STATE OF RHODE ISLAND
COMMISSIONER OF EDUCATION

LAURIE GADDIS BARRETT, HENRY GARDINER III, GEORGE STEERE, PATRICIA HENRY, BRIAN KELLY and HEIDI ANDREWS, *Petitioners*,	:	D.O. 26-006A
vs.	:	RIDE No. 26-050A
FOSTER-GLOCESTER REGIONAL SCHOOL COMMITTEE, *Respondent.*	:	

ORDER GRANTING RESPONDENT'S MOTION TO DISMISS

WHEREAS, on May 6, 2026, counsel for the Respondent, Foster Glocester Regional School Committee (the "FGRSC" or the "District"), requested that the Commissioner issue an advisory opinion concerning the legality of a motion that had been approved at the Foster-Glocester Regional District Financial Meeting on April 14, 2026 (the "Financial Meeting") which, if given effect, would require reducing the total local amount appropriated to the FGRSC; and

WHEREAS, on June 12, 2026, the Commissioner issued a guidance document within the meaning of R.I. Gen. Laws § 42-35-1(9) (the "Guidance Document"), a copy of which is attached as Exhibit A, and concluded that "that portion of the motion approved by the electors at the April 14 Financial Meeting 'to reduce the total proposed district expenditure budget from 33,091,080 to 32,208,227 a reduction of $882,853 to match the FY 2026 level. . .' was *ultra vires*, i.e., an action that is beyond the legal capacity or authorized powers of the entity so acting, and is therefore 'illegal and void[,]'" *see id.* at 4-5 (citing *Town of East Greenwich v. O'Neil*, 617 A.2d 104, 111–14 (R.I. 1992); *Zeilstra v. Barrington Zoning Bd. of Review*, 417 A.2d 303, 306-308 (R.I. 1980); and *Arc-Lan Co. v. Zoning Bd. of Review*, 106 R.I. 474, 476, 261 A.2d 280, 282 (1970)), and the Commissioner added that "even if the motion at issue was not void, it would constitute what amounts to a misappropriation of state funds and out-of-District CTE tuition in violation of, *inter alia*, R.I. Gen. Laws §§ 16-7-23(d) and 16-2-19." *Id.* at 6; and

WHEREAS, on June 26, 2026, the Petitioners filed a self-styled *Citizen Appeal and Request for Expedited Evidentiary Hearing Concerning Foster-Glocester Regional School Committee Action Following the April 14, 2026 Regional District Financial Meeting* (the "Citizen Appeal") with the Commissioner and requested that RIDE "[a]ccept this filing as an appeal and request for hearing under R.I. Gen. Laws §§ 16-39-1 and 16-39-2" and "convene a full evidentiary hearing before the advisory opinion is used as the practical basis to nullify the vote of the electors, adopt a budget not approved at the Financial Meeting, or create a one-sided record for later Superior Court proceedings[,]" adding that "[t]o the extent RIDE concludes that Chapter 16-39 is not the appropriate vehicle, treat this filing in the alternative as a request for declaratory order under R.I. Gen. Laws § 42-35-8 and 200-RICR-30-15-2 that seeks "a formal determination as to whether and how the Department's June 12, 2026 advisory opinion applies to the undersigned [P]etitioners and to the Foster-Glocester Regional School Committee's subsequent conduct"; and

WHEREAS, on June 29, 2026, the FGRSC wrote the Commissioner and claimed that since "[n]owhere in the Complaint/Petition by the citizens, taxpayers, and electors of the Towns of Foster and Glocester has any of the 6 Petitioners made a claim that they have suffered an injury in fact separate from that of the general public," Petitioners are deprived of standing, whether the Citizen Appeal is consider a request for a hearing under R.I. Gen. Laws §§ 16-39-1 or 16-39-2 or a request for a declaratory order under R.I. Gen. Laws § 42-35-8 and 200-RICR-30-15-2, *see* June 29, 2026 email from counsel for the FGRSC (quoting *Cullen v. Town of Lincoln*, C.A. PC-2021-00314 (RI Super Jan 20. 2022) and citing *William Hicks v Cumberland School Committee*, RIDE No. 0032-07 (December 17, 2007); *Bristol Warren Save Our Schools v. Bristol Warren Regional School Committee*, RIDE No. 0014-04 (June 9, 2004); and *In Re Chariho funding for 1995-96*, RIDE No. 0025-95 (June 9, 1995); and

WHEREAS, as noted by the FGRSC, the Petitioners have failed to plead any facts that establish that "they have suffered an injury in fact separate from that of the general public" and the circumstances do not establish that Petitioners have a "personal stake in the outcome" such as to satisfy the well-trod requirements for taxpayer standing under both state and federal law as recited in the legal authority cited by the FGRSC; and

WHEREAS, the Rhode Island Supreme Court has made clear that "a claim is not ripe for adjudication if it rests upon contingent future events that may not occur as anticipated, or indeed may not occur at all," *Riley v. Narragansett Pension Board*, 275 A.3d 545, 556 (R.I. 2022) (quoting *Thomas v. Union Carbide Agricultural Products Co.*, 473 U.S. 568, 580-81 (1985)); and

WHEREAS, the Supreme Court has specifically applied justiciability doctrines such as standing and ripeness to the declaratory relief procedure afforded by R.I. Gen. Laws § 42-35-8, *see, e.g., Liguori v. Aetna Casualty and Surety Co.*, 384 A.2d 308, 312 (R.I. 1978), and has held that those seeking an advisory opinion cannot rely on vaguely worded, overly generalized requests, but must set forth facts sufficient to establish the required "legal hypothesis" entitling them to "real and articulable relief," *see City of Providence Bd. of Licenses v. Dep't of Bus. Regulation of R.I.*, Case No. PC-2013-2429, 2013 R.I. Super. LEXIS 195 (R.I. Super. Nov. 18, 2013) (Procaccini, J.) (citing *McKenna v. Williams*, 874 A.2d 217 (R.I. 2005);

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The self-styled *Citizen Appeal and Request for Expedited Evidentiary Hearing Concerning Foster-Glocester Regional School Committee Action Following the April 14, 2026 Regional District Financial Meeting* filed on June 26, 2026, is hereby dismissed, whether considered as an appeal under R.I. Gen. Laws §§ 16-39-1 and 16-39-2, or a request for a declaratory order pursuant to R.I. Gen. Laws § 42-35-8, as: (a) the request is overly vague; (b) the Petitioners' lack standing; and (c) the request is not ripe.

ANTHONY F. COTTONE, ESQ.,
as Hearing Officer for the Commissioner

ANGÉLICA INFANTE-GREEN,
Commissioner

Dated: June 30, 2026

EXHIBIT A

State of Rhode Island
DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Shepard Building
255 Westminster Street
Providence, Rhode Island 02903-3400

Angélica Infante-Green
Commissioner

June 12, 2026

By email

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Re: Your Requests for Advisory Opinions

Dear Counselors:

On May 6, 2026, counsel for the Foster Glocester Regional School Committee (the "FGRSC" or the "District") requested that the Commissioner issue an advisory opinion concerning the legality of a motion that had been approved at the Regional District Financial Meeting on April 14, 2026 (the "Financial Meeting"). As you all know, the Financial Meeting is in the nature of a town meeting at which the electors of the Towns of Foster and Glocester establish the "over-all amount" of the FGRSC's annual budget. *See FGRSC v. Town of Foster*, RIDE No. 005-11 at 4 (April 19, 2011). The subject motion, as reflected in the public record, reads as follows:

> to reduce the total proposed district expenditure budget from 33,091,080 to 32,208,227 a reduction of $882,853 to match the FY 2026 level and furthermore reduce the total local appropriations from the towns of Foster and Glocester from $18,058,039 to $17,903,688 a reduction of the $154,351 reflecting the water bond drop off

Meeting Minutes available at: https://opengov.sos.ri.gov/Common/DownloadMeetingFiles?FilePath=\Minutes\4790\2026\556092.pdf (last visited June 4, 2026).

FGRSC's counsel questioned the legality of that portion of the motion that purported to "reduce the total proposed district *expenditure* budget [by $882,853]." *Id.* (emphasis added). If given effect, the District would be precluded from spending $882,853 in District funds, effectively capping the amount the District could spend during FY 2027 at $32,208,227, which is the same amount that was appropriated for FY 2026, notwithstanding the FGRSC's $33,091,080 budget revenue projection for FY 2027.[1]

Three weeks later, the Towns of Foster and Glocester wrote to jointly request that the Commissioner issue an advisory opinion concerning the legality of another aspect of the same motion, i.e., to "reduce the total local appropriations from the towns of Foster and Glocester from $18,058,039 to $17,903,688 a reduction of the $154,351 reflecting the water bond drop off." *Id.* If given effect, this would require reducing the total local amount appropriated to the FGRSC by $154,351 representing debt service with respect to a "water bond" which, according to the Towns, was no longer carried on the District's books. The Towns requested guidance from the Commissioner with respect to the following:

1. Whether R.I. Gen. Laws § 16-7-23(a) permits a reduction in maintenance of effort ("MOE") by the amount of nonrecurring debt service that is no longer carried on the books of the District, irrespective of whether the prior year's debt service payments were funded through operating appropriations, fund balance, reserve accounts, or another lawful funding source; and

2. Whether the Commissioner will approve the deduction of the nonrecurring "water bond" debt service obligation from the applicable MOE calculation pursuant to the Commissioner's authority under § 16-7-23(a).

In reply, counsel for the FGRSC emailed the undersigned on May 28, 2026 and argued that that the Commissioner "does not have jurisdiction to entertain a dispute involving the MOE." Moreover, FGRSC's counsel argued that since the motion to deduct the $154,351 had already been approved at the Financial Meeting without the Commissioner's approval, the Towns should be precluded from now seeking a "*post hoc* approval."

[1] FGRSC's counsel also indicated that this revenue projection included a 0% increase in local MOE appropriations from the previous fiscal year.

1. The Commissioner's Jurisdiction

Before addressing the merits of the issues raised by the requested advisory opinions, the jurisdictional question raised by the FGRSC must be addressed.

The Commissioner has been invested with broad interpretative powers and duties pursuant to the state's Administrative Procedures Act, which includes the authority to issue advisory opinions. While stating the agency's "current approach to, or interpretation of, law," advisory opinions lack "the force of law." *See* R.I. Gen. Laws § 42-35-1(9). Moreover, while the Commissioner has the authority to grant variances and/or waivers with respect to certain regulatory matters, *see* R.I. Gen. Laws § 16-60-6(11), she also must "require the observance of all laws relating to elementary and secondary schools and education," § 16-60-6(9)(vii), and thus as a general matter, she has no authority to waive or vary statutes enacted by the General Assembly.

Admittedly: (a) the MOE statute provides that "[t]he courts of this state shall enforce this section by means of injunctive relief," R.I. Gen. Laws § 16-7-23(a); and (b) specific remedial procedures have been enacted by the General Assembly under the Caruolo Act to address violations of the MOE statute. *See* R.I. Gen Laws § 16-2-21.4. However, neither the MOE statute nor the Caruolo Act preclude the Commissioner from interpreting aspects of the MOE statute that are not related to enforcement and do not require detailed factual findings of a financial nature that are outside of her expertise. *See, e.g, Glocester School Committee v. Town of Glocester*, RIDE No. 25-052K (October 28, 2025) (Noting that while the Commissioner properly "exercise[s] interpretation authority over the MOE statute's provisions," she lacks enforcement authority).

The additional argument made by the FGRSC's counsel, i.e., that the Towns are estopped from seeking the Commissioner's approval since the motion had already been approved at the Financial Meeting, is premised upon the assumption that the Commissioner's approval is even needed in order to deduct "debt service that is no longer carried on the books" from its MOE calculation which, as will be discussed, is a moot issue with respect to the $154,351 debt service item at issue here and therefore need not be addressed.

1. The Ostensible $882,853 Reduction

In the absence of an evidentiary record, it will be presumed for present purposes (based upon publicly available information and the representations of FGRSC's counsel) that the $882,853 cited in the motion approved at the Financial Meeting represents District revenues projected for FY 2027, consisting primarily of state education aid and tuition received from out-of-District students enrolled in the District's career and technical education career preparation ("CTE") programs.[2] Yet, whatever the source of the $882,853 and regardless of any issues related to the anti-supplanting provision of R.I. Gen. Laws § 16-7-23(a), a fundamental question needs to be addressed concerning the jurisdiction of the electors of the Towns of Foster and Glocester at a District Financial Meeting.

The special act which created the Foster-Glocester Regional School District (the "Special Act") takes precedence over any inconsistent state law, *see Foster-Glocester Regional School Building Committee v. Sette*, 996 A.2d 1120, 1125-1126 (R.I. 2010), and requires the FGRSC to "prepare and approve a budget which it believes will efficiently operate the District for the ensuing year," to "hold a public hearing on the proposed budget," and to "adopt the final budget for the regional school district." 1958 R.I. Pub. Laws 109 § 10(b)-(c), as amended. The Special Act also provides that the FGRSC ". . . shall have all the powers and duties conferred by law upon school committees generally." *Id.* at § 3(b), as amended. Thus, the FGRSC is "responsible for maintaining a school budget which does not result in a debt," R.I. Gen. Laws § 16-3-11(e)(1); for "adopt[ing] any changes in the school budget during the course of the school year," R.I. Gen. Laws § 16-2-9(a)(10); and for "approving expenditures in the absence of a budget, consistent with state law." *Id.* at (a)(11).

The adopted budget is then acted upon by the voters at the Financial Meeting, *id.* § 10(d), which "shall determine the annual regional school district budget *as to over-all amount*." *Id.* at § 8(b) (emphasis added). The voters are authorized to vote on the annual budget presented by the FGRSC and a majority vote is required for adoption. *Id.* § 8(c). It is apparent that the authority of the electors at the Financial Meeting is limited to holding a vote to adopt the annual budget that has been presented, and that these electors have no authority to modify the FGRSC's final adopted budget, reallocate or restrict the use of District funds, regulate expenditures, or otherwise exert any manner of control over the disposition of District revenue, all of which remains within the exclusive jurisdiction of the FGRSC.

Therefore, that portion of the motion approved by the electors at the April 14 Financial Meeting "to reduce the total proposed district expenditure budget from 33,091,080 to 32,208,227 a reduction of $882,853 to match the FY 2026 level. . ." was *ultra vires,* i.e., an action that is beyond the legal capacity or authorized powers of the entity so acting, and is therefore "illegal and void." *See, e.g., Town of East Greenwich v. O'Neil*, 617 A.2d 104, 111–14 (R.I. 1992) (ordinance held "ultra vires of the authority delegated by the home rule charter" and void);

[2] *See* note 1, *supra.*

Zeilstra v. Barrington Zoning Bd. of Review, 417 A.2d 303, 306-308 (R.I. 1980) (public official's action taken without legal authority is "illegal and void"); *Arc-Lan Co. v. Zoning Bd. of Review*, 106 R.I. 474, 476, 261 A.2d 280, 282 (1970) (public official has no authority to act outside statutory terms); *see also* R.I. Gen. Laws § 42-35-15(g)(1) and (2) (directing that agency action taken "[i]n violation of constitutional or statutory provisions" or "[i]n excess of the statutory authority of the agency" shall be set aside).

Moreover, while requiring the District to cut expenditures, the motion approved at the April 14 Financial Meeting does not contemplate what happens to this additional revenue, and as pointed out by counsel for the FGRSC, "of the $33 million budget, about $15 million comes from nonlocal revenue, including about $6 million in state aid and $2-3 million in CTE tuitions." And R.I. Gen. Laws § 16-7-23(d) makes clear that:

> Whenever any state funds are appropriated for educational purposes, the funds *shall be used for educational purposes only* and all state funds appropriated for educational purposes must be used to supplement any and all money allocated by a city or town for educational purposes and, in no event, shall state funds be used to supplant, directly or indirectly, any money allocated by a city or town for educational purposes. *All state funds shall be appropriated by the municipality to the school committee for educational purposes in the same fiscal year in which they are appropriated at the state level* even if the municipality has already adopted a school budget. All state and local funds unexpended by the end of the fiscal year of appropriation shall remain a surplus of the school committee and shall not revert to the municipality. Any surplus of state or local funds appropriated for educational purposes shall not in any respect affect the requirement that each community contribute local funds in an amount not less than its local contribution for schools in the previous fiscal year, subject to subsection (a) of this section, and shall not in any event be deducted from the amount of the local appropriation required to meet the maintenance of effort provision in any given year.

Id. (emphasis added).

In addition, R.I. Gen. Laws§ 16-9-1 provides, in pertinent part that "[t]he town treasurer shall receive the money due the town from the state for public schools, and shall keep a separate accounting of all money appropriated by the state or town or otherwise for public schools in the town, and shall pay the money to the order of the school committee. . . ." *Id.* (emphasis added). And R.I. Gen. Laws § 16-2-19 makes clear that funds received with respect to tuition for the District's CTE programs "*shall be used for school purposes only.*" *Id.* (emphasis added); *see also* R.I. Gen. Laws § 16-45-6.1(k) (Funds allocated under § 16-7.2-6 "shall be used solely for the purpose of funding improvements to state CTE board-approved career and technical education programs and facilities or for funding related to the establishment of new career and technical programs in our state.").

Thus, even if the motion at issue was not void, it would constitute what amounts to a misappropriation of state funds and out-of-District CTE tuition in violation of, *inter alia*, R.I. Gen. Laws §§ 16-7-23(d) and 16-2-19. Indeed, the prohibition on the actual *use* of the funds during the fiscal year for which they were appropriated is the functional equivalent of a failure to appropriate the funds altogether, notwithstanding the fact that the community may "technically" appropriate, and the town treasurers may pay, the subject funds to the District, and that any funds unexpended by the end of the year will remain a District surplus.

2. The Exclusion of the $154,351 Debt Service Figure from the MOE Calculation

As noted, the Towns ask: (1) whether the $154,351 in debt service, referred to as "the water bond drop off," was a "nonrecurring expenditure" within the meaning of R.I. Gen. Laws § 16-7-23(a); and if so, (2) whether the Commissioner will approve deducting the amount from the MOE calculation pursuant to § 16-7-23(a).

R.I. Gen. Laws § 16-7-23(a) provides that but for certain limited exceptions not relevant here, "[e]ach community shall contribute local funds to its school committee in an amount not less than its local contribution for schools in the previous fiscal year." *Id.* However, it also provides that "a community that experiences a nonrecurring expenditure for its schools may deduct the nonrecurring expenditure in computing its maintenance of effort." The statute provides that "[t]he deduction of nonrecurring expenditures shall be with the approval of the Commissioner." *Id.* But significantly, § 16-7-23(a) goes on to provide that:

> . . . *notwithstanding any provision of this title to the contrary*, debt service that is no longer carried on the books of any school district shall not be included in any school district's annual budget, *nor shall nonrecurring debt service be included in maintenance of effort as set forth in this chapter*, nor shall any nonrecurring debt service be included in the operating budget of any school district.

Id. (emphasis added). Thus, the statute draws a distinction between a broad category of "nonrecurring expenditures," and more specifically, "debt service that is no longer carried on the books," which it refers to as "nonrecurring debt service," and it appears (without here deciding) that the exclusion of the latter from MOE is mandatory and self-executing.

In any event, the answers to the questions posed by the Towns depend upon facts that evidently are in dispute. According to a letter that the counsel for the FGRSC sent to the counsel for the Towns on May 15, 2026, the debt service payment amount was not even included in the MOE in the FY 2026 operating budget, a claim which appears supported by an email from the District Superintendent that is quoted in counsel's May 15 letter.

Moreover, it is clear from the plain language of the statute that the General Assembly's use of the phrase "debt service that is *no longer carried on the books*," *id.* (emphasis added), refers to debt service that was in fact carried on the books and was included in a school district's annual budget, in a community's MOE, and in a school district's operating budget, *see id.*, and that was paid in full in the previous fiscal year (thereby terminating the recurrence of the annual expenditure). Thus here, if the MOE has not been previously increased by a supplemental amount in order to appropriate additional funds to the District to satisfy the debt service obligation and the annual debt service payments were made from a source of funds other than local MOE funds, then the MOE appropriation is already in compliance with the statutory prohibition against inclusion. In other words, the statute does not authorize reduction of the MOE by the amount of a debt service which was never "on the books" as having been included in the MOE to begin with and as noted, if that is the case here, the issue concerning the need for Commissioner approval to exclude nonrecurring debt service from MOE is not even relevant and thus need not be decided here.

I hope the above has been helpful, and please be advised that as has been noted, this advisory opinion is a "guidance document" within the meaning of R.I. Gen. Laws § 42-35-1(9) and thus, while stating the agency's "current approach to, or interpretation of, law," it lacks "the force of law."

Sincerely,

A Cottone

Anthony F. Cottone, Esq.,
Chief Legal Counsel

Copy by email: Angélica Infante Green
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