

**HOUSE . . . . . No. 3389**

---

The Commonwealth of Massachusetts

PRESENTED BY:

*Evandro C. Carvalho*

*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 promote education opportunity for English language learners and students with special needs.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Evandro C. Carvalho</i>	<i>5th Suffolk</i>
<i>Jose F. Tosado</i>	<i>9th Hampden</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>
<i>Carlos Gonzalez</i>	<i>10th Hampden</i>

**HOUSE . . . . . No. 3389**

---

---

By Mr. Carvalho of Boston, a petition (accompanied by bill, House, No. 3389) of Evandro C. Carvalho and others relative to hosting in-district English language learner programs or in-district special education programs. Education.

---

---

The Commonwealth of Massachusetts

\_\_\_\_\_  
**In the One Hundred and Eighty-Ninth General Court  
(2015-2016)**  
\_\_\_\_\_

An Act to promote education opportunity for English language learners and students with special needs.

*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. Subsection (a) of section 89 of chapter 71 of the General Laws, as  
2 appearing in the 2012 Official Edition, is hereby amended by inserting after the definition of  
3 “District” the following definitions:

4 “In-district English language learner program”, a program with a specialization in  
5 English language education approved by the board.

6 “In-district special education program”, a program with a specialization in special  
7 education approved by the board.

8 “Non-program seats”, spaces in a Horace Mann charter school that hosts either an in-  
9 district English language learner program or an in-district special education program, which are  
10 not reserved for the qualifying students of such a program.

11 “Program seats”, spaces in a Horace Mann charter school that hosts either an in-district  
12 English language learner program or an in-district special education program, which are reserved  
13 for the students of such a program.

14 “Qualifying English language learners”, students with an English language development  
15 level of 1, 2 or 3 who are currently enrolled in the district where the Horace Mann charter school  
16 is to be located, and who meet the application criteria for an in-district English language learner  
17 program hosted at that Horace Mann charter school.

18 “Qualifying students with special needs”, students who have been assessed for an  
19 individualized education program pursuant to section 3 of chapter 71B, who are currently  
20 enrolled in the district where the Horace Mann charter school is to be located, and who meet the  
21 application criteria for an in-district special education program hosted at that Horace Mann  
22 charter school.

23 SECTION 2. Subsection (e) of said section 89 of said chapter 71, as so appearing, is  
24 hereby further amended by adding the following paragraph:-

25 The board shall also establish, as part of an application for the approval of a Horace  
26 Mann charter school, the option to apply to host an in-district English language learner program  
27 or in-district special education program; provided, that no applicant who applies to host such a  
28 program shall be granted a charter if their application to host such a program is denied. Such  
29 applications shall include, at a minimum: (i) which type of in-district program the school shall  
30 provide; (ii) any areas of anticipated specialization for the program, such as language, (iii) an  
31 explanation of how the proposed program seeks to improve the academic performance of the  
32 program’s students; (iv) the method for receiving referrals to the program from the school

33 district; (v) the method for placing new students in the program mid-school year, (vi) a plan for  
34 hiring, training, and retaining teachers as may be required by subsection (s) or any other  
35 applicable law or legal settlement; (vii); the number of program seats that shall be reserved for  
36 such a program and (vii) any other information the board shall deem relevant. All in-district  
37 English language learner programs approved by the board shall be subject to all applicable state  
38 and federal laws, including, but not limited to, chapter 71A and all in-district special education  
39 programs approved by the board shall be subject to all applicable state and federal laws,  
40 including, but not limited to, chapter 71B of the General Laws; provided, that all in-district  
41 special education programs shall use a full inclusion model.

42 SECTION 3. Subsection (n) of said section 89 of said chapter 71, as so appearing, is  
43 hereby amended by striking out the first and second paragraphs and inserting in place thereof the  
44 following 3 paragraphs:

45 (n) Preference for enrollment in a commonwealth charter school shall be given to  
46 students who reside in the city or town in which the charter school is located. Priority for  
47 enrollment in a Horace Mann charter school shall be given first to students actually enrolled in  
48 the school on the date that the application is filed with the board and to their siblings; second to  
49 qualifying English language learners or qualifying students with special needs; third to other  
50 students actually enrolled in the public schools of the district where the Horace Mann charter  
51 school is to be located; and fourth to other resident students.

52 If the total number of students who are eligible to attend and apply to a charter school and  
53 who reside in the city or town in which the charter school is located or are siblings of students  
54 already attending said charter school, is greater than the number of spaces available, an

55 admissions lottery, including all eligible students applying, shall be held to fill all of the spaces  
56 in that school from among the students. If there are more spaces available than eligible applicants  
57 from the city or town in which the charter school is located and who are siblings of current  
58 students and more eligible applicants than spaces left available, a lottery shall be held to  
59 determine which of the applicants shall be admitted; provided, however, that a lottery conducted  
60 for Horace Mann charter schools shall reflect the enrollment priorities of this section; and  
61 provided further, that no Horace Mann charter school with an in-district English language learner  
62 program or in-district special education program shall be required to fill program seats reserved  
63 for qualifying English language learners or qualifying students with special needs through a  
64 lottery admissions process. Notwithstanding this subsection, upon application by the board of  
65 trustees of a charter school or by the persons or entities seeking to establish a charter school, the  
66 board may amend or grant a charter designating such school a regional charter school; provided,  
67 however, that such regional charter school shall be exempt from the local preference provision of  
68 this paragraph; provided further, that such regional charter school shall continue to grant a  
69 preference of siblings of currently enrolled students; and provided further, that if the number of  
70 applicants remaining is greater than the number of spaces available, such regional charter school  
71 shall conduct a single lottery to determine which applicants shall be admitted.

72           Qualifying English language learners or qualifying students with special needs may be  
73 referred to an in-district English language learner program or in-district special education  
74 program by the school district in which the Horace Mann charter school would be located, with  
75 the written consent of the district. A student admitted to a Horace Mann charter school through a  
76 lottery admissions process but not admitted as a qualifying English language learner or a  
77 qualifying student with special needs may be referred to an in-district English language learner

78 program or in-district special education program, if such a program is available at the student's  
79 Horace Mann charter school internally, with the written consent of the school district in which  
80 the Horace Mann charter school is located.

81 SECTION 4. The fifth paragraph of said subsection (n) of said section 89 of said chapter  
82 71 is hereby amended by adding the following sentence. This paragraph shall only apply to non-  
83 program seats in Horace Mann charter schools with an in-district English language learner  
84 program or in-district special education program.

85 SECTION 5. Said subsection (n) of said section 89 of said chapter 71 is hereby further  
86 amended by inserting after the fifth paragraph, the following paragraph:-

87 Notwithstanding any provisions of the previous paragraph to the contrary, a Horace  
88 Mann charter school with an in-district English language learner program or an in-district special  
89 education program shall fill program seats continuously year-round. A program seat shall be  
90 filled within 5 business days of the Horace Mann charter school's receiving a referral from the  
91 school district in which the Horace Mann charter school is located.

92 SECTION 6. Subsection (s) of section 89 of chapter 71 of the General Laws, as so  
93 appearing, is hereby amended by adding the following 2 sentences.

94 Notwithstanding any general or special law to the contrary, in-district English language  
95 learner programs and in-district special education programs offered by Horace Mann charters  
96 school may be considered part of the school district where a student resides for the purposes of  
97 section 11 of chapter 15, sections 37C and 37D, chapter 71A, chapter 71B, section 12A of  
98 chapter 76, and any other applicable law or regulation of the commonwealth; to the fullest extent  
99 possible under federal law; and for the purposes of any binding settlement agreements entered

100 into by the local school district with any federal or state agency. The board shall promulgate  
101 regulations to implement the previous sentence and ensure that in-district English language  
102 learner programs and in-district special education programs offered by Horace Mann charter  
103 schools properly qualify as services offered by the local school district.