and Orientation & Mobility as core subject areas for all blind students, as deemed appropriate by the IEP Committee for all areas of the Expanded Core Curriculum (ECC). The department shall adopt proficiency and competency in reading and writing of Literary Braille and Nemeth Code as a minimal standard for all teachers of the blind certified after January 1, 2010.

(3) Competency in reading and writing Literary Braille and Nemeth Code must be exhibited by an individual passing the Mississippi Praxis II Braille Competency Exam.

(4) The adoption of Braille as a core subject for blind and visually impaired students recognizes that the teaching of Braille is a unique educational need unparalleled by any other subject or skill taught to either general or special education students.

(5) The Expanded Core Curriculum (ECC) is the body of knowledge and skills that are needed by students with visual impairments due to their unique disability-specific needs. Students with visual impairments need the Expanded Core Curriculum in addition to the core academic curriculum of general education. The ECC should be used as a framework for assessing students, planning individual goals and providing instruction. The ECC includes compensatory or functional academic skills, including communication modes, orientation and mobility, social interaction skills, independent living skills, recreation and leisure skills, career education, use of assistive technology, sensory efficiency skills and self-determination.

SECTION 8. This act shall take effect and be in force from and after July 1, 2012.

PASSED BY THE HOUSE OF REPRESENTATIVES
March 15, 2012

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
April 4, 2012

PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

GOVERNOR

4:26 pm