

2023 -- H 5636

LC001101

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO EDUCATION -- HIGHER EDUCATION OPPORTUNITIES FOR STUDENTS
WITH DISABILITIES

Introduced By: Representatives Cortvriend, Carson, Dawson, Kislak, Morales, Donovan,
Casimiro, Speakman, Shallcross Smith, and Chippendale

Date Introduced: February 15, 2023

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 16 of the General Laws entitled "EDUCATION" is hereby amended by
2 adding thereto the following chapter:

3 CHAPTER 24.2

4 HIGHER EDUCATION OPPORTUNITIES FOR STUDENTS WITH DISABILITIES ACT

5 **16-24.2-1. Title.**

6 This act shall be known and may be cited as the "Higher Education Opportunities for
7 Students with Intellectual Disabilities Act."

8 **16-24.2-2. Purpose.**

9 The purpose of this chapter is to provide inclusive educational opportunities for a child or
10 student with a disability as referenced in § 16-24-1, to improve academic achievement, develop
11 employment and independent living skills and enhance the overall and independent learning
12 environments for these persons. More generally, the purpose of this chapter is to offer a further
13 enhanced option to students with a disability to obtain social and emotional growth, support, and
14 development. This chapter includes students with disabilities, severe intellectual disabilities, severe
15 autism spectrum disorders or other severe developmental disabilities. As used in this chapter, the
16 term "student with a disability" means a student who is eligible for and receives special education
17 services as described in § 16-24-1.

18 **16-24.2-3. Attendance at state colleges and universities.**

1 (a) Students with a disability who are eighteen (18) to twenty-one (21) years of age,
2 inclusive, and up to twenty-two (22) years of age where the provisions of § 16-24-1(f) are
3 applicable, who receive special education services and have disabilities including, but not limited
4 to, severe intellectual disabilities, severe autism spectrum disorders or other severe developmental
5 disabilities and are receiving special education services may also have program options including,
6 but not limited to, continuing education, participation in credit and noncredit courses that include
7 students without disabilities in an institution of higher education, development of independent
8 living skills, development of skills necessary for employment and development of skills to access
9 community services. Participation of such students in institutions of higher education under this
10 section shall be considered an approved expense as a special education service and shall be a benefit
11 available to them pursuant to the provisions of § 16-24-1. More specifically, the provision of this
12 chapter shall be considered a form of secondary school education; provided, however, that this
13 service is addressed in and provided in accordance with the student's individualized education
14 program pursuant § 16-24-1.

15 (b) Schools for which a student may attend include all state colleges and universities,
16 including the community college of Rhode Island, Rhode Island college, and the university of
17 Rhode Island.

18 **16-24.2-4. Program requirements.**

19 (a) To ensure that students with a disability, including, but not limited to, individuals with
20 severe intellectual disabilities, severe autism spectrum disorders or other severe developmental
21 disabilities, have opportunities to be included with non-disabled students in all aspects of higher
22 education for the purpose of gaining academic, career, technical and independent living skills to
23 prepare them for adult life, including, but not limited to, employment and civic engagement, such
24 individuals attending a state institution of postsecondary education pursuant to this chapter shall
25 not be required to:

26 (1) Take any standardized college entrance aptitude test;

27 (2) Have a high school diploma or its equivalent;

28 (3) Meet minimum academic course requirements;

29 (4) Meet minimum grade point average requirements; or

30 (5) Obtain a passing score on any statewide assessment tests, in order to participate in
31 undergraduate academic courses, internships, work-based trainings, extracurricular activities that
32 include non-disabled students and all other aspects of campus life in accordance with this chapter.

33 (b)(1) State institutions of higher education, in consultation with the department of
34 elementary and secondary education and the office of the postsecondary commissioner, and

1 consistent with the purposes of this chapter, may create guidelines to select students participating
2 in higher education pursuant to this chapter, including, but not limited to, guidelines to determine
3 campus capacity and to coordinate selection of students with relevant local, state or other public
4 agencies serving students with severe intellectual disabilities, severe autism spectrum disorders or
5 other severe developmental disabilities. Provided, however, that these individuals shall not be
6 denied opportunities to participate in higher education solely due to their intellectual disability,
7 autism spectrum disorders or developmental disability.

8 (2) Public institutions of higher education, in consultation with the department of
9 elementary and secondary education and the office of the postsecondary commissioner, and
10 consistent with the purposes of this section, may also establish course selection guidelines to help
11 ensure that participating individuals receive guidance in selecting courses that are appropriate to
12 their individual strengths, needs, preferences and interests.

13 (3) Participating individuals shall be permitted to:

14 (i) Take a credit-bearing, undergraduate academic course for credit if they have met the
15 course prerequisites and requirements; or

16 (ii) Audit a credit-bearing, undergraduate academic course, consistent with campus policies
17 governing selection of students for audit participation, if they have not met the course prerequisites
18 and requirements.

19 (4) Nothing in this chapter shall require a public institution of higher education to provide
20 course enrollment or audit preference for students with severe intellectual disabilities, severe autism
21 spectrum disorders or other severe developmental disabilities, relative to other persons seeking to
22 enroll or audit a course. Nothing in this section shall require a public institution of higher education
23 to include students with severe intellectual disabilities, severe autism spectrum disorders or other
24 severe developmental disabilities in graduate and continuing education courses.

25 (c) Individuals participating in higher education pursuant to subsections (a) and (b) of this
26 section shall have access to and be included with non-disabled students in all academic and non-
27 academic opportunities at public institutions of higher education in order to have inclusive
28 educational opportunities to acquire academic, career, technical and independent living skills that
29 prepare them for adult life including, but not limited to, employment and civic engagement.
30 Individual supports and services shall be made available to support inclusion in academic courses,
31 extracurricular activities, and other aspects of campus life; provided, however, that nothing in this
32 subsection shall supersede subsections (b) and (d) of this section.

33 (d)(1) Public institutions of higher education shall not be required to bear the costs of
34 individual supports and services that exceed the kind of supports and services generally provided

1 by public institutions of higher education.

2 (2) Costs associated with supporting participation in public institutions of higher education
3 under this section shall be:

4 (i) An approved expense as a special education service pursuant to § 16-24-1 and shall be
5 considered secondary school education; provided, however, that a student's participation in higher
6 education is addressed in the student's individualized education program under § 16-24-1 for
7 students ages eighteen (18) to twenty-one (21) years old, inclusive, and age twenty-two (22) years,
8 where applicable; provided further, that such student is considered to have a disability, a severe
9 intellectual disability, a severe autism spectrum disorder or other severe developmental disability;
10 provided further, that in the case of students who are age eighteen (18) or nineteen (19),
11 participation shall be limited to students with a disability, a severe intellectual disability, a severe
12 autism spectrum disorder or other severe developmental disability who have been unable to obtain
13 a passing score on any statewide assessment tests utilized as a basis for competency determination.
14 Provided further, that in the case of students ages twenty (20) or twenty-one (21) or twenty-two
15 (22) where applicable, participation shall be limited to students with a disability, a severe
16 intellectual disability, a severe autism spectrum disorder or other severe developmental disability
17 who have been unable to obtain a passing score on any statewide assessment tests utilized as a basis
18 for competency determinations, or who have already been determined eligible for special education
19 and have also been determined by the individualized education program team to have severe
20 functional delays impacting independent living, communication or behavioral skills resulting in
21 skills that are significantly below chronological age. Provided further, that nothing in this section
22 shall impose an additional cost on a school committee beyond the cost of what is required under
23 state or federal special education law. The school committee shall forward the foundation education
24 aid amount for the student, as determined in § 16-7.2-3, to the state college or university, and the
25 state college and university shall not charge the district or the student for any costs of educating the
26 student beyond the foundation education aid amount;

27 (ii) Subject to the availability of federal funding and appropriation of foundation education
28 aid pursuant to chapters 7, 7.1, and 7.2 of title 16, for individuals who are determined eligible for
29 vocational rehabilitation services. Access to higher education assists in the attainment of an
30 identified employment goal, as determined by the agency, consistent with all applicable regulations
31 and subject to the development of an individualized plan for employment;

32 (iii) Costs of participation may be covered by any other public or private sources available
33 to the student.

34 (e) Participating individuals under this section shall be required to follow the public

1 institution of higher education's student behavioral policies, including the student code of conduct,
2 antidiscrimination and sexual violence policies; provided, however, that the public institution of
3 higher education shall provide such policies in accessible formats and shall provide reasonable
4 accommodations for participating individuals in any process instituted thereunder.

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

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

12 **16-24.2-5. Return to public high school option.**

13 Any student taking courses at a state college or university pursuant to this chapter shall
14 have the option to return to the student's public high school, if it is found that taking courses at a
15 state college or university is not in the best interest of the student. If a student commences to attend
16 a state college or university pursuant to this chapter and subsequently returns to the high school
17 from the student's sending district, the state college or university shall return to the sending district
18 the amount of foundation education aid related to the student, in an amount that is proportional to
19 the length of time the student spent attending the state college or university.

20 **16-24.2-6. Annual reporting.**

21 (a) Commencing September 1, 2024, and annually, not later than September 1 thereafter,
22 each state college or university shall file a report with the department of elementary and secondary
23 education, the office of the post-secondary commissioner, the board of education, and the senate
24 and house committees on education and on finance, regarding participation of individuals with
25 disabilities, severe intellectual disabilities, severe autism spectrum disorder, and other severe
26 developmental disabilities, who are attending state colleges and universities pursuant to this
27 section.

28 (b) The report referred to in this section shall include, but not be limited to:

29 (1) Data detailing the number of students participating pursuant to this section each
30 semester, including, but not limited to, gender, race and ethnicity of the students;

31 (2) A list of all courses taken by participating students during the academic year, indicating
32 whether the students audited the course or participated in the course for credit;

33 (3) A list of extracurricular activities, internships, clubs and other activities in which such
34 students participate during the academic year;

1 (4) A summary of innovative strategies and practices implemented at each institution of
2 higher education that foster relationships with school districts, the department of human services,
3 and other relevant public agencies;

4 (5) Employment data for students participating pursuant to this section obtained to the best
5 of the ability of institutions of higher education; and

6 (6) Any relevant information regarding successful outcomes or challenges the institution
7 experienced in the academic year.

8 (c) The department of elementary and secondary education and the office of the
9 postsecondary commissioner shall review the reports and shall take steps necessary to ensure the
10 institution is including individuals pursuant to this section. The reports may be used to enhance
11 constructive conversations between the department, office, and institutions of higher education that
12 contribute to developing a full understanding of best practices in implementing this chapter.

13 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO EDUCATION -- HIGHER EDUCATION OPPORTUNITIES FOR STUDENTS
WITH DISABILITIES

1 This act would establish the Higher Education Opportunities for Students with Disabilities
2 Act. This act would enable students with disabilities who are ages eighteen (18) through twenty-
3 one (21) years, and in some cases to age twenty-two (22) years, to audit and otherwise attend state
4 colleges and universities using the student's foundation education aid.

5 This act would take effect upon passage.

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