



State of Rhode Island and Providence Plantations  
Council on Postsecondary Education  
**OFFICE OF THE POSTSECONDARY COMMISSIONER**  
560 Jefferson Boulevard Suite 100  
Warwick, Rhode Island 02886-1304

Enclosure 8a.  
September 16, 2015

**Barbara S. Cottam**  
Chair

**Council on Elementary and  
Secondary Education**

**Daniel P. McConaghy**  
Chair

Amy Beretta, Esq.

Colleen A. Callahan, Ed.D.

Karin Forbes

Jo Eva Gaines

Marta V. Martinez

Lawrence Purtill

Joyce L. Stevos, Ph.D.

**Council on Postsecondary  
Education**

**William Foulkes**  
Chair

Michael Bernstein

Dennis Duffy, Esq.

The Honorable Thomas Izzo

Judy Ouellette

Kerry I. Rafanelli, Esq.

John J. Smith, Jr.

Dr. Jeffery A. Williams

To: Council on Postsecondary Education

From: Commissioner Jim Purcell, Ed.D.

Date: September 4, 2015

Re: Revision of Bylaws

**Background:**

The Council on Postsecondary Education was established pursuant to amendments that were enacted to Chapter 59 of Title 16 of the Rhode Island General Laws. The Office of the Postsecondary Commissioner is presenting a revision of the existing Bylaws (of the prior Board of Education) in response these statutory changes.

A redlined copy of the proposed revision of the Bylaws is attached for your consideration and discussion.

These Bylaws were developed by the Office of the Postsecondary Commissioner, revised with input from Council members, and reviewed by the general counsel.

The proposed revision of the Bylaws was introduced for discussion at the August 13<sup>th</sup> meeting of the Council on Postsecondary Education. Further discussion and a motion to approve will be considered at the next Council meeting on September 16<sup>th</sup>.

It is recommended that the following motion be approved:

Motion:

**THAT the Council on Postsecondary Education (CPE) approve the Bylaws as presented.**

*[Handwritten signature]*

Office of the Secretary

Department of Health

Washington, D.C.

January 10, 1964

Dear Mr. [Name]:

I have your letter of January 7, 1964, regarding the [subject]. The information you requested is being reviewed and will be provided to you as soon as possible.

I am sure you will find this information helpful in your work.

Sincerely,  
[Signature]

Very truly yours,  
[Signature]

Enclosed for you are [number] copies of [document name].

[Signature]

Very truly yours,  
[Signature]

**BYLAWS**

**Board of Governors for Higher Education  
Council on Postsecondary Education**

State of Rhode Island and Providence Plantations

Adopted:	1969 (BR)	07/02/81(BG)	Legal Citation: 16-59-1
Amended:	08/12/76 (BR)	07/30/1981 (BG)	
	06/29/80 (BR)	05/21/1992 (BG)	
		09/30/1993 (BG)	
		02/19/1996 (BG)	
		11/05/1997 (BG)	
		10/19/2000 (BG)	
		06/30/2003 (BG)	
		<u>XX/XX/2015 (XX)</u>	

**ARTICLE I**

**OFFICERS AND DUTIES**

**Section 1.** Officers of the Council Board Number. The governor shall select from the appointed members of the Council a chairperson on an annual basis. Additionally, such other offices may from time to time, be established with such powers as determined by the Council, and the persons named to such offices shall serve at the pleasure of the Council. All officers shall hold office until their respective successors are elected and qualified. The Commissioner of Postsecondary Education (Commissioner) shall serve as the chief executive officer of the Council, as well as the chief administrative officer of the Office of the Postsecondary Commissioner.

**Commented [u1]:** Sen. Izzo recommended that a vice chair be elected by the members of the Council from the appointed members on an annual basis. OPC recommends approval of the language added to Article I, section 2.

The officers of the Board shall consist of a Chair, who shall be appointed by the Governor, Vice Chair, Secretary and Treasurer who shall be elected from among members of the Board annually at the first meeting following appointment and confirmation of members to full three (3) year terms. Additionally, such other offices may, from time to time, be established with such powers as determined by the Board, and the persons named to such offices shall serve at the pleasure of the Board. All officers shall hold office until their respective successors are elected and qualified. Should a vacancy arise in any office prior to expiration of a term, the Board shall elect a successor.

**Commented [E2]:** This language is pursuant to statute 16-59-6.

**Section 2.** Chair. The Chair shall preside at meetings of the Board Council, exercise the powers and perform the duties set forth in these bylaws and such other duties as usually devolve upon the presiding officer of a deliberative body, and, unless otherwise ordered, shall appoint all special committees. The Chair shall execute all contracts and documents on behalf of the Board Council unless otherwise ordered by the Board Council. In the absence of the Chair

of the Council on Postsecondary Education, the Chair of the Board of Education may serve as the presiding officer of the Council.

**Commented [u3]:** Language is similar to that found in the Council on Elementary and Secondary Education's bylaws.

Section 3. Vice Chair. In the absence of the Chair, the Vice Chair shall perform the duties of the Chair. In the absence of both the Chair and the Vice Chair, a Chair pro tempore shall be elected from among members of the Board.

**Commented [E4]:** Sen. Izzo recommended retaining Section 3. However, a Vice Chair is not mentioned in legislation. The positions of the Vice Chair, Secretary, and Treasurer have not been the Council's practice in the past year.

Section 4. Secretary. The records of all business transacted at each meeting shall be kept under the direction and supervision of the Secretary. The Secretary shall also, when so requested, issue notices of meetings of the Board and transmit to each member of the Board, and to each other person as the Board shall direct, copies of the minutes of the meetings of the Board.

Section 5. Treasurer. Financial reports and records and other financial documents issued in the name of the Board shall be kept under the direction and supervision of the Treasurer.

**ARTICLE II**

**MEETINGS**

Section 1. Quorum. A quorum shall consist of five (5) voting members of the Council, but less than a quorum may adjourn any meeting. A majority vote of those present and voting shall be required for action.

**Commented [E5]:** Quorum size is statutory.

A majority of the members of the Board shall constitute a quorum: for a thirteen (13) member Board, seven (7) members shall constitute a quorum; for a fifteen (15) member Board, eight (8) members shall constitute a quorum. Less than a quorum may adjourn any meeting. Attendance at meetings of the Board, or at meetings of any committee thereof, may be in person or by telephone conference. A member attending by telephone conference shall be considered present for all purposes.

Section 2. Time and Place of Regular Meetings. Regular meetings shall be held at least twice in each quarter of each calendar year at the call of the Chair at the same time and place within the State of Rhode Island specified in the notice of the meeting.

Section 3. Special Meetings. Special meetings of the Board/Council may be called by the Chair, and shall be called by the Chair upon the written request of three (3) members of the Board/Council, such meeting to be held within one (1) week after the receipt of such request.

Section 4. Notice. In addition to providing notice of meetings as required by law, written notice of regular meetings and the agenda thereof, or in lieu of an agenda, a written statement of the substance of the business to be transacted shall be sent to each member of the Board/Council at least one (1) week forty-eight (48) hours prior to the date of the meeting.

**Commented [E6]:** Sen. Izzo requested retaining one week posting requirement. However, 48 hours is the requirement to post for the RI Secretary of State and in the Council on Elementary and Secondary Education's bylaws.

Notice of special meetings shall specify the date and place where such meeting is to be held within the State of Rhode Island and the substance of the business to be transacted at such meeting, and shall be given by written notice mailed to each member not less than three (3) days prior to such meeting, or by ~~telegram e-mail~~ sent to each member not less than twenty-four (24) hours prior to such meeting, or, in lieu of such letter or ~~telegame-mail~~, by personal notice given to and actually received by each member of the ~~Board~~Council, not less than twelve (12) hours prior to such meeting. No special meeting shall be held without such notice, unless waived as hereinafter provided, nor shall any business be transacted at any special meeting except that specified in such notice. All meetings, including emergency meetings, shall be convened pursuant to the provisions of the Rhode Island Open Meetings Act.

**Commented [E7]:** Language similar to the Council on Elementary and Secondary Education's bylaws.

**Section 5. Waiver of Notice.** Any member may waive notice of any regular or special meeting by instrument in writing signed by him/her to or after such meeting, and the presence of a member at a meeting shall in any event constitute a waiver of notice as to that member.

**Section 6. Agenda for Regular Meetings.** The agenda of regular meetings of the ~~Board~~Council shall be as follows:

- Acceptance of the Agenda
- Approval of Minutes of Previous Meeting
- Open Forum (optional)
- Chairs' Reports
- Commissioner's Report
- Presidents' Reports
- Committee Reports/Consent Agenda
- Discussion Items
- Action Items
- Executive Session (should the Council so vote to enter)
- Report of Action Taken in Executive Session (if applicable)
- Next Meetings
  - ~~Approval of Minutes of Previous Meeting~~
  - ~~Report of Action Taken in Executive Session~~
  - ~~Open Forum~~
  - ~~Chair's Report~~
  - ~~Commissioner's Report~~
  - ~~Consent Agenda~~
  - ~~Old Business~~
  - ~~New Business~~
  - ~~BOG Committee Reports~~
  - ~~Staff/Committee Reports~~
  - ~~Presidents' Reports~~

**Commented [u8]:** Sen. Izzo recommended that "optional" be removed. The Open Meetings Act states that the Open Forum is optional.

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**Commented [u9]:** Sen. Izzo requested that New Business be added to the Agenda.

**Commented [E10]:** This is new language to align with the current Agenda structure and also aligns with the usage in the Council on Elementary and Secondary Education's bylaws.

- Communications
- Next Meeting

**Section 7. Preparation of Agenda.** The preparation of the agenda for a regular meeting of the Board Council shall be the joint responsibility of the Chair and the Commissioner, provided, however, that there shall be included in the agenda any matter which the Board Council has at a prior meeting voted to include in such agenda, and provided, further, that any item required by any four (4) members of the Board Council in writing delivered to the Commissioner or the Chair not less than seven (7) days prior to the date of a meeting shall be placed upon the agenda of such meeting. ~~Any Council member may introduce a matter to be put on the agenda at the meeting upon the majority vote of the members present, to amend the agenda. Any such matters added to the meeting's agenda shall be for informational purposes only and may not be voted upon except when necessary to address an unexpected occurrence that requires immediate action to protect the public or to refer the matter to the appropriate committee or to another body or official. Any Board member may introduce matter to be put on the agenda at the meeting unless two (2) members object.~~

**Commented [E11]:** New language to align with state law.

**Section 8. Conduct of Meetings.** The affirmative vote of a majority of members present and voting shall be required for the adoption of any resolution. The presiding officer shall have the right, as other members present, to offer resolutions, discuss questions, and to vote. The Chair shall declare all votes. If any member doubts the vote, the Chair shall require a division. A roll call vote shall be taken upon the demand of any member present. On questions of election of officers, a vote by secret ballot shall be taken upon the demand of a majority of the members present.

Any member desiring to speak shall address the Chair, and after his/her right to speak has been recognized, he/she shall confine remarks to the question under debate. Other than a member of the Board Council or staff members no person shall speak at or address a meeting, except in Open Forum unless invited to do so by the Chair. ~~Persons wishing to address the Board are asked to file a request with the Office of Higher Education least twenty-four (24) hours prior to the time of the meeting setting forth the agenda item(s) or other item(s) to be addressed. All those desiring to speak during the Open Forum portion of the meeting shall have been invited by the Chair prior to the meeting or shall sign up prior to the meeting.~~ Except in unusual circumstances, no more than ~~thirty twenty (3020) thirty (30)~~ minutes will be set aside on each Board Council agenda for persons, other than members on staff, to address the Board Council; such persons will be asked to limit their remarks to ~~five two (25) three (3)~~ minutes or less. Board Council members are asked to refrain from trying to respond directly to the concerns being raised but instead to ask that staff follow up on the issues raised.

**Commented [E12]:** Adjusted based on current practices. Sen. Izzo recommends: "All those desiring to speak during the Open Forum portion of the meeting shall sign up prior to the meeting." He expressed concern that the phrase, "shall have been invited by the Chair prior to the meeting" would negatively impact on the speakers at the Open Forum. Recommended language revision reflects wording from earlier versions of the Bylaws, acknowledges Sen. Izzo's concerns, and addresses the interest of the Council in making the Open Forum accessible to the public.

**Commented [E13]:** Changes made to align with the Council on Elementary and Secondary Education.

**Commented [u14]:** Sen. Izzo requested that 30 minutes be set aside for Open Forum and that remarks by individuals be limited to 5 minutes per speaker. OPC is recommending 30 minutes for Open Forum and that the time per speaker be limited to 3 minutes to allow more individuals the opportunity to speak.

~~**Section 9. Action by Written Consent.** Any action required or permitted to be taken by the Board may be taken without a meeting if a consent in writing setting forth the action so~~

~~taken shall be signed by the requisite number of Board members to obtain approval. Notice of such action shall be sent by mail, fax or hand delivery to all Board members.~~

**Commented [E15]:** Updated language to align with state law; action must be taken at an Open Meeting.

**Section 109. Meetings to be Open.** All meetings of the ~~Board~~Council shall be open to the public, provided that executive session may be held as provided by law.

**Section 107. Minutes of Meetings.** ~~Minutes of open meetings shall be deemed public records. Minutes of executive (closed) sessions shall be confidential if the Council has voted to seal them pursuant to R.I.G.L. §42-46-7. Final action taken in executive session shall be reported by the Chair once the open session reconvenes; provided, however, a vote taken in an executive (closed) session need not be disclosed for a period of time during which its disclosure would jeopardize any strategy, negotiation or investigation undertaken pursuant to discussions conducted under that section of the Rhode Island Open Meetings Act that sets forth the purposes for which a meeting may be closed. (R.I.G.L. §42-46-5(a)) Minutes of open meetings shall be deemed public records after approval by the Board. Minutes of executive sessions shall be confidential, but final action taken in executive sessions shall be reported by the Chair either in a return to the regular meeting or no later than the next regular meeting of the Board, and shall be recorded as part of the minutes of such open meeting.~~

**Commented [E16]:** Updated language at recommendation of legal council.

**Section 112. Press and Public Relations.** ~~The Chair and the Commissioner shall be the chief spokespersons for the Council and the members shall, to the extent possible and consistent with the proper discharge of their individual responsibilities, refer all inquiries which concern interpretation of Council action and policy to the Chair. The Board's agenda and supporting documents shall be made available for review by interested persons prior to the meeting at the Board's office or some other location designated by the Board, on condition that no material included therein other than the identity of the topics to be considered at the meeting shall be published or broadcast prior to the meeting. The Chair shall be the chief spokesperson for the Board and the members shall, to the extent possible and consistent with the proper discharge of their individual responsibilities, refer all inquiries which concern interpretation of Board action and policy to the Chair.~~

**Commented [E17]:** Updated language at recommendation of legal council.

**Commented [u18]:** Sen. Izzo has suggested that the Council's Agenda and supporting documents be made available on the OPC website one week prior to the meeting for review by those interested. It is the recommendation of OPC that this language not be added because such a requirement may result in items being removed from the agenda if information is not received. Similar language is not included in the Council on Elementary and Secondary Education's bylaws.

**ARTICLE III**

**INDEMNIFICATION**

**Section 1.** Each person who at any time is threatened to be or is made a party to any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the ~~Council~~ Board of Governors) by reason of the fact that he/she is, or was, a member of the ~~Board~~Council of Governors or an officer, employee, or agent of the ~~Board~~Council, or is or has served at the request of the ~~Board~~Council as a director, officer, employee, or agent of another enterprise of any type, shall be indemnified against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him/her in connection with any such action, suit or proceeding, if the ~~Board~~Council determines he/she acted in good faith

and in a manner he/she reasonably believed to be in or not opposed to the best interests of the Board Council, and with respect to any criminal action or proceeding, had no reasonable cause to believe his/her conduct was unlawful. No indemnification shall be made in respect to any criminal action or proceeding as to which such person shall have been adjudged to be guilty, unless and only to the extent that the court in which such action or proceeding was brought shall determine upon application that, despite the adjudication of guilt, in view of all the circumstances of the case, such person is entitled to indemnity for such expenses or fines which the court shall deem proper. Determination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that a person did not act in good faith in a manner which he/she reasonably believed to be in or not opposed to the best interest of the Board Council of Governors, and with respect to any criminal action or proceeding had reasonable cause to believe that his/her conduct was unlawful.

*Section 2. Notice.* This indemnification shall be conditioned on due written notice of any such claims being given to the Board Council which shall be entitled to be presented at all hearings, proceedings and negotiations relative to such claims.

*Section 3. Miscellaneous.* The provisions of this article shall in no way be exclusive of any other rights of indemnification to which such person shall be entitled, shall continue as to a person who has ceased to be a member, officer, employee, or agent of the Board Council and shall inure to the benefit of the heirs, executors, and administrators of such a person.

ARTICLE IV

COMMITTEES

*Section 1.* Committees, standing or special, shall be appointed by the Chair from time to time as deemed necessary to carry on the work of the Board Council. Committees shall act by majority vote and a majority of committee members shall constitute a quorum. The Chair ~~and Vice Chair~~ shall be *ex officio* members of all committees.

ARTICLE V

SEAL

~~The Council shall use either the adopted seal of the Rhode Island Board of Education or the seal of the State of Rhode Island and Providence Plantations. Either seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.~~

~~The seal of the Board of Governors shall be in the form of a circle with the words "Rhode Island Board of Governors for Higher Education - 1981."~~

~~The seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.~~

**Commented [u19]:** Sen. Izzo requests that reference to the role of the Vice Chair be retained. References to officers, other than the Chair of the Council on Postsecondary Education and the Chair of the Board of Education have been deleted. There is no reference to a Vice Chair in the Council on Elementary and Secondary Education's bylaws.

**Commented [E20]:** Language adjusted to reflect current practices.

**ARTICLE VI**

PARLIAMENTARY PROCEDURE

Roberts Rules of Order shall govern on all parliamentary matters not covered by the laws of the State of Rhode Island and these bylaws.

**ARTICLE VII**

AMENDMENT OF BYLAWS

*Section 1.* These bylaws may be amended, suspended or altered at any time without notice, by unanimous vote of all members of the [Board Council](#).

*Section 2.* These bylaws may also be amended, suspended or altered by vote of a majority of the members taken at any regular or special meeting, provided that written notice of the substance of the proposed change has been mailed to the members of the [Board Council](#) at least three (3) weeks prior to such meeting.

*Section 3.* Those parts of these bylaws which are in the nature of rules of order may be suspended by a two-thirds (2/3) vote of those present.

## Proposed CPE Bylaws / Suggested revisions

Bylaws	CPE Proposed Bylaws	CESE Bylaws	Recommendations/Rationale
Article I Section 1	See alternate language Article 1, Section 2 below	Not in CESE bylaws see Article 1, Section 2 below	Sen. Izzo recommended added election of vice chair to perform duties in chair's absence  Positions of Vice Chair, Secretary, and Treasurer have not been the CPE practice and is not required by statute
Article I Section 2 Chair	<b>ADD: In the absence of the Chair of the Council, the Chair of the Board of Education may serve as the presiding officer of the Council</b>	Same language in CESE bylaws	
Article I Section 3 Vice Chair	See substitute language Article 1, Section 2	Not in CESE bylaws see Article 1, Section 2	
Article II Section 4 Notice	<b>Agenda sent out 48 hours prior to meeting</b>	Agenda sent out 48 hours prior to meeting	Sen. Izzo recommended 1 week  48 hours is the requirement to post for the RI Secretary of State. This is same requirement in CESE bylaws
Article II Section 6	Open forum (optional)	Open forum-optional	Sen. Izzo recommends removal of "optional" in Open Forum agenda item  OPC accepts recommendation
Article II Section 6 Agenda for Regular Mtgs	No reference to old or new business in section on Agenda	No reference to old or new business	Sen. Izzo: recommends adding New Business to agenda items  New language aligns with current Agenda structure and aligns with CESE bylaws
Article II Section 8: Conduct of Mtgs	<b>Revised: All those desiring to speak during the Open Forum portion of the meeting shall have been invited by the chair prior to the meeting or shall sign up prior to the meeting.</b>	Participation in Open Forum requires 24 hours prior notice with statement of agenda	Sen. Izzo recommended language to delete requirement of prior notice to participate in Open Forum and allow those interested in speaking to sign up prior to the meeting  OPC accepts recommendation

Bylaws	CPE Proposed Bylaws	CESE Bylaws	Recommendations/Rationale
Article II Section 8: Conduct of Mtgs	ADD: Open Forum 30 minutes; 3 minutes per speaker	20 minutes; 2 minutes per speaker	Sen. Izzo recommended 30 minutes be allowed for the Open Forum; 5 minutes per speaker  The three minute time allotted to individual speakers provides opportunity for more speakers to be heard
Article II Section 12 Press & PR	No reference to time requirement for sending meeting documents in this section	No reference to time requirement for sending meeting documents in this section of CESE bylaws	Sen. Izzo recommended documents be available on OPC website one week in advance  OPC recommends retaining current language in this section. The one week requirement may result in items being removed from the agenda because requested information was not received
Article IV Section 1 Committees	Chair and vice-chair are ex officio members of all committees. REMOVE: reference to vice-chair	Chair is ex-officio of all committees	Sen. Izzo asks to retain role of Vice Chair as ex-officio on committees.  Positions of Vice Chair, Secretary, and Treasurer have not been the CPE practice and is not required by statute. Vice Chair is not included in CESE bylaws