

SENATE No. 2807

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

SENATE, June 6, 2024.

The committee on Education, to whom was referred the petitions (accompanied by resolve, Senate, No. 241) of Joanne M. Comerford that provisions be made for an investigation and study by a special commission (including members of the General Court) relative to special education funding reform; (accompanied by bill, Senate, No. 249) of Cynthia Stone Creem and Vanna Howard for legislation to ensure equitable access to education, including special education services, for all students in Massachusetts; (accompanied by bill, Senate, No. 269) of Ryan C. Fattman for legislation to prevent discrimination in interscholastic athletic and extracurricular activities; (accompanied by bill, Senate, No. 324) of Patrick M. O'Connor for legislation relative to accommodations for special needs students taking the MCAS examination; (accompanied by resolve, Senate, No. 332) of Jacob R. Oliveira, Adam Scanlon, Lydia Edwards, Patrick M. O'Connor and other members of the General Court that provisions be made for an investigation and study by a special commission (including members of the General Court) relative to the long-term fiscal health and sustainability of special education in the Commonwealth; and (accompanied by bill, Senate, No. 356) of Bruce E. Tarr for legislation relative to conduct a study on the delivery of special education services, report the accompanying bill (Senate, No. 2807).

For the committee,
Jason M. Lewis

SENATE No. 2807

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**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act relative to special education.

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. (a) Notwithstanding section 17 of chapter 132 of the acts of 2019, or any
2 general or special law to the contrary, the data advisory commission established pursuant to said
3 section 17 of chapter 132 of the acts of 2019 shall study and make recommendations within their
4 annual report on the rationale and capacity of the department of elementary and secondary
5 education to publish and report:

6 (i) student-specific data provided by school committees and charter schools pursuant to:
7 section 1I of Chapter 69; sections 37G, 37H, 37O, 37P, and 89 of Chapter 71 of the General
8 Laws; sections 3 and 7 of Chapter 71A of the General Laws; section 6 of Chapter 71B of the
9 General Laws; section 2A of Chapter 72 of the General Laws; statewide assessment data utilized
10 as a basis for competency determinations pursuant to section 1D of chapter 69 of the General
11 Laws; and any other data required by the United States Department of Education;

12 (ii) said data in subsection (i) in a manner that can be cross-tabulated by: each major
13 racial and ethnic group; gender; low income status; high needs status; English learner status; and

14 category of disability, if applicable; and presented statewide and also disaggregated by school
15 district and individual school in a manner that is anonymized and does not reveal personally
16 identifiable information about any individual student;

17 (iii) the number of children, by grade level, within each disability category receiving
18 specific special education services, including but not limited to: each related service; assistive
19 technology, including but not limited to augmentative and alternative communication;
20 supplementary aids and services; behavioral intervention plans; vocational education; travel
21 training; and community-based transition services;

22 (iv) said data in subsection (iii) that can be cross-tabulated by each major racial and
23 ethnic group; gender; low income status; high needs status; and English learner status of children
24 by age level, including but not limited to delivery of: each related service; assistive technology,
25 including but not limited to augmentative and alternative communication; supplementary aids
26 and services; behavioral intervention plans; vocational education; travel training; and
27 community-based transition services; provided, that said information shall be presented
28 statewide and also disaggregated by school district and individual school in a manner that is
29 anonymized and does not reveal personally identifiable information about any individual student;
30 and

31 (v) whether there is a statistically significant increase in the rates of assignment of
32 students with disabilities to substantially separate classrooms for any racial or ethnic group
33 compared to the average of the prior 3 years.

34 (b) The department shall publish the data that is determined by the data advisory
35 commission to have rationale to be published, be within the department's capacity, and does not

36 reveal personally identifiable information about any individual student beginning with data
37 collected from the 2027-2028 school year. The department shall report all categories of data that
38 the department determines cannot be publicly disclosed and does not reveal personally
39 identifiable information about any individual student to the clerks of the house of representatives
40 and the senate, the house and senate committees on ways and means, and the joint committee on
41 education, including an explanation for the reason these data are not able to be published
42 publicly.

43 SECTION 2. Section 1B of chapter 69 of the General Laws, as so appearing, is hereby
44 amended by inserting after the seventh paragraph the following paragraph:-

45 The board shall annually publish a supplemental report containing student achievement
46 data for each approved private day or residential special education school or program. The data
47 shall include student performance on the statewide assessment system approved by the board
48 under section 1I.

49 SECTION 3. Section 1I of said chapter 69, as so appearing, is hereby further amended by
50 striking out, in line 250, the word “and”.

51 SECTION 4. Said section 1I of said chapter 69, as so appearing, is hereby further
52 amended by inserting after the word “learners”, in line 252, the following words:- ; and (i) the
53 number of children, by grade level, within each disability category receiving specific special
54 education services, including but not limited to: each related service, as defined in 20 U.S.C.
55 1400 et seq; assistive technology, including but not limited to augmentative and alternative
56 communication; supplementary aids and services; behavioral intervention plans; vocational
57 education; travel training; and community-based transition services.

58 SECTION 5. Section 6 of said chapter 71B, as so appearing, is hereby further amended
59 by inserting after the word “assignment”, in line 6, the following words:- or pattern of delivery of
60 specific special education services.

61 SECTION 6. Said chapter 71B of the General Laws is hereby amended by inserting after
62 section 10 the following new section:-

63 Section 10A. Each private special education school or program that enrolls students
64 funded by the commonwealth or its political subdivisions shall file annual reports with the
65 department of elementary and secondary education. Each approved private special education
66 school or program and special education school that enrolls students funded by the
67 commonwealth shall annually prepare financial statements, including: (1) a statement of net
68 assets; (2) a statement of revenues, expenditures, and changes in net assets; and (3) such
69 supplemental statements and schedules that may be required by the department. Each school or
70 program shall annually conduct an audit which shall include, but not be limited to, its financial
71 statements consistent with the generally accepted governmental auditing standards. Each school
72 or program shall file a report with the audit and any related management letters annually on or
73 before January 1 for the previous fiscal year with the department and the state auditor and shall
74 submit a copy of the audit report and any related management letters to each school district that
75 enrolled students in the private special education school during the period covered by the audit
76 report.

77 The audited financial statements, accompanying notes and schedules shall disclose, but
78 not be limited to: (1) transactions between the private special education school and any related
79 for profit or non-profit organization; (2) transactions or contracts related to the purchase, sale or

80 lease of real estate property; (3) the names, duties and total compensation of the 5 most highly
81 compensated employees; (4) the amounts expended on administration and overhead; (5)
82 information on programs and services provided by the school, including the cost effectiveness of
83 such programs and services; and (6) any other items that may be required by regulation.

84 SECTION 7. Notwithstanding any general or special law to the contrary, the secretary of
85 education shall, in consultation with the department of elementary and secondary education, the
86 department of early education and care, and the operational services division, study and make
87 recommendations regarding the oversight of approved private day or residential special
88 education schools or programs.

89 The recommendations shall provide information on topics including, but not limited to:
90 (1) best practices of licensing, monitoring and oversight of approved private day or residential
91 special education schools or programs; (2) the collection of data related to providing appropriate
92 educational programming; (3) the collection of data related to providing the most appropriate
93 services to students in approved private day or residential special education schools or programs;
94 (4) consideration of the relevant aspects of the statute governing education collaboratives, as
95 defined in section 4E of Chapter 40, and their potential application to approved private day or
96 residential special education schools or programs; (5) the collection of data relevant to the
97 structure for congregate care for students and review of the appropriate agency placement
98 policies; and (6) best practices for workforce development, including but not limited to staffing
99 models, trainings, and professional development. In developing recommendations, the secretary
100 of education, the department of elementary and secondary education, the department of early
101 education and care, and the operational services division shall consult with and solicit input from
102 various persons and groups, including but not limited to, the department of developmental

103 services; the division of local services; the Massachusetts Association of Approved Special
104 Education Schools; the executive directors of approved private day or residential special
105 education schools or programs of varying size and scope throughout the commonwealth;
106 organizations representing individuals with developmental disabilities; district directors of
107 special education throughout the commonwealth; organizations representing children with
108 disabilities and their parent or legal guardian; and associations representing special education
109 administrators and other education administrators, school officials, and municipal officials.

110 The secretary of education shall file a report, including any analysis or recommendations,
111 with the clerks of the house of representatives and senate not later than 12 months following the
112 passage of this act.