

HOUSE No. 4217

The Commonwealth of Massachusetts

PRESENTED BY:

Alyson M. Sullivan-Almeida

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 to ensure fair due process in special education disputes.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|-----------------------------------|--------------------------------|------------------|
| <i>Alyson M. Sullivan-Almeida</i> | <i>7th Plymouth</i> | <i>1/17/2025</i> |
| <i>Michael O. Moore</i> | <i>Second Worcester</i> | <i>9/8/2025</i> |
| <i>Peter J. Durant</i> | <i>Worcester and Hampshire</i> | <i>9/8/2025</i> |
| <i>Lisa Field</i> | <i>3rd Bristol</i> | <i>10/8/2025</i> |
| <i>Ryan C. Fattman</i> | <i>Worcester and Hampden</i> | <i>10/8/2025</i> |
| <i>Steven S. Howitt</i> | <i>4th Bristol</i> | <i>10/8/2025</i> |
| <i>Marc T. Lombardo</i> | <i>22nd Middlesex</i> | <i>10/8/2025</i> |
| <i>John J. Marsi</i> | <i>6th Worcester</i> | <i>10/8/2025</i> |

HOUSE No. 4217

By Representative Sullivan-Almeida of Abington, a petition (accompanied by bill, House, No. 4217) of Alyson M. Sullivan-Almeida relative to special education disputes. Education.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act to ensure fair due process in special education disputes.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to forthwith ensure fair due process in special education disputes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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 2A of chapter 71B of the General Laws, as appearing in the 2022
2 Official Edition, is hereby amended by adding the following subsection:-

3 (f) In all due process hearings conducted by the bureau of special education appeals under
4 the: (i) Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq.; (ii) Section 504 of
5 the Rehabilitation Act of 1973, 29 U.S.C. 794; or (ii) any general or special law or regulation
6 governing general and special education rights and protections against discrimination and
7 harassment, the school district shall have the burden of proof, including the burden of persuasion
8 and production, of the proposed individualized education program, Section 504 plan or other
9 educational decisions or actions by the bureau of special education appeals are appropriate,
10 provide a free and appropriate public education and do not constitute discrimination or
11 harassment. The burden of proof shall be met by a preponderance of the evidence. This provision

12 shall aim to ensure that parents and families have equitable access to due process and that school
13 districts are held accountable for their educational decisions.

14 SECTION 2. Section 3 of said chapter 71B, as so appearing, is hereby amended by
15 inserting after the thirteenth paragraph the following paragraph:-

16 In all due process hearings conducted by the bureau of special education appeals under
17 the: (i) Individuals with Disabilities Education Act 20 U.S.C. 1400 et seq.; (ii) Section 504 of the
18 Rehabilitation Act of 1973, 29 U.S.C. 794; or (iii) any general or special law or regulation
19 governing general and special education rights and protections against discrimination and
20 harassment, the school district shall have the burden of proof, including the burden of persuasion
21 and production, of the proposed individualized education program, Section 504 plan or other
22 educational decisions or actions by the bureau of special education appeals are appropriate,
23 provide a free and appropriate public education and do not constitute discrimination or
24 harassment. The burden of proof shall be met by a preponderance of the evidence. This provision
25 shall aim to ensure that parents and families have equitable access to due process and that school
26 districts are held accountable for their educational decisions.

27 SECTION 3. (a) There shall be established a special commission, pursuant to section 2A
28 of chapter 4 of the General Laws, hereinafter referred to as the equitable access commission, to
29 study and address barriers of equitable access for pro se litigants in due process hearings with the
30 bureau of special education appeals established in section 2A of chapter 71B of the General
31 Laws.

32 (b) The equitable access commission shall focus on identifying and recommending
33 strategies to enable equitable access for the following groups: (i) parents, guardians and students

34 that are 16 years of age or older who have a disability; (ii) individuals facing economic
35 disadvantages; (iii) non-native English language speakers; (iv) families new to the United States'
36 educational system; and (v) individuals encountering cultural barriers.

37 (c) The equitable access commission shall consist of the following members:

38 (i) chairs of the joint committee on education or their designees, who shall serve as co-
39 chairs;

40 (ii) 1 member appointed by the speaker of the house of representatives;

41 (iii) 1 member appointed by the minority leader of the house of representatives;

42 (iv) 1 member appointed by the president of the senate;

43 (v) 1 member appointed by the minority leader of the senate;

44 (vi) 1 member appointed by the attorney general, who shall be a professional advocate or
45 attorney that has no affiliation with the department of elementary and secondary education,
46 including no history of serving in state appointments, state committees, state employment or
47 receiving state funding that includes district employment or district contracting funding; and

48 (vii) 2 members appointed by the governor, 1 of whom shall be a parent or guardian of a
49 student who has a disability and who is unaffiliated with the department of elementary and
50 secondary education; and 1 of whom shall be a student who has a disability and is currently
51 enrolled in or has recently exited the educational system in the commonwealth.

52 (d) The equitable access commission shall be responsible for: (i) conducting a
53 comprehensive assessment of existing barriers to equitable access in the bureau of special

54 education appeals due process hearings; (ii) gathering input from the aforementioned
55 stakeholders to ensure that authentic experiences and perspectives are represented; (iii)
56 developing recommendations for policy changes, resources and support systems that promote
57 equitable access for all pro se litigants; and (iv) reporting its findings and recommendations to
58 the general court within 1 year of its establishment pursuant to subsection (f).

59 (e) The equitable access commission shall convene its first meeting within 30 days of its
60 establishment and shall operate in accordance with established guidelines to ensure transparency
61 and inclusivity in its proceedings.

62 (f) The equitable access commission shall prepare a report detailing the results of the
63 study, along with any recommendations and any proposed standards and legislation necessary to
64 carry out its recommendations. The report shall be submitted to the: (i) joint committee on
65 education; and (ii) clerks of the house of representatives and senate not later than 1 year of the
66 establishment of the equitable access commission.