

SENATE No. 846

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. Barrett</i> | <i>Third Middlesex</i> | <i>2/24/2021</i> |
| <i>Jack Patrick Lewis</i> | <i>7th Middlesex</i> | <i>2/26/2021</i> |
| <i>Diana DiZoglio</i> | <i>First Essex</i> | <i>2/26/2021</i> |
| <i>Brian M. Ashe</i> | <i>2nd Hampden</i> | <i>3/3/2021</i> |
| <i>Michael O. Moore</i> | <i>Second Worcester</i> | <i>3/4/2021</i> |
| <i>Hannah Kane</i> | <i>11th Worcester</i> | <i>3/8/2021</i> |
| <i>Jason M. Lewis</i> | <i>Fifth Middlesex</i> | <i>3/8/2021</i> |
| <i>Joanne M. Comerford</i> | <i>Hampshire, Franklin and Worcester</i> | <i>3/8/2021</i> |
| <i>Paul F. Tucker</i> | <i>7th Essex</i> | <i>3/8/2021</i> |
| <i>Anne M. Gobi</i> | <i>Worcester, Hampden, Hampshire and Middlesex</i> | <i>3/8/2021</i> |
| <i>Michael F. Rush</i> | <i>Norfolk and Suffolk</i> | <i>3/9/2021</i> |
| <i>Carmine Lawrence Gentile</i> | <i>13th Middlesex</i> | <i>3/9/2021</i> |
| <i>Thomas M. Stanley</i> | <i>9th Middlesex</i> | <i>3/9/2021</i> |
| <i>Bradley H. Jones, Jr.</i> | <i>20th Middlesex</i> | <i>3/9/2021</i> |
| <i>Adam J. Scanlon</i> | <i>14th Bristol</i> | <i>3/11/2021</i> |

| | | |
|----------------------------|--------------------------------------|------------------|
| <i>Michael D. Brady</i> | <i>Second Plymouth and Bristol</i> | <i>3/11/2021</i> |
| <i>Elizabeth A. Malia</i> | <i>11th Suffolk</i> | <i>3/15/2021</i> |
| <i>John F. Keenan</i> | <i>Norfolk and Plymouth</i> | <i>3/17/2021</i> |
| <i>Brendan P. Crighton</i> | <i>Third Essex</i> | <i>3/18/2021</i> |
| <i>Patrick M. O'Connor</i> | <i>Plymouth and Norfolk</i> | <i>3/18/2021</i> |
| <i>Joseph A. Boncore</i> | <i>First Suffolk and Middlesex</i> | <i>3/26/2021</i> |
| <i>Walter F. Timilty</i> | <i>Norfolk, Bristol and Plymouth</i> | <i>3/29/2021</i> |
| <i>Brian W. Murray</i> | <i>10th Worcester</i> | <i>3/29/2021</i> |
| <i>Sal N. DiDomenico</i> | <i>Middlesex and Suffolk</i> | <i>4/3/2021</i> |
| <i>Kay Khan</i> | <i>11th Middlesex</i> | <i>4/7/2021</i> |
| <i>James B. Eldridge</i> | <i>Middlesex and Worcester</i> | <i>5/3/2021</i> |
| <i>Paul R. Feeney</i> | <i>Bristol and Norfolk</i> | <i>8/10/2021</i> |
| <i>Sonia Chang-Diaz</i> | <i>Second Suffolk</i> | <i>2/8/2022</i> |

SENATE No. 846

By Ms. Lovely, a petition (accompanied by bill, Senate, No. 846) of Joan B. Lovely, Michael J. Barrett, Jack Patrick Lewis, Diana DiZoglio 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. 2844 OF 2019-2020.]

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 2018
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 further amended by striking out, in line 23, the word “and” the second time it appears.

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

10 SECTION 4. The third paragraph of said section 1 of said chapter 15A, as so appearing,
11 is hereby amended by adding the following clause:-

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

16 SECTION 5. The fourth paragraph of section 7 of said chapter 15A, as so appearing, is
17 hereby amended by inserting after the word “students”, in line 35, the following words:- and
18 students with severe intellectual disabilities, severe autism spectrum disorders or other severe
19 developmental disabilities.

20 SECTION 6. The second sentence of subsection (b) of section 7A of said chapter 15A, as
21 so appearing, is hereby amended by striking out clauses (8) and (9) and inserting in place thereof
22 the following 3 clauses:- (8) supporting early childhood to grade 12 education programs; (9)
23 maximizing fundraising from private sources; and (10) improving access for students with severe
24 intellectual disabilities, severe autism spectrum disorders or other severe developmental
25 disabilities.

26 SECTION 7. The second sentence of subsection (i) of said section 7A of said chapter
27 15A, as so appearing, is hereby amended by striking out clauses (8) and (9) and inserting in place
28 thereof the following 3 clauses:- (8) to ensure cost-effective use of resources; (9) to maximize

29 fundraising from private sources; and (10) to improve access for students with severe intellectual
30 disabilities, severe autism spectrum disorders or other severe developmental disabilities.

31 SECTION 8. Said chapter 15A is hereby further amended by inserting after section 30
32 the following section:-

33 Section 30A. (a) To ensure that individuals with severe intellectual disabilities, severe
34 autism spectrum disorders or other severe developmental disabilities have opportunities to be
35 included with non-disabled students in all aspects of higher education for the purpose of gaining
36 academic, career, technical and independent living skills to prepare them for adult life, including,
37 but not limited to, employment and civic engagement, such individuals shall not be required to:
38 (i) take any standardized college entrance aptitude test; (ii) have a high school diploma or its
39 equivalent; (iii) meet minimum academic course requirements; (iv) meet minimum grade point
40 average requirements; or (v) obtain a passing score on the statewide assessment tests utilized as a
41 basis for competency determination under section 1D of chapter 69, in order to participate in
42 undergraduate academic courses, internships, work-based trainings, extracurricular activities that
43 include non-disabled students and all other aspects of campus life in accordance with this
44 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 or other severe developmental disabilities; provided, however, that

51 these individuals shall not be denied opportunities to participate in higher education solely due to
52 their intellectual disability, autism spectrum disorders or developmental disability. Public
53 institutions of higher education, in consultation with the department of higher education and
54 consistent with the purposes of this section, may also establish course selection guidelines to
55 help ensure that participating individuals receive guidance in selecting courses that are
56 appropriate to their individual strengths, needs, preferences and interests. Participating
57 individuals shall be permitted to: (i) take a credit-bearing, undergraduate academic course for
58 credit if they have met the course prerequisites and requirements; or (ii) audit a credit-bearing,
59 undergraduate academic course, consistent with campus policies governing selection of students
60 for audit participation, if they have not met the course prerequisites and requirements.

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

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

74 extracurricular activities and other aspects of campus life; provided, however, that nothing in this
75 subsection shall supersede subsections (b) and (d).

76 (d) Public institutions of higher education shall not be required to bear the costs of
77 individual supports and services that exceed the kind of supports and services generally provided
78 by public institutions of higher education. Costs associated with supporting participation in
79 public institutions of higher education under this section shall be: (i) an approved expense as a
80 special education service pursuant to section 5 of chapter 71B and shall be considered secondary
81 school education; provided, however, that a student's participation in higher education is
82 addressed in the student's Individualized Education Program under section 3 of said chapter 71B
83 for students ages 18 to 21 years old, inclusive; provided further, that such student is considered
84 to have a severe intellectual disability, a severe autism spectrum disorder or other severe
85 developmental disability; provided further, that in the case of students who are age 18 or 19,
86 participation shall be limited to students with a severe intellectual disability, a severe autism
87 spectrum disorder or other severe developmental disability who have been unable to obtain a
88 passing score on the statewide assessment tests utilized as a basis for competency determination
89 under section 1D of chapter 69; provided further, that in the case of students ages 20 or 21,
90 participation shall be limited to students with a severe intellectual disability, a severe autism
91 spectrum disorder or other severe developmental disability who have been unable to obtain a
92 passing score on the statewide assessment tests utilized as a basis for competency
93 determinations, under said section 1D of said chapter 69 or who have already been determined
94 eligible for special education and have also been determined by the Individualized Education
95 Program team to have severe functional delays impacting independent living, communication or
96 behavioral skills resulting in skills that are significantly below chronological age; and provided

97 further, that nothing in this section shall impose an additional cost on a school committee beyond
98 the cost of what is required under state or federal special education law; (ii) subject to the
99 availability of federal funding and appropriation provided under section 74 of chapter 6 for
100 individuals who are determined eligible for vocational rehabilitation services; provided,
101 however, that access to higher education assists in the attainment of an identified employment
102 goal, as determined by the agency, consistent with all applicable regulations and subject to the
103 development of an Individualized Plan for Employment; (iii) subject to appropriation under
104 chapter 19B for individuals 22 years of age or older who are determined eligible for services;
105 provided, however, that the individual supports and services are determined to be an appropriate
106 support, of the type, frequency and duration identified in an assessment conducted by the
107 department, and subject to the development of an annual individual support plan. Costs of
108 participation may be covered by any other public or private sources available to the student.

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

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

117 (g) Nothing in this section shall be construed as creating or imposing a specific duty of
118 care, nor shall this section create or impose a private right of action against any school district or

119 any public institution of higher education, including trustees, officers, administrators or
120 employees of a school district or public institution of higher education.

121 SECTION 9. Section 2 of chapter 71B of the General Laws, as appearing in the 2018
122 Official Edition, is hereby amended by adding the following paragraph:-

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

133 SECTION 10. Said chapter 71B is hereby amended by adding the following section:-

134 Section 17. (a) Subject to appropriation, the department of higher education shall develop
135 and administer a discretionary grant program, which shall include planning or implementation
136 grants, to provide monies to school committees and public institutions of higher education
137 partnering to offer inclusive concurrent enrollment initiative options for school-aged children
138 who are 18 to 21 years old, inclusive, and are considered to have severe intellectual disabilities,
139 severe autism spectrum disorders or other severe developmental disabilities. The program shall
140 be limited to: (i) students who are 18 or 19 years old, to students with a severe intellectual

141 disability, a severe autism spectrum disorder or other severe developmental disability who have
142 been unable to achieve the competency determination necessary to pass the statewide assessment
143 test pursuant to section 1D of chapter 69; and (ii) students who are 20 or 21 years old, to students
144 with severe disabilities who have been unable to obtain a passing score on the statewide
145 assessment tests utilized as a basis for competency determination under said section 1D of said
146 chapter 69 or have been determined by the Individualized Education Program team to have
147 severe functional delays impacting independent living, communication or behavioral skills
148 resulting in skills that are significantly below chronological age; provided, however, that public
149 institutions of higher education may also include students with severe intellectual disabilities,
150 severe autism spectrum disorders or other severe developmental disabilities over the age of 21
151 who have been unable to obtain a passing score on the statewide assessment tests utilized as a
152 basis for competency determination under said section 1D of said chapter 69.

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

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

163 or organization to support student academic success, participation in student life of the college
164 community and competitive employment.

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

183 (e) The department of higher education shall establish an inclusive concurrent enrollment
184 advisory board to advise the department on efforts to implement inclusive concurrent enrollment
185 and to participate in educational outreach efforts related to inclusive concurrent enrollment. The

186 inclusive concurrent enrollment advisory board shall include the following members or their
187 designees, who shall serve without compensation: the inclusive concurrent enrollment
188 coordinator, who shall serve as chair; the secretary of education; the commissioner of higher
189 education; the commissioner of elementary and secondary education; the commissioner of
190 developmental services; the commissioner of the Massachusetts rehabilitation commission; a
191 representative of the Massachusetts Administrators for Special Education; a representative of the
192 Massachusetts Association of School Committees, Inc.; a representative of the Massachusetts
193 Association of School Superintendents, Inc.; a representative of Massachusetts Advocates for
194 Children, Inc.; a representative of the Federation for Children with Special Needs, Inc.; a
195 representative of the Institute for Community Inclusion; not less than 2 representatives of school
196 districts and public institutions of higher education that have successfully implemented inclusive
197 concurrent enrollment initiatives, to be appointed by the chair; and 2 students who are
198 participating or have participated in an inclusive concurrent enrollment program, to be appointed
199 by the chair. The inclusive concurrent enrollment advisory board shall meet not less than
200 quarterly. If an inclusive concurrent enrollment coordinator is not designated pursuant to
201 subsection (f), the commission of the department of higher education shall select another chair.

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

205 (g) Annually, not later than December 1, the executive office of education shall file a
206 report with the joint committee on education, the joint committee on higher education and the
207 house and senate committees on ways and means on the status of the inclusive concurrent

208 enrollment grant program established pursuant to subsection (a). The report shall include, but not
209 be limited to:

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

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

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

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

224 (v) employment data for students participating in the inclusive concurrent enrollment
225 program, obtained to the best of the ability of participating school committees and institutions of
226 higher education; and

227 (vi) the total funding received for the program, including amounts allocated to each
228 grantee and any executive agency or participating state board, department or institute of higher
229 education.

230 SECTION 11. The secretary of education and the secretary of health and human services
231 shall, as necessary, develop inter-agency agreements, policies and practices with the department
232 of higher education, the department of elementary and secondary education, public institutions of
233 higher education, school committees, the department of developmental services, the
234 Massachusetts rehabilitation commission and other relevant agencies in order to maximize
235 federal financial participation through Medicaid, maximize federal financial aid, support
236 institutions of higher education offering opportunities to include individuals with severe
237 intellectual disabilities, severe autism spectrum disorders or other severe developmental
238 disabilities who are more than 22 years old pursuant to section 30A of chapter 15A of the
239 General Laws or section 17 of chapter 71B of the General Laws and address any other issues
240 necessary for successful inclusion of students with severe intellectual disabilities, severe autism
241 spectrum disorders or other severe developmental disabilities in higher education.

242 SECTION 12. The department of higher education and the department of elementary and
243 secondary education, in consultation with the inclusive concurrent enrollment initiative advisory
244 board, the executive officer of the Council of Presidents of the Massachusetts State University
245 System or a designee, the president of the University of Massachusetts or a designee and the
246 executive director of Massachusetts Community Colleges Executive Office or a designee shall
247 issue guidelines to implement section 17 of chapter 71B of the General Laws not later than
248 March 15, 2022.