

HOUSE No. 3389

The Commonwealth of Massachusetts

PRESENTED BY:

Evandro C. Carvalho

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to promote education opportunity for English language learners and students with special needs.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Evandro C. Carvalho</i>	<i>5th Suffolk</i>	<i>1/16/2015</i>
<i>Jose F. Tosado</i>	<i>9th Hampden</i>	<i>12/26/2019</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>12/26/2019</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>	<i>12/26/2019</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>12/26/2019</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>	<i>12/26/2019</i>
<i>Carlos Gonzalez</i>	<i>10th Hampden</i>	<i>12/26/2019</i>

HOUSE No. 3389

By Mr. Carvalho of Boston, a petition (accompanied by bill, House, No. 3389) of Evandro C. Carvalho and others relative to hosting in-district English language learner programs or in-district special education programs. Education.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act to promote education opportunity for English language learners and students with special needs.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Subsection (a) of section 89 of chapter 71 of the General Laws, as
2 appearing in the 2012 Official Edition, is hereby amended by inserting after the definition of
3 “District” the following definitions:

4 “In-district English language learner program”, a program with a specialization in
5 English language education approved by the board.

6 “In-district special education program”, a program with a specialization in special
7 education approved by the board.

8 “Non-program seats”, spaces in a Horace Mann charter school that hosts either an in-
9 district English language learner program or an in-district special education program, which are
10 not reserved for the qualifying students of such a program.

“Program seats”, spaces in a Horace Mann charter school that hosts either an in-district English language learner program or an in-district special education program, which are reserved for the students of such a program.

“Qualifying English language learners”, students with an English language development level of 1, 2 or 3 who are currently enrolled in the district where the Horace Mann charter school is to be located, and who meet the application criteria for an in-district English language learner program hosted at that Horace Mann charter school.

“Qualifying students with special needs”, students who have been assessed for an individualized education program pursuant to section 3 of chapter 71B, who are currently enrolled in the district where the Horace Mann charter school is to be located, and who meet the application criteria for an in-district special education program hosted at that Horace Mann charter school.

SECTION 2. Subsection (e) of said section 89 of said chapter 71, as so appearing, is hereby further amended by adding the following paragraph:-

The board shall also establish, as part of an application for the approval of a Horace Mann charter school, the option to apply to host an in-district English language learner program or in-district special education program; provided, that no applicant who applies to host such a program shall be granted a charter if their application to host such a program is denied. Such applications shall include, at a minimum: (i) which type of in-district program the school shall provide; (ii) any areas of anticipated specialization for the program, such as language, (iii) an explanation of how the proposed program seeks to improve the academic performance of the program’s students; (iv) the method for receiving referrals to the program from the school

district; (v) the method for placing new students in the program mid-school year, (vi) a plan for hiring, training, and retaining teachers as may be required by subsection (s) or any other applicable law or legal settlement; (vii); the number of program seats that shall be reserved for such a program and (vii) any other information the board shall deem relevant. All in-district English language learner programs approved by the board shall be subject to all applicable state and federal laws, including, but not limited to, chapter 71A and all in-district special education programs approved by the board shall be subject to all applicable state and federal laws, including, but not limited to, chapter 71B of the General Laws; provided, that all in-district special education programs shall use a full inclusion model.

SECTION 3. Subsection (n) of said section 89 of said chapter 71, as so appearing, is hereby amended by striking out the first and second paragraphs and inserting in place thereof the following 3 paragraphs:

(n) Preference for enrollment in a commonwealth charter school shall be given to students who reside in the city or town in which the charter school is located. Priority for enrollment in a Horace Mann charter school shall be given first to students actually enrolled in the school on the date that the application is filed with the board and to their siblings; second to qualifying English language learners or qualifying students with special needs; third to other students actually enrolled in the public schools of the district where the Horace Mann charter school is to be located; and fourth to other resident students.

If the total number of students who are eligible to attend and apply to a charter school and who reside in the city or town in which the charter school is located or are siblings of students already attending said charter school, is greater than the number of spaces available, an

admissions lottery, including all eligible students applying, shall be held to fill all of the spaces in that school from among the students. If there are more spaces available than eligible applicants from the city or town in which the charter school is located and who are siblings of current students and more eligible applicants than spaces left available, a lottery shall be held to determine which of the applicants shall be admitted; provided, however, that a lottery conducted for Horace Mann charter schools shall reflect the enrollment priorities of this section; and provided further, that no Horace Mann charter school with an in-district English language learner program or in-district special education program shall be required to fill program seats reserved for qualifying English language learners or qualifying students with special needs through a lottery admissions process. Notwithstanding this subsection, upon application by the board of trustees of a charter school or by the persons or entities seeking to establish a charter school, the board may amend or grant a charter designating such school a regional charter school; provided, however, that such regional charter school shall be exempt from the local preference provision of this paragraph; provided further, that such regional charter school shall continue to grant a preference of siblings of currently enrolled students; and provided further, that if the number of applicants remaining is greater than the number of spaces available, such regional charter school shall conduct a single lottery to determine which applicants shall be admitted.

Qualifying English language learners or qualifying students with special needs may be referred to an in-district English language learner program or in-district special education program by the school district in which the Horace Mann charter school would be located, with the written consent of the district. A student admitted to a Horace Mann charter school through a lottery admissions process but not admitted as a qualifying English language learner or a qualifying student with special needs may be referred to an in-district English language learner

program or in-district special education program, if such a program is available at the student's Horace Mann charter school internally, with the written consent of the school district in which the Horace Mann charter school is located.

SECTION 4. The fifth paragraph of said subsection (n) of said section 89 of said chapter 71 is hereby amended by adding the following sentence. This paragraph shall only apply to non-program seats in Horace Mann charter schools with an in-district English language learner program or in-district special education program.

SECTION 5. Said subsection (n) of said section 89 of said chapter 71 is hereby further amended by inserting after the fifth paragraph, the following paragraph:-

Notwithstanding any provisions of the previous paragraph to the contrary, a Horace Mann charter school with an in-district English language learner program or an in-district special education program shall fill program seats continuously year-round. A program seat shall be filled within 5 business days of the Horace Mann charter school's receiving a referral from the school district in which the Horace Mann charter school is located.

SECTION 6. Subsection (s) of section 89 of chapter 71 of the General Laws, as so appearing, is hereby amended by adding the following 2 sentences.

Notwithstanding any general or special law to the contrary, in-district English language learner programs and in-district special education programs offered by Horace Mann charters school may be considered part of the school district where a student resides for the purposes of section 11 of chapter 15, sections 37C and 37D, chapter 71A, chapter 71B, section 12A of chapter 76, and any other applicable law or regulation of the commonwealth; to the fullest extent possible under federal law; and for the purposes of any binding settlement agreements entered

100 into by the local school district with any federal or state agency. The board shall promulgate
101 regulations to implement the previous sentence and ensure that in-district English language
102 learner programs and in-district special education programs offered by Horace Mann charter
103 schools properly qualify as services offered by the local school district.