

HOUSE No. 1337**The Commonwealth of Massachusetts**

PRESENTED BY:

Patricia A. Haddad and Sean Garballey*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:	DATE ADDED:
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>	<i>2/18/2021</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>2/18/2021</i>
<i>Angelo L. D'Emilia</i>	<i>8th Plymouth</i>	<i>3/3/2021</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>3/3/2021</i>
<i>William C. Galvin</i>	<i>6th Norfolk</i>	<i>3/3/2021</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>	<i>3/3/2021</i>
<i>Diana DiZoglio</i>	<i>First Essex</i>	<i>3/3/2021</i>
<i>Jessica Ann Giannino</i>	<i>16th Suffolk</i>	<i>3/3/2021</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>3/15/2021</i>
<i>Gerard J. Cassidy</i>	<i>9th Plymouth</i>	<i>3/22/2021</i>
<i>James M. Murphy</i>	<i>4th Norfolk</i>	<i>3/24/2021</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>4/1/2021</i>
<i>Carol A. Doherty</i>	<i>3rd Bristol</i>	<i>4/15/2021</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>7/13/2021</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>8/3/2021</i>
<i>Ruth B. Balser</i>	<i>12th Middlesex</i>	<i>8/11/2021</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>10/18/2021</i>

HOUSE No. 1337

By Representatives Haddad of Somerset and Garballey of Arlington, a petition (accompanied by bill, House, No. 1337) of Patricia A. Haddad, Sean Garballey and others relative to higher education opportunities for students with intellectual disabilities, autism, and other developmental disabilities. Higher Education.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

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, or 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

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

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

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

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

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

SECTION 8. Said section 7A of said chapter 15A, as so appearing, is hereby further amended by inserting after the word “sources”, in line 87, the following words:- ; and (10) to improve access for students with severe intellectual disabilities, severe autism spectrum disorders or other severe developmental disabilities.

SECTION 9. Said chapter 15A, as so appearing, is hereby amended by inserting after section 39 the following section: -

Section 39A. (a) In order to ensure that individuals with severe intellectual disabilities, severe autism spectrum disorders, or other severe developmental disabilities ages 18-22 have opportunities to be included with nondisabled students in all aspects of higher education for the purpose of gaining academic, career, technical, and independent living skills to prepare them for adult life, including but not limited to employment and civic engagement, these individuals shall not be required to take any standardized college entrance aptitude test; have a high school diploma or its equivalent; meet minimum academic course requirements; meet minimum grade point average requirements; or obtain a passing score on the statewide assessment tests utilized as a basis for competency determinations, under section 1D of chapter 69 of the General Laws, in order to participate in undergraduate academic courses that include students without disabilities, participate in internships or work-based training in settings with nondisabled students, and participate in extracurricular activities and all other aspects of campus life, in accordance with the provisions of this section.

(b) Public institutions of higher education, in consultation with the department of higher education and consistent with the purposes of this section, may create guidelines to select students participating in higher education pursuant to this section, including but not limited to guidelines to determine campus capacity and to coordinate selection of students with relevant local, state or other public agencies serving students with severe intellectual disabilities, severe autism spectrum disorders, and other severe developmental disabilities, provided that these individuals shall not be denied opportunities to participate in higher education solely due to their intellectual disability, autism spectrum disorders or developmental disability. Public institutions

of higher education, in consultation with the department of higher education and consistent with the purposes of this section, may also establish course selection guidelines to help ensure that these individuals receive guidance in selecting courses that are appropriate to their individual strengths, needs, preferences and interests. Participating individuals shall be permitted to: (i) take a credit-bearing, undergraduate academic course for credit if they have met the course prerequisites and requirements; or (ii) audit a credit-bearing, undergraduate academic course, consistent with campus policies governing selection of students for audit participation, if they have not met the course prerequisites and requirements.

Nothing in this section shall require a public institution of higher education to provide course enrollment or audit preference for students with severe intellectual disabilities, severe autism spectrum disorders, or other severe developmental disabilities, relative to other persons seeking to enroll or audit a course. Nothing in this section shall require a public institution of higher education to include students with severe intellectual disabilities, severe autism spectrum disorders, or other severe developmental disabilities in graduate and continuing education courses.

(c) Individuals participating in higher education pursuant to subsection (a) shall have access to and be included with nondisabled students in all academic and non-academic opportunities at public institutions of higher education in order to have inclusive educational opportunities to acquire academic, career, technical and independent living skills that prepare them for adult life including, but not limited to, employment and civic engagement. Individual supports and services, shall be made available to support inclusion in academic courses, extracurricular activities and other aspects of campus life; provided however that nothing in this section shall supersede subsections (b) and (d) of this section.

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

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

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

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

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

(h) Nothing in this section shall be construed to prohibit institutions of higher education from offering opportunities to include said individuals over age 21 on a discretionary basis .

SECTION 10. Section 2 of chapter 71B of the General Laws, as appearing in the 2018 Official Edition, is hereby amended by adding the following paragraph:-

Students who are 18-21, inclusive, have severe intellectual disabilities, severe autism spectrum disorders, or other severe developmental disabilities and are receiving special education services may also have program options including, but not limited to, continuing education, participation in credit and noncredit courses that include students without disabilities in an institution of higher education, development of independent living skills, development of skills necessary for employment, and development of skills to access community services. Participation of said students in institutions of higher education under this section shall be considered an approved expense as a special education service pursuant to section 5 and shall be considered secondary school education; provided, however, that this service is addressed in the student's Individualized Education Program.

SECTION 11: Said chapter 71B, is hereby amended by inserting after section 16 the following section: -

Section 17: Inclusive Concurrent Enrollment Initiative

(a) Subject to appropriation, the department of higher education shall develop and administer a discretionary grant program, which shall include planning or implementation grants, to provide monies to school committees and public institutions of higher education partnering to offer inclusive concurrent enrollment initiative options for school-aged children who are 18 to 21 years old, inclusive, and are considered to have severe intellectual disabilities, severe autism

spectrum disorders, or other severe developmental disabilities. The program shall be limited: (i) for students who are 18 or 19 years old, to students with a severe intellectual who have been unable to achieve the competency determination necessary to pass the statewide assessment test pursuant to section 1D of chapter 69; and (ii) for students who are 20 or 21 years old, to students with severe disabilities who have been unable to obtain a passing score on the statewide assessment tests utilized as a basis for competency determinations, under section 1D of said chapter 69 or have been determined by the Individualized Education Program Team to have severe functional delays impacting independent living, communication, or behavioral skills resulting in skills that are significantly below chronological age; provided, however, that public institutions of higher education may also include students with severe intellectual disabilities, severe autism spectrum disorders, or other severe developmental disabilities over the age of 21 who have been unable to obtain a passing score on the statewide assessment tests utilized as a basis for competency determinations, under said section 1D of chapter. 69.

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

(c) The grant program shall support participation of any relevant state or other agency serving students with severe intellectual disabilities, severe autism spectrum disorders and other severe developmental disabilities, including, but not limited to, the department of developmental services, the Massachusetts rehabilitation commission or other vocational rehabilitation agency

165 or organization to support student academic success, participation in student life of the college
166 community and competitive employment. provided that: Massachusetts rehabilitation
167 commission participation shall be subject to the availability of federal funding and appropriation,
168 provided under section 74 of Chapter 6 for individuals who are determined eligible for
169 vocational rehabilitation services, provided that access to higher education assists in the
170 attainment of an identified employment goal, as determined by the agency, consistent with all
171 applicable regulations, and subject to the development of the Individualized Plan for
172 Employment; and further provided that the department of developmental services participation
173 shall be subject to appropriation, provided under chapter 19B of the General Laws for
174 individuals 22 years of age or older, who are determined eligible for services; provided, that the
175 individual supports and services are determined to be an appropriate support, of the type,
176 frequency and duration identified in an assessment conducted by the department, and subject to
177 the development of the annual individual support plan

178 (d) The grant program shall support partnerships that provide : (i) participation in credit-
179 bearing and non-credit courses that include students without disabilities, including participation
180 in credit-bearing courses in audit status for students who may not meet course prerequisites; (ii)
181 participation in on-campus student life activities; (iii) preparation for competitive employment;
182 (iv) the waiver of tuition for courses by the public institution of higher education; (v) the
183 provision of supports and services necessary to facilitate a student's participation and support
184 inclusion in academic courses, extracurricular activities, internships, work experiences and other
185 aspects of the institution's postsecondary program; (vi) education, training and technical
186 assistance for teachers, faculty and personnel regarding strategy and teaching methodology to
187 achieve successful inclusion of individuals with severe intellectual disabilities, severe autism

spectrum disorders or other severe developmental disabilities; (vii) full inclusion of students with severe intellectual disabilities, severe autism spectrum disorders or other severe developmental disabilities with nondisabled students in all aspects of higher education including, but not limited to, academic and social activities; and (viii) the utilization of person-centered planning in the development of the course of study for each participating student. Partnerships with institutions of higher education that offer dormitory living may also include opportunities for students with severe intellectual disabilities, severe autism spectrum disorders or other severe developmental disabilities to live in residential housing offered to nondisabled students.

(e) The department of higher education shall establish an inclusive concurrent enrollment advisory board to advise the department on efforts to implement inclusive concurrent enrollment and to participate in educational outreach efforts related to inclusive concurrent enrollment. The inclusive concurrent enrollment advisory board shall include the following members or their designees, who shall serve without compensation: the inclusive concurrent enrollment coordinator, who shall serve as chair; the secretary of education; the commissioner of higher education; the commissioner of elementary and secondary education; the commissioner of the department of developmental services; the commissioner of the Massachusetts rehabilitation commission; a representative of the Massachusetts Administrators for Special Education; a representative of the Massachusetts Association of School Committees; a representative of the Massachusetts Association of School Superintendents; a representative of Massachusetts Advocates for Children, Inc.; a representative of the Federation for Students with Special Needs, Inc.; a representative of the Institute for Community Inclusion; not less than 2 representatives of school districts and public institutions of higher education that have successfully implemented inclusive concurrent enrollment initiatives, to be appointed by the chair; and 2 students who are

participating or have participated in an inclusive concurrent enrollment program, to be appointed by the chair. The inclusive concurrent enrollment advisory board shall meet not less than quarterly. If an inclusive concurrent enrollment coordinator is not designated pursuant to subsection (f), the commission of the department of higher education shall select another chair.

(g) Annually, not later than December 1, the executive office of education shall file a report with the joint committee on education, the joint committee on higher education and the house and senate committees on ways and means on the status of the inclusive concurrent enrollment grant program established pursuant to subsection (a). The report shall include, but not be limited to:

(i) enrollment data detailing the number of students enrolled in inclusive concurrent enrollment each semester and the unduplicated count of total students served at each institution of higher education;

(ii) a list of all full-time and part-time employment positions supported by the grant program that are dedicated to supporting students participating in the inclusive concurrent enrollment program and the average salary for those positions including, but not limited to: (A) educational coaches; (B) educational specialists; (C) job coaches and vocational specialists; (D) program specialists; (E) program directors; (F) peer mentors, note-takers and tutors; (G) contracted employees and; (H) parent and school committee liaisons;

(iii) a list of all courses taken by students participating in the inclusive concurrent enrollment program during the academic year indicating whether the student participated in the course for credit or for audit and whether the student passed or completed the course;

(iv) a summary of innovative strategies and practices implemented at each institution of higher education that helped foster relationships with school committees;

(v) employment data for students participating in the inclusive concurrent enrollment program, obtained to the best of the ability of participating school committees and institutions of higher education; andvi) the total funding received for the program, including amounts allocated to each grantee and any executive agency or participating state board, department or institute of higher education.

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

SECTION 12. The secretary of education and the secretary of health and human services shall, as necessary, develop inter-agency agreements, policies and practices with the department of higher education, the department of elementary and secondary education, public institutions of higher education, school committees, the department of developmental services, the Massachusetts rehabilitation commission and other relevant agencies in order to maximize federal financial participation through Medicaid, maximize federal financial aid, support institutions of higher education offering opportunities to include individuals with severe intellectual disabilities, severe autism spectrum disorders or other severe developmental disabilities who are more than 22 years old pursuant to section 39A of chapter 15A of the General Laws or section 17 of chapter 71B of the General laws and address any other issues necessary for successful inclusion of students with severe intellectual disabilities, severe autism spectrum disorders or other severe developmental disabilities in higher education.

254 SECTION 13. The department of higher education and the department of elementary
255 secondary education, in consultation with the inclusive concurrent enrollment initiative advisory
256 board, the executive officer of the Council of Presidents of the Massachusetts State University
257 System or a designee, the president of the University of Massachusetts or a designee and the
258 executive director of Massachusetts Community Colleges Executive Office or a designee shall
259 issue guidelines pursuant to section 17 of chapter 71B of the General Laws on or before
260 September 15, 2022 .