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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO EDUCATION - DISTANCE LEARNING

Introduced By: Representatives McNamara, Solomon, Morin, Coughlin, and Ackerman

Date Introduced: February 25, 2015

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 16-40-1, 16-40-2 and 16-40-10 of the General Laws in Chapter 16-  
2 40 entitled "Private Schools [See Title 16 Chapter 97 - The Rhode Island Board of Education  
3 Act]" are hereby amended to read as follows:

4 **16-40-1. Approval of secondary and higher schools by board -- Certification to**  
5 **secretary of state. --** (a) No academy, college, university, or other institution of secondary or  
6 higher education shall be incorporated or established in this state or be permitted to transact  
7 business, unless exempt pursuant to § 16-40-10, within this state unless and until: (1) suitable  
8 provision, approved by the ~~board of regents~~ council on ~~for~~ elementary and secondary education or  
9 the ~~board of governors for higher~~ council on postsecondary education, shall be made that the  
10 academy, college, university, or institution is in compliance with the provisions of this chapter  
11 and with the regulations and standards for approval adopted by the appropriate one of those  
12 boards to implement this chapter; and (2) for institutions offering an associates degree or higher,  
13 the institution ~~has initiated discussions with~~ applied to the New England Association of Schools  
14 and Colleges (NEASC) regarding potential accreditation.

15 (b) The secretary of state, upon the receipt by him or her under the provisions of the  
16 general laws of articles of association purporting to establish an educational institution, shall  
17 transmit the articles of association to the appropriate board and shall not issue the certificate of  
18 incorporation provided by the general laws unless and until the commissioner of elementary and  
19 secondary education or the commissioner of higher education shall file with the secretary of state

1 a certificate over his or her signature that the appropriate board has approved the application for  
2 incorporation as complying with the requirements of this section.

3 **16-40-2. Authority to grant degrees not presumed.** -- Authority to grant academic,  
4 collegiate, professional, or other degrees recognizing learning, scholarship, or achievement shall  
5 not be included in or presumed to be part of the functions of a corporation or of an institution of  
6 education, unless its charter or the articles of association shall specifically indicate that the  
7 institution is nonprofit and specifically indicate the power to grant degrees and the nature of the  
8 degrees to be granted; and no corporation or association shall grant academic, collegiate,  
9 professional, or similar degrees without specific authorization; and for institutions offering an  
10 associates degree or higher, has received full New England Association of Schools and Colleges  
11 (NEASC) accreditation within five (5) years of its incorporation or establishment within this state  
12 or five (5) years of being permitted to transact business within this state [unless exempt pursuant](#)  
13 [to § 16-40-10.](#)

14 **16-40-10. Schools exempt.** – (a) Nothing contained in §§ 16-40-1 through 16-40-9,  
15 except the provisions of § 16-40-3, shall apply to any school or schools conducted under the  
16 public school system of this state nor to any academy, college, university, or institution of  
17 education which shall have been established and conducted within this state for a period of ten  
18 (10) years prior to April 13, 1932, nor to any academy, college, university, or institution of  
19 education established by a special act of the general assembly of this state prior to January 1,  
20 1987, nor to Roger Williams University in Bristol, Rhode Island.

21 [\(b\) Nothing contained in §§ 16-40-1 through 16-40-18 shall apply to any postsecondary](#)  
22 [school or schools solely offering distance learning pursuant to an interstate reciprocity agreement](#)  
23 [for distance learning, if:](#)

24 [\(1\) The institution is situated in a state that is also participating in such agreement;](#)

25 [\(2\) The institution has been approved to participate in such agreement by its home state](#)  
26 [and other entities with oversight of such agreement;](#)

27 [\(3\) The institution has elected to participate in and operate in compliance with the terms](#)  
28 [of said agreement; and](#)

29 [\(4\) The institution is, and remains a member in good standing under the reciprocity](#)  
30 [agreement.](#)

31 SECTION 2. Sections 16-59-4, 16-59-6 and 16-59-11 of the General Laws in Chapter 16-  
32 59 entitled "Board of Governors for Higher Education [See Title 16 Chapter 97 - The Rhode  
33 Island Board of Education Act]" are hereby amended to read as follows:

34 **16-59-4. Powers and duties of the council on postsecondary education.** -- (a) The

1 council on postsecondary education shall have, in addition to those enumerated in § 16-59-1, the  
2 following powers and duties:

3 (1) To approve a systematic program of information gathering, processing, and analysis  
4 addressed to every level, aspect, and form of higher education in this state especially as that  
5 information relates to current and future educational needs so that current needs may be met with  
6 reasonable promptness and plans formulated to meet future needs as they arise in the most  
7 efficient and economical manner possible.

8 (2) To develop and approve a strategic plan implementing broad goals and objectives for  
9 higher education in the state as established by the board of education, including a comprehensive  
10 capital development program.

11 (3) To formulate broad policy to implement the goals and objectives established and  
12 adopted by the board of education, to adopt standards and require enforcement and to exercise  
13 general supervision over all higher public education in the state and over independent higher  
14 education in the state as provided in subdivision (8) and (9) of this section. The board of  
15 education and the council shall not engage in the operation or administration of any subordinate  
16 committee, university, junior college, or community college, except its own office of  
17 postsecondary education and except as specifically authorized by an act of the general assembly;  
18 provided, the presidents of each institution of higher learning shall be the chief administrative and  
19 executive officers of that institution; and provided that nothing contained in this section shall  
20 prohibit their direct access to or interfere with the relationship between the presidents and the  
21 board of education and the council.

22 (4) To communicate with and seek the advice of the commissioner of postsecondary  
23 education, the presidents of the public higher education institutions and all those concerned with  
24 and affected by its determinations as a regular procedure in arriving at its conclusions and in  
25 setting its policy.

26 (5) To prepare and maintain a five (5) year funding plan for higher education that  
27 implements the strategic financing recommendations of the board of education; to prepare with  
28 the assistance of the commissioner of postsecondary education and to present annually to the state  
29 budget officer in accordance with § 35-3-4 a state higher education budget, which shall include,  
30 but not be limited to, the budget of the office of postsecondary education and the budget of the  
31 state colleges. In the preparation of the budget, the council shall implement priorities established  
32 by the board of education of expenditures for public higher education purposes of state revenues  
33 and other public resources made available for the support of higher public education. Prior to  
34 submitting the budget to the state budget officer as required by the budget office instructions and

1 this subsection, the council shall present the budget to the board of education for its review and  
2 approval. Nothing contained in this subdivision shall authorize the council to alter the allocation  
3 of grants or aid otherwise provided by law.

4 (6) To maintain an office of postsecondary commissioner; to provide for its staffing and  
5 organization; and to manage and oversee a commissioner of postsecondary education pursuant to  
6 duties and responsibilities defined in § 16-59-6 and § 16-59-7. The commissioner of  
7 postsecondary education and the office of postsecondary commissioner shall have the duties and  
8 responsibilities as defined in §§ 16-59-6 and 16-59-7.

9 (7) To appoint and dismiss presidents of the public institutions of higher learning with  
10 the assistance of the commissioner of postsecondary education, and to establish procedures for  
11 this, and with the assistance of the commissioner to approve or disapprove vice presidents of the  
12 public institutions of higher learning appointed by the respective presidents of the public  
13 institutions of higher learning.

14 (8) To establish other educational agencies or subcommittees necessary or desirable for  
15 the conduct of any or all aspects of higher education and to determine all powers, functions, and  
16 composition of any agencies or subcommittees and to dissolve them when their purpose shall  
17 have been fulfilled.

18 (9) To exercise the authority vested in the board of regents for education with relation to  
19 independent higher educational institutions within the state under the terms of chapter 40 of this  
20 title, and other laws affecting independent higher education in the state.

21 (10) To enforce the provisions of all laws relating to higher education, public and  
22 independent.

23 (11) To be responsible for all the functions, powers, and duties which were vested in the  
24 board of regents for education relating to higher education, including but not limited to the  
25 following specific functions:

26 (i) To approve the role and scope of programs at public institutions of higher learning  
27 with the assistance of the commissioner of postsecondary education which shall include but not  
28 be limited to populations to be served, the type and level of programs and academic fields  
29 offered.

30 (ii) To adopt and require standard accounting procedures for the office of postsecondary  
31 commissioner and all public colleges and universities.

32 (iii) To approve a clear and definitive mission for each public institution of higher  
33 learning with the assistance of the commissioner of postsecondary education that is consistent  
34 with the role and scope of programs at the public institutions.

1 (iv) To promote maximum efficiency, economy, and cooperation in the delivery of  
2 public higher educational services in the state and cooperation with independent institutions of  
3 higher education.

4 (12) To incorporate into its own affirmative action reporting process periodic reports  
5 monitoring specific faculty and staff searches by the chairperson of the search committee to  
6 include the rationale for granting those interviews and the final hiring results. The institutions  
7 must empower their affirmative action officer to monitor searches in this manner, to intervene  
8 during the search, and, when necessary, to cause a search to cease if affirmative action goals are  
9 not being adequately served.

10 (13) To incorporate a specific category for accountability on affirmative action goals and  
11 implementation as part of the board's annual evaluations and three (3) year reviews for the  
12 presidents of each of the public institutions of higher education.

13 (14) To make a formal request of the governor that whenever an opportunity arises to  
14 make new appointments to the board, that the governor make every effort to increase the number  
15 of African Americans, Native Americans, Asians, and Hispanics on the board.

16 (15) To develop coherent plans for the elimination of unnecessary duplication in public  
17 higher education and addressing the future needs of public education within the state in the most  
18 efficient and economical manner possible.

19 (16) To delegate to the presidents of each public higher education institution the  
20 authority and responsibility for operational and management decisions related to their institutions,  
21 consistent with the goals of the statewide strategic plan for postsecondary education provided  
22 however that the presidents may be required to provide information or updates to the council  
23 regarding any delegated operational or management decisions.

24 (17) To approve application and renewal fees for all postsecondary institutions situated in  
25 Rhode Island, public or private, which choose to participate in an interstate postsecondary  
26 distance education reciprocity agreement.

27 (18) To the extent necessary for participation and to the extent required and stated in an  
28 interstate distance learning reciprocity agreement, the council shall promulgate procedures to  
29 address complaints received from out-of-state students in connection with or related to any public  
30 Rhode Island postsecondary institution that has been approved to participate in an interstate  
31 distance learning reciprocity agreement. Student complaints regarding Rhode Island private  
32 institutions shall be addressed through the complaint process established with the office of the  
33 attorney general.

34 **16-59-6. Commissioner of postsecondary education.** -- The council on postsecondary

1 education, with approval of the board, shall appoint a commissioner of postsecondary education,  
2 who shall serve at the pleasure of the council, provided that his or her initial engagement by the  
3 council shall be for a period of not more than three (3) years. For the purpose of appointing,  
4 retaining, or dismissing a commissioner of postsecondary education, the governor shall serve as  
5 an additional voting member of the council. The position of commissioner shall be in the  
6 unclassified service of the state and he or she shall serve as the chief executive officer of the  
7 council on postsecondary education and as the chief administrative officer of the office of  
8 postsecondary commissioner. The commissioner of postsecondary education shall have any  
9 duties that are defined in this section and in this title and other additional duties as may be  
10 determined by the council, and shall perform any other duties as may be vested in him or her by  
11 law. In addition to these duties and general supervision of the office of postsecondary  
12 commissioner and the appointment of the several officers and employees of the office, it shall be  
13 the duty of the commissioner of postsecondary education:

14 (1) To develop and implement a systematic program of information gathering,  
15 processing, and analysis addressed to every aspect of higher education in the state, especially as  
16 that information relates to current and future educational needs.

17 (2) To prepare a strategic plan for higher education in the state aligned with the goals of  
18 the board of education's strategic plan; to coordinate the goals and objectives of the higher public  
19 education sector with the goals of the council on elementary and secondary education, and  
20 activities of the independent higher education sector where feasible.

21 (3) To communicate with and seek the advice of those concerned with and affected by  
22 the board of education's and council's determinations.

23 (4) To implement broad policy as it pertains to the goals and objectives established by  
24 the board of education and council on postsecondary education; to promote better coordination  
25 between higher public education in the state, independent higher education in the state as  
26 provided in subdivision (10) of this section and pre k-12 education; to assist in the preparation of  
27 the budget for public higher education and to be responsible upon direction of the council for the  
28 allocation of appropriations, the acquisition, holding, disposition of property.

29 (5) To be responsible for the coordination of the various higher educational functions of  
30 the state so that maximum efficiency and economy can be achieved.

31 (6) To assist the board of education in preparation and maintenance of a five (5) year  
32 strategic funding plan for higher education; to assist the council in the preparation and  
33 presentation annually to the state budget officer in accordance with § 35-3-4 of a total public  
34 higher educational budget.

1 (7) To recommend to the council on postsecondary education after consultation with the  
2 presidents, a clear and definitive mission for each public institution of higher learning.

3 (8) To annually recommend to the council on postsecondary education after consultation  
4 with the presidents, the creation, abolition, retention, or consolidation of departments, divisions,  
5 programs, and courses of study within the public colleges and universities to eliminate  
6 unnecessary duplication in public higher education, to address the future needs of public higher  
7 education in the state, and to advance proposals recommended by the presidents of the public  
8 colleges and universities pursuant to §§ 16-32-2.1, 16-33-2.1 and 16-33.1-2.1 of the general laws.

9 (9) To supervise the operations of the office of postsecondary commissioner and any  
10 other additional duties and responsibilities that may be assigned by the council.

11 (10) To perform the duties vested in the council with relation to independent higher  
12 educational institutions within the state under the terms of chapter 40 of this title and any other  
13 laws that affect independent higher education in the state.

14 (11) To be responsible for the administration of policies, rules, and regulations of the  
15 council on postsecondary education with relation to the entire field of higher education within the  
16 state, not specifically granted to any other department, board, or agency and not incompatible  
17 with law.

18 (12) To prepare standard accounting procedures for public higher education and all  
19 public colleges and universities.

20 (13) To carry out the policies and directives of the board of education and the council on  
21 postsecondary education through the office of postsecondary commissioner and through  
22 utilization of the resources of the public institutions of higher learning.

23 (14) To enter into interstate reciprocity agreements regarding the provision of  
24 postsecondary distance education, to administer such agreements, and to approve or disapprove  
25 applications to voluntarily participate in such agreements from postsecondary institutions that  
26 have their principal place of business in Rhode Island, and to establish annual fees with the  
27 approval of the council on postsecondary education for aforesaid applications to participate in an  
28 interstate postsecondary distance education reciprocity agreement.

29 (16) To the extent necessary for participation and to the extent required and stated in any  
30 distance learning reciprocity agreement, to implement procedures to address complaints received  
31 from out-of-state students in connection with or related to any public Rhode Island postsecondary  
32 institution that has been approved to participate in said reciprocity agreement.

33 **16-59-11. Investigative powers of board. --** The ~~board of governors~~ council on  
34 postsecondary education shall have power to investigate all transactions and matters relating to

1 higher public education in the state, [including those required pursuant to an interstate distance](#)  
2 [learning reciprocity agreement](#), and to summon witnesses, administer oaths, and to require  
3 testimony and the production of records in like manner and to the same extent as a court of law.

4 SECTION 3. 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 - DISTANCE LEARNING

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1           This act would establish regulations and standards for distance learning educational  
2 programs.

3           This act would take effect upon passage.

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