

SENATE No. 2815

The Commonwealth of Massachusetts

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

SENATE, April 7, 2022.

The committee on Higher Education to whom was referred the 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, report the accompanying bill (Senate, No. 2815).

For the committee,
Anne M. Gobi

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

5 SECTION 2. Said chapter 15A is hereby further amended by inserting after section 30
6 the following section:-

7 Section 30A. (a) To ensure that individuals with severe intellectual disabilities, severe
8 autism spectrum disorders or other severe developmental disabilities have opportunities to be
9 included with non-disabled students in all aspects of higher education for the purpose of gaining
10 academic, career, technical and independent living skills to prepare them for adult life, including,
11 but not limited to, employment and civic engagement, such individuals shall not be required to:
12 (i) take any standardized college entrance aptitude test; (ii) have a high school diploma or its
13 equivalent;; (iii) meet minimum grade point average requirements; or (iv) obtain a passing score

14 on the statewide assessment tests utilized as a basis for competency determination under section
15 1D of chapter 69, in order to participate in undergraduate academic courses, internships, work-
16 based trainings, and extracurricular activities that include non-disabled students and all other
17 aspects of campus life in accordance with this section.

18 (b) Public institutions of higher education, in consultation with the department of higher
19 education and consistent with the purposes of this section, shall create guidelines to select
20 students participating in higher education pursuant to this section, including, but not limited to,
21 guidelines to determine adequate funding and campus capacity and to coordinate selection of
22 students with relevant local, state or other public agencies serving students with severe
23 intellectual disabilities, severe autism spectrum disorders or other severe developmental
24 disabilities; provided, however, that these individuals shall not be denied opportunities to
25 participate in higher education solely due to their intellectual disability, autism spectrum
26 disorders or developmental disability. Public institutions of higher education, in consultation
27 with the department of higher education and consistent with the purposes of this section, shall
28 also establish course selection guidelines for this program Participating individuals shall be
29 permitted to: (i) take a credit-bearing, undergraduate academic course for credit if they have met
30 the course prerequisites and requirements; or (ii) audit a credit-bearing, undergraduate academic
31 course, consistent with campus policies governing selection of students for audit participation, if
32 they have not met the course prerequisites and requirements.

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

37 higher education to include students with severe intellectual disabilities, severe autism spectrum
38 disorders or other severe developmental disabilities in graduate and continuing education
39 courses.

40 (c) Subject to appropriation, individuals participating in higher education pursuant to
41 subsection (a) shall have access to and be included with non-disabled students in all academic
42 and non-academic opportunities at public institutions of higher education in order to have
43 inclusive educational opportunities to acquire academic, career, technical and independent living
44 skills that prepare them for adult life including, but not limited to, employment and civic
45 engagement. Individual supports and services shall be funded by the Commonwealth as
46 additional appropriations to public higher education, beyond what is currently available to
47 support inclusion in academic courses, extracurricular activities and other aspects of campus life;
48 provided, however, that nothing in this subsection shall supersede subsections (b) and (d).

49 (d) Public institutions of higher education shall not be required to bear the costs of
50 individual supports and services that exceed the kind of supports and services generally provided
51 by public institutions of higher education. Costs associated with supporting participation in
52 public institutions of higher education under this section shall be: (i) an approved expense as a
53 special education service pursuant to section 5 of chapter 71B and shall be considered secondary
54 school education; provided, however, that a student's participation in higher education is
55 addressed in the student's Individualized Education Program under section 3 of said chapter 71B
56 for students ages 18 to 21 years old, inclusive; provided further, that such student is considered
57 to have a severe intellectual disability, a severe autism spectrum disorder or other severe
58 developmental disability; provided further, that in the case of students who are age 18 or 19,
59 participation shall be limited to students with a severe intellectual disability, a severe autism

60 spectrum disorder or other severe developmental disability who have been unable to obtain a
61 passing score on the statewide assessment tests utilized as a basis for competency determination
62 under section 1D of chapter 69; provided further, that in the case of students ages 20 or 21,
63 participation shall be limited to students with a severe intellectual disability, a severe autism
64 spectrum disorder or other severe developmental disability who have been unable to obtain a
65 passing score on the statewide assessment tests utilized as a basis for competency
66 determinations, under said section 1D of said chapter 69 or who have already been determined
67 eligible for special education and have also been determined by the Individualized Education
68 Program team to have severe functional delays impacting independent living, communication or
69 behavioral skills resulting in skills that are significantly below chronological age; and provided
70 further, that nothing in this section shall impose an additional cost on a school committee beyond
71 the cost of what is required under state or federal special education law; (ii) subject to the
72 availability of federal funding and appropriation provided under section 74 of chapter 6 for
73 individuals who are determined eligible for vocational rehabilitation services; provided,
74 however, that access to higher education assists in the attainment of an identified employment
75 goal, as determined by the agency, consistent with all applicable regulations and subject to the
76 development of an Individualized Plan for Employment; (iii) subject to appropriation under
77 chapter 19B for individuals 22 years of age or older who are determined eligible for services;
78 provided, however, that the individual supports and services are determined to be an appropriate
79 support, of the type, frequency and duration identified in an assessment conducted by the
80 department, and subject to the development of an annual individual support plan. Costs of
81 participation may be covered by any other public or private sources available to the student.

82 Administrative and staffing cost necessary for the implementation of this section shall be
83 provided in the form of additional appropriations for inclusive concurrent enrollment programs.

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

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

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

96 SECTION 3. Section 2 of chapter 71B of the General Laws, as appearing in the 2018
97 Official Edition, is hereby amended by adding the following paragraph:-

98 Students who are 18 to 21 years old, inclusive, have severe intellectual disabilities, severe
99 autism spectrum disorders or other severe developmental disabilities and are receiving special
100 education services may also have program options including, but not limited to, continuing
101 education, participation in credit and noncredit courses that include students without disabilities
102 in an institution of higher education, development of independent living skills, development of
103 skills necessary for employment and development of skills to access community services.

104 Participation of such students in institutions of higher education under this section shall be
105 considered an approved expense as a special education service pursuant to section 5 and shall be
106 considered secondary school education; provided, however, that this service is addressed in the
107 student's Individualized Education Program.

108 SECTION 4. Chapter 71B is hereby amended by adding the following section:-

109 Section 17. (a) Subject to appropriation, the department of higher education shall develop
110 and administer a discretionary grant program, which shall include planning or implementation
111 grants, to provide monies to school committees and public institutions of higher education
112 partnering to offer inclusive concurrent enrollment initiative options for school-aged children
113 who are 18 to 21 years old, inclusive, and are considered to have severe intellectual disabilities,
114 severe autism spectrum disorders or other severe developmental disabilities. The program shall
115 be limited to: (i) students who are 18 or 19 years old, to students with a severe intellectual
116 disability, a severe autism spectrum disorder or other severe developmental disability who have
117 been unable to achieve the competency determination necessary to pass the statewide assessment
118 test pursuant to section 1D of chapter 69; and (ii) students who are 20 or 21 years old, to students
119 with severe disabilities who have been unable to obtain a passing score on the statewide
120 assessment tests utilized as a basis for competency determination under said section 1D of said
121 chapter 69 or have been determined by the Individualized Education Program team to have
122 severe functional delays impacting independent living, communication or behavioral skills
123 resulting in skills that are significantly below chronological age; provided, however, that public
124 institutions of higher education may also include students with severe intellectual disabilities,
125 severe autism spectrum disorders or other severe developmental disabilities over the age of 21

126 who have been unable to obtain a passing score on the statewide assessment tests utilized as a
127 basis for competency determination under said section 1D of said chapter 69.

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

134 (c) The grant program shall support participation of any relevant state or other agency
135 serving students with severe intellectual disabilities, severe autism spectrum disorders or other
136 severe developmental disabilities, including, but not limited to, the department of developmental
137 services, the Massachusetts rehabilitation commission or other vocational rehabilitation agency
138 or organization to support student academic success, participation in student life of the college
139 community and competitive employment.

140 (d) The grant program shall support partnerships that provide: (i) participation in credit-
141 bearing and non-credit courses that include students without disabilities, including participation
142 in credit-bearing courses in audit status for students who may not meet course prerequisites; (ii)
143 participation in on-campus student life activities; (iii) preparation for competitive employment;
144 (iv) the waiver of tuition for courses by the public institution of higher education; (v) the
145 provision of supports and services necessary to facilitate a student's participation and support
146 inclusion in academic courses, extracurricular activities, internships, work experiences and other
147 aspects of the institution's postsecondary program; (vi) education, training and technical

148 assistance for teachers, faculty and personnel regarding strategy and teaching methodology to
149 achieve successful inclusion of individuals with severe intellectual disabilities, severe autism
150 spectrum disorders or other severe developmental disabilities; (vii) full inclusion of students with
151 severe intellectual disabilities, severe autism spectrum disorders or other severe developmental
152 disabilities with nondisabled students in all aspects of higher education including, but not limited
153 to, academic and social activities; and (viii) the utilization of person-centered planning in the
154 development of the course of study for each participating student. Partnerships with institutions
155 of higher education that offer dormitory living may also include opportunities for students with
156 severe intellectual disabilities, severe autism spectrum disorders or other severe developmental
157 disabilities to live in residential housing offered to nondisabled students.

158 (e) Nothing in this grant program shall be construed (i) to impose any liability against any
159 school district or any public institution of higher education, including trustees, officers,
160 administrators or employees of the school district or public institution of higher education; or (ii)
161 creating or imposing a specific duty of care, nor shall this section create or impose a private right
162 of action against any school district or any public institution of higher education, including
163 trustees, officers, administrators or employees of a school district or public institution of higher
164 education.

165 (f) The department of higher education shall establish an inclusive concurrent enrollment
166 advisory board to advise the department on efforts to implement inclusive concurrent enrollment
167 and to participate in educational outreach efforts related to inclusive concurrent enrollment. The
168 inclusive concurrent enrollment advisory board shall include the following members or their
169 designees, who shall serve without compensation: the inclusive concurrent enrollment
170 coordinator, who shall serve as chair; the secretary of education; the commissioner of higher

171 education; the commissioner of elementary and secondary education; the commissioner of
172 developmental services; the commissioner of the Massachusetts rehabilitation commission; a
173 representative from the University of Massachusetts as recommended by the Office of the
174 President; a representative of the state universities as recommended by the Massachusetts State
175 Universities Council of Presidents; a representative of the community colleges as recommended
176 by the Massachusetts Association of Community Colleges. a representative of the Massachusetts
177 Administrators for Special Education; a representative of the Massachusetts Association of
178 School Committees, Inc.; a representative of the Massachusetts Association of School
179 Superintendents, Inc.; a representative of Massachusetts Advocates for Children, Inc.; a
180 representative of the Federation for Children with Special Needs, Inc.; a representative of the
181 Institute for Community Inclusion; not less than 2 representatives of school districts and public
182 institutions of higher education that have successfully implemented inclusive concurrent
183 enrollment initiatives, to be appointed by the chair; and 2 students who are participating or have
184 participated in an inclusive concurrent enrollment program, to be appointed by the chair. The
185 inclusive concurrent enrollment advisory board shall meet not less than quarterly. If an inclusive
186 concurrent enrollment coordinator is not designated pursuant to subsection (f), the commission of
187 the department of higher education shall select another chair.

188 (g) The department of higher education shall designate an inclusive concurrent
189 enrollment coordinator to manage grant administration and coordinate reporting.

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

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

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

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

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

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

209 (v) employment data for students participating in the inclusive concurrent enrollment
210 program, obtained to the best of the ability of participating school committees and institutions of
211 higher education

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

215 SECTION 5. The secretary of health and human services shall convene a task force no
216 later than January 1, 2023 in order to evaluate, develop and pilot mechanisms to support
217 institutions of higher education offering opportunities to include individuals with severe
218 intellectual disabilities, severe autism spectrum disorders or other severe developmental
219 disabilities over the age of 21. The evaluation shall include, but not be limited to: (i) the needs
220 relating to housing, employment, health and mental health care, transportation, and social and
221 leisure opportunities of adults with autism spectrum disorder or other severe developmental
222 disabilities over the age of 21 throughout the State; (ii) the type of support, frequency, and
223 duration that would be required to support public higher education opportunities for individuals
224 over the age of 21 with autism spectrum disorder or other severe developmental disabilities; (iii)
225 the costs associated with supporting higher education opportunities at public higher education
226 institutions for individuals over the age of 21 with autism spectrum disorder or other sever
227 developmental disabilities; (iv) the opportunities available to maximize federal financial
228 participation through Medicaid and federal financial aid to include individuals with severe
229 intellectual disabilities, severe autism spectrum disorders or other severe developmental
230 disabilities who are more than 21 years old.

231 The task force shall consist of the following members or their designees: the inclusive
232 concurrent enrollment coordinator, who shall serve as chair; the secretary of education; the
233 commissioner of higher education; the commissioner of elementary and secondary education; the
234 commissioner of developmental services; the commissioner of the Massachusetts rehabilitation

235 commission; a representative from the University of Massachusetts as recommended by the
236 Office of the President; a representative of the state universities as recommended by the
237 Massachusetts State Universities Council of Presidents; a representative of the community
238 colleges as recommended by the Massachusetts Association of Community Colleges; a
239 representative of the Massachusetts Administrators for Special Education; a representative of the
240 Massachusetts Association of School Committees, Inc.; a representative of the Massachusetts
241 Association of School Superintendents, Inc.; a representative of Massachusetts Advocates for
242 Children, Inc.; a representative of the Federation for Children with Special Needs, Inc.; a
243 representative of the Institute for Community Inclusion; not less than 2 representatives of school
244 districts and public institutions of higher education that have successfully implemented inclusive
245 concurrent enrollment initiatives, to be appointed by the chair; and 2 students who are
246 participating or have participated in an inclusive concurrent enrollment program, to be appointed
247 by the chair.

248 The task force shall, on or before, July 31, 2023, file its report containing the results of its
249 investigation and study and shall make recommendations to the inclusive concurrent enrollment
250 advisory board. Upon completion and filing of the report this task force shall be dissolved.

251 SECTION 6. The department of higher education and the department of elementary and
252 secondary education, in consultation with the inclusive concurrent enrollment initiative advisory
253 board, the executive officer of the Council of Presidents of the Massachusetts State University
254 System or a designee, the president of the University of Massachusetts or a designee and the
255 executive director of Massachusetts Community Colleges Executive Office or a designee shall
256 issue guidelines to implement section 4 of this act not later than March 15, 2023.