

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

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.

[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)**
—————

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.