

HOUSE No. 1219

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:
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>
<i>Diana DiZoglio</i>	<i>First Essex</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Natalie M. Blais</i>	<i>1st Franklin</i>
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>
<i>Daniel Cahill</i>	<i>10th Essex</i>
<i>Gerard J. Cassidy</i>	<i>9th Plymouth</i>

<i>Edward F. Coppinger</i>	<i>10th Suffolk</i>
<i>Claire D. Cronin</i>	<i>11th Plymouth</i>
<i>Daniel R. Cullinane</i>	<i>12th Suffolk</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>
<i>Angelo L. D'Emilia</i>	<i>8th Plymouth</i>
<i>Linda Dean Campbell</i>	<i>15th Essex</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>
<i>William J. Driscoll, Jr.</i>	<i>7th Norfolk</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>
<i>Ann-Margaret Ferrante</i>	<i>5th Essex</i>
<i>Carole A. Fiola</i>	<i>6th Bristol</i>
<i>Cindy F. Friedman</i>	<i>Fourth Middlesex</i>
<i>William C. Galvin</i>	<i>6th Norfolk</i>
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>
<i>Carlos Gonzalez</i>	<i>10th Hampden</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>
<i>Stephan Hay</i>	<i>3rd Worcester</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>
<i>Bradford Hill</i>	<i>4th Essex</i>
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>
<i>Randy Hunt</i>	<i>5th Barnstable</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>
<i>Patrick Joseph Kearney</i>	<i>4th Plymouth</i>
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>
<i>James M. Kelcourse</i>	<i>1st Essex</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>

<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>
<i>Adrian C. Madaro</i>	<i>1st Suffolk</i>
<i>Joseph W. McGonagle, Jr.</i>	<i>28th Middlesex</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>
<i>Christina A. Minicucci</i>	<i>14th Essex</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Smitty Pignatelli</i>	<i>4th Berkshire</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>Jeffrey N. Roy</i>	<i>10th Norfolk</i>
<i>Angelo M. Scaccia</i>	<i>14th Suffolk</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>
<i>Dean A. Tran</i>	<i>Worcester and Middlesex</i>
<i>Paul F. Tucker</i>	<i>7th Essex</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>
<i>Aaron Vega</i>	<i>5th Hampden</i>
<i>David T. Vieira</i>	<i>3rd Barnstable</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>
<i>Bud L. Williams</i>	<i>11th Hampden</i>
<i>Jonathan D. Zlotnik</i>	<i>2nd Worcester</i>

HOUSE No. 1219

By Representatives Haddad of Somerset and Garballey of Arlington, a petition (accompanied by bill, House, No. 1219) of Patricia A. Haddad and others relative to creating 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-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 39 the following section: -

32 Section 39A. (a) In order to provide individuals with severe intellectual disabilities,
33 severe autism spectrum disorders, or other severe developmental disabilities ages 18-22 with
34 opportunities to be included with nondisabled students in all aspects of higher education for the
35 purpose of gaining academic, career and technical, and independent living skills to prepare them
36 for adult life, including but not limited to employment and civic engagement, these individuals
37 shall not be required to take any standardized college entrance aptitude test; have a high school
38 diploma or its equivalent; meet minimum academic course requirements; meet minimum grade
39 point average requirements; or obtain a passing score on the statewide assessment tests utilized
40 as a 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 an approved expense as a
79 special education service pursuant to section 5 of chapter 71B of the General Laws, provided that
80 a student's participation in higher education is addressed in the student's Individualized
81 Education Program required by section 3 of chapter 71B of the General Laws for students ages
82 18 to 21 years old, inclusive and provided further that said student is considered to have a severe
83 intellectual disability, severe autism, or other severe developmental disability, and further
84 provided that in the case of students who are age 18 or 19, shall be limited to students with
85 severe disabilities who have been unable to obtain a passing score on the statewide assessment
86 tests utilized as a basis for competency determinations, under section 1D of chapter 69 of the
87 General Laws, and provided further that in the case of students ages 20 or 21, shall be limited to
88 students with severe disabilities who have been unable to obtain a passing score on the statewide
89 assessment tests utilized as a basis for competency determinations, under section 1D of chapter
90 69 of the General Laws and to students already determined eligible for special education who
91 have also been determined by the IEP Team to have severe functional delays impacting
92 independent living , communication, or behavioral skills resulting in skills that are significantly
93 below chronological age; and further provided that nothing in this section shall impose any
94 additional cost on a school committee beyond the cost of what is required under state or federal
95 special education law. (ii) subject to the availability of federal funding and appropriation,
96 provided under section 74 of Chapter 6 for individuals who are determined eligible for
97 vocational rehabilitation services; provided that access to higher education assists in the

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

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

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

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

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

120 SECTION 10. Section 2 of chapter 71B of the General Laws, as appearing in the 2016
121 Official Edition, is hereby amended by inserting in line 87 a new paragraph with the following
122 words:- Older students ages 18-21, inclusive, with severe intellectual disabilities, severe autism
123 spectrum disorders, and other severe developmental disabilities who are receiving special
124 education services may also have program options including continuing education, participation
125 in credit and noncredit courses that include students without disabilities in an institution of
126 higher education, development of independent living skills, development of skills necessary for
127 employment, and development of skills to access community services. Participation of said
128 students in institutions of higher education under this section shall be considered an approved
129 expense as a special education service pursuant to section 5 of chapter 71B of the General Laws,
130 provided that this service is addressed in the student's Individualized Education Program.

131 SECTION 11: Said chapter 71B, as so appearing, is hereby amended by inserting after
132 section 16 the following section: -

133 Section 17: Inclusive Concurrent Enrollment Initiative

134 (a) Subject to appropriation, the department of higher education shall develop and
135 administer a discretionary grant program to provide monies to school committees and public
136 institutions of higher education partnering to offer inclusive concurrent enrollment initiative
137 options for school-aged children, ages 18 to 21, inclusive with disabilities. The program shall be
138 limited to students : (i) who are considered to have severe intellectual disabilities, severe autism
139 spectrum disorders, or other severe developmental disabilities; and (ii) for students age 18 to 19,
140 inclusive, shall be limited to students with severe disabilities who have been unable to achieve
141 the competency determination necessary to pass the statewide assessment test pursuant to section

142 1D of chapter 69; and (iii) for students ages 20 or 21, shall be limited to students with severe
143 disabilities who have been unable to obtain a passing score on the statewide assessment tests
144 utilized as a basis for competency determinations, under section 1D of chapter 69 of the General
145 Laws and to students determined by the IEP Team to have severe functional delays impacting
146 independent living , communication, or behavioral skills resulting in skills that are significantly
147 below chronological age; provided that public institutions of higher education may also include
148 students with severe intellectual disabilities, severe autism spectrum disorders, or other severe
149 developmental disabilities over the age of 21 who have been unable to obtain a passing score on
150 the statewide assessment tests utilized as a basis for competency determinations, under section
151 1D of chapter 69 of the General Laws, with planning or implementation grants available through
152 said discretionary grant program .

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

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

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

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

194 (e) The department of higher education shall establish an inclusive concurrent enrollment
195 advisory board to advise the department on efforts to implement inclusive concurrent enrollment
196 and to participate in educational outreach efforts related to inclusive concurrent enrollment. The
197 inclusive concurrent enrollment advisory board shall include the following members or their
198 designees: the inclusive concurrent enrollment coordinator, who shall serve as chair; the
199 secretary of education, the commissioner of higher education; the commissioner of elementary
200 and secondary education; the commissioner of the department of developmental services; the
201 commissioner of the Massachusetts rehabilitation commission; a representative of the
202 Massachusetts Administrators for Special Education; a representative of the Massachusetts
203 Association of School Committees; a representative of the Massachusetts Association of School
204 Superintendents; a representative of Massachusetts Advocates for Children, Inc.; a
205 representative of the Federation for Students with Special Needs, Inc.; a representative of the
206 Institute for Community Inclusion; at least 2 representatives of school districts, and public
207 institutions of higher education that have successfully implemented inclusive concurrent
208 enrollment initiatives, to be appointed by the chair; and 2 students who are participating or have
209 participated in an inclusive concurrent enrollment program, to be appointed by the chair. The

210 inclusive concurrent enrollment advisory board shall meet at least quarterly. Members of the
211 advisory board shall serve without compensation.

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

215 SECTION 12. The secretary of education and the secretary of health and human services
216 shall, as necessary, develop inter-agency agreements, policies and practices with the department
217 of higher education, the department of elementary and secondary education, public institutions of
218 higher education, school committees, the department of developmental services, the
219 Massachusetts rehabilitation commission and other relevant agencies in order to maximize
220 federal financial participation through Medicaid, maximize federal financial aid, support
221 institutions of higher education offering opportunities to include individuals with severe
222 intellectual disabilities, severe autism spectrum disorders or other severe developmental
223 disabilities over age 22 pursuant to section 11 (a) of this act, and address any other issues
224 necessary for successful inclusion of students with severe intellectual disabilities, severe autism
225 spectrum disorders or other severe developmental disabilities in higher education.

226 SECTION 13. The department of higher education and the department of elementary
227 secondary education, in consultation with the inclusive concurrent enrollment initiative advisory
228 board, the executive officer of the Council of Presidents of the Massachusetts State University
229 System or designee, the president of the University of Massachusetts or designee and the
230 executive director of Massachusetts Community Colleges Executive Office or designee shall

231 issue guidelines pursuant to section 17 of chapter 71B of the General Laws on or before
232 September 15, 2020 .