

**SENATE . . . . . No. 58****The Commonwealth of Massachusetts**

PRESENTED BY:

***Barbara A. L'Italien***

*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 providing equal access to evaluations for children with disabilities.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>	
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>1/25/2017</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	<i>1/26/2017</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>	<i>1/27/2017</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>	<i>1/27/2017</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/30/2017</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/1/2017</i>
<i>Thomas M. McGee</i>	<i>Third Essex</i>	<i>2/1/2017</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>2/2/2017</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>2/2/2017</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/2/2017</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>	<i>2/3/2017</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>2/6/2017</i>

# SENATE . . . . . No. 58

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By Ms. L'Italien, a petition (accompanied by bill, Senate, No. 58) of Barbara A. L'Italien, Denise Provost, Angelo J. Puppola, Jr., Danielle W. Gregoire and other members of the General Court for legislation to provide equal access to evaluations for children with disabilities. Children, Families and Persons with Disabilities.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 87 OF 2015-2016.]

## The Commonwealth of Massachusetts

\_\_\_\_\_  
In the One Hundred and Ninetieth General Court  
(2017-2018)  
\_\_\_\_\_

An Act providing equal access to evaluations for children with disabilities.

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

1           Whereas parents' full participation in the planning and development of special education  
2 services for their child is required under state and federal special education law;

3           Whereas appropriate educational evaluations are vital to a child's special education  
4 development, and independent educational evaluations provide the only way for parents to  
5 participate effectively in special education planning in the unusual situation where they disagree  
6 with a school district evaluation;

7           Whereas parents have the right to an independent educational evaluation under state and  
8 federal special education law, but this right is meaningless if the rates established by the state are  
9 so low that evaluators will not perform these evaluations;

Therefore, it is imperative to establish a reasonable rate structure that is fair to school districts and, at the same time, allows low- and moderate-income parents access to independent education evaluations.

SECTION 1. Section 13C of chapter 118E of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting after the first paragraph the following new paragraph:--

Notwithstanding any general or special law to the contrary, the secretary of health and human services shall establish rates specific to independent evaluations in accordance with the rate standards established in this paragraph. To ensure that parents can participate fully and effectively with school personnel in the planning and development of appropriate educational programs for their child, rates shall be at levels that provide parents with a choice of evaluators who can complete the evaluation in a timely manner and who have sufficient experience and expertise to determine the nature and extent of the child's disability and to determine the nature and extent of the child's educational needs and how they should be met. Rates shall allow payment for all of the following, as needed by the evaluator to make such determinations: formal and informal testing; interviews of child and parents; review of the child's educational records and schoolwork; obtaining and reviewing relevant information from the child's teachers, therapists and persons who have evaluated the child; observation of the child at school, at home, at a workplace and in the community; observation of any program proposed for the child, including both academic and non-academic components; testing and other formal and informal assessments sufficient to conduct transition evaluations pursuant to section 2 of chapter 71B and 20 U.S.C. et seq.; a comprehensive written report; attendance at the required team meeting that considers the evaluation and report; and travel time and expenses. A parent may file a request

with the bureau of special education appeals and a hearing officer may order a higher rate for a particular independent evaluation if necessary to meet the rate standards in this paragraph. At least every three years, the secretary of health and human services shall review the rates for independent evaluations and adjust the rates as necessary in order to comply with this section. For purposes of this paragraph, the term “child” shall mean any person aged three through twenty-one who has not attained a high school diploma or its equivalent and the term “parent” shall mean any person who has special education decision-making responsibility for a child.

SECTION 2. The tenth paragraph of section 3 of chapter 71B of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by striking, in line 191, the words “educational assessments” and inserting in place thereof the following words:- independent evaluations

SECTION 3. The tenth paragraph of said section 3 of said chapter 71B, as so appearing, is hereby further amended by inserting, in line 191, after the words “performed by” the following word:- licensed

SECTION 4. The tenth paragraph of said section 3 of said chapter 71B, as so appearing, is hereby further amended by inserting, in line 192, after the word “certified” the following words:- or licensed

SECTION 5. Said section 3 of said chapter 71B, as so appearing, is hereby amended by inserting after the twelfth paragraph the following new paragraph:-

Parents, guardians, or persons with custody who either have requested a hearing before the bureau of special education appeals or are parties to a proceeding initiated by a school committee at the bureau shall be entitled to reasonable expert fees and costs as a prevailing party.