

**Commissioner's Weekly Field Memo
Friday, September 26, 2014**

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Notes from Commissioner Gist

1. Salute to Rhode Island Educators scheduled for tomorrow evening (September 27)

All of us at RIDE are looking forward to the Salute to Rhode Island Educators at WaterFire Providence tomorrow evening (September 27). We will gather in a tent in Memorial Park, at South Main Street across from the Superior Court building, at 4:30 p.m. for a ceremony to honor the state and district teachers of the year, the principals of the year, and many other award-winning educators. Following the ceremony, the honored educators will participate in a torchlight parade to the basin at Waterplace Park. I am sure it will be a wonderful evening of celebration, and I invite you to join us for this occasion.

2. Employment First policy approved

It is with great enthusiasm I have approved an Employment First policy for RIDE. Employment First is a commitment to students with intellectual or developmental disabilities to support their transition from public education into meaningful, community-integrated training and employment opportunities at competitive wages.

Earlier this year, the State of Rhode Island entered into a Consent Decree with the U.S. Department of Justice regarding violations of Title II of the Americans with Disabilities Act for operating day activity centers and sheltered workshops for individuals with intellectual or developmental disabilities. As part of this settlement, the State of Rhode Island and the state agencies that support youth and adults with intellectual or developmental disabilities agreed to implement a state Employment First policy.

In approving this policy, RIDE is endorsing the belief that Rhode Island students with intellectual or developmental disabilities are capable of working in integrated work settings for competitive

wages and is committing us to work in partnership with the adult-service system to achieve this outcome.

To view the policy see:

<http://www.ride.ri.gov/StudentsFamilies/SpecialEducation/SpecialEducationRegulations.aspx>

3. Rhode Island DataHUB posts data story on adult education

Our first data story on adult education is now posted on the Rhode Island DataHUB, thanks to the joint efforts of the Providence Plan, the Rhode Island Adult Education Professional Development Center, and the team at RIDE. The report provides excellent information on employment trends across the region, the characteristics of the Rhode Island workforce, the demographics and skill levels of our adult learners, as well as a set of recommendations to support our adult-education system.

You can access this data story at:

<http://ridatahub.org/datastories/adult-education-and-ris-workforce/1/>

4. Junior Achievement of Rhode Island receives award recognizing Educator Awareness Week initiative

Congratulations to our friends at Junior Achievement of Rhode Island, which has been awarded a \$25,000 MetLife Foundation Entrepreneurial Award, which recognizes innovative programs and processes that Junior Achievement affiliates develop. Junior Achievement of Rhode Island received the award in recognition of

Educator Awareness Week, which engages government, community, business, and education leaders in a week of activities to honor teachers and school volunteers. This year, more than 70 leaders spoke in 41 classrooms in Providence, reaching nearly 1,000 students. Junior Achievement of Rhode Island is one of only 8 affiliates worldwide to receive this prestigious award!

5. Rhode Island educators team to participate in Pell Bridge Run

If you're thinking about entering the Citizens Bank Pell Bridge Run, on Sunday, October 26, please consider joining with fellow educators and register as part of the Rhode Island Educators team! The race starts at 7 a.m. and follows a four-mile course from Jamestown to Newport, crossing the Pell Bridge. The race is open to walkers and runners. All proceeds go to support local nonprofit agencies. You can register at pellbridgerun.com. Go to "Join a Team" and enter "Rhode Island Educators." You can order team T-shirts at <http://teespring.com/Rleducators>.

From RIDE

Educator Evaluations:

6. RIDE issues legal advisory opinion on legislation on evaluations

Re: Interpretation of RIGL §16-12-11

Dear Colleagues:

Over the past several weeks, I have received several requests, both formal and informal, for legal advisory opinions relating to interpretation of Senate Bill 2738 Sub A, the law that recently created RIGL §16-12-11. I addressed many of the questions regarding this recent legislation in guidance contained in my Field Memo on August 1, 2014, but apparently some educators are still confused or misinformed about the implications of this legislation. Their confusion is due in part to misinterpretations of the law that have been widely circulated. To alleviate any remaining confusion and to correct misinformation, I am issuing this advisory opinion.

Interpretation of school law

The General Assembly has specifically and uniquely delegated the Commissioner of Elementary and Secondary Education with the duty to “interpret school law” (RIGL §§ 16-1-5(10), 16-60-6(9)(viii)), as well as to “require the observance of all laws relating to elementary and secondary schools and education.” RIGL §§ 16-1-5(9) and 16-60-6(9)(vii) In addition, the Rhode Island Supreme Court has emphasized that: “[i]f a statute expressly delegates power to interpret and define certain legislation to an agency, regulations promulgated pursuant to that power are legislative rules having the force of law.” [Lerner v. Gill, 463 A.2d 1352 \(R.I.1983\)](#), citing [Batterton v. Francis](#), 432 U.S. 416, 97 S.Ct. 2399, 53 L.Ed.2d 448 (1977). The Court has also made clear that “a presumption of validity attaches to a legislative rule that a challenger must rebut.” See [Great American Nursing Centers, Inc. v. Norberg](#), 567 A.2d 354, 356–57 (R.I.1989), citing [Henry v. Earhart](#), 553 A.2d at 126–27 & 126–27 n. 1 (R.I. 1989) and [American Hoechst Corp. v. Norberg](#), 462 A.2d 369, 372 (R.I. 1983). In other words, the

Commissioner's interpretation of §16-12-11 is presumed to be correct and controlling, while others' opinions are just that – their opinions.

Statutes and regulations

The first misperception regarding the law, or statute, on the frequency of teacher evaluations is that this new law invalidates the Rhode Island Educator Evaluation System Standards (EESS), which are regulations that the Rhode Island Board of Regents for Elementary and Secondary Education promulgated. Under Rhode Island law, lawfully promulgated regulations have the same legal force and effect as statutes, unless there is an actual conflict with a statute, in which case the statute governs. *In re Advisory Opinion to the Governor*, 732 A.2d 55, 75 (R.I. 1999).

Accordingly, we must be extremely careful when reading the law on the frequency of evaluations to discern those very limited areas in which the law invalidates portions of the EESS regulations.

Frequency of evaluations

Generally speaking, the new law introduces limitations to the *frequency* with which certain tenured teachers may be evaluated. The legislation does not overturn the regulatory requirement that the EESS regulations set forth, which requires each LEA to have and to implement an approved evaluation system. The EESS regulations mandate annual evaluations for all educators; the new law modifies that requirement for tenured teachers who obtain or earn a rating of highly effective or effective. Tenured teachers rated highly effective “shall, subsequent to that evaluation, be evaluated not more than once every three (3) years thereafter.” Tenured teachers rated effective “shall,

subsequent to that evaluation, be evaluated not more than once every two (2) years thereafter.” This language obviously contravenes the language in the EESS regulations requiring annual evaluation for all educators (*R.I. Educator Evaluation System Standards*, Standard 4(a)), but only to the degree that the new law expressly overrides the EESS regulations. That means that the “not more than once every three years” language in the new law becomes the minimum as well as the maximum number of evaluations for any qualifying teacher, i.e., tenured teachers who have earned the rating of highly effective. The same, of course, holds true for teachers who can be evaluated “not more than once every two years,” that is, tenured teachers who have earned the rating of effective. Because the statute limits the regulatory requirement of annual evaluation only by its express terms, the statute and the EESS regulations read together effectively mean that teachers earning the rating of effective or highly effective are to be evaluated not more *and not less* than every two or three years, respectively (except in regard to provisions within the law that would allow for more frequent evaluations in specified instances).

Evaluations during the current school year

The second misinterpretation of the law on the frequency of evaluations is the idea that a tenured teacher who has earned the rating of “effective” or “highly effective” in the previous (2013-14) school year cannot be evaluated during the current (2014-15) school year. At least one individual has publicly stated that evaluating a tenured teacher with an “effective” or “highly effective” rating in both the previous and current school years would illegally increase the frequency of evaluation. This “interpretation” of the law is patently incorrect, for two distinct reasons.

The bill that created the law on the frequency of evaluations took effect on August 14, 2014. The bill is not retroactive in application. Courts generally disfavor retroactive application of a bill, particularly without an explicit expression of retroactive application in the bill itself. *Direct Action for Rights and Equality v. Gannon*, 819 A.2d 651, 658 (R.I. 2003). Given that there is no such intent expressed in the bill, the new law can be applied only prospectively, that is, going forward from the date of August 14.

If a teacher earned a rating of “effective” or “highly effective” in the previous school year (2013-14), that year becomes the baseline year that triggers the protections of the statute. The plain meaning of the language should be clear to anyone: “not more than two (or three) years” explicitly refers to the two or three years “thereafter,” that is, after the teacher earned the effective or highly effective rating. We cannot count the baseline year as part of two-year or three-year restriction, which can occur only *after* the teacher earned the effective or highly effective rating. Clearly, the two years “thereafter” for effective teachers are the current (2014-15) and the next (2015-16) school years. Just as clearly, the teacher can be formally evaluated in only one of those two years – but *there is nothing in the statute that prevents the evaluation of an “effective” teacher in 2014-15.*

Similarly, the three years “thereafter” for highly effective teachers are the current (2014-15) and the next two (2015-16 and 2016-17) school years. Just as clearly, the tenured teacher who earned a rating of highly effective can be formally evaluated in only one of those three years. *There is*

nothing in the statute, however, that prevents the evaluation of a “highly effective” teacher in 2014-15. In short, nothing in the law in any way prohibits evaluation in consecutive years.

Goals and objectives

I have also received a request for an advisory opinion regarding the implementation of Professional Growth Goals (PGGs) and Student Learning Objectives (SLOs), specifically, whether schools and districts may elicit PGGs and SLOs from tenured teachers “during the intervals between evaluations” or only during the evaluation periods. We see no connection between evaluating the effectiveness of teachers and requiring teachers to offer professional goals for themselves and learning objectives for their students.

Although there may be some overlap between the establishment of goals and objectives and the evaluation process, each has separate and valuable purposes and we should not conflate the two processes. Rather, we should distinguish between the summative evaluations that occur within an approved educator-evaluation system and the ongoing supervision of staff for instructional improvement that our Basic Education Program requires in all LEAs. *Basic Education Program Regulations, § G-13-1.2).*

Ongoing supervision may include practices such as observations, conferencing, examining student performance, and other forms of providing feedback that result in the improvement of teaching and learning. Schools and districts may use information from ongoing supervision for locally determined purposes, but this information does not result in a summative-evaluation score and need not be part of the evaluation process in order to take place.

Summary

The new law on the frequency of teacher evaluations, RIGL § 16-12-11, does not reference SLOs or PGGs nor does it prevent evaluations in the current (2014-15) school year for tenured teachers who last year earned the rating of highly effective and effective. The two-year and three-year periods during which tenured teachers earning the ratings of effective and highly effective, respectively, are to be evaluated only once (unless other provisions in the law trigger additional evaluations) begin in the current school year (2014-15).

I stand by these legal opinions and by the guidance we disseminated on August 1, which I am attaching for your convenience. This letter constitutes my formal legal advisory opinion, issued pursuant to my statutory authority. The contents of this letter are for advisory purposes only, and I have based this letter on the facts presented in your request for a legal advisory opinion.

As such, this advisory opinion would be subject to review in a formal hearing should an interested party request any such hearing.

School Safety:

7. Emergency-drill reports are to be filed on day drill is performed

The emergency-drill report is a module in eRIDE that collects data for each drill performed. These reports are due on the day that the drill occurs. As per state regulations, a report should be

entered at least once per month for each school in order for the LEA to be in compliance:

§ 16-21-4 (Fire, evacuation and lockdown drills required – Failure to comply) is located here: <http://webserver.rilin.state.ri.us/Statutes/title16/16-21/16-21-4.htm>

§ 16-21-5 (Uniform fire code or drill tactics – Reports) is located here: <http://webserver.rilin.state.ri.us/Statutes/title16/16-21/16-21-5.htm>.

Amended legislation regarding these statutes is located here:

<http://webserver.rilin.state.ri.us/BillText/BillText13/SenateText13/S0014Aaa.pdf>.

If you have any questions on reporting emergency drills, please enter a helpdesk ticket, at <https://support.ride.ri.gov>.

Diploma Requirements:

8. Public hearings scheduled on proposed change to diploma system

The Council on Elementary and Secondary Education has scheduled four public hearings to receive comment on the proposed revision to the Secondary School Regulations, which would postpone until the Class of 2020 the use of state assessments as a diploma requirement.

The hearings will take place on October 16 at the Newport Public Library, October 20 at CCRI-Lincoln, October 22 at CCRI- Warwick, and November 12 at the Peace Dale Library. All of the hearings will begin at 5 p.m., except for the October 20 hearing, which will begin at 4:30 p.m.

Assessments:

9. Informational meeting scheduled to discuss 2014 NECAP Science results

You are invited to join us on Friday, October 3, from 9 to 10:30 a.m., in Room 260 of the Shepard Building (255 Westminster St. or 80 Washington St., Providence) to learn about this year's NECAP Science Assessment results. Representatives from Measured Progress, our contractor for the NECAP Science Assessments, will be hosting a presentation and will be able to answer your questions. They will walk us through this year's data and its interpretation so that we are able to communicate with educators, parents, and community members about the results from May 2014.

We plan to release the statewide NECAP Science results to the media and to the public early next month, with a precise time and date to be announced, and we ask you to embargo release of your local results until the public release of statewide results.

10. PARCC reduces testing time for spring assessments

As a member of the Partnership for Assessment of Readiness for College and Careers (PARCC), Rhode Island has played an important role in the design and development of PARCC assessments. Recently, our state and the other PARCC states

reviewed information from the spring 2014 field tests and determined test-session times based on that information. This determination now allows schools to begin the scheduling process.

We are very pleased to let you know that, based on information gathered during the field tests, the time needed for PARCC assessments will be *less* than originally anticipated. The time will be fairly consistent with the time you have scheduled in the past for NECAP assessments.

PARCC revised the testing times so that students would have sufficient time to complete the assessments but also so as to minimize the amount of time students and teachers spend on testing.

The PARCC consortium notes that:

The reduced times are based on two findings: One finding from the field test showed that it took most students less time to complete the field test in spring 2014 than originally projected and scheduled. In addition, the PARCC governing board recently reduced the number of English Language Arts/literacy text passages and test items, especially in the lower grades, based on a finding that it was possible to measure all the standards reliably with fewer items. The spring 2015 session test times are adjusted to reflect both of these factors.

Time is the scarcest resource in our schools. The PARCC states are keenly aware of the need to maximize the value of instructional time and testing time. High-quality assessments measure what students know and can do,

efficiently, and then allow teachers to adjust instruction accordingly, making the best use of classroom time.

The revised times were established so that students would have sufficient time to complete the assessments but also to minimize the amount of time spent on testing. As educators know, this is important to ensure that all children have sufficient time to show what they know and can do.

The PARCC states are committed to re-examining the session test times again following the spring 2015 administration and adjusting the time accordingly to ensure the right balance between generating useful and timely information for teachers and families, and minimizing the time the test sessions take.

More information on the spring 2015 test administration is available from PARCC, at:

<http://parcconline.org/update-session-times>.

11. PARCC to release testing manuals, guidelines, practice tests

In addition to the session-time information, we are also pleased to share with you estimated release dates for test manuals and technology guidelines and when to expect the next round of practice tests:

- *Test administration and test coordinator manuals.* As a result of feedback from the spring 2014 field test, the PARCC states have worked to substantially improve the manuals. The new manuals will be streamlined, with clearer language.

Fall block-schedule test manuals will be available by the middle of next month, and spring 2015 manuals will be available in early January.

- *Technology guidelines.* PARCC will post an updated version of the Technology Guidelines for PARCC Assessments in late fall. Anticipated updates include clarifications regarding the use of accessibility tools and supported browser versions.
- *Practice tests.* PARCC will add new practice tests this fall and winter: performance-based practice tests in mathematics and end-of-year assessments in English Language Arts/Literacy. PARCC will post these tests, at [Practice Tests web page \(www.parcconline.org/practice-tests\)](http://www.parcconline.org/practice-tests).

12. RIDE offers to hold community-outreach events on PARCC assessments

Last year, RIDE coordinated outreach events led by Common Core Ambassadors to help parents and communities understand what the Common Core State Standards and the new PARCC assessments mean for our students and our classrooms and how the Common Core State Standards prepare our students for college and for challenging careers. RIDE also developed materials and Common Core videos, which are posted at www.ride.ri.gov/Transition-CCSS.

The events last year provided a great opportunity for parents and the community to learn more and to ask questions about the Common Core.

This year, we are offering a similar opportunity for outreach events about the PARCC assessments. It is important that

communities become familiar with the assessment and understand their design and use in Rhode Island. RIDE staff members are available to come to your community to present a program on PARCC, in partnership with you and your team. The full co-presentation with RIDE and LEA staff would be expected to take an hour to an hour-and-a-half.

If you would like to partner with us to reach out to your community on PARCC through an event such as this, please e-mail us, at RI.CommonCore@ride.ri.gov .

Legal:

13. Legal Department issues decisions on out-of-state placement, out-of-home school district

Arising out of a dispute initiated by the Department of Children, Youth and Families over financial responsibility for the education of a student placed in an out-of-state residential facility by Family Court, it is held that the school district of residence is responsible:

http://www2.ride.ri.gov/applications/RideDirectory/DOCS/2014/009-15_DCYF_vs._Foster-Glocester_Reg.S.D._vs.RIDE_7-7-14.pdf

and

Parents of a Cranston student are not entitled to an order of the Commissioner that countermands a school committee policy that sets strict limits on eligibility for enrollment outside of the home school district

http://www2.ride.ri.gov/applications/RideDirectory/DOCS/2014/010A-14_A_%20Doe_v._Cranston_School_Department_092314.pdf

From the U.S. Department of Education

14. Education Secretary Duncan seeks reports on local innovations, suggested initiatives

Please see this letter from Education Secretary Arne Duncan:

Last week, I met Brittany.

She's a hardworking student at West Georgia Technical College who is now just months away from being certified as a nursing assistant, but there was a point when she didn't think she'd be here. In high school, Brittany became pregnant and her future suddenly became uncertain. Her high school counselor suggested she apply for the 12 for Life program, a local program that offers students who have fallen behind in high school the opportunity to attend class, work, and get back on their feet.

As I talked with Brittany and her fellow students – many of whom were the first in their family to graduate high school – they spoke powerfully and tearfully of the program's success, and how it had given them hope for the future.

Brittany's inspiring story is just one of many I heard last week during the Department of Education's annual back-to-school bus tour. This year's tour took us to Georgia, Alabama, and Tennessee, and provided my team and me

with the opportunity to see innovations in education and to discuss progress, promise, and results.

I wish I could see every innovative program – every initiative creating promise for our children – happening across the country, but even after visiting all 50 states and more than 350 schools during my time as Secretary, I can't visit every school. So that's where you come in.

[What cutting-edge programs are your local schools undertaking? Or, if you don't know of any, what would you like to see them do?](#)

We'll share some of your stories and suggestions on the White House blog.

This was my fifth back-to-school bus tour, and with each tour, I become increasingly optimistic about our country's ability to elevate and strengthen education. High school graduation rates are at an all-time high, college enrollment has hit record levels, dropout rates are dramatically down, and principals, teachers, parents, and students are taking the lead on improving education for all students.

But during the bus tour and around the country, I also hear a lot of people worried that our children won't inherit a better America than we did. That's why we have such an important shared mission: to make sure that every student, everywhere, gets an effective education. It's a mission that we can all agree on, and it's one that matters immensely.

The best ideas in education will never come from Washington, which is why the Obama administration is

working hard to help states and communities strengthen schools – in particular, through supports for great teaching, and higher standards. It’s inspiring to see states and local communities stepping up to expand access to high-quality early education, transition to college- and career-ready standards, and support innovation in education.

[So I want to know what’s happening in your community. Share the innovative things the schools in your area are doing – or what you'd like to see happen.](#)

We should celebrate the gains we’ve made these past couple of years, but we can’t be fully satisfied. There’s still more to do to support all students so they may reach their full potential. So, in this new school year, let’s get to work.

Thanks for sharing,
Arne

Secretary Arne Duncan
Department of Education
[@arneduncan](#)

15. Educators invited to sign up for updates on Connected Educator Month

The U.S. Department of Education Office of Communications and Outreach notes that October is [Connected Educator Month](#), and the [initial calendar](#) features hundreds of events. Educators at all levels, as well as those who support them, are welcome to [sign-up](#) for regular updates on interactive webinars and other events, forums, showcases, and contests. They are also urged to develop,

host, and run their own activities, publish content, and generally promote the month.

From other state agencies

16. Child Abuse Hotline back in service

Please see this message from the Department of Children, Youth and Families:

The 1-800 RI CHILD child-abuse hotline number is operational.

The technical issues that led to the use of a temporary alternative phone number for the Rhode Island child-abuse hotline have been resolved.

Anyone with knowledge or suspicion of child abuse or neglect should call the 24/7 hotline at (800) RI CHILD (1-800-742-4453).

From other federal agencies

17. NOAA, URI offer professional development on ocean exploration

Please see this invitation from the National Oceanic and Atmospheric Administration (NOAA):

NOAA Ship Okeanos Explorer: America's Ship for Ocean Exploration

Volume 2: How Do We Explore?

Professional Development for Educators of Grades 5-12

Saturday, October 25
8 a.m. - 4 p.m.

In partnership with the University of Rhode Island [Inner Space Center](#) and hosted by URI Graduate School of Oceanography, at the Coastal Institute Building Hazard Room, Narragansett

This professional development introduces educators to the Okeanos Explorer Education Materials Collection, Volume 2: How Do We Explore? Using the NOAA Ship of exploration Okeanos Explorer as the platform, participants will be guided through lessons targeting innovative modern ocean exploration strategies and the sophisticated instrumentation and equipment used to explore our largely unknown world ocean. Lesson topics include how targets are selected for exploration, mapping techniques, water column exploration, remotely operated vehicles and telepresence technology that enables access to real time ocean exploration. Participants will learn how to use lessons to assist in meeting performance expectations of the Next Generation Science Standards with an eye on science as practice and the principles of engineering design. A tour of the University of Rhode Island Inner Space Center where ship-to-shore communication operations take place will be included in the day.

Pre-registration is required, and space is limited. Each participant will receive unique take-home materials, a NOAA Ocean Exploration Certificate of Participation, a continental breakfast, and lunch.

Please [register](#) by October 3, or call to see if space is still available.

Questions? Call Andrea Gingras, at 874-6524, or e-mail agingras@mail.uri.edu.

From other organizations

18. MIC3 schedules webinar for LEA attorneys

Please see this notice from the Military Interstate Children's Compact Commission:

Please join us for the fourth segment of the MIC3 webinar series on October 9, from 2 to 3:30 p.m. This webinar is designed for attorneys at the state and the local school-district levels to assist them with coordinating and communicating the Interstate Compact.

Please forward this invitation to all school-district attorneys and general counsels who would benefit from this presentation.

Written questions will be taken in advance of this webinar at MIC3INFO@csg.org. Additional questions will be taken in writing during the webinar. Instructions and other helpful information will be sent out after registration.

If you have any immediate questions or need clarification about this webinar, please contact John Matthews, at jmatthews@csg.org or (859) 244-8157. Additional information about the Interstate Compact and the Commission can be found at www.mic3.net.

To register, go to:

<https://www2.gotomeeting.com/register/603398594>

19. NEATT conference open for registration from science, mathematics, technology teachers

Please see this message from Jeff Macari, chair of the New England Association of Technology Teachers Conference:

As conference chairman, I am proud to present the 77th Annual New England Association of Technology Teachers (NEATT) Conference being held at Johnson & Wales University, in Providence.

This year we are inviting science and math teachers to join us. With that in mind, the Conference Committee is offering a wide variety of STEM-related workshops that will be helpful and interesting for all. The conference theme, Technology and Engineering: Bringing the Skills to Science and Math (STEM), dictates that the committee offer a variety of workshops and activities that will be helpful and informative to all science, math, and technology teachers, elementary to high school. After attending the NEATT conference, you will return to your classroom with a renewed vision of STEM for your students.

The conference website address is:

<https://sites.google.com/a/smithfield-ps.org/neatt-conference/>

RIDE will post this field memo on Tuesday, at:

<http://www.ride.ri.gov/InsideRIDE/CommissionerDeborahAGist/FieldMemos.aspx>