

DRAFT REGULATIONS

Approved for Public Comment by the Board of Higher Education January 14, 2025

610 CMR 15.00 : MASSACHUSETTS INCLUSIVE POSTSECONDARY EDUCATION INITIATIVE PROGRAM GUIDELINES

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15.01 Authority, Scope and Purpose

610 CMR 15.00 is promulgated pursuant to the authority of the Board of Higher Education under M.G.L. c. 15A, § 9(u) and § 30A; M.G.L. c. 71B, § 17; and Sections 12, 22, 35, 36, 165 and 168 of Chapter 125 of the Acts of 2022, as amended by Sections 56 and 57 of Chapter 2 of the Acts of 2023, and as further amended by Sections 23 and 26 of Chapter 206 of the Acts of 2024.

The purpose of 610 CMR 15.00 is to establish minimum guidelines and support implementation of the discretionary grant program established in M.G.L. c. 71B, § 17 and M.G.L. c. 15A, § 30A(c).

15.02: Definitions

Board of Higher Education (Board). The Commonwealth's state higher education authority established pursuant to applicable provisions of M.G.L. c. 15A, § 4; responsible for public higher education system oversight and coordination pursuant M.G.L. c. 15A, § 1 *et seq.*; and responsible for private higher education degree granting authority and financial screening and assessments pursuant to M.G.L. c. 69, § 30 *et seq.*

Commissioner of Higher Education (Commissioner). The chief executive and administrative officer of the Department of Higher Education and the Board of Higher Education, pursuant to M.G.L. c. 15A, § 6.

Comprehensive Transition and Post-Secondary Programs (CTP). A degree, certificate, nondegree or noncertificate program that is offered by a postsecondary institution to provide students with intellectual disabilities opportunities to participate in coursework and other activities with non-disabled students, as defined and approved by the U.S. Department of Education pursuant to 34 CFR 668.231, *et seq.*

Department of Developmental Services (DDS). The agency established pursuant to M.G.L. c. 19B, § 1.

Department of Elementary and Secondary Education (DESE). The agency established pursuant to M.G.L. c. 15, § 1.

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Department of Higher Education (Department). The agency established pursuant to M.G.L. c. 15A, § 6.

Individualized Education Program (IEP). A written statement, developed and approved in accordance with federal special education law in a form established by the Department of Elementary and Secondary Education that identifies a student's special education needs and describes the services a school district shall provide to meet those needs pursuant to M.G.L. c. 71B and 603 CMR 28.00 *et seq.*

Individual Student-Centered Participation Plan (ISCPP). An umbrella term to describe the written plan(s) that are developed in alignment with 610 CMR 15.05 by DDS, MassAbility, or any other relevant state agency that serves individuals with Severe Disabilities and supports the participation of a student aged 22 or over in a Public Institution's Post-MAICEI program. The term ISCPP shall include an "individualized plan for employment" (IPE) developed by MassAbility pursuant to M.G.L. c. 6, § 74 and its implementing regulations, and an "individual service plan" (ISP) developed by DDS pursuant to M.G.L. c. 19B, and its implementing regulations, provided that said plans meet the intent of M.G.L. c.15A § 30A and this regulation.

MAICEI Program. Abbreviation for Massachusetts Inclusive Concurrent Enrollment Initiative programs that offer postsecondary education opportunities to eligible individuals ages 18 to 22, as defined in M.G.L. c. 71B, § 17 and cross-referenced in M.G.L. c. 15A, § 30A.

MAIPSE. Abbreviation for the Massachusetts Inclusive Postsecondary Education Initiative, an umbrella term for both MAICEI and Post-MAICEI Programs that refers to the comprehensive model of services designed to support individuals with severe intellectual disabilities, severe autism spectrum disorder, and severe developmental disabilities.

MassAbility. Pursuant to M.G.L. c. 6 § 74, MassAbility, formerly named the Massachusetts Rehabilitation Commission, is the primary agency responsible for the provision of career services for individuals with disability in the commonwealth. In addition to career services, MassAbility provides various community-based assistance to individuals with disability through the Home and Community Life Division.

Post-MAICEI Program. Abbreviation for post-Massachusetts Inclusive Concurrent Enrollment Initiative programs that offer postsecondary education opportunities to eligible individuals aged 22 years and over that have aged out of eligibility for MAICEI Programs, as codified and defined in M.G.L. c. 15A, § 30A and cross-referenced in M.G.L. c. 71B, § 17.

Public Institution. A community college, state university or University of Massachusetts public institution of higher education defined in M.G.L. c. 15A, § 5.

Severe Disability. Severe intellectual disability (ID), severe autism spectrum disorder (ASD), or other severe developmental disability (DD) as set forth in M.G.L. c. 71B, § 17.

15.03: Minimum Program Requirements and Grant Eligibility

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To be deemed compliant with statutory requirements, as referenced in 610 CMR 15.01, a program must meet the following minimum criteria:

- (1) Eligible Institution. Public Institutions must offer access to inclusive higher education opportunities pursuant to section 30A of chapter 15A, provided that they may be in partnership with school committees, any relevant state agency or other entity serving individuals with Severe Disabilities, including but not limited to DDS, MassAbility, or any other vocational rehabilitation agency or organization supporting student academic success.

- (2) Student Selection Guidelines. Each Public Institution must develop and maintain its own written guidelines regarding the selection criteria for identifying eligible students that may participate in its MAIPSE program. The guidelines may not deny an eligible student the opportunity to participate solely based on their disability status and must, at a minimum, address MAICEI and Post-MAICEI student selection criteria as follows:
 - (a) MAICEI Program Student Selection Guidelines: MAICEI Program student selection criteria are mandated by law (M.G.L. c. 71B, section 17(a)) and the program shall be limited to individuals who either:
 - i. Are 18 or 19 years and have:
 1. a Severe Disability and
 - a. have been unable to achieve the competency determination pursuant to section 1D of chapter 69; or
 - b. have been determined by the IEP team to have severe functional delays impacting independent living, communication or behavioral skills resulting in skills that are significantly below chronological age;
 - ii. Are 20 or 21 years old (up to the age of 22) and have:
 1. a Severe Disability and
 - a. have been unable to obtain competency determination under said section 1D of said chapter 69; or
 - b. have been determined by the IEP team to have severe functional delays impacting independent living, communication or behavioral skills resulting in skills that are significantly below chronological age.
 - (b) Post-MAICEI Program Student Selection Guidelines. As provided in M.G.L. c. 15A, § 30A, each Public Institution must establish guidelines regarding the criteria by which eligible individuals aged 22 and over are selected to participate in Post-MAICEI programming. Post-MAICEI Program student selection criteria are mandated by law (M.G.L. c. 71B, section 17(a)), and the program shall be limited to individuals aged 22 and over who have Severe Disabilities and have been unable

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to obtain a competency determination under M.G.L. c. 69, section 1D. Said selection guidelines:

- i. may limit participation of individuals with Severe Disabilities aged 22 and over to students who are:
 1. participating subject to an ISCPP as described in 610 CMR 15.05 below; and
 2. receiving financial support to participate in such program from the Department of Developmental Services, MassAbility, or another state agency if such agency is supporting the individual participating in the program.
- ii. may allow the participation of individuals with Severe Disabilities aged 22 and over who are funded by private sources, provided that:
 1. the selection of said student(s) is not based solely on whether the payment source is public or private; and
 2. the Public Institution's guidelines, as drafted or as implemented, on accepting students who are exclusively supported through private funding are equitable, as determined by the Commissioner of the Department; and
- iii. in addition to requiring the submission of an ISCPP as part of its application process, a Public Institution may require other documentation, questionnaires, interviews, or recommendations the institution chooses to utilize to implement equitable application procedures in order to select individuals with the foundation skills necessary to be successful in a post-secondary setting.

(3) Grant Eligibility. Subject to appropriation and available funding, the Department shall administer a grant program to award planning and implementation grants to support the participation of individuals with Severe Disabilities in MAIPSE prgraps as non-matriculated students in undergraduate academic courses, extracurricular activities, internships, work experiences, on-campus student life activities and other aspects of the Public Institution's postsecondary program. To be deemed elibile to be considered for MAIPSE grant awards a program must meet the criteria in 603 CMR 15.03(1) and (2).

(4) Minimum Institutional Administrative Capacity. Each Public Institution applicant shall, through requested grant funding or otherwise, provide for minimum administrative capacities and certifications, including:

- (a) Sufficient staffing to implement and carry out MAIPSE programs for students which, at a minimum, shall include:
 - i. a designated MAIPSE coordinator;
 - ii. an employment specialist who will serve as the career and job development specialist for the program; and

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- iii. one or more staff members who, in their job descriptions, are identified as assuming key roles related to supporting transition and improved post-secondary outcomes for individuals with Severe Disabilities, such as roles related to: youth development, person-centered planning, strategies to promote access to post-secondary education, and peer mentoring program development and oversight.
 - (b) An institutional commitment to becoming certified as a campus with Comprehensive Transition and Postsecondary Programs (CTP), within timelines approved by the Department, to increase eligible students' access to federal financial aid programs.
 - (c) As provided in M.G.L. c. 15A, section 30A(c), costs to support an individual's participation in the MAIPSE program is subject to the availability of public or private funds, including grant funding administered pursuant to M.G.L. c. 71B, section 17(a), and a Public Institution shall not be required to bear the costs of individual supports and services that exceed the kind of support and services generally provided by the Public Institution.
- (5) Course Selection Guidelines. Institutions, in consultation with the Department and consistent with the purposes of M.G.L. c. 15A, § 30A, shall establish course selection guidelines to ensure that participating individuals select courses that are appropriate to their individual strengths, needs, preferences, interests, and specifically-tailored employment goals as conveyed in the student's IEP or ISCPP, as applicable.
 - (a) A Public Institution's course selection guidelines shall permit:
 - i. eligible MAICEI or Post-MAICEI students to enroll in a credit-bearing undergraduate academic course for credit if the student has met the course prerequisites and enrollment requirements; or
 - ii. eligible MAICEI or Post-MAICEI students to audit a credit-bearing undergraduate academic course, consistent with campus policies governing the selection of students for audit participation, if the student has not met the course prerequisites and enrollment requirements; and
 - iii. for eligible Post-MAICEI students, participate as non-degree seeking students for the same number of semesters as the average number of semesters required of matriculating students to earn a degree at the institution; provided, that Public Institutions may permit an individual to participate for a longer duration to address the circumstances and needs of the individual, as supported in the student's ISCPP.
 - (d) A Public Institution shall not be required to include eligible students in graduate programs and courses, programs and courses with selective admission, or continuing education courses.
 - (e) A Public Institution shall not be required to provide course enrollment or audit preference to students with Severe Disabilities relative to other individuals seeking to enroll in or audit a course.

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- (6) Residential Housing Guidelines. A Public Institution that offers housing and residence life may also provide opportunities for eligible MAIPSE students to live in residential housing offered to other students not participating in MAIPSE, subject to the Public Institution establishing residential housing selection guidelines. Said selection guidelines may:
- (a) limit participation in residential housing to individuals that receive support and services from DDS, MassAbility, other state agencies that serve students with Severe Disabilities, or the student's school district pursuant to this section; and
 - (b) specify reasonable age ranges or age caps for eligible students' participation in housing and residence life, provided:
 - i. the Public Institution can demonstrate that such age ranges or age caps are necessary or appropriate relative to the institution's mission, the community it serves, relevant peer groups, and are non-discriminatory; and
 - ii. the proposed age range or age cap selection guidelines shall be subject to the review and disapproval of the Commissioner.
- (7) Student Code of Conduct. Individuals participating in the MAIPSE program shall be required to follow the Public Institution's student behavioral policies, including the student code of conduct and anti-discrimination and sexual misconduct policies, provided, the Public Institution shall provide such policies in accessible formats and shall provide reasonable accommodations for participating individuals in any process instituted thereunder. M.G.L. c. 15A, § 30A(d).

15.04: Partnership Grant Proposals

A Public Institution's grant proposal shall identify and seek to enable school districts and relevant state agencies, including DDS and MassAbility, and any other state agency that serves students with Severe Disabilities, to partner with the Public Institution to assist in supporting full inclusion of students with Severe Disabilities with other students not participating under section 30A of Chapter 15A in academics and all other aspects of on-campus student life activities of the college community, including extra-curricular activities, internship opportunities, and preparation for competitive employment, as specified in M.G.L. Chapter 71B, § 17(d) and as may be further defined in Department policy.

15.05: Individualized Student-Centered Participation Plan

As set forth in 610 CMR 15.03(2)(b), an Institution's Post-MAICEI Program selection policy for individuals over the age of 22 may limit selection and participation to individuals referred by and receiving supports and services from DDS, MassAbility, or other state agencies that serve students with Severe Disabilities, as documented in the individual's ISCPP.

- (1) The Department may issue guidelines on the content and format of an ISCPP. The Department's policy guidelines shall, at a minimum:
- (a) not conflict with each referring state agency's regulatory requirements;

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- (b) support a collaborative approach in developing the ISCPP with the applicable referring state agency, the eligible student and the MAIPSE program coordinator to support the student's college experience, consistent with the referring state agency's statutory and regulatory requirements in order to:
- i. encourage student self-direction and identify an eligible student's own individual interest in, or reasons for, pursuing a public program of higher education;
 - ii. identify an eligible student's strengths, needs, preferences, goals and interests in areas including academics, independent living, self-determination, and self-advocacy skills, and identify higher education experiences that would be appropriate for the eligible student based on such determination;
 - iii. identify the academic courses, programmatic offerings, services, supports, and extracurricular activities at a Public Institution most appropriate for the eligible student;
 - iv. identify the goals and outcomes for the individual, including employment goals, and how access to public higher education would assist the eligible student in the attainment of those goals and outcomes;
 - v. identify academic, social, and career support and resources needed for the individual to meet their goals and outcomes;
 - vi. identify the appropriate type, frequency, and duration (e.g., number of credit hours and/or semesters) of an eligible student's participation in credit-bearing, non-credit bearing, and/or extracurricular activities at a Public Institution;
and
 - vii. identify available funding intended to cover the cost of the student's participation in the Public Institution's MAIPSE program, including state (e.g., grant funding), federal, and private resources, and whether such state and federal funding is subject to appropriation and the laws, regulations and policies governing such funding source(s).
- (2) ISCPP shall be periodically updated and reviewed, and not less than biennially, consistent with DDS and MassAbility best practices and regulatory requirements governing the individualized plans developed by their agencies for their clients.

15.06: Institutional Reporting Requirements and Department Review

- (1) Annual Institutional Report. No later than September 1 of each year, as part of the annual report required under M.G.L. c. 15A, § 30A(g), each Public Institution shall submit the following information to the Department, the joint committee on higher education, the joint

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committee on education, the senate and house committees on ways and means, and the clerks of the senate and the house of representatives regarding the participation of individuals with Severe Disabilities in the Public Institution's MAIPSE Programs, in a format and manner to be determined by the Department:

- (a) data detailing the number of students participating each semester, including, but not limited to eligible students' race, ethnicity, gender identity, sexual orientation, primary language, and disability type, to the extent that such data is voluntarily disclosed by the student(s);
 - (b) a list of all courses taken by participating students during the academic year, indicating whether the students audited the course or participated in the course for credit;
 - (c) a list of extracurricular activities, internships, clubs, and other activities in which students participate during the academic year;
 - (d) a summary of innovative strategies and practices implemented at each Public Institution that seek to foster relationships with school districts, DDS, MassAbility, and other state agencies that serve students with Severe Disabilities, as applicable;
 - (e) employment data for students participating in the Public Institution's MAIPSE program, obtained to the best of the ability of the Public Institution;
 - (f) relevant information regarding successful outcomes or challenges the Public Institution experienced in the preceding academic year while implementing the MAIPSE program; and
 - (g) any other information deemed relevant or necessary by the Department related to the administration and implementation of MAIPSE programs.
- (2) Department Review of Annual Institutional Reporting. The Department shall review the data submitted by each Public Institution and shall use the data, in whole or in part, to: prepare the Department's annual report to the legislature required by M.G.L. c. 71B, § 17(g); enhance communication between the Department and participating Public Institutions; identify and share best practices; help ensure each Public Institution is including individuals pursuant to the requirements of M.G.L. c. 15A, § 30A; and help improve administration and implementation of MAIPSE Programs.

15.07 Department Annual Reporting

Annually, and no later than December 1, the Department shall file a report with the legislature on the status of the MAIPSE grant program established pursuant to M.G.L. c. 71B, § 17(g).

15.08 General Provisions

- (1) No provision of this section or any other section of these regulations is intended, nor shall be interpreted, to impose any legal liability against, create a specific duty of care for, or

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impose a private right of action against any school district or any Public Institution, as provided in M.G.L. c. 15A, § 30A(e) and (f).

- (2) The Department may, from time to time, issue administrative policies, procedures, and guidelines, including through the procurement process, to interpret, implement, and provide guidance on 610 CMR 15.00, *et seq.*

REGULATORY AUTHORITY M.G.L. c. 15A, § 9(u) and § 30A; M.G.L. c. 71B § 17; and Sections 12, 22, 35, 36, 165 and 168 of Chapter 126 of the Acts of 2022, as amended by Sections 56 and 57 of Chapter 2 of the Acts of 2023, and as further amended by Sections 23 and 26 of Chapter 206 of the Acts of 2024.