

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Natalie M. Blais, (BY REQUEST)

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 relative to transparency and accountability for out of district special education placements.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Benjamin Tobin</i>	<i>51 South St Williamsburg MA 01096</i>	<i>2/15/2022</i>

HOUSE No.

By Ms. Blais of Sunderland (by request), a petition (subject to Joint Rule 12) of Benjamin Tobin relative to transparency and accountability for out of district special education placements. Education.

The Commonwealth of Massachusetts

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

An Act relative to transparency and accountability for out of district special education placements.

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

1 The approved private special education schools, established under chapter 71B, serve a
2 highly vulnerable population of students with complex needs. Students who are placed in these
3 programs have usually struggled in the public school system for many years, and families
4 typically have to reach a settlement with a school district to gain a placement in one of these
5 taxpayer funded private programs. The private schools, for their part, argue that the services they
6 provide are more robust than a public school’s and that they will be able to remediate the key
7 foundational skills students are lacking. Students are meant to gain the skills they need to be able
8 to thrive in the general education setting. Currently, there is no empirical source of data or data
9 profile kept on the approved programs despite receiving substantial state funding. Without data,
10 it is very difficult to establish the efficacy of these programs and very difficult for families and
11 districts to make an informed decision about the best placement for a student. The current system
12 is really a two-tiered system of accountability that favors the private interest that is, in fact, not

13 truly private, given the state funding being used for these programs and that they primarily serve
14 public school students for whom the sending district is still responsible. It is critical that it is
15 possible for there to be publicly available oversight of these programs, and that empirical data is
16 being collected to ensure that students are not simply being warehoused so as to remove them
17 from the standard documentation in the public system. Furthermore, that there be established a
18 higher expectation for these placements and the staff who work with the specific student
19 populations.

20 Placement

21 Each child residing within the sending school district will be placed in an appropriate
22 educational program in accordance with standards as adopted by state and federal special
23 education statutes and regulations including 71B section 3. Special classes, separate schooling or
24 other removal of students with disabilities from the regular educational environment will occur
25 only when the nature and severity of the disability is such that education in regular classes with
26 the use of supplementary aids and services cannot be achieved. When a placement is to be made
27 in another school system, another educational agency, or in an agency administrated by the
28 Department of Mental Health, the superintendent or their designated representative along with
29 the parent or legal custodian will evaluate the placement options and make a determination based
30 on progress data using a standardized progress monitoring system (e.g AIMSweb, FASTbridge,
31 STAR) and upon all required assessments.

32 Out of District Staff

33 In the event that an out of district placement is made, and the district is responsible for
34 the cost of tuition, staff in the approved private special education school, residential school,

35 collaborative, or separate classroom must agree to the district's code of ethics, and disclose any
36 potential sources of conflict of interest, multiple relationships, or other ethical considerations as
37 listed in GBEBA policy.

38 Staff must not only acquire professional licensure, but must also be trained in evidence-
39 based programming specific to the population served by the approved school.

40 Private out of district placements may not have more than one waived employee at a
41 time, and must demonstrate that waived staff are not only working toward professional special
42 education licensure but also are undergoing training in an evidence-based methodology (ex.
43 Lindamood bell, OG, Corrective Reading).

44 Progress Monitoring

45 Staff and administrators in the out of district placement must also provide weekly,
46 charted, empirically based data using a state approved progress monitoring system (e.g.
47 AIMSweb, FASTbridge). All related skills identified in the IEP must be tracked, measured, and
48 assessed based on empirical data and not upon anecdotal or qualitative evidence.

49 For students with language-based disabilities, such as dyslexia (sometimes referred to as
50 SLD in reading), the out of district placement must be able to provide data demonstrating that
51 they are following the established state and federal dyslexia and literacy guidelines (including
52 chapter 71 section 57A dyslexia guidelines).

53 Progress reports must be based on measurable, charted, weekly data, and only reference
54 what skills the student is able to undertake independently without teacher assistance to provide
55 the most accurate measurement as to what progress the student is making under the care of the

56 staff and administration of the approved private school. A progress monitoring form will be
57 generated by the District and distributed to all out of district placements to be incorporated into
58 the IEP.

59 Staff must be appropriately licensed, and be certified in at least one evidence-based
60 program related to the disability (e.g Orton Gillingham certified for dyslexia, and ABA for
61 Autism) per 603 CMR 28.09.

62 IEP goals established on an IEP written by the out of district placement must be robust,
63 measurable, and measured based on progress data and not upon teacher observation or other
64 anecdotal information.

65 The department of education shall also establish a database of every student in the
66 Commonwealth who are out of district for internal use. This database shall include, but not be
67 limited to, student progress data, MCAS scores, IEP, and disciplinary record. Furthermore, the
68 department shall ensure that staff who review these records, and who oversee special education
69 programming out of district are themselves certified and properly trained in topics that include,
70 but are not limited to, ethics in special education, learning disabilities, the IDEA law,
71 interventionary practices, and best practices in special education. Furthermore, staff may not
72 have any ties to the programs they are reviewing. The department shall make training available
73 to the relevant staff overseeing approved private special education schools, residential schools,
74 and collaboratives to ensure that oversight is informed and data driven.

75 Curriculum

76 The curriculum, including evidence-based programming, and the source of that evidence,
77 must be provided to the director of special education and to the superintendent of the sending

78 school district. Furthermore, professional development provided to the staff must also be
79 provided to ensure that staff working with district students are being instructed in the latest
80 approaches, tools, and methods related to that specific learning disability and that those
81 approaches, tools, and methods are evidence-based based on peer reviewed research.

82 If a language-based learning difference is the source of the placement, the out of district
83 placement must also be able to provide data and evidence that the programming aligns with the
84 IDEA, including 20 U.S.C. § 6368(3)(4)(5)(6)(7) which requires rigorous scientific evidence
85 behind programming. (e.g structured literacy should be used rather than a linguistic/whole
86 language approach). The program provided must be based upon progress data collected by staff.
87 Furthermore, progress data must be shared with parents or guardians and with the director of
88 special education and the superintendent of the sending district.

89 The out of district program must provide services related to the specific learning
90 disability, and have the infrastructure as well as staff to provide those services with fidelity to
91 ensure that students with disabilities are being provided with FAPE (free appropriate public
92 education) and that all aspects of the IDEA and Massachusetts state law are being followed with
93 fidelity. An out of district placement cannot accept students for whom they do not have trained
94 staff and appropriate facilities.

95 Additionally, the full curriculum (programs used, methodology, classroom structure (ex.
96 Structured vs constructivist)) must be listed prominently on the approved school's website along
97 with staff credentials and training.

98 The approved private special education school shall provide a report to the special
99 education director, superintendent, and school committee of the sending district containing

100 empirical progress monitoring data, MCAS scores, and the programming being provided to the
101 student on a quarterly basis. Any relevant information to oversight and accountability must also
102 be provided, including assurances that there are no multiple relationships, conflicts of interest,
103 etc.

104 Consequences:

105 Any infraction on the part of an out of district placement, including but not limited to
106 inappropriate staff credentials, multiple relationships, and accepting students for whom they are
107 unable to provide appropriate services, will result in immediate removal of accreditation status.
108 Furthermore, all tuition dollars must be returned to the sending district.

109 Any misconduct involving out of district staff will result in the permanent removal of
110 licensure.