

**SENATE . . . . . No. 756**

**The Commonwealth of Massachusetts**

PRESENTED BY:

***Joan B. Lovely***

*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 creating higher education opportunities for students with intellectual disabilities, autism, and other developmental disabilities.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Joan B. Lovely</i>	<i>Second Essex</i>	
<i>Michael J. Rodrigues</i>	<i>First Bristol and Plymouth</i>	<i>1/18/2019</i>
<i>Diana DiZoglio</i>	<i>First Essex</i>	<i>1/23/2019</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>	<i>1/23/2019</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>	<i>1/23/2019</i>
<i>Angelo L. D'Emilia</i>	<i>8th Plymouth</i>	<i>1/23/2019</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/24/2019</i>
<i>Smitty Pignatelli</i>	<i>4th Berkshire</i>	<i>1/24/2019</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>1/24/2019</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>	<i>1/24/2019</i>
<i>Joseph A. Boncore</i>	<i>First Suffolk and Middlesex</i>	<i>1/25/2019</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>1/28/2019</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>	<i>1/28/2019</i>
<i>Christina A. Minicucci</i>	<i>14th Essex</i>	<i>1/29/2019</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	<i>1/29/2019</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>1/29/2019</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>	<i>1/29/2019</i>

<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>1/29/2019</i>
<i>James T. Welch</i>	<i>Hampden</i>	<i>1/29/2019</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>1/29/2019</i>
<i>Dean A. Tran</i>	<i>Worcester and Middlesex</i>	<i>1/29/2019</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>1/29/2019</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>1/29/2019</i>
<i>Bradford Hill</i>	<i>4th Essex</i>	<i>1/30/2019</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>1/30/2019</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>	<i>1/30/2019</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>1/30/2019</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>1/30/2019</i>
<i>Cindy F. Friedman</i>	<i>Fourth Middlesex</i>	<i>1/31/2019</i>
<i>Daniel J. Hunt</i>	<i>13th Suffolk</i>	<i>1/31/2019</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>1/31/2019</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>1/31/2019</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>	<i>1/31/2019</i>
<i>Jonathan D. Zlotnik</i>	<i>2nd Worcester</i>	<i>1/31/2019</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>	<i>1/31/2019</i>
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>	<i>1/31/2019</i>
<i>Linda Dean Campbell</i>	<i>15th Essex</i>	<i>2/1/2019</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	<i>2/1/2019</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>2/1/2019</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/1/2019</i>
<i>David T. Vieira</i>	<i>3rd Barnstable</i>	<i>2/1/2019</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>2/4/2019</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>	<i>2/6/2019</i>
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>	<i>2/7/2019</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>2/8/2019</i>
<i>Michael F. Rush</i>	<i>Norfolk and Suffolk</i>	<i>2/8/2019</i>
<i>Cynthia Stone Creem</i>	<i>First Middlesex and Norfolk</i>	<i>2/8/2019</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>	<i>2/8/2019</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/11/2019</i>
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	<i>2/20/2019</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>3/19/2019</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	<i>3/19/2019</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>6/7/2019</i>
<i>Peter Capano</i>	<i>11th Essex</i>	<i>8/8/2019</i>

**SENATE . . . . . No. 756**

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By Ms. Lovely, a petition (accompanied by bill, Senate, No. 756) of Joan B. Lovely, Michael J. Rodrigues, Diana DiZoglio, Brian M. Ashe and other members of the General Court for legislation to create higher education opportunities for students with intellectual disabilities, autism, and other developmental disabilities. Higher Education.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 2467 OF 2017-2018.]

**The Commonwealth of Massachusetts**

—————  
**In the One Hundred and Ninety-First General Court  
(2019-2020)**  
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An Act creating higher education opportunities for students with intellectual disabilities, autism, and other developmental 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           SECTION 1. Section 1 of chapter 15A of the General Laws, as appearing in the 2016  
2   Official Edition, is hereby amended by inserting after the word “opportunities”, in line 14 , the  
3   following words:- , including individuals with severe intellectual disabilities, severe autism  
4   spectrum disorders, and other severe developmental disabilities.

5           SECTION 2. Said section 1 of said chapter 15A of the General Laws, as so appearing, is  
6   hereby amended by striking out, in line 23 , the second time it appears, the following word:-  
7   “and”.

8 SECTION 3. Said section 1 of said chapter 15A, as so appearing, is hereby further  
9 amended by inserting after the word “levels”, in line 28, the following words:- ; and

10 (d) to provide inclusive educational opportunities for individuals with severe intellectual  
11 disabilities, severe autism spectrum disorders and other severe developmental disabilities in  
12 order to improve academic achievement, develop employment and independent living skills, and  
13 enhance the learning environment for all citizens.

14 SECTION 4. The fourth paragraph of section 7 of said chapter 15A, as so appearing, is  
15 hereby amended by inserting after the word “students”, in line 35, the following:- , and students  
16 with severe intellectual disabilities, severe autism spectrum disorders, and other severe  
17 developmental disabilities.

18 SECTION 5. Section 7A of said chapter 15A, as so appearing, is hereby amended by  
19 striking out, in line 26, the word “and”.

20 SECTION 6. Said section 7A of said chapter 15A, as so appearing, is hereby further  
21 amended by inserting after the word “sources”, in line 26, the following words:- ; and (10)  
22 improving access for students with severe intellectual disabilities, severe autism spectrum  
23 disorders and other severe developmental disabilities.

24 SECTION 7. Said section 7A of said chapter 15A, as so appearing, is hereby further  
25 amended by striking out, in line 86, the word “and”.

26 SECTION 8. Said section 7A of said chapter 15A, as so appearing, is hereby further  
27 amended by inserting after the word “sources”, in line 87, the following words:- ; and (10) to

28 improve access for students with severe intellectual disabilities, severe autism spectrum disorders  
29 and other severe developmental disabilities.

30 SECTION 9. Said chapter 15A, as so appearing, is hereby amended by inserting after  
31 section 30 the following section: -

32 Section 30A. (a) In order to provide individuals with severe intellectual disabilities,  
33 severe autism spectrum disorders, or other severe developmental disabilities with opportunities  
34 to be included with nondisabled students in all aspects of higher education for the purpose of  
35 gaining academic, career and technical, and independent living skills to prepare them for adult  
36 life, including but not limited to employment and civic engagement, these individuals shall not  
37 be required to take any standardized college entrance aptitude test; have a high school diploma or  
38 its equivalent; meet minimum academic course requirements; meet minimum grade point  
39 average requirements; or obtain a passing score on the statewide assessment tests utilized as a  
40 basis for competency determinations, under section 1D of chapter 69 of the General Laws, in  
41 order to participate in undergraduate academic courses that include students without disabilities,  
42 participate in internships or work-based training in settings with nondisabled students, and  
43 participate in extracurricular activities and all other aspects of campus life, in accordance with  
44 the provisions of this section.

45 (b) Public institutions of higher education, in consultation with the department of higher  
46 education and consistent with the purposes of this section, may create guidelines to select  
47 students participating in higher education pursuant to this section, including but not limited to  
48 guidelines to determine campus capacity and to coordinate selection of students with relevant  
49 local, state or other public agencies serving students with severe intellectual disabilities, severe

50 autism spectrum disorders, and other severe developmental disabilities, provided that these  
51 individuals may not be denied opportunities to participate in higher education solely due to their  
52 intellectual disability, autism spectrum disorders or developmental disability. Public institutions  
53 of higher education, in consultation with the department of higher education and consistent with  
54 the purposes of this section, may also establish course selection guidelines to help ensure that  
55 these individuals receive guidance in selecting courses that are appropriate to their individual  
56 strengths, needs, preferences and interests. These individuals shall be allowed to choose either to  
57 take a credit-bearing, undergraduate academic course for credit if they have met the course  
58 prerequisites and requirements, or to audit a credit-bearing, undergraduate academic course,  
59 consistent with campus policies governing selection of students for audit participation, if they  
60 have not met the course prerequisites and requirements. Nothing in this section shall require a  
61 public institution of higher education to provide course enrollment or audit preference for  
62 students with severe intellectual disabilities, severe autism spectrum disorders, or other severe  
63 developmental disabilities, relative to other persons seeking to enroll or audit a course. Nothing  
64 in this section shall require a public institution of higher education to include students with  
65 severe intellectual disabilities, severe autism spectrum disorders, or other severe developmental  
66 disabilities in graduate and continuing education courses.

67 (c) Individuals participating in higher education pursuant to subsection (a) of this section  
68 shall be included with nondisabled students in all academic and non-academic opportunities at  
69 public institutions of higher education so that they have inclusive educational opportunities to  
70 acquire academic, career, technical and independent living skills that prepare them for adult life  
71 including, but not limited to, employment and civic engagement. Individual supports and  
72 services, shall be made available to support inclusion in academic courses, extracurricular

73 activities and other aspects of campus life; provided however that nothing in this section shall  
74 supersede subsections (b) and (d) of this section.

75 (d) Public institutions of higher education shall not be required to bear the costs of  
76 individual supports and services that exceed the kind of supports and services generally provided  
77 by public institutions of higher education. The costs associated with supporting participation in  
78 public institutions of higher education under this section shall be: (i) an approved expense as a  
79 special education service pursuant to section 5 of chapter 71B, provided that a student's  
80 participation in higher education is addressed in the student's Individualized Education Program  
81 required by section 3 of chapter 71B for students ages 18 to 21 years old, inclusive and provided  
82 further that said student is considered to have a severe intellectual disability, severe autism, or  
83 other severe developmental disability, and further provided that in the case of students who are  
84 age 18 or 19, shall be limited to students with severe disabilities who have been unable to obtain  
85 a passing score on the statewide assessment tests utilized as a basis for competency  
86 determinations, under section 1D of chapter 69 of the General Laws, and provided further that in  
87 the case of students ages 20 or 21, shall be limited to students with severe disabilities who have  
88 been unable to obtain a passing score on the statewide assessment tests utilized as a basis for  
89 competency determinations, under section 1D of chapter 69 or who have already been  
90 determined eligible for special education and have also been determined by the IEP Team to  
91 have severe functional delays impacting independent living , communication, or behavioral skills  
92 resulting in skills that are significantly below chronological age; and further provided that  
93 nothing in this section shall impose any additional cost on a school committee beyond the cost of  
94 what is required under state or federal special education law; (ii) subject to the availability of  
95 federal funding and appropriation, provided under section 74 of chapter 6 for individuals who are

96 determined eligible for vocational rehabilitation services; provided that access to higher  
97 education assists in the attainment of an identified employment goal, as determined by the  
98 agency, consistent with all applicable regulations, and subject to the development of the  
99 Individualized Plan for Employment; (iii) subject to appropriation, provided under chapter 19B  
100 for individuals 22 years of age or older, who are determined eligible for services; provided, that  
101 the individual supports and services are determined to be an appropriate support, of the type,  
102 frequency and duration identified in an assessment conducted by the department, and subject to  
103 the development of the annual individual support plan; (iv) costs of participation may be  
104 covered by any other public or private sources available to the student.

105 (e) Participating individuals under this section shall be required to follow the public  
106 institution of higher education's student behavioral policies, including the student code of  
107 conduct, antidiscrimination and sexual violence policies, provided that the public institution of  
108 higher education shall provide such policies in accessible formats and shall provide reasonable  
109 accommodations for these individuals in any process instituted thereunder.

110 (f) Nothing in this section shall be construed to impose any liability against any school  
111 district or any public institution of higher education, including trustees, officers, administrators,  
112 or employees of said school district or institution of higher education.

113 (g) Nothing in this section shall be construed as creating or imposing a specific duty of  
114 care, nor shall this section create or impose a private right of action against any school district or  
115 any public institution of higher education, including trustees, officers, administrators, or  
116 employees of said school district or institution of higher education.



117 SECTION 10. Section 2 of chapter 71B of the General Laws, as appearing in the 2016  
118 Official Edition, is hereby amended by inserting in line 87 a new paragraph with the following  
119 words:- Older students ages 18-21, inclusive, with severe intellectual disabilities, severe autism  
120 spectrum disorders, and other severe developmental disabilities who are receiving special  
121 education services may also have program options including continuing education, participation  
122 in credit and noncredit courses that include students without disabilities in an institution of  
123 higher education, development of independent living skills, development of skills necessary for  
124 employment, and development of skills to access community services. Participation of said  
125 students in institutions of higher education under this section shall be considered an approved  
126 expense as a special education service pursuant to section 5 of chapter 71B, provided that this  
127 service is addressed in the student's Individualized Education Program.

128 SECTION 11: Said chapter 71B, as so appearing, is hereby amended by inserting after  
129 section 16 the following section: -

130 Section 17: Inclusive Concurrent Enrollment Initiative

131 (a) Subject to appropriation, the department of higher education shall develop and  
132 administer a discretionary grant program to provide monies to school committees and public  
133 institutions of higher education partnering to offer inclusive concurrent enrollment initiative  
134 options for school-aged children, ages 18 to 21, inclusive with disabilities. The program shall be  
135 limited to students: (i) who are considered to have severe intellectual disabilities, severe autism  
136 spectrum disorders, or other severe developmental disabilities; and (ii) for students age 18 to 19,  
137 inclusive, shall be limited to students with severe disabilities who have been unable to achieve  
138 the competency determination necessary to pass the statewide assessment test pursuant to section

139 1D of chapter 69; and (iii) for students ages 20 or 21, shall be limited to students with severe  
140 disabilities who have been unable to obtain a passing score on the statewide assessment tests  
141 utilized as a basis for competency determinations, under section 1D of chapter 69 of the General  
142 Laws or have been determined by the IEP Team to have severe functional delays impacting  
143 independent living , communication, or behavioral skills resulting in skills that are significantly  
144 below chronological age; provided that public institutions of higher education may also include  
145 students with severe intellectual disabilities, severe autism spectrum disorders, or other severe  
146 developmental disabilities over the age of 21 who have been unable to obtain a passing score on  
147 the statewide assessment tests utilized as a basis for competency determinations, under section  
148 1D of chapter 69, with planning or implementation grants available through said discretionary  
149 grant program.

150 (b) The grant program shall enable school committees to partner with public institutions  
151 of higher education in order to assist in meeting the transitional needs of eligible students  
152 pursuant to subsection (a), which shall include facilitating movement from school to post-school  
153 activities and competitive employment. Said grant program shall be based on a results oriented  
154 process focused on improving academic and functional achievement in accordance with the  
155 provisions of the federal Individuals with Disabilities Education Act.

156 (c) The grant program shall support participation of any relevant state or other agency  
157 serving students with severe intellectual disabilities, severe autism spectrum disorders and other  
158 severe developmental disabilities, including, but not limited to, the department of developmental  
159 services, the Massachusetts rehabilitation commission or other vocational rehabilitation agency  
160 or organization to support student academic success, participation in student life of the college  
161 community and competitive employment.

162 (d) The grant program shall support partnerships that provide : (i) participation in credit-  
163 bearing and non-credit courses that include students without disabilities, including participation  
164 in credit-bearing courses in audit status for students who may not meet course prerequisites; (ii)  
165 participation in on-campus student life activities; (iii) preparation for competitive employment;  
166 (iv) the waiver of tuition for courses by the public institution of higher education; (v) the  
167 provision of supports and services necessary to facilitate a student’s participation and support  
168 inclusion in academic courses, extracurricular activities, internships, work experiences and other  
169 aspects of the institution’s postsecondary program; (vi) education, training and technical  
170 assistance for teachers, faculty and personnel regarding strategy and teaching methodology to  
171 achieve successful inclusion of individuals with severe intellectual disabilities, severe autism  
172 spectrum disorders and other severe developmental disabilities; (vii) full inclusion of students  
173 with severe intellectual disabilities, severe autism spectrum disorders and other severe  
174 developmental disabilities with nondisabled students in all aspects of higher education including,  
175 but not limited to, academic and social activities; and (viii) the utilization of person-centered  
176 planning in the development of the course of study for each participating student. Partnerships  
177 with institutions of higher education that offer dormitory living may also include opportunities  
178 for students with severe intellectual disabilities, severe autism spectrum disorders and other  
179 severe developmental disabilities to live in residential housing offered to nondisabled students.

180 (e) The department of higher education shall establish an inclusive concurrent enrollment  
181 advisory board to advise the department on efforts to implement inclusive concurrent enrollment  
182 and to participate in educational outreach efforts related to inclusive concurrent enrollment. The  
183 inclusive concurrent enrollment advisory board shall include the following members or their  
184 designees: the inclusive concurrent enrollment coordinator, who shall serve as chair; the

185 secretary of education, the commissioner of higher education; the commissioner of elementary  
186 and secondary education; the commissioner of the department of developmental services; the  
187 commissioner of the Massachusetts rehabilitation commission; a representative of the  
188 Massachusetts Administrators for Special Education; a representative of the Massachusetts  
189 Association of School Committees; a representative of the Massachusetts Association of School  
190 Superintendents; a representative of Massachusetts Advocates for Children, Inc.; a  
191 representative of the Federation for Students with Special Needs, Inc.; a representative of the  
192 Institute for Community Inclusion; at least 2 representatives of school districts, and public  
193 institutions of higher education that have successfully implemented inclusive concurrent  
194 enrollment initiatives, to be appointed by the chair; and 2 students who are participating or have  
195 participated in an inclusive concurrent enrollment program, to be appointed by the chair. The  
196 inclusive concurrent enrollment advisory board shall meet at least quarterly. Members of the  
197 advisory board shall serve without compensation.

198 (f) Subject to appropriation, the department of higher education shall designate an  
199 inclusive concurrent enrollment coordinator to manage grant administration and coordinate  
200 reporting.

201 SECTION 12. The secretary of education and the secretary of health and human services  
202 shall, as necessary, develop inter-agency agreements, policies and practices with the department  
203 of higher education, the department of elementary and secondary education, public institutions of  
204 higher education, school committees, the department of developmental services, the  
205 Massachusetts rehabilitation commission and other relevant agencies in order to maximize  
206 federal financial participation through Medicaid, maximize federal financial aid, support  
207 institutions of higher education offering opportunities to include individuals with severe

208 intellectual disabilities, severe autism spectrum disorders or other severe developmental  
209 disabilities over age 22 pursuant to section 30A of chapter 15A or section 17 of chapter 71B=,  
210 and address any other issues necessary for successful inclusion of students with severe  
211 intellectual disabilities, severe autism spectrum disorders or other severe developmental  
212 disabilities in higher education.

213           SECTION 13. The department of higher education and the department of elementary  
214 secondary education, in consultation with the inclusive concurrent enrollment initiative advisory  
215 board, the executive officer of the Council of Presidents of the Massachusetts State University  
216 System or designee, the president of the University of Massachusetts or designee and the  
217 executive director of Massachusetts Community Colleges Executive Office or designee shall  
218 issue guidelines pursuant to section 17 of chapter 71B of the General Laws on or before  
219 September 15, 2020.