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PUBLIC EDUCATION NOMINATING COUNCIL

(a) A public education nominating council is hereby established to advise the governor with respect to appointments to the board of education, the higher education coordinating council, and all boards of trustees of community colleges, state colleges, and the University of Massachusetts, other than the student and alumni trustees elected pursuant to section 21 of chapter 15A, and in the case of the university, pursuant to section 1A of chapter 75. Said council shall consist of not fewer than twelve nor more than fifteen members and shall act with the concurrence of at least a majority of its members.

(b) Members of the council shall be appointed to serve without compensation for terms coterminous with that of the governor. Members may be reimbursed for all expenses reasonably incurred in the performance of their duties. Any succeeding appointments and vacancies on the council shall be filled by the governor. A member of the council shall be considered a "person employed by the commonwealth for compensation" for the purposes of section 13 of chapter 55.

(c) The governor shall from time to time select one member to serve as chair of the council. The council shall adopt and make public bylaws for the conduct of its affairs. All records and deliberations with respect to persons under consideration as nominees or prospective nominees shall be held in confidence by the council but shall be available to the governor and the governor's representatives.

(d) Whenever a vacancy occurs or is expected to occur on the board of education, the higher education coordinating council or on a board of trustees, the governor shall notify the council. The council shall submit to the governor a list of persons who, in the judgment of the council, are qualified and willing to serve as members or trustees. Said list shall include at least twice as many names as there are vacant positions. The governor may appoint any person whose name is forwarded to him by the council. If the governor declines to appoint a person from any such list, the council shall submit additional names for that vacancy.

(e) In considering candidates, the council shall seek persons of the highest quality who, by experience, temperament, ability and integrity will provide policy direction and oversight for the commonwealth's educational system and its community colleges, state colleges, and the University of Massachusetts. Candidates shall be evaluated according to law and without regard to race, religion, sex, age, national or ethnic origin, sexual orientation or political affiliation. There shall be persons from diverse cultural, racial, social, geographic and ethnic backgrounds on the council. No member of the council may be considered for appointment to any board while a member of the council.

(Chapter 6, Section 18B, WEB 7/12/2005)

(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
BOARD OF EDUCATION

CHAPTER 15. DEPARTMENT OF EDUCATION

Board of education; composition; disqualification; tenure; vacancies; chairman; expenses; meetings; student advisory and regional councils

Section 1E. There shall be in the department a board of education, in this section and in sections 1F and 1G called the board, which shall consist of the chairman of the student advisory council established under this section; the chancellor of higher education; the commissioner of early education and care; 1 representative of a labor organization selected by the governor from a list of 3 nominees provided by the Massachusetts State Labor Council, AFL-CIO; 1 representative of business or industry selected by the governor with a demonstrated commitment to education; 1 representative of parents of school children selected by the governor from a list of 3 nominees provided by the Massachusetts Parent Teachers Association; and 3 members selected by the governor. In making such additional selections, the governor shall seek to appoint persons who are from geographically diverse regions of the commonwealth and who are familiar with the differing interests, perspectives and needs of urban, rural and suburban school districts. No appointive member of said board shall be employed by or receive regular compensation from the department of education, or from any school system, public or independent, in the commonwealth, or serve as a member of any school committee. Not more than two appointive members of said board shall be employed on a full-time basis by any agency of the commonwealth. Upon the expiration of the term of office of an appointive member of said board, his successor shall be appointed for a term of five years. No person shall be appointed to serve more than two full terms, provided, however, that only service on or after July 1, 1996 shall be counted for this purpose. Prior service on said board for a term of less than three years, resulting from an initial appointment or an appointment for the remainder of an unexpired term, shall not be counted as a full term. If a member is absent from any four regularly scheduled monthly meetings, exclusive of July and August, in any calendar year, his office as a member of said board shall be deemed vacant. The chairman of the board shall forthwith notify the governor that such vacancy exists. A person affiliated with an independent institution of higher education shall be eligible for membership on said board. No member of said board shall be found to be in violation of section six of chapter two hundred and sixty-eight A for conduct which involves his participation, as a member of said board, in a particular matter before said board which may affect the financial interest of an independent institution of higher education with which he is affiliated; provided, however, that said member, his immediate family or partner has no personal and direct financial interest in said particular matter; and provided, further, that such affiliation is disclosed to said board and recorded in the minutes of the board.

The members of the board shall be reimbursed for their necessary expenses incurred in the performance of their duties.

The chairperson of the board shall be appointed by the governor.

The board shall meet not fewer than ten times annually at the call of the chairman.

There is hereby established a student advisory council to the board of education, consisting of four elected representatives from each student regional council established under the provisions of this section, one of whom shall be a student in a vocational secondary school. The members of said student advisory council shall by majority vote prior to the first day of June in each year elect from their number a chairman who shall serve for a term of one year.
Said student advisory council shall meet from time to time and shall consider such matters as it deems appropriate for its chairman to place before the board.

There are hereby established not less than five nor more than fifteen student regional councils, whose membership shall be limited to elected student representatives from the secondary schools of the commonwealth who have been residents of the commonwealth for at least six months prior to their election. Said student regional councils shall consist of not less than twenty nor more than forty-five student representatives.

No person shall be eligible to be elected to a student regional council unless at the time of his election he is enrolled as a student in a secondary school within the commonwealth. If at any time during his term of office a member of a student regional council ceases to be so enrolled, his membership shall be terminated and his position shall be terminated and his position shall be deemed vacant. A vacancy on the student advisory council prior to the expiration of a term shall be filled for the remainder of the term in the same manner as elections to full terms. A vacancy on a student regional council shall be filled by a majority vote of the entire membership of said regional council. The terms of the elected members of the student advisory council and of the student regional council shall be not more than three years, but no member shall be prevented from running for election for three successive terms. Members of student regional councils shall serve without compensation except that they shall be reimbursed for necessary expenses incurred in traveling to and from meetings.

Each student regional council shall meet from time to time with the student advisory council to advise said council regarding business that it deems appropriate to be considered by said advisory council.

Chapter 15, Section 1E, WEB 7/12/2005
PUBLIC HIGHER EDUCATION - POLICY AND GOALS

It is hereby declared to be the policy of the commonwealth to provide, foster and support institutions of public higher education that are of the highest quality, responsive to the academic, technical and economic needs of the commonwealth and its citizens, and accountable to its citizens through lay boards, in the form of the board of higher education and the boards of trustees of each of the system's institutions.

It is hereby further declared that in pursuit of its stated goals, the system of public higher education will strive for excellence in its programming and strengthen the access of every individual in the commonwealth to educational opportunities.

It is hereby further declared that by maintaining a high quality system of public colleges and universities, the commonwealth moves toward achieving the following goals:

a. to provide its citizens with the opportunity to participate in academic and educational programs for their personal betterment and growth, as well as that of the entire citizenry;

b. to contribute to the existing base of research and knowledge in areas of general and special interest, for the benefit of our communities, our commonwealth and beyond; and

c. to understand the importance of higher education to the future of the economic growth and development of the commonwealth, and, by so doing, prepare its citizens to constitute a capable and innovative workforce to meet the economic needs of the commonwealth at all levels.

The board of higher education, in this chapter called the board or the council, shall be responsible for defining the mission of and coordinating the state's system of higher education in accordance with the provisions of this chapter. The council shall work with boards of trustees to identify and define institutional missions, taking into account regional needs, as well as to define each institution's role within the greater system. Said institutional missions shall also relate to the mission the council shall identify for each category of institution within the system, including the university, the state college, and community college segments. The council shall be responsible for publishing such mission statements, which shall be used for purposes of accountability, efficiency, and focus.

The board shall work in conjunction with boards of trustees to hold the system accountable for achieving its goals and establishing a comprehensive system to measure quality by defining educational achievement and success with the use of standards and measurements. The council shall encourage an economical and effective use of the resources of the commonwealth with particular emphasis upon the development of regional and local consortia and related co-operative arrangements by and between public and independent institutions of higher education.

The board shall work to coordinate its activities within a framework of an integrated public education system extending from early childhood programs through the university level, to promote coordination and greater benefits to students. The council shall also encourage collaboration between educational institutions and business and industry in order to promote employment opportunities and educational improvements.

In achieving these ends the council shall foster decision-making close to the actual learning environment. The council shall encourage participation in that process by students, faculty, and the general public in an effort to create and maintain a system of higher education which provides the cultural, economic and personal growth opportunities to enrich and empower the lives of the people of this commonwealth.

(Chapter 15A, Section 1; WEB 7/12/2005)

(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
ADVISORY COMMITTEE ON EDUCATIONAL POLICY
Members; Powers and Duties

There shall be an advisory committee on educational policy, hereinafter called the committee, consisting of the executive committees of the board of education and the board of higher education. The committee shall have the following powers and duties:

a. to study and report on issues common to higher education and to public early childhood, elementary, secondary, or vocational-technical schools;
b. to serve as a forum for discussion between the lay boards responsible for overseeing public education in the commonwealth;
c. to serve as a public forum for discussion of general education goals for the commonwealth;
d. to develop goals for a coordinated system from early childhood through higher education at the university level, and make recommendations to appropriate boards or groups relative to such;
e. to build public support and understanding of education;
f. to encourage and facilitate partnerships between and among public early childhood, elementary, secondary, and vocational-technical schools with institutions of higher learning;
g. to articulate, through study and discussions, the vital connection between high quality public education and future economic growth and development in the commonwealth;
h. to encourage and facilitate partnerships between schools and businesses to improve the delivery of educational services;
i. to articulate goals for accountability and high standards of quality for the entire system of education in the commonwealth, in consultation with parents, students, educators, business representatives, community officials and the public at-large;
j. to advise the governor and the general court relative to any issue within its purview; and
k. to encourage contributions and grants to schools from businesses, foundations, or any other viable and appropriate funding source.

The committee may utilize subcommittees of the full committee to accomplish any of the duties required of it. Nothing in this section shall be construed to grant the committee any authority vested in the board of education or the board of higher education.

The committee shall be chaired by the secretary of education.

The committee shall meet at least four times annually and at other times at the call of the chairman of the board of education, the chairman of the board of higher education, or the secretary of education.

(Chapter 15A, Section 2; WEB 7/12/2005)

(Note: The position of secretary of education no longer exists; however, reference to the position still remains in the law.)
STATEWIDE EDUCATIONAL TECHNOLOGY PLAN;
GOALS; DEVELOPMENT AND IMPLEMENTATION

A statewide educational technology plan, to be known as Massachusetts education-on-line, shall be
developed by the Massachusetts corporation for educational telecommunication, hereinafter
referred to as MCET. Said educational technology plan shall incorporate the following goals:

a. the implementation and integration of technology into teaching and learning in public
schools, including, but not limited to, the establishment of a statewide telecommunications
and technology link among public college and university campuses and school districts
through the use of computer and communications technology;
b. the facilitation of the implementation of a statewide professional development plan for
teachers, principals, and superintendents using distance learning in coordination with the
commissioner of education; and,
c. the increased involvement of parents, guardians, mentors or other volunteers with their
students’ education by utilization of distance learning.

For the purposes of this section, said educational technology plan shall be broadly construed to
include, but not be limited to, programs, courses, and capital expenditures including computer
hardware and software, networks, television, satellite transmissions, fiber optics cable, calculators
and video and audio tapes. Subject to appropriation, MCET may provide grants to universities,
colleges, schools and school districts for the purposes of purchasing the equipment and other
materials necessary for the implementation of said educational technology plan. The MCET
executive director, in consultation with the board of education and the board of higher education,
may establish such advisory groups or committees as he deems necessary for the development
and implementation of said educational technology plan.

(Chapter 15A, Section 3A; WEB 7/12/2005)
BOARD OF HIGHER EDUCATION;  
MEMBERSHIP, TENURE, QUALIFICATIONS

(a) The board of higher education, hereinafter referred to as the board, shall be composed of 11 voting members, consisting of the commissioner of education, ex officio, the commissioner of early education and care, ex officio, 6 members appointed by the governor reflecting regional geographic representation, and 3 members chosen to represent public institutions of higher education. Of the appointed members, at least 1 shall be a representative of organized labor, at least 1 shall be a representative of the business community, and 1 shall be a member whom the governor shall choose from among not more than 3 full-time undergraduate students who shall be nominated, and who are currently enrolled in a public institution set forth in section 5. Nominated students shall have maintained satisfactory academic progress as determined by the policy of the institution at which such student is enrolled. Nominations shall be submitted by student members of the board of trustees for each such institution who, for the purpose of this section, shall be referred to as the student advisory committee. Such nominations may include, but not be limited to, students elected as trustees in accordance with the provisions of section 21. Of the 3 members chosen to represent public institutions of higher education, 1 shall be a member of the board of trustees of the state university selected by the chair of the board of trustees for the university, 1 shall be a member of a board of trustees of a state college chosen by vote of the chairs of the boards of trustees of each of the state colleges, and 1 shall be a member of a board of trustees of a community college chosen by vote of the chairs of the boards of trustees of each of the community colleges. For the purposes of this section the Massachusetts College of Art and the Massachusetts Maritime Academy shall be deemed to be state colleges. There shall be an office of the board consisting of a chancellor and employees appointed by the board.

(b) Members of the board shall be appointed to serve 5-year terms, except that the undergraduate student members shall be appointed annually to serve terms of 1 year commencing initially upon appointment by the governor and expiring on April 30 and each year thereafter commencing on May 1 and expiring on April 30 as long as the member remains a full-time undergraduate throughout his 1-year term. Within 3 consecutive years, the student appointee shall in the first year be a student attending the state university, in the second year, shall be a student attending a community college and, in the third year, shall be a student attending a state college. This cycle shall repeat. Each of the student government associations at each of the public institutions may submit to the student advisory committee an individual nominated to be the undergraduate student member of the board. All guidelines for procedures and deadlines for the selection process of the undergraduate board members shall be established by the student advisory committee, except as provided in this section. No member shall be appointed for more than 2 consecutive terms, except that a student member may serve for only 1 term. Upon expiration of the term of office of a member, a successor shall be appointed in like manner. A vacancy shall be filled by the governor for the remainder of the term, except that if a member chosen to represent the public institutions of higher education ceases to be a member, the resultant vacancy shall be filled for the remainder of the term by the chairs of the boards of trustees of the public institutions in the same manner as in paragraph (a). The chairperson of the board, who shall be appointed by the governor, shall notify the governor whenever a vacancy exists. The board shall have an executive committee and such other committees as the board may from time to time establish.

(c) The members of the board shall serve without compensation but shall be reimbursed for all expenses reasonably incurred in the performance of their duties.

(d) No member of the board shall be principally employed within the public higher education system of the commonwealth. Not more than one third of the members shall be principally employed by the commonwealth. A member of the board shall cease to be a member if such
member ceases to be qualified for appointment or if he is absent from 5 regularly scheduled meetings during a calendar year.

(e) A person affiliated with an independent institution of higher education shall be eligible for membership on the board. No member of the board shall be found to be in violation of section 6 of chapter 268A for conduct which involves his participation, as a member of the board, in a particular matter before the board which may affect the financial interest of an independent institution of higher education with which he is affiliated; provided, however, that the member, his immediate family or partner has no personal and direct financial interest in the particular matter; and provided further, that such affiliation is disclosed to the board and recorded in the minutes of the board.

(f) The board shall meet 6 times per year, and at least once every 2 months, omitting meetings in the months of July and August; the chair may call additional meetings at other times.

(g) Six members of the board shall constitute a quorum and the affirmative vote of 6 members shall be necessary for any action taken by the board.

(h) All members of the board appointed by the governor shall be appointed according to section 18B of chapter 6.

(Chapter 15A, Section 4; WEB 7/12/2005)
SYSTEM OF PUBLIC INSTITUTIONS OF HIGHER EDUCATION

There shall be, for the purposes of this chapter, a system of public institutions of higher education, hereinafter called the system, which shall include the following institutions: the University of Massachusetts at Amherst, Boston, Dartmouth, Lowell and Worcester; Bridgewater State College, Fitchburg State College, Framingham State College, the Massachusetts College of Art, the Massachusetts Maritime Academy; Massachusetts College of Liberal Arts, Salem State College, Westfield State College, Worcester State College, Berkshire Community College, Bristol Community College, Bunker Hill Community College, Cape Cod Community College, Greenfield Community College, Holyoke Community College, Massachusetts Bay Community College, Massasoit Community College, Middlesex Community College, Mount Wachusett Community College, Northern Essex Community College, North Shore Community College, Quinsigamond Community College, Roxbury Community College and Springfield Technical Community College.

The board shall coordinate activities among the public institutions of higher education and shall engage in advocacy on their behalf, which advocacy shall include a sustained program to inform the public of the needs, importance, and accomplishments of the public institutions of higher education in the commonwealth.

(Chapter 15A, Section 5; WEB 7/12/2005)
CHANCELLOR OF PUBLIC HIGHER EDUCATION SYSTEM; OTHER EMPLOYEES; APPOINTMENTS; SALARIES; POWERS AND DUTIES

The council shall, upon its formation, and whenever a vacancy may occur, by a two-thirds vote of all its voting members appoint a chancellor of the system of public higher education, hereinafter called the chancellor, and may in its discretion by a majority vote of all its members remove him. He shall be the secretary to the council and its chief executive officer and the chief school officer for higher education. The chancellor shall be responsible for carrying out the policies established by the council.

The council shall be provided with adequate offices and shall, subject to appropriation, appoint such other employees as it deems necessary to carry out its duties and responsibilities under the provisions of this chapter. The council shall also, subject to appropriation, establish a schedule of salaries for said chancellor and said other employees. Such salaries as so established by the council shall be in accordance with a classification and pay plan adopted by the council pursuant to a professional study of the job responsibilities of and appropriate salaries for the offices and positions held by said chancellor and said other employees. Such salaries shall be compensation in full for all services rendered to the council, except as otherwise expressly provided for by any general or special law; provided, however, that the chancellor shall receive, subject to appropriation, in addition to said salary such expenses as are approved by the council which are incurred by him in the discharge of his duties and which have been approved by majority vote of the house and senate committees on ways and means.

The council may delegate its authority or any portion thereof to the chancellor whenever in its judgment such delegation may be necessary or desirable. The chancellor shall exercise any such powers or duties delegated with the full authority of the council in any matter concerning the system of public institutions of higher education, subject to the direction and approval of the council.

(Chapter 15A, Section 6; WEB 7/12/2005)

(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
MISSION STATEMENTS
DEVELOPMENT AND ADOPTION

With regard to the overall system of public higher education, and each of the three segments of the system, as defined by (i) the university segment, (ii) the state college segment, and (iii) the community college segment, the council shall develop and adopt mission statements. Said segmental mission statements shall include, but not be limited to, the goals and purpose of each type of institution within the system and how they relate to each other in fulfilling the mission of the entire system.

The board of trustees of the university of Massachusetts shall develop and submit to the council mission statements for the university and each of its campuses. The board of trustees of each state college and community college shall develop and submit to the council a mission statement for each such college. The council shall have authority to approve institutional mission statements, as developed and submitted by boards of trustees. Said approval shall take into consideration how well the institution's mission statement correlates with the mission statements as set forth in the preceding paragraph.

The council shall be responsible for making public said mission statements. The council may, as it deems necessary, undertake or cause to be undertaken, revisions of said statements.

The board of trustees of a state or community college with the potential to expand its mission, profile, and orientation to a more regional or national focus may submit to the board of higher education, for its approval, a five-year plan embracing an entrepreneurial model which leverages that potential in order to achieve higher levels of excellence. Such plans shall include, but not be limited to, budget and enrollment projections for each year, projections for total student charges for each year, projections for in-state and out-of-state enrollments for each year, and plans to insure continuing access to the institution by residents of the commonwealth and affirmative action policies and programs that affirm the need for and a commitment to maintaining and increasing access for economically disadvantaged and minority students. Said proposal, upon its receipt by the board of higher education, shall be transmitted to the secretary of administration and finance, the chairs of the house and senate committees on ways and means, and the house and senate chairs of the joint committee on education, arts, and humanities. The board shall, with ninety days of the submission of the plan, take a vote to approve said plan. Approval shall require a two-thirds vote. If the board proposes amendments to the plan, and said amendments receive a two-thirds vote of approval, said amendments shall be returned to the institution's board of trustees. If the board of trustees approves said amendments, the plan shall be considered adopted. If the institution's board of trustees rejects the proposed changes, it may submit a redrafted plan, which will be treated as a new plan under the provisions of this section.

(Chapter 15A, Section 7; WEB 7/12/2005)

(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
The council shall have the following duties and powers:

(a) confer upon the boards of trustees the power to offer degree programs after taking into account, among other things, the need, resources and mission of the institution. The council shall confer the authority to award degrees to persons who have satisfactorily completed degree requirements;

(b) in addition to the degrees authorized to be awarded under clause (a), the council may approve the awarding of certain other degrees and may define and authorize new functions or new programs, or consolidate, discontinue or transfer existing functions, educational activities and programs. The council shall act in writing on requests for program approval from boards of trustees within six months of said request, or said program shall be considered approved. The council may, after a public hearing and submission of a written report to the clerks of the house of representatives and the senate, by a two-thirds vote of the full membership of the council, consolidate, discontinue, or transfer divisions, schools, stations, branches or institutions as it deems advisable. If, in the opinion of the board, a college campus should be closed or consolidated, the board shall submit such proposal to the secretary of administration and finance, the house and senate chairs of the joint committee on education, arts, and humanities, and the chairs of the house and senate ways and means committees. The joint committee on education, arts, and humanities may, within thirty days of the receipt of a proposal, hold a public hearing on its merits. The council shall not close a college without the authorization of the general court;

(c) analyze the present and future goals, needs and requirements of public higher education in the commonwealth and establish overall goals in order to achieve a well-coordinated quality system of public higher education in the commonwealth. Such analysis shall include, but not be limited to, an analysis of state and local labor market trends and the economic development plans of the commonwealth conducted in cooperation with the secretary of economic development and his staff;

(d) develop and adopt mission statements as defined in section seven;

(e) approve institutional mission statements, pursuant to section seven;

(f) prepare a five year master plan for public higher education in the commonwealth, which plan shall take into account the analysis mandated in clause (c) the five year plans submitted by individual boards of trustees. The master plan shall include, but need not be limited to, enrollment projections, utilization of existing facilities, promotion of research, programmatic excellence, and public service activities, recommendations for closing of facilities or the construction or acquisition of new facilities, program distribution and the need for program revision, including the termination of obsolete or unnecessarily duplicative programs. The master plan shall be filed with the clerk of the house of representatives, the clerk of the senate and the secretary of administration and finance;

(g) annually file a detailed progress report on the five year master plan with said clerks and secretaries by the first Wednesday in September;

(h) require boards of trustees to submit admission standards and program standards, which shall be subject to the disapproval of the council; provided, however, that said admission standards shall comply with the provisions of section thirty and that the council shall publish all admission and program standards;

(i) develop a rational and equitable statewide tuition plan for the state colleges and the community colleges in the commonwealth, which plan shall take into account by type of institution, the per student maintenance costs and total mandated costs per student. The total mandated costs per student shall include the state appropriation, retained revenue, fringe benefits and ongoing maintenance. Said tuition plans shall include direct and indirect elements of the per student maintenance costs, including but not limited to, faculty and administrators that support an institution's primary mission of instruction; student admission services, and ongoing maintenance for classrooms, administrative buildings, libraries and laboratories. Said tuition plan shall include
revised retention expenditure regulations which take into account the needs of said institutions with regard to personnel and utility costs. Said tuition plan shall further take into account the need to maximize student access to higher education regardless of a student’s financial circumstances. The council shall issue regulations governing the implementation of such tuition plans by the state colleges and the community colleges. In the case of the university, the council shall review the recommendations of the board of trustees relative to tuition rates at said university and its campuses. Said tuition rates shall be subject to the approval of the council. The council shall establish final tuition rates for the subsequent academic years no later than fifteen days prior to the deadline for submission of state or federal financial aid applications by students attending the institutions of higher education set forth in section five. The council shall establish guidelines to be followed by each public institution of higher education relative to student charges and whether said charges should be classified as tuition or as fees. Said guidelines shall be based upon a study of tuition and fees which shall be conducted by the council, and which shall be authorized by statute; provided, that fees as defined by said guidelines, shall not exceed twenty-five percent of total student charges for the state colleges and the community colleges.

(j) receive allotments to the commonwealth under federal programs of aid to public higher education and disburse such funds in accordance with a plan promulgated by the council, not to include grants to individuals or grants received directly by institutions;
(k) review enrollment levels for each institution of the system subject to disapproval of the council;
(l) require each institution in the system to submit to the council a five year plan, which plan shall be updated annually;
(m) have overall responsibility for the property, real and personal, occupied or owned by the council, state colleges and community colleges;
(n) subject to its direction and approval, authorize the chancellor to seek, accept and administer grants, gifts and trusts for system-wide purposes from private foundations, corporations, individuals and federal agencies, which shall be administered under the provisions of section two C of chapter twenty-nine of the General Laws and disbursed at the direction of the council pursuant to its authority;
(o) from time to time, employ consultants and experts to study and report on matters necessary to the operation of the system;
(p) maintain a uniform accounting system as required by the state comptroller;
(q) approve and fix the compensation of the chief executive officer of each institution within the state college system and community college system;
(r) review annually, in accordance with post-audit procedures established by the council, the fiscal operations of constituent institutions. The council shall insure public inspections, through publication, of institutional spending plans;
(s) require, collect, analyze, maintain such data from institutions and agencies for public higher education as may be relevant to the careful and responsible discharge of its purposes, functions and duties and such data shall include information available from private institutions of higher education. In the case of public institutions, such data shall include, but not be limited to, analyses of the rates of graduation and the scores received by students on standardized examinations. In order to facilitate the timely use of such data, the board shall, in consultation with the public institutions of higher education, establish a schedule for submission of the data. The council shall publish said analyses, both for the system and for individual institutions.
(t) issue regulations defining resident of the commonwealth and proof of the same for the purpose of admission and tuition expenses of public institutions of higher education and prepare uniform proofs of residence to be used by all public institutions; provided, however, that insofar as the Massachusetts Maritime Academy is designated a regional maritime academy by the United States maritime administration, residents of the states comprising the designated region and attending the Massachusetts Maritime Academy shall be considered Massachusetts residents for the purposes of admission and tuition;
(u) establish, where appropriate, coordination between and among post-secondary institutions public or private and resolve conflicts of policies or operations arising in public higher education;
(v) develop and implement a transfer compact for the purpose of facilitating and fostering the transfer of students without the loss of academic credit or standing from one public institution to another;

(w) establish an affirmative action policy and implement a program necessary to assure conformance with such policy throughout the system;

(x) in the case of state colleges, fix the classification, title, salary range within the general salary schedule and descriptive job specifications for each position shall be determined by the council for each member of the professional staff and copies thereof shall be placed on file with the governor, budget director, personnel administrator and the joint committee on ways and means, except that any such salary may be fixed at any amount not less than the minimum salary nor more than the maximum salary shown in said schedule; provided, however, the council may establish the salary for the chief executive officer and such other officers and members of the professional staff and for the academic deans and members of the professional teaching staff without reference to the general salary schedule and salary range; and, provided further, that no such salary shall be established for any academic dean or any member of the professional teaching staff unless his classification rating is equal to or higher than that of professor, nor shall the number of academic deans and members of the professional teaching staff whose salaries may be so established exceed one percent of the combined total number of academic deans and members of the professional teaching staff. A notification of each personnel action taken shall be filed by the council with the personnel administrator and with the comptroller;

(y) in the case of community colleges, fix the classification, title, salary range of each member of the professional staff within the general salary schedule, except that any such salary may be fixed at any amount not less than the minimum salary nor more than the maximum salary shown in said schedule; provided, however, that the council may fix the salary and salary range for the chief executive officer of each individual community college and other officers and members of the professional staff of the community college system not exceeding in number one percent of the total number of such other officers and members of the professional staff taken together in the community college system, without reference to the general salary schedule; and provided further, that no such salary shall be fixed for any such member classed within the one percent unless he holds a position equivalent to or higher than the rank of professor;

(z) recognize the duly elected student government association at each public university, state college or community college as the official representative of the student body;

(aa) submit a written application of HEFA requesting that said authority undertake a project, as defined in section three of chapter six hundred and fourteen of the acts of nineteen hundred and sixty-eight, on behalf of one or more public institutions for higher education, as so defined; provided, however, that the council shall only make such application for a project on behalf of the public university if such project is approved by the board of trustees of the public university;

(bb) transfer or pledge that they will periodically transfer to HEFA any funds available for expenditure by the council, in order to provide for the expenses of HEFA and for the payment of indebtedness incurred by HEFA in connection with any project financed by HEFA on behalf of the council, one or more public institutions of higher education, their affiliated building authorities, or any other organization affiliated therewith, as defined in paragraph (e) of said section three of said chapter six hundred and fourteen; provided, however, that in the case of any funds expected to be available for expenditure by the council or such other entities pursuant to subsequent appropriation or other spending authorization by the legislature, the council may only pledge that they will so transfer such funds subject to such subsequent appropriation or other spending authorization. Any such pledge shall be valid and binding from the time when the pledge is made; the funds so pledged shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the council or any such public institution of higher education, affiliated building authority, or other organization affiliated therewith, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which such a pledge is created need be filed or recorded except in the records of
HEFA;
(cc) administer a program, without further appropriation, to provide no-interest loans to undergraduate students domiciled in the commonwealth, enrolled in and pursuing a program of higher education in the commonwealth in any approved public or independent college, scientific or technical institution, or any other approved institution furnishing a program of higher education;
(dd) to develop funding formulas for state and community colleges pursuant to section 15B of this chapter;
(ee) to develop a standardized form for reporting institutional expenditures, and for the submission of institutional spending plans pursuant to subparagraph (m) of the first paragraph of section 2 of this act;
(ff) to approve the expansion of campus missions to embrace specialized missions, expanded regional or national outreach, or a more entrepreneurial model of service delivery pursuant to section and subparagraph (p) of the first paragraph of section 22 of this chapter;
(gg) develop a system to track students who transfer out of public institutions of higher education in order to improve data on what degrees, if any, those students earn from other institutions of higher education. Such assistance shall consist of full or partial loans to students in need of assistance. Repayment shall commence within six months of graduation or termination of studies; provided, that no repayment schedule shall exceed a term of ten years. Monies received in repayment shall be retained by the board of higher education to provide the no interest loans and to provide for the administration of the programs without further appropriation; provided, however, that not more than $775,000 of the monies shall be expended annually for the administration of the program. The Massachusetts state scholarship office shall establish guidelines to govern said program which shall include, but not be limited to, eligibility requirements for students, eligibility requirements for participating institutions, terms of payment, deferment options, provisions for default, and a maximum and minimum loan award as determined by an indexing system.

Notwithstanding the provisions of any general or special law to the contrary, the board of higher education shall have authority to approve degree programs offered by institutions of higher education; provided, however, that any other licensing body approving specific course offerings required as components of such degree programs under said licensing body’s licensing authority shall not have any other authority over course offerings which are not required for licensure.

Whenever a public institution of higher education in the commonwealth requests a tuition rate and charges reduction for residents of bordering states, the board may approve such tuition reduction to not less than one-and-one-half times the resident tuition rate. Prior to the approval of any such tuition adjustment, the board shall promulgate regulations based upon an evaluation that yields the following conclusions: such institution is below enrollment capacity and the projected cost to the commonwealth of such tuition reduction would be minimal when taking into account projected enrollment growth associated with such adjustment. Not less than 30 days prior to the promulgation of such regulations, the board shall report the findings of such evaluation, including a fiscal impact analysis, to the house and senate committees on ways and means and the joint committee on education, arts and humanities. The board shall seek reciprocal arrangements from bordering states where no such tuition reduction is available for Massachusetts residents.

(Chapter 15A, Section 9; WEB 7/12/2005)

(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
AMERICAN SIGN LANGUAGE

American Sign Language is hereby recognized as a full and legitimate language, as the language of a unique culture in the United States, and as the equivalent of a spoken language for the purposes of foreign language study and course credit.

(Chapter 15A, Section 9A; WEB 7/12/2005)

(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
NEEDS-BASED FINANCIAL ASSISTANCE PROGRAM;
SCHOLARSHIPS; GUIDELINES

There shall be a program, subject to appropriation, of needs-based financial assistance, administered by the board of higher education, to provide full or partial scholarships for residents of the commonwealth enrolled in and pursuing a part-time or full-time program of higher education in any of the public institutions of higher education in the commonwealth. The council shall establish guidelines to govern said program. Said guidelines shall be filed with the house and senate committees on ways and means and the joint committee on education, arts and humanities within thirty days of the approval by the council of said guidelines.

(Chapter 15A, Section 9B; WEB 7/12/2005)

(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
DEFINITIONS

As used in this chapter, the following words shall, unless the context requires otherwise, have the following meanings:

"Community college" shall mean any of the following institutions of higher education: Berkshire Community College, Bristol Community College, Bunker Hill Community College, Cape Cod Community College, Greenfield Community College, Holyoke Community College, Massachusetts Bay Community College, Massasoit Community College, Middlesex Community College, Mount Wachusett Community College, Northern Essex Community College, North Shore Community College, Quinsigamond Community College, Roxbury Community College and Springfield Technical Community College, and any other community college established after November 1, 1989; or, if any such community college shall be abolished, any institution succeeding to the principal functions thereof.

"Community college affiliate" shall mean any organization or association, in any form, the activities of which are a part of the activities of such community college and are subject to regulation by the trustees of such community college or any research foundation, teaching hospital and associated clinics or other research or educational organization the operation of which in conjunction with such community college is approved by the trustees of such community college as furthering the purposes of the community college.

"HEFA" shall mean the Health and Educational Facilities Authority created by section 4 of chapter 614 of the acts of 1968, or, if said Health and Educational Facilities Authority shall be abolished, the board, body, or commission succeeding to the principal functions thereof or to which the powers given by said chapter 614 shall be given into law.

"Project" in the case of a participating institution for higher education, a structure or structures suitable for use as a dormitory or other multi-unit housing facility for students, faculty, officers or employees, a dining hall, student union, administration building, academic building, library, laboratory, research facility, classroom, athletic facility, health care facility, maintenance, storage or utility facility and other structures or facilities related to any of the foregoing or required or useful for the instruction of students or the conducting of research or the operation of an institution for higher education, including parking and other facilities or structures essential or convenient for the orderly conduct of such institution for higher education, and shall also include landscaping, site preparation, furniture, equipment and machinery and other similar items necessary or convenient for the operation of a particular facility or structure in the manner for which its use is intended and shall further include any furnishings, equipment, machinery and other similar items necessary or convenient for the operation of an institution of higher education, whether or not such items are related to a particular facility or structure financed by HEFA, but shall not include such items as books, fuel, supplies or other items the cost of which are customarily deemed to result in a current operating charge, and shall not include any facility used or to be used for sectarian instruction or as a place of religious worship nor any facility which is used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination. Project may include any combination of one or more of the foregoing undertaken jointly by one or more participating institutions with each other or with other parties.

(Chapter 15A, Section 10; WEB 7/12/2005)

(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
COUNCIL ACTIONS PERMITTED TO AID AND CONTRIBUTE TO PERFORMANCES OF EDUCATIONAL AND OTHER PURPOSES OF COMMUNITY COLLEGES

The council may, in the name and on behalf of the commonwealth, upon such terms and with or without consideration, do any or all of the following in order to aid and contribute to the performance of the educational and other purposes of any community college:

(a) Sell, convey or lease to HEFA or any community college affiliate real or personal property owned by the commonwealth in a city or town in which a community college is located or grant easements, licenses or any other rights or privileges therein to HEFA to any community college affiliate. Neither HEFA nor any community college affiliate shall be liable to taxation upon any real property, including any building or buildings erected thereon, or personal property sold, conveyed or leased under this section;

(b) Cause private ways, sidewalks, footpaths, ways for vehicular travel, parking areas, water, sewage or drainage facilities and similar improvements and steam service and other utilities and connections for heating and other necessary purposes to be furnished to or in any project carried out by HEFA or any community college affiliate;

(c) Make available to HEFA or to any community college affiliate the services of officers and employees of a community college and office space and facilities in a community college for, among other things, billing and collecting rents, fees, rates and other charges for the use and occupancy of property of HEFA or any community college affiliate by one or more community colleges or community college affiliates, students, staff and their dependents; renting and leasing rooms and other accommodations in the buildings and structures of HEFA or a community college affiliate; cleaning, heating, daily operation of and repairs to and maintenance of such buildings and structures and other property of HEFA or any community college affiliate; and keeping all books of account for HEFA or any community college affiliate;

(d) Establish and manage trust funds for self-amortizing projects and self-supporting activities including, but not limited to, the operation of the boarding halls, student health service, research institutes and foundations, dormitories and student and faculty apartments; provided, that all income received from such projects or activities shall be held in trust by the council and expended for the purpose for which the trust fund was established; provided further, that the council may, for the purposes of this section or section 12, group together several or more projects into one or more funds as is, in its judgment, required to best effectuate the purposes of the projects and activities and the purposes of the community colleges; and provided, further, that any unrestricted balances remaining in a trust fund upon its termination shall be used as directed by the council for the general purposes of the community college;

(e) Do any and all things authorized by law and necessary or convenient to aid and cooperate with HEFA or any community college affiliate in carrying out the purposes of HEFA or such community college and exercising their powers and in complying with the provisions of any trust agreement into which HEFA may enter in connection with any project financed by HEFA on behalf of any community college or community college affiliate.

In connection with any financing or refinancing provided by HEFA, the provisions of this paragraph shall apply. No lease or other agreement made under this section or section 12 made by HEFA, or the commonwealth acting through the council, or any other community college affiliate to HEFA, the commonwealth acting through the council, or any other community college affiliate shall be subject to any provision of law relating to publication or advertising for bids, and any such lease or agreement may be entered into and shall become effective without any necessity for any order of court or other action or formality other than the regular and formal action of the authorities concerned. No sale, conveyance, lease, or grant made under this section to HEFA or any community college affiliate by the council or by any community college affiliate shall be subject to
the provisions of section 40F, section 40 F 1/2, section 40 H, or section 40 I of chapter 7; provided, however, that the council may elect for any such sale, conveyance, lease, or grant to be subject to the provisions of said sections; provided, further, that in connection with (i) any project upon any real property or right thereto obtained by HEFA or any community college affiliate pursuant to the sale, conveyance, lease, or grant hereby exempted from said sections, or (ii) any disposition to a person or entity other than HEFA, the commonwealth acting through the council or otherwise, or a community college affiliate of any real property or right thereto obtained by HEFA or any community college affiliate pursuant to the sale, conveyance, lease, or grant hereby exempted from said sections, HEFA or such community college affiliate, as the case may be, shall be deemed to be a state agency for the purpose of paragraph (v) of section 39A of said chapter 7 and shall be deemed to be a public agency for the purpose of subsection (l) of section 44A of chapter 149.

(Chapter 15A, Section 11, WEB 7/12/2005)

(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
To provide for the expenses of HEFA and for the payment of indebtedness incurred by it in connection with any project financed by HEFA on behalf of any community college or any community college affiliate, or in connection with any transfer for such purpose by HEFA, or the commonwealth acting through the council under the provisions of section 11, or any other community college affiliate to HEFA, or the commonwealth acting through the council, or any other community college affiliate of buildings or other property, the council may, in the name and on behalf of the commonwealth, (i) transfer or pledge that they will periodically transfer to HEFA, or to any community college affiliate under terms permitting further transfer or pledge to HEFA, any part or all of any funds held as trust funds for any community college under the provisions of paragraph (d) of section 11, administered on behalf of any community college as gifts, grants, or trusts under the provisions of clause (e) of section 22, made available for expenditure on behalf of any community college pursuant to an appropriation or other spending authorization in the commonwealth's annual operating budget, including supplementary and deficiency budgets, or otherwise available for expenditure by the council, and (ii) may contract with HEFA or any community college affiliate with respect thereto under terms permitting further transfer or pledge by HEFA to a trustee under any trust agreement related to such project and entered into by HEFA pursuant to chapter 614 of the acts of 1968; provided, that in the case of any funds expected to be available for expenditure by the council pursuant to subsequent appropriation or other spending authorization by the legislature, the council may only pledge that they will so transfer such funds subject to such subsequent appropriation or other spending authorization. The council may impose such terms and conditions as to the application of the funds so transferred as it deems appropriate for the carrying out of the provisions of said chapter 614 and of this chapter. Any such pledge shall be valid and binding from the time when the pledge is made; the funds so pledged shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the council, any community college, or any other community college affiliate, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which such a pledge is created need be filed or recorded except in the records of HEFA.

(Chapter 15A, Section 12; WEB 7/12/2005)

(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
HEALTH & EDUCATIONAL FACILITIES AUTHORITY - SALE OR LEASE OF BUILDINGS, LANDS OR OTHER PROPERTY; PROCEEDS

HEFA may sell the buildings or other structures upon any land acquired by it pursuant to section 11 and which are not included in a project, or may remove the same, and may sell or lease any lands or rights or interest in lands or other property acquired for the purposes of this act whenever the same shall, in the opinion of HEFA, cease to be needed for such purposes. The proceeds of any such sale or lease shall be held and disposed of as revenues from the project for or with respect to which the property sold or leased shall have been acquired; provided, however, that except as permitted by section 11, no property acquired from the commonwealth shall be sold or leased without prior approval of the governor and council; and provided further that the proceeds of any sale or lease of any such property shall be paid to the treasurer and receiver-general of the commonwealth and shall be credited on the books of the commonwealth to the General Fund.

In the event that the council shall sell, convey or lease to HEFA any dormitory, dining commons or boarding hall faculty or student apartment building or student union building at any community college and owned by the commonwealth or any interest of the commonwealth in or to such a building so located but owned by another, and in the further event that funds for the rental or maintenance of such building or buildings have been provided by appropriation from general funds of the commonwealth for any fiscal year ending after the effective date of such sale, conveyance or lease, such sale, conveyance or lease shall provide that the rentals, fees or other charges levied for the use of such building or rooms or accommodations therein or services provided therein in such fiscal years shall be retained by or paid to the treasurer and receiver-general of the commonwealth, as the case may be.

(Chapter 15A, Section 13; WEB 7/12/2005)

(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
POWERS UNDER SECTIONS 11 AND 12 EXERCISED ON BEHALF OF STATE UNIVERSITY AND AFFILIATES

Upon application by the trustees of the state university, the council may exercise on behalf of such university and its university affiliates all the powers it has with respect to community colleges or community college affiliates under sections 11 and 12.

(Chapter 15A, Section 14; WEB 7/12/2005)

(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
ESTIMATE OF ORDINARY MAINTENANCE AND REVENUES; CAPITAL OUTLAY REQUESTS; ALLOCATION OF APPROPRIATIONS

The council shall periodically prepare and submit to the budget director an estimate, in detail, for the ordinary maintenance of the entire system of public institutions of higher education, and revenue therefrom, as provided in section three of chapter 29. Said statement shall include the salaries of all officers and employees within said system and all program costs which are to be borne by any source other than the commonwealth, including such sources as federal financing or federal research, demonstration or training grants, community contributions and other grants, endowments or trusts.

The council shall also periodically submit requests for capital outlay for the entire system of public institutions of higher education to the secretary of administration and finance as provided by section 7 of said chapter 29 and to the house and senate committees on ways and means. The council shall use the estimates and requests prepared by each board of trustees for the purposes of this section, attaching whatever recommendations it may desire or deem necessary. The general court shall appropriate funds for the system of public institutions of higher education in various line items, including, but not limited to four separate appropriations; one each for the university, state colleges, community colleges, and scholarships.

The board of trustees of the university shall receive its appropriation directly, in one sum. Funds appropriated for the state college system and the community college system shall be disbursed by the council to each board of trustees by the establishment of allocation accounts; provided, however, that the council shall not allocate an amount less than that appropriated by the general court for the expenses of "01, salaries, permanent positions"; "02, salaries, other"; or "03, services, nonemployee" without prior approval of the commissioner of administration; and provided further that no such funds allocated for the expenses of "01 salaries, permanent" to a board of trustees shall be transferred without the prior approval of the commissioner of administration.

Except as provided in the preceding paragraph, the council shall not be prevented from amending institutional allocations or reallocating funds among institutions.

(Chapter 15A, Section 15; WEB 7/12/2005)

(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
BUDGET CYCLE; PREPARATION AND SUBMISSION OF BUDGET REQUESTS; COMMENTS AND RECOMMENDATIONS

There shall be established a two-year budget cycle for the public system of higher education which shall be instituted beginning in fiscal year 1994 and shall be repeated every even numbered fiscal year thereafter.

In preparing for the even numbered fiscal year of said two-year budget cycle, each board of trustees shall prepare and submit to the council a budget request for the ordinary maintenance of its institution; said budget request shall include the salary of all officers and employees of said institution and all revenues therefrom and any other such information as the council may require or as provided in section 3 of chapter 29. Each board of trustees shall make requests to the council under the provisions of chapter 29. The boards of trustees shall attach to said even numbered fiscal year budget request a budget request for the following odd numbered fiscal year; said odd numbered fiscal year budget request shall include the salary of all officers and employees of said institution and all revenues therefrom and any other such information as the council may require or as provided in section 3 of chapter 29.

Boards of trustees in each segment of the higher education system shall prepare their budget request in accordance with funding formulas. The board of higher education shall develop the formulas for the institutions within the state and community college segments in consultation with the boards of trustees. The university trustees shall develop funding formulas for the university campuses in consultation with the campus administrations and the board of higher education. All funding formulas shall be periodically reviewed and revised as needed.

Each board of trustees shall prepare their estimates and requests according to the funding formulas prescribed in section 15A of this chapter.

The council shall review the institutional budget requests prepared by each board of trustees and shall attach comments and recommendations for use by the secretary of administration and finance, the house and senate committees on ways and means and the joint committee on education, arts and humanities. In the case of the university, it shall be the responsibility of the trustees to submit comments and recommendations regarding the budget requests of individual campuses within the university system to the board of higher education. In the case of any institution, or the university, having failed to submit data according to the schedule established under clause (s) of the first paragraph of section 9, the board of higher education may withhold transmittal of the budget request from that board of trustees to the secretary and committees. The comments and recommendations attached by the board of higher education for each state and community college and by the board of trustees of the university for each university campus, shall be consistent with the funding formulas, statewide needs, performance measurement standards, as well as the mission statements and 5-year plans for individual campuses and the public higher education system as a whole. They shall also reflect analysis by the respective boards for each campus regarding progress made by the campuses in fulfilling strategic plans including, but not limited to, significant achievements and progress in addressing any previously identified deficiencies. The comments and recommendations shall be made available to the individual institutions and campuses before submission to the secretary and legislative committees with sufficient time allowed to provide opportunity for comment and response by those institutions and campuses. In reviewing the various estimates and requests the council may comment on the overall level of funding for the system of public higher education and may comment regarding funding priorities among segments of the system of public higher education and among the various institutions. The council shall submit the recommendations and comments of the council to the secretary of administration and finance, the house and senate committees on ways and means and
the joint committee on education, arts and humanities. The council shall include in addition to the information provided by the boards of trustees all program costs which are to be borne by any other source other than the commonwealth, including such sources as federal financing or federal research, demonstration or training grants, community contributions and other grants, endowments or trusts.

(Chapter 15A, Section 15B; WEB 7/12/2005)

(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
EXPENDITURES AND REVENUES; MANAGEMENT AND ACCOUNTING REPORTING SYSTEM

The public institutions of higher education shall report monthly by subsidiary all expenditures and revenues from all appropriated and non-appropriated funds on the Massachusetts management and accounting reporting system, so-called, by July 31, 1993

(Chapter 15A, Section 15C, WEB 7/12/2005)
PERSONNEL ADMINISTRATIVE REPORTING AND INFORMATION SYSTEM

The public institutions of higher education shall report all personnel information for those employees compensated from any budgetary, federal, capital or trust fund through the personnel administrative reporting and information system, so-called, by July 31, 1993.

(Chapter 15A, Section 15D, WEB 7/12/2005)
PUBLIC HIGHER EDUCATION ENDOWMENT INCENTIVE PROGRAM; MATCHING FORMULA; TERMINATION OF PROGRAM

It is hereby declared to be the policy of the commonwealth to encourage private fundraising by the state university and public colleges and to assist such fundraising through a matching program to be known as the public higher education endowment incentive program which shall not result in direct or indirect reductions in the commonwealth's appropriations to such institutions for operations or for capital support.

Subject to appropriation, the commonwealth shall contribute funds to each institution's recognized foundation in an amount necessary to match private contributions in the previous fiscal year to the institutions or a foundation’s endowment based on the following matching formula. Subject to appropriation, the commonwealth's contribution shall be equal to $1 for every $2, or $1 for such greater number of dollars as may be established by the board of higher education, privately contributed to the university’s board of trustees or a foundation, provided that the maximum total contributions from the commonwealth shall be $50,000,000; $1 for every $2, or $1 dollar for such greater number of dollars as may be established by the board of higher education, privately contributed to each state college's board of trustees or foundation, provided that the maximum total contributions from the commonwealth shall be $5,000,000 for each institution; $1 for every $2, or $1 for such greater number of dollars as may be established by the board of higher education, privately contributed to each community college's board of trustees or foundation, provided that the maximum total contributions from the commonwealth shall be $1,000,000 for each institution.

Private contributions to the endowment for purposes of this program shall be limited to donations to an endowment for academic purposes including, but not limited to, scholarships, endowed chairs and contributions in support of academic facility construction and maintenance approved by the appropriate board of trustees.

Said program shall terminate for the university when its foundation has received $50,000,000 in appropriated matching funds according to the formula prescribed above, or on July 1, 2010, whichever is sooner. Said program shall terminate for any state college when its foundation has received $5,000,000 in appropriated matching funds according to the formula prescribed above or on July 1, 2010, whichever is sooner. Said program shall terminate for any community college when its foundation has received $1,000,000 in appropriated matching funds according to the formula prescribed above or on July 1, 2010, whichever is sooner.

For each institution, the program shall be administered by its foundation, as defined in section 37, in accordance with procedures established by the board of trustees and filed with the house and senate committees on ways and means no later than December 15, 2004. Such procedures shall include a method for each board of trustees to certify to the house and senate committees on ways and means the actual amount received in private contributions to the endowment in each fiscal year. Such procedures shall also include safeguards for protecting the anonymity of donors who indicate their desire not to be identified.

(Chapter 15A, Section 15E; WEB 7/12/2005)
COMMUNITY COLLEGE WORKFORCE TRAINING INCENTIVE PROGRAM

It is hereby declared to be the policy of the commonwealth to encourage public community college training opportunities in order to promote workforce development, minimize the shortage of skilled workers and raise economic opportunity through a matching incentive grant program to be known as the community college workforce training incentive program. Subject to appropriation, the board of higher education shall establish guidelines for the distribution of community college workforce training incentive grants; provided, however, that said guidelines shall provide: (i) allowable incentive grant awards which shall not exceed $200 for every $1,000 in eligible revenues; (ii) minimum requirements for the level of not-for-credit vocationally-oriented instruction which shall be provided by incentive grant recipients in the fiscal year in which such grant is awarded. Each community college which is eligible for grant awards in a fiscal year shall, subject to appropriation, receive not less than $50,000 from the total amount appropriated for the incentive program to fund the salary of a workforce training coordinator at each such campus. For the purposes of this section, eligible revenues shall be defined as revenues received by a community college for one of the following purposes: tuition and fees paid by students enrolled in not-for-credit vocationally-oriented courses; tuition and fees paid by Massachusetts employers on behalf of employees enrolled in not-for-credit vocationally-oriented courses; and revenues from service contracts with Massachusetts employers to provide not-for-credit vocationally-oriented training. Revenues from contracts with public agencies, public grants or private gifts shall not be considered eligible revenues for the purposes of this section. Incentive grants shall be expended for the following purposes: to expand not-for-credit vocationally oriented course offerings; to expand not-for-credit vocationally-oriented instruction provided through contracts with Massachusetts employers; and to otherwise promote not-for-credit vocationally-oriented instruction. Each community college campus shall report not later than December 31, annually, to the board of higher education and the house and senate committees on ways and means on the level of not-for-credit vocationally-oriented instruction provided in the preceding fiscal year and the anticipated level of such instruction in the current fiscal year. Said report shall detail enrollment levels, revenues received, sources of revenues, the number of service contracts established with Massachusetts employers and such other information as the board of higher education may require.

(Chapter 15A, Section 15F; WEB 7/12/2005)
SCHOLARSHIP PROGRAM; GUIDELINES

There shall be a general scholarship program administered by the council for the purpose of providing financial assistance to students domiciled in the commonwealth and enrolled in and pursuing a program of higher education in any approved public or independent college, university or school of nursing, or any other approved institution furnishing a program of higher education. Such aid and assistance shall consist of awarding of full or partial scholarships to worthy and qualified students in need of financial assistance.

The amount of awards to qualified students shall be determined by using an indexing system which shall be included in the guidelines established by the council to govern this program. The council shall file a report of current year general scholarship program expenditures, appropriations needed to fund full need for all students, and projections of general scholarship expenditures for the following year by family contribution ranges and independent student contribution ranges. Said report shall be filed with the clerk of the house and senate no later than the end of each calendar year.

There shall be a Christian A. Herter Memorial Scholarship Program which authorizes the council to guarantee the payment of full or partial scholarships to no more than 25 students annually of extraordinary need and ability selected in tenth or eleventh grades by persons or agencies designated by said council under such regulations as the council shall deem necessary. These awards shall be guaranteed to the student at the time of the student's selection; provided however, that said student successfully completes high school and is enrolled in and pursuing a program of higher education in any approved public or independent college, scientific or technical institution, or any other approved institution furnishing a program of higher education, and shall be payable from the general scholarship funds at the time of the student's matriculation.

There shall be a program, administered by the council, providing for the matching of scholarship grants to participating Massachusetts independent regionally accredited colleges, universities and schools of nursing; provided, that the council shall establish policies and regulations relating to the program, including an audit procedure to insure that institutions are in compliance with such policies and regulations; provided, further, that a participating institution shall be eligible to receive an amount equal to such institution's expenditure for scholarship aid to needy Massachusetts undergraduate students enrolled in such institutions as full-time matriculating students in a course of study leading to an associate or bachelor degree; provided further, that each participating institution shall agree to expend an amount equal to one hundred percent of the grant awarded hereunder in direct financial assistance to the needy Massachusetts students; provided further, that each participating institution shall agree to comply with the information requests of the council in accordance with this chapter.

There shall be a Christa McAuliffe Teacher Incentive Program for the purpose of providing financial assistance for undergraduate and graduate students in approved institutions of higher education within the commonwealth who agree to teach on a full time basis within a public education system located in the commonwealth. The council shall institute and maintain learning contracts for all students admitted in the teacher incentive program, which shall include provisions for "payback" service for a period commencing after such students have fulfilled all graduation requirements, or for repayment to the commonwealth of the full amount of such grants on terms established by said council. Said council shall establish guidelines governing said program which shall include but not be limited to eligibility requirements, selection criteria, and period of time which must be spent teaching in the commonwealth.

There shall be a part-time student grant program to provide assistance to part-time undergraduate students attending approved institutions of higher education within the commonwealth who have
demonstrated financial need. The council shall establish guidelines governing said program.

The council may award full or partial scholarships to worthy and qualified students who have been residents of the commonwealth for a period of four years immediately prior to receiving such award and who are in need of financial assistance in order to pursue graduate studies. The council shall award scholarships and notify all applicants on or before July first in each year. No scholarship may be awarded for more than five years to any one student. The council may expend such sums as may be appropriated to carry out the provisions of this paragraph. The council shall establish guidelines governing said program which shall include but not be limited to eligibility requirements and selection criteria.

There shall be a Council Grant for Campus-based Assistance Program for adult learners and work study opportunities. Participating approved institutions of higher education within Massachusetts shall receive an allocation from the council to provide grant or work study assistance to eligible students with demonstrated financial need. The council shall establish guidelines to govern this program which shall insure that those students receiving assistance include part-time students, graduate students and adult learners.

There shall be a Public Service Scholarship Program to provide scholarships to children and widowed spouses of Massachusetts police officers, fire fighters and correction officers, who are killed or die from injuries received while in the performance of duties including authorized training duty; to children of prisoners of war or military or service persons missing in action in Southeast Asia whose wartime service is credited to the commonwealth and whose service was between February first, 1955, and the termination of the Vietnam campaign; and to the children of veterans whose service was credited to the commonwealth and who were killed in action or otherwise died as a result of such service. Such scholarships shall be awarded by the council pursuant to its guidelines established to govern this program and shall go to those persons referenced above who are admitted to an institution of higher education in the commonwealth to pursue undergraduate studies.

There shall be a dedicated grant program for undergraduate students enrolled at an approved institution of higher education within the commonwealth. The council shall establish guidelines to govern said program.

There shall be a consortium scholarship program for undergraduate students to pursue programs that are not currently offered by public institutions of higher education within the commonwealth. The council shall establish guidelines to govern said program.

Any student receiving financial assistance under any program listed above shall maintain satisfactory academic progress in order to continue to receive such assistance. Each institution which recipients attend shall maintain documentation of each recipient's academic standing and provide requested documentation to the council in accordance with guidelines promulgated by the council.

All programs of financial assistance above shall be subject to appropriation.

Any institution of higher education participating in any of the programs set forth above shall annually execute a participating agreement for each such program and place such contracts on file with the council's scholarship office.

When applicable federal law requires, each applicant for assistance under any program established herein shall provide appropriate documentation to verify his compliance with the Military Selective Service Act in effect at the time of such application.
With the exception of the public service scholarship program grants, all financial assistance provided for in this section shall be based on ability to pay, as provided for in guidelines promulgated by the council.

Upon adoption by the council of guidelines promulgated pursuant to the provisions of this section, said council shall file a copy thereof with the secretary of administration and finance, and with the clerk of the house of representatives, who shall refer such guidelines to the joint committee on education, arts and humanities, and the house and senate ways and means committees.

Chapter 15A, Section 16; WEB 7/12/2005)

(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
"TEACHING LEARNING CORPS" PROGRAM

The council, subject to appropriation, shall establish a program entitled the "teaching learning corps".

The program shall provide school districts choosing to participate, which contain a significant proportion of low-income students or a significant proportion of students deficient in basic skills, as determined by the board of education, with college students as instructional aids. Instructional aides shall assist teachers in instructional activities during regular school programs or extended day programs, but shall not replace existing school personnel. Funds provided under this section shall be used first to provide matching funds for work-study college students, and in the case where work-study students are not available, to hire college students not enrolled in work-study programs. The council, in cooperation with the board of education, shall promulgate rules and regulations for said program, including selection criteria for public school sites, cooperative agreements between colleges and public schools, yearly programs evaluation procedures, program duration standards, and other rules.

(Chapter 15A, Section 17; WEB 7/12/2005)

(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
QUALIFYING STUDENT HEALTH INSURANCE PROGRAMS; PARTICIPATION
COMPLIANCE PROCEDURES REPORT; PENALTIES FOR NONCOMPLIANCE

Every full-time and part-time student enrolled in a public or independent institution of higher learning located in the commonwealth shall participate in a qualifying student health insurance program. For the purposes of this section, "part-time student" shall mean a student participating in at least seventy-five per cent of the full-time curriculum. Such an institution may elect to allow students to waive participation in its student health insurance program or any part thereof; provided, however, that an institution permitting such waivers shall require students waiving participation to certify in writing prior to any academic year in which they will not participate in the institution's plan that they are participating in a health insurance program having comparable coverages.

Each public and independent institution of higher education shall submit an annual report to the division of health care finance and policy detailing its procedures for complying with the provisions of this section; provided, however, that prior to the implementation of this section the division of health care finance and policy and the council shall submit a report to the house and senate committees on ways and means. Such a report shall include, but not be limited to, an analysis of the number of students lacking health insurance, the costs of the requirements of this section to the students and the public and independent institutions of higher education, and a proposed method for meeting such costs.

Any public or independent institution of higher learning failing to carry out its responsibilities under this section shall pay a penalty per student for every day during which the failure continues, equal to the penalty per employee per day imposed upon non-complying employers by subsection (i) of section 14G of chapter 151A. Any penalties collected pursuant to this section shall be deposited in the public responsibility account of the medical security trust fund established by chapter 118F. Any institution which, in accordance with regulations promulgated pursuant to this section, relies in good faith on statements by students relative to their health insurance status shall not be liable for any penalty or for failure to comply with the provisions of this section caused by misstatements of such students.

The division of health care finance and policy, with the advice and consent of the council, shall issue regulations to define qualifying student health insurance programs, to establish procedures to monitor compliance, and to implement the provisions of this section.

(Chapter 15A, Section 18; WEB 7/12/2005)

(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
TUITION WAIVER PROGRAM;
GUIDELINES; ANNUAL REPORT

There shall be a single tuition waiver program administered by the council in accordance with
guidelines established by the council to govern the program, provided that no tuition waiver be
funded by the transfer of funds appropriated pursuant to section 16.

Such guidelines (i) shall establish institutional waiver allocation formulas and eligibility
requirements, including needs criteria, for designated waiver programs, (ii) shall provide full or
partial tuition waivers for specific categories of students designated by the council which may
include veterans, armed forces personnel, senior citizens, and graduate students, (iii) may provide
full or partial waivers for additional categories of students not included in clause (ii), and (iv) may
provide full or partial waivers of tuition or fees for undergraduate programs, summer sessions,
evening classes, or any specific courses or set of courses.

Tuition waivers for graduate students shall be administered by each institution of public higher
education. Said institutions shall annually and on a date specified by the council submit a written
report to the board detailing graduate student waiver policies and distributions of said waivers.

Upon the adoption of guidelines in accordance with the provision of this section the council shall file
copies of thereof with the clerks of the house and the senate, who shall refer such guidelines to the
house and senate committees on ways and means and the joint committee on education, arts and
humanities.

The council shall annually on or before March 15th report to the house and senate committees on
ways and means and to the joint committee on education, arts and humanities regarding any
modifications to the guidelines setting forth tuition waiver programs. Said report shall include
information relative to tuition waivers for graduate students as administered by the several
institutions of public higher education.

Notwithstanding the provisions of any general or special law to the contrary, the board of higher
education shall provide full tuition waivers at each community college for students who are clients of
and who meet the eligibility requirements of the Massachusetts rehabilitation commission or the
Massachusetts commission for the blind.

Notwithstanding the provisions of any general or special law to the contrary, the board of higher
education shall provide full tuition waivers for any state-supported course offered by an institution at
a public college or university, excluding graduate courses and courses in the MD program at the
University of Massachusetts Medical Center, and including courses toward an undergraduate
degree program, certificate program, short-term certificate program and noncredit courses at each
community college, state college and undergraduate campus of the University of Massachusetts for
students who are not over the age of 24 and who, while in the custody of the department of social
services, were adopted by an eligible Massachusetts resident or commonwealth employee as
determined by the department of social services in conjunction with the human resources division.

(Chapter 15A, Section 19: WEB 7/12/2005)

(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
STUDENT LOAN REPAYMENT PROGRAM; GUIDELINES; EXPENSES FOR ADMINISTRATION

There shall be a student loan repayment program known as the attracting excellence to teaching program, for the purpose of encouraging outstanding students to teach in the public schools of the commonwealth by providing financial assistance for the repayment of qualified education loans, as defined below. The program shall be administered by the board of education in accordance with guidelines promulgated by the board of higher education. The program shall be subject to appropriation.

The term "qualified education loan" shall mean any indebtedness including interest on such indebtedness incurred to pay tuition or other direct expenses incurred in connection with the pursuit of an undergraduate or graduate degree by an applicant, but shall not include loans made by any person related to the applicant.

The council shall promulgate guidelines governing the attracting excellence to teaching program. These guidelines shall include the following provisions:

1. eligibility for the program shall be limited to persons who have graduated in the top 15% of their undergraduate classes or who have graduated with honors designations, as certified by the institution attended by the applicant;
2. eligibility shall be limited to persons entering the teaching profession after July 1, 1994;
3. the commonwealth shall repay a participating teacher’s student loan at a rate not to exceed one hundred and fifty dollars per month for a period not to exceed forty-eight months;
4. repayment shall be made to the participating teacher annually upon the presentation by the participating teacher of satisfactory evidence of payments under the loan;
5. payments by the commonwealth shall cover only loan payments made by the participating teacher in the months during which the participating teacher teaches in public school in the commonwealth;
6. the program may or may not be limited to teachers who teach in school districts designated by the board of education;
7. the program shall set forth an affirmative action policy and specific annual affirmative action goals. The council shall annually publish a report detailing its efforts to publicize the loan repayment program in order to advance the goals of this affirmative action policy and its success in meeting those goals.

Expenses for administration of the program may be retained in an interest bearing trust fund to be established by the board of education and expended for the costs of administering the program without further appropriation, and any funds remaining in the trust fund at the termination of the program shall be returned to the General Fund.

(Chapter 15A, Section 19A, WEB 7/12/2005)

(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
TEACHER SIGNING BONUS PROGRAM
REGULATIONS

There shall be an incoming teaching signing bonus program to be administered by the department of education for the purpose of encouraging the best and brightest candidates to teach in the public schools. The goal of such program shall be to encourage high achieving candidates to enter the profession who would otherwise not consider a career in teaching. Funding for such program shall be subject to the provisions of section 35S of chapter 10.

The board of education shall promulgate regulations, where necessary, for the effective implementation of such program. Such regulations shall include the following provisions:

1. On an annual basis, the department of education shall select the best and brightest teaching prospects based on objective measures such as test scores, grade point average or class rank and such other criteria as the department may determine. The department shall establish a system for receiving a limited number of recommendations for outstanding candidates for such bonuses from institutions of higher education across the nation. In selecting bonus recipients, the department shall consider such recommendations.

2. In a given year, the department may target awards to attract teachers for those subject matter areas most needed in the commonwealth; provided, however, that such subject matter areas shall be included in the core subjects as described in section 1D of chapter 69.

3. In a given year, the department shall award bonuses only to those deserving candidates rather than providing a set number of bonuses.

4. Recipients shall receive a $20,000 signing bonus over at least three years with at least $8,000 distributed in the first year of the bonus.

5. Such recipients shall be eligible for each year’s bonus payment only if they are certified to teach in the commonwealth and are employed as a teacher by a public school in the commonwealth.

6. The department shall select and notify bonus recipients by April 1 of each year. Eligible recipients shall receive their annual bonus payments by the subsequent October 1 of each year.

7. The name of an individual recipient of such bonus shall remain confidential unless recipient waives such confidentiality in writing.

8. The department shall aggressively market the existence of the program to encourage the best and brightest candidates in the nation to come to the commonwealth to teach. Such marketing shall focus on candidates who would otherwise not consider a career in teaching.

9. The program shall set forth an outreach plan to attract underrepresented populations to the teaching profession.

(Chapter 15A, Section 19B; WEB 7/12/2005)
MASTER TEACHER CORPS PROGRAM
REGULATIONS

There shall be Massachusetts master teacher corps program for the purpose of building a group of recognized teachers of high achievement in the profession who shall serve to mentor incoming apprentice teachers and further the goals of the education reform act, so-called. The department of education shall administer this program. Funding for said program shall be subject to the provisions of section 35S of chapter 10.

The board of education shall promulgate regulations, where necessary, for the effective implementation of such program. Such regulations shall include the following provisions:

1. The department may select master teachers who achieve master teacher status through certification from the National Board for Professional Teaching Standards, pass a challenging content test, and agree to mentor apprentice teachers. The department may develop and include alternatives to the NBPTS program provided such alternatives maintain equivalent or higher standards of excellence in teaching.

2. The department may provide master teachers with partial or full reimbursement for the assessment costs of said NBPTS certification. The department shall provide master teachers with ongoing salary bonuses for such master teachers. Such ongoing salary bonuses shall be limited to $5,000 per year. Within said $5,000 limit, the department may authorize a nominal payment to the school district of such master teachers to facilitate time for the mast teacher to engage in mentoring activity.

3. Teachers with master teacher status shall have full parity in certification and compensation with teachers who earn a master’s degree from approved higher education institutions, notwithstanding the provisions of section 38G of chapter 71, or chapter 150E.

4. The program shall set forth an outreach plan to attract underrepresented populations to the teaching profession.

(Chapter 15A, Section 19C; WEB 7/12/2005)
There shall be a scholarship program to be administered by the board of higher education, which shall be known as the tomorrow’s teachers program, for the purpose of encouraging outstanding high school students to teach in the public schools by providing qualified high school students with scholarships for tuition and fees for a four-year bachelor’s degree program at a public college or university in the commonwealth. The program shall be subject to appropriation.

The board of higher education shall promulgate guidelines governing the tomorrow’s teachers program. The guidelines shall include the following provisions:

1. Eligibility for the program shall be limited to students who graduated in the top quarter of their high school classes, who agree to complete a four-year bachelor’s degree program in a public college or university in the commonwealth and who commit to and actually teach for four years in a public school in the commonwealth upon successful completion of a bachelor’s degree from the college or university and the appropriate certification in accordance with said section 38G of said chapter 71.

2. The program shall set forth an outreach plan to attract underrepresented populations to the teaching profession.

3. Persons who participate in the program but do not complete their college education within six years of entering college or who fail to complete their four-year teaching commitment within six years following graduation from college shall be obligated to repay the commonwealth the tuition and fees advanced to them, with interest, as determined by the board of higher education.

(Chapter 15A, Section 19D; WEB 7/12/2005)
EDUCATIONAL OPPORTUNITIES INFORMATION CENTER

There shall be an educational opportunities information center in the office of the council to provide information and assistance to prospective college and university students, and to public and independent institutions of higher education on matters regarding student admissions, transfers, and enrollments.

Such public institutions shall cooperate with the center by furnishing such nonconfidential information as may assist the center in the performance of its duties. The center may request and receive similar information from private or other public educational institutions to the commonwealth.

An applicant for admission to an institution whose application is not accepted may send to the center appropriate nonconfidential information concerning his application. The center may, at its discretion and with permission of the applicant, direct the attention of the applicant to other institutions and direct the attention of other institutions to the applicant.

The center may conduct such studies and analyses of admission, transfers and enrollments as may be deemed appropriate.

(Chapter 15A, Section 20; WEB 7/12/2005)

(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
BOARD OF TRUSTEES FOR SECTION 5 INSTITUTIONS;
MEMBERSHIP; QUALIFICATIONS; TENURE; VACANCIES

There shall be a board of trustees consisting of eleven members for each of the institutions named in section five other than the University of Massachusetts. Each board of trustees shall elect a chairman.

One member of such board of trustees shall be a full-time undergraduate student member from said institution, and ten members shall be appointed by the governor pursuant to the provisions of section 18B of chapter 6, at least one of whom shall be an alumnus of said institution and one of whom shall be elected thereto by the alumni association of said institution. Each elected alumnus member shall be elected every five years. No elected alumnus member shall serve for more than two consecutive terms. A vacancy in the position of elected alumnus member prior to the expiration of a term shall be filled for the remainder of the term in the same manner as elections to full terms. Each student member shall be elected by the student body annually, no later than May fifteenth. The term of office of each elected student member of the board shall be one year and shall commence on July first following their election and terminate on June thirtieth of the following year. The student member shall be eligible for re-election for as long as said student remains a full-time undergraduate student and maintains satisfactory academic progress as determined by the policy of the institution at which the student is enrolled. If at any time during the elected term of office said student member ceases to be a full-time undergraduate student or fails to maintain satisfactory academic progress, the membership of said student on the board shall be terminated and the office of the elected student member shall be deemed vacant, provided, however, that if the elected student member vacates his position upon graduation from the institution prior to July first, the elected successor may assume the position of student member on the board effective from the date of graduation of his predecessor, provided further that the statutory time limit of one year of the successor student trustee shall commence to run on July first notwithstanding any taking of office prior to the commencement of said term. A vacancy in the office of the elected student member prior to the expiration of a term shall be filled for the remainder of the term in the same manner as student elections to full terms.

No member of a board of trustees shall be a member of the board of higher education. No member of a board of trustees shall be principally employed within the public higher education system of the commonwealth; provided, however, that no more than one-third of the members shall be principally employed by the commonwealth. Membership on a board of trustees shall terminate if a member ceases to be qualified for appointment.

Members shall be appointed to serve for five-(5) year terms, but no member shall be appointed for more than two consecutive terms. Members of the board shall serve without compensation but may be reimbursed for all expenses reasonably incurred in the performance of their duties.

Any vacancy on a board of trustees shall be filled for the duration of the term, in the same manner as the prior appointment. If a member is absent from four (4) regular meetings in any calendar year, exclusive of July and August, that person's membership on the board shall terminate and a vacancy shall be deemed to exist. The chairman shall forthwith notify the governor when any vacancy exists.

Each board of trustees shall from time to time advise the higher education coordinating council on admissions programs, labor relations and program approval for its institution. Each board of trustees shall at their pleasure and with the approval of the council appoint and remove the chief executive officer of its institution.

(Chapter 15A, Section 21; WEB 7/12/2005)
(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
BOARD OF TRUSTEES OF COMMUNITY COLLEGES OR STATE COLLEGES
POWERS AND DUTIES

Each board of trustees of a community college or state college shall be responsible for establishing those policies necessary for the administrative management of personnel, staff services and the general business of the institution under its authority. Without limitation upon the generality of the foregoing, each such board shall:

(a) cause to be prepared and submit to the council estimates of maintenance and capital outlay budgets for the institution under its authority;
(b) establish all fees at said institution subject to guidelines established by the council. Said fees shall include fines and penalties collected pursuant to the enforcement of traffic and parking rules and regulations. Said rules and regulations shall be enforced by persons in the employ of the institution who throughout the property of the institution shall have the powers of police officers, except as to the service of civil process. Said fees established under the provisions of this section shall be retained by the board of trustees in a revolving fund or funds, and shall be expended as the board of the institution may direct; provided that the foregoing shall not authorize any action in contravention of the requirements of Section 1 of Article LXIII of the Amendments to the Constitution. Said fund or funds shall be subject to annual audit by the state auditor;
(c) appoint, transfer, dismiss, promote and award tenure to all personnel of said institution;
(d) manage and keep in repair all property, real and personal, owned or occupied by said institution;
(e) seek, accept and administer for faculty research, programmatic and institutional purposes grants, gifts and trusts from private foundations, corporations, federal agencies, alumnae and other sources, which shall be administered under the provisions of section two C of chapter twenty-nine and may be disbursed at the direction of the board of trustees pursuant to its authority;
(f) implement and evaluate affirmative action policies and programs;
(g) establish, implement and evaluate student services and policies;
(h) recommend to the council admission standards and instructional programs for said institution, including all major and degree programs provided, however, that said admission standards shall comply with the provisions of section thirty;
(i) have authority to transfer funds within and among subsidiary accounts allocated to said institution by the council;
(j) establish and operate programs, including summer and evening programs, in accordance with the degree authority conferred under the provisions of this chapter;
(k) award degrees in fields approved by the council; either independently or in conjunction with other institutions, in accordance with actions of the boards of trustees of said other institutions and the council;
(l) submit a five year master plan to the council, which plan shall be updated annually to the board of higher education according to a schedule determined by the board in consultation with the board of trustees;
(m) submit financial data and other data as required by the board of higher education for the careful and responsible discharge of its purposes, functions, and duties. The data shall be reported annually to the board of higher education according to a schedule determined by the board of higher education in consultation with the board of trustees. The board of trustees shall also submit an annual institutional spending plan to the council for review, comment, and transmittal to the secretary for administration and finance, the house and senate committees on ways and means and the joint committee on education, arts and humanities. Spending plans shall be reported using a standardized format developed by the board of higher education in conjunction with the institutional boards of trustees' in a manner to allow comparison of similar costs between the various institutions of the commonwealth. Said plan shall include an account of spending from all revenue sources including but not limited to, trust funds;
(n) develop a mission statement for the institution consistent with identified missions of the system of public higher education as a whole, as well as the identified mission of the category of institution
within which the institution operates. Said mission statement shall be forwarded to the council for its approval. The board of trustees shall, after its approval, make said mission statement available to the public;

(o) submit an institutional self-assessment report to the council, which the board of trustees shall make public and available at the institution. Said assessment report shall be used to foster improvement at the institution by the board of trustees and shall include information relative to the institution's progress in fulfilling its mission, as approved by the council. Said report shall be submitted annually to the board of higher education according to a schedule determined by said board in consultation with the board of trustees.

(p) The board of trustees of an institution with the potential to expand its mission, profile, and orientation to a more regional or national focus may submit to the board of higher education, for its approval, a 5-year plan embracing an entrepreneurial model which leverages that potential in order to achieve higher levels of excellence pursuant to section 7.

The board of trustees of each institution may delegate to the president of such institution any of the powers and responsibilities herein enumerated.

The commonwealth shall indemnify a trustee of a community college or state college against loss by reason of the liability to pay damages to a party for any claim arising out of any official judgment, decision, or conduct of said trustee; provided, however, that said trustee has acted in good faith and without malice; and provided, further, that the defense or settlement of such claim shall have been made by the attorney general or his designee. If a final judgment or decree is entered in favor of a party other than said trustee, the clerk of the court where such judgment or decree is entered shall, within twenty-one days after the final disposition of the claim, provide said trustee with a certified copy of such judgment or entry of decree, showing the amount due from said trustee, who shall transmit the same to the comptroller who shall forthwith notify the governor; and the governor shall draw his warrant for such amount on the state treasurer, who shall pay the same from appropriations made for the purpose by the general court.

(Chapter 15A, Section 22; WEB 7/12/2005)

(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
BOARD OF TRUSTEES; ESTIMATE FOR INSTITUTION'S ORDINARY MAINTENANCE AND REVENUES

Each board of trustees shall periodically prepare and submit to the council an estimate, in detail, for the ordinary maintenance of its institution, including the salaries of all officers and employees of said institution and all revenues therefrom and any other such information as the council may require or as provided in section three of chapter twenty-nine. Each board of trustees shall make requests to the council under the provisions of section 7 of chapter 29.

(Chapter 15A, Section 23; WEB 7/12/2005)

(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
BOARD OF TRUSTEES; AUTHORIZED PURCHASES

Notwithstanding any other provision of law to the contrary, each board of trustees shall have the authority to make any purchase or purchases in the amount of two thousand dollars or less, and to purchase without limitation of amount library books and periodicals, educational and scientific supplies and equipment, printing and binding, emergency repairs and replacement parts, and perishable items, without recourse to any other state board, bureau, department or commission; provided, however, that in so doing the college shall follow modern methods of purchasing and shall, wherever practicable, invite competitive bids. Except as herein provided, the state purchasing agent shall on the certification of availability of funds purchase all items specified on requisitions submitted to him by any such board of trustees; provided, that the board of trustees shall have the right to review all bids received on any said board's requisitions and to make binding recommendations on the award of the contract based on the judgment of the board as to which of the bids best meet said board's specification on which the bids were received. Products assembled, manufactured or otherwise produced by the Massachusetts Commission for the Blind shall be purchased from the commission pursuant to the provisions of section 134 of chapter 6.

(Chapter 15A, Section 24; WEB 7/12/2005)

(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
COOPERATIVE PURCHASING

MASSACHUSETTS HIGHER EDUCATION CONSORTIUM

With respect to purchases by a board of trustees authorized by section 24, including a purchase by the board of trustees of the University of Massachusetts as authorized by section 13 of chapter 75, a board of trustees and the board of higher education may join together for its purchases with one or more public or private educational institutions for the purpose of forming or joining a cooperative purchasing consortium to be known as the Massachusetts Higher Education Consortium; provided, however, that each such educational institution shall accept sole responsibility for all payments, debts and liabilities due the vendor for its share of such purchases. Said consortium shall be governed by a board of directors elected by its member institutions. Any paid staff of the consortium shall be located on the campus of a public member. Compensation of such staff shall be paid by dues or other consortium income and not by appropriation by the commonwealth; provided, however, that such staff may only enter into purchase agreements that have been procured through public bidding. Said consortium shall publish an annual report of its activities, which report shall include an audited financial statement which shall have been independently audited by a certified public accountant.

(Chapter 15A, Section 24A; WEB 7/12/2005)
REFUSAL TO ELECT AND CONTRACT WITH BLIND TEACHING CANDIDATES

The council or a board of trustees shall not refuse to elect and contract with a candidate for a teaching position in any public institution of higher education because of the blindness of such candidate.

(Chapter 15A, Section 25, WEB 7/12/2005)

(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
SUMMER SESSIONS - EVENING CLASSES

Each public institution of higher education may conduct summer sessions, provided such sessions are operated at no expense to the commonwealth. Each public institution of higher education may conduct evening classes, provided such classes are operated at no expense to the commonwealth.

(Chapter 15A, Section 26, WEB 7/12/2005)

(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
DORMITORIES; NONSMOKING ROOMS;
RULES AND REGULATIONS

Each public institution of higher education which provides housing for students in dormitories shall establish rules and regulations providing that a certain number of dormitory rooms shall be reserved for nonsmokers. Each such public institution shall provide a space on the application for admission or student housing for the applicant to indicate whether he would prefer to reside in a room where smoking was prohibited or whether he would prefer to reside in a room where smoking was allowed.

(Chapter 15A, Section 27, WEB 7/12/2005)

(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
ESTABLISHMENT AND MAINTENANCE OF BANK BRANCHES
ON GROUNDS OF PUBLIC HIGHER EDUCATION INSTITUTIONS

Notwithstanding any contrary provisions of law, the board of bank incorporation or the commissioner of banks is hereby authorized to allow a bank, as defined in section one of chapter one hundred and sixty-seven, to establish and maintain a branch on the grounds of any public institution of higher education in the commonwealth, provided that the council shall determine the method and terms of the lease if applicable or rental thereof.

(Chapter 15A, Section 28, WEB 7/12/2005)

(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
USE OF STUDENT FEE FUNDS FOR LEGISLATIVE AGENTS' COSTS

(a) As used in this chapter and in chapters 73, 75, 75A, and 75B, the following words shall have the following meanings:

"Waivable fee", any amount payable on a student tuition bill, but not a mandatory charge, appearing as a separately assessed item, accompanied by a statement as to the nature of said item and that said item is not a charge required to be paid by the student. Preceding each waivable fee shall be a statement in bold print stating that if the student does not want to contribute to the following nonpartisan organization, a mark must be placed in the respective box for said nonpartisan organization. If the student does want to contribute, said box should not be marked. The student tuition bill will also provide the student with the total amount due including the waivable fee and the total amount due excluding the waivable fee, and that said item appears on the bill at the request of the student body and does not necessarily reflect the endorsement of the board of trustees.

"Student organization", any organization of students at public post-secondary educational institutions which is open to membership of all students who pay the waivable fee and is controlled by its student members.

"Nonpartisan", as applied to student organizations not endorsing or adhering to particular ideological or religious positions in the articles of incorporation, charter, constitution, or by-laws.

"Office student referendum", a referendum vote of the student body which is sanctioned by the college-recognized student governmental association and certified by said student government association as valid.

"Optional fee", any amount payable on a student tuition bill, but not a mandatory charge or waivable fee, appearing as a separately assessed item, accompanied by a statement as to the nature of said item and that said item is not a charge required to be paid by the student but rather the student may add said charge to the total amount due, and that said item appears on the bill at the request of the student body and does not necessarily reflect the endorsement of the board of trustees.

(b) Non-mandatory student fees to nonpartisan student organizations which employ legislative agents as defined in section 39 of chapter 3, or to nonpartisan student organizations attempting to influence legislation as defined in section 44 of said chapter 3, shall be paid on student tuition bills by a waivable fee whenever students have authorized said fee by a majority vote of those students voting in an official student referendum. The continuation of said waivable fee on the student tuition bill may be subject to reauthorization by an official student referendum every two years. Necessary administrative costs arising in connection with the collection of said fee may be billed by the board of trustees to the student organization at the time of the transfer of funds collected to said student organizations.

(c) The boards of trustees shall not allow any funds for legislative agents as defined in section 39 of said chapter 3 or organizations attempting to influence legislation as defined in section 44 of said chapter 3 to be assessed on student tuition bills; provided, however, that waivable fees for nonpartisan student organizations which employ said legislative agents or attempt to influence legislation shall be collected by the boards of trustees whenever students have authorized a waivable fee by a majority vote of those students voting in an official student referendum. Said waivable fees shall be collected as provided in paragraph (b).
(d) No funds collected as a mandatory student activities fee shall be paid to legislative agents as defined in section 39 of said chapter 3 or organizations attempting to influence legislation as defined in section 44 of said chapter 3.

(e) As used in this section, the term "legislative agent" or "organization attempting to influence legislation" shall not include any student government association or associations, individually or collectively, or any organization comprised of representatives of such associations, which are selected by students through referendum to be an official representative of the student body.

(Chapter 15A, Section 29; WEB 7/12/2005)

(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
DEVELOPMENTALLY DISABLED RESIDENTS;
WAIVER OF STANDARDIZED COLLEGE ENTRANCE APTITUDE TESTS

No resident of the commonwealth who has been diagnosed as being developmentally disabled, including but not limited to, having dyslexia or other specific language disabilities, by any evaluation procedure prescribed by chapter 71 B, or equivalent testing, shall be required to take any standardized college entrance aptitude test to gain admittance to any public institution of higher education in the commonwealth. Admission shall be determined by all other relevant factors excluding standardized achievement testing. The provisions of this section shall not apply to any person solely because of blindness or visual impairment, regardless of age at which such individual became blind or visually-impaired.

(Chapter 15A, Section 30; WEB 7/12/2005)

(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
ADMINISTRATIVE EXPENSES;
DETERMINATION OF QUALIFYING EXPENDITURES

The council shall define which of those expenses at the institutional level are to be considered administrative expenses. In preparing their annual spending plans, each board of trustees shall indicate the amount of spending which falls under said definition. The council shall make public the amount of administrative spending at each institution and may, as a result, make recommendations relative to reducing such spending to provide for more efficient administration of the system of public higher education.

(Chapter 15A, Section 31; WEB 7/12/2005)
STUDENT ASSESSMENT SYSTEM

The council shall prepare a system of student assessment, to be administered within the public system of higher education, to measure student improvement, between the first and fourth years of attendance at public higher education institutions, on various tasks, including, but not limited to, ability to reason, communication and language skills, and other factors the council deems appropriate to evaluate, in order to assess the general performance of higher education institutions in fostering learning and academic growth. The council shall determine the method of assessment and shall publish the results of such assessment.

(Chapter 15A, Section 32; WEB 7/12/2005)
REPORT ASSESSING OVERALL FACULTY PRODUCTIVITY AND TEACHER PRODUCTIVITY

The council shall publish a report, on or before January 1, 1995, and every four years thereafter, assessing overall faculty productivity and overall teacher effectiveness within the public system of higher education. Said report may include narrative research and statistical data which the council deems appropriate. Any data or information gathered for said report is not intended to be and shall not be used for the evaluation of the performance of any individual faculty member and the identity of individual faculty members shall be confidential. Said report shall also include information gained from students, both present and former, and shall further include information obtained from the commonwealth’s business community relative to work force preparation. The report shall draw comparisons between institutions and types of institution, as well as between the commonwealth’s public higher education system and those in other states, to the extent feasible.

(Chapter 15A, Section 3; WEB 7/12/2005)
BENCHMARK STUDY OF PUBLIC HIGHER EDUCATION SYSTEM

It is hereby declared the policy of the commonwealth to provide and ensure an accurate and objective study of the public system of higher education in order to fulfill the goals and purposes of this chapter. Subject to appropriation a benchmark study of the public system of higher education shall be undertaken to determine the strengths and weaknesses of said system and to propose strategies and directions for the board of higher education and the system as a whole to take in order to fulfill its mission more effectively. Said benchmark study shall be conducted by a panel of nationally recognized objective experts in the field of higher education whose members shall be selected by the council, through the consultation with the joint committee on education, the arts and humanities, and the ways and means committees of the house and senate. Said benchmark study shall be filed with the clerks of the senate and the house of representatives no later than December 1, 1999, and shall be made available to the public.

The aforementioned study shall be conducted at least every seven years, subject to appropriation.

(Chapter 15A, Section 34; WEB 7/12/2005)
PROFESSIONAL DEVELOPMENT SCHOOLS GRANT PROGRAM

There is hereby established a professional development schools grant program. The board of education shall award grants to exemplary public schools and to cooperating public or private institutions of higher education in the commonwealth to establish collaborative programs for the purpose of fostering improved teacher training and professional development. In order to be eligible for a professional development school grant a school in cooperation with one or more public or private institutions of higher education shall jointly submit a program application which shall include, but not be limited to, a statement of program objectives covering a three-year period, a program plan with specific timelines for implementation, and a plan for program evaluation. The program designated in the application must be approved by the faculty of the institution of higher education, the teachers, administrators and other professional staff of the public school, the superintendent of schools and by majority vote of the school committee and school improvement council. The board of education shall give priority to those programs in which the teacher training and professional development activities will take place in the public school.

Grants awarded under this section, to the extent that said funds are allocated to the public school, shall be deposited with the town, city, or regional district treasurer in a separate account to be expended, without further appropriation, by the school committee for the purposes of the professional development schools grant.

The board of education may contract with any public institution of higher education or nonprofit corporation, which has the requisite knowledge and experience in teacher training for the purpose of administering the professional development schools grant program.

(Chapter 15A, Section 35; WEB 7/12/2005)
PUBLIC SCHOOLS’ ELIGIBILITY FOR FUNDS
THROUGH PROFESSIONAL DEVELOPMENT SCHOOLS GRANT PROGRAM

No public school shall receive funds through the professional development schools grant program if, (1) said school is within a city, town, or regional school district in which the share of local expenditures allocated to the support of the public schools has declined in any fiscal year commencing on July 1, 1985, or (2) any schools receiving professional development school grants have received average per pupil support less than that received on average by all other schools of the same classification and grade level in the district, or (3) the absolute level of financial support for the public schools in the city, town or regional school district has decreased in any year since fiscal year 1986. In the case of a school district which fails to meet the aforementioned criteria, the board of education shall consider as eligible those schools in which the per pupil educational portion of local expenditures, adjusted for inflation and other factors, has not declined in any year since fiscal year 1986.

(Chapter 15A, Section 36; WEB 7/12/2005)

(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
FOUNDATIONS CREATED FOR PUBLIC INSTITUTIONS OF HIGHER EDUCATION; GOVERNING BOARDS; ANNUAL REPORTS; AUDITS

(a) As used in this section, the following words shall have the following meanings unless the context clearly requires otherwise:

"Foundation", an organization which is (a) either (I) a corporation within the meaning of clause 8 of section 2 of chapter 180 and subject to the provisions of said chapter 180, except as herein provided, or (ii) a public charitable trust constituted and operating as such and subject to the requirements of law governing such trusts, except as herein provided; (b) organized and operated exclusively for the benefit of an institution of public higher education; and (c) certified by the board of trustees of the institution which it supports to be operating in a manner consistent with the goals and policies of the institution.

"Institution", a public college or university in the commonwealth.

(b) A corporation or trust which is not certified as provided herein or whose certification has been revoked by the board of trustees of the institution which it supports, shall not use the name of such institution (I) for fundraising without written permission of the board of trustees of such institution, or (ii) in the name of such corporation or trust.

(c) Each foundation shall have a governing board to oversee its operation. In no event shall institutional trustees and employees constitute one-half or more of the voting members of such foundation's governing board. The governing board of such foundation shall annually file a list of the members and officers of such board with the institution's board of trustees.

(d) The board of trustees of an institution which a foundation supports is authorized to permit the use without compensation of facilities and personnel services of the institution by the foundation; provided, however, that in no event shall any employee of the institution spend more than twenty-five percent of his work hours engaged in services for a foundation.

(e) All gifts from a foundation to an institution shall be approved for acceptance by the board of trustees, in accordance with applicable institutional policies. A person soliciting funds or any other thing of value on behalf of a foundation from a person, firm, corporation or other entity shall, at the time of the solicitation, clearly and conspicuously disclose to the potential donor that the donations are to be provided to the foundation and not to an institution, and that the donor may request in writing that the donor's identity not be publicly disclosed.

(f) Each foundation shall provide an annual report of its financial accounts prepared in accordance with generally accepted accounting principles to the board of trustees of the institution which it supports. The board of trustees may require any supplemental data relative to the operations of the foundation. The identify of donors who wish to remain anonymous shall be protected and the anonymity of such donors shall be maintained in all audit reports. The annual financial report when received by a board of trustees shall be considered a public record as defined in clause 26 of section 7 of chapter 4.

(g) The state auditor shall have the authority, upon request by the institution or upon his own initiative, to audit transfers to or expenditures from foundation accounts of public funds, use of employees paid with public funds to staff the foundation and the existence of contracts or agreements between a foundation and an institution.

(h) A foundation certified by an institution's board of trustees under the provisions of this section
shall not be deemed to be an agency, board, bureau, department, division, commission, authority or other subdivision of the commonwealth. Members of the governing boards of a foundation who are not already state employees shall not be considered to be state employees for the purposes of chapters 268A and 268B.

(Chapter 15A, Section 37; WEB 7/12/2005)

(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
RECRUITING OPPORTUNITIES FOR UNITED STATES
ARMED SERVICES REPRESENTATIVES

Notwithstanding any other provision of law to the contrary, all public institutions of higher education shall offer the same student information and on-campus recruiting opportunities to representatives of the state or United States armed services as is offered to non-military recruiters.

(Chapter 15A, Section 38; WEB 7/12/2005)
SECONDARY EDUCATION STUDENTS QUALIFIED TO ENROLL IN HIGHER EDUCATION INSTITUTIONS

A qualified student enrolled in a public secondary school may enroll as a student in Massachusetts public institutions of higher education. The student shall earn both secondary school and college credits. Students may enroll either full time or for individual courses. The board of education in consultation with the board of higher education, shall define which students may qualify for this program, establish criteria for program establishment, criteria for admission, and otherwise administer this program. For the purpose of encouraging the enrollment of nonpublic secondary school students in the system of public institutions of higher education, such students shall be eligible to participate in the program established by this section; provided, however, that the crediting of such attendance for the purpose of receiving a high school diploma shall be in the sole discretion of the nonpublic school.

(Chapter 15A, Section 39; WEB 7/12/2005)
OPTIONAL RETIREMENT SYSTEM; PROVIDERS; REGULATIONS; PARTICIPATION; FUNDS

1(a) Notwithstanding the provisions of chapter 32 of the General Laws, or of any general or special law to the contrary the higher education coordinating council shall establish an optional retirement program under which custodial accounts described in section 403(b)(7) of the Internal Revenue Code, as it may be amended from time to time, or contracts providing retirement and death benefits may be purchased for eligible members who elect to participate in the program. The benefits to be provided for participants in such optional retirement program shall be provided through such custodial accounts or individual or group annuity contracts, which may be fixed or variable in nature, or a combination thereof; provided that, at all times, those annuity contracts issued by licensed insurers under the optional retirement program shall provide the minimum values and guarantees required by the Laws governing such contracts in the commonwealth; and provided, further, that the benefits shall be payable only to participants in the program or their beneficiaries, and such benefits shall be paid only by the selected providers in accordance with the terms of the custodial accounts, annuity contracts or certificates providing coverage to the participant; provided that such optional retirement program shall not allow a participant to withdraw contributions while an active participant in the commonwealth's optional retirement program.

(b) Said council shall select at least two but no more than four providers for the optional retirement program and enter into contracts with them in accordance with the Laws governing the procurement of services for executive agencies of the commonwealth, provided that such procurements shall not be subject to the approval of the commissioner of administration; provided, further, that the selected providers shall be authorized to conduct business within the commonwealth, and each and every provider or issuer of annuity contracts under the optional retirement program which is a life insurance company shall hold a certificate of authority to do a life insurance business in the commonwealth, maintain the minimum required capital and surplus required for life insurance companies under the Laws of the commonwealth, be a member of the commonwealth's life and health insurance guaranty association and be a member of the life and health insurance guaranty associations in any and all jurisdictions where required by law with similar retirement programs funded in whole or in part through the provider's annuities in which participants in the optional retirement program might participate upon transfer of employment; and provided, further, that said council shall coordinate the transfer of funds and information between payroll centers, the selected providers and plan participants.

(c) The council shall promulgate regulations governing the administration of and participation in the plan. Such regulations shall be subject to the provisions of chapter 30 A, and a copy of such regulations, and any amendments thereto, shall be filed in advance of their taking effect with the general court. The council shall file the proposed regulation, amendment or repeal with the clerk of the house of representatives, who shall refer such regulations to the joint committee on public service. Within thirty days after such referral, the committee on public service may hold a public hearing on the regulations and shall issue a report to the council. Said report shall contain any proposed changes to the regulations voted upon by the public service committee. The council shall review said report and shall adopt final regulations as deemed appropriate in view of said report and shall file with the chairman of the public service committee its final regulations. If the final regulations do not contain the changes proposed by the public service committee, the council shall send a letter to the public service committee accompanying the final regulations stating the reasons why such proposed changes were not adopted. Not earlier than forty-five days after the filing of such letter and final regulations with the public service committee, the council shall file the final regulations with the state secretary.
as provided in section 5 of chapter 30A and said regulations shall thereupon take effect.

If no such proposed changes to the regulations are made to the council within sixty days of the initial filing of the proposed regulation or any amendment or a repeal of such regulation with the clerk of the house of representatives, the council may file the final regulations with the state secretary as provided in section 5 of said chapter 30A and said regulations shall thereupon take effect.

2(a) Participation in the optional retirement program provided by this section shall be limited to persons who are otherwise eligible for membership in the state employees’ retirement system as established under the provisions of chapter 32; provided, that they are faculty members or chancellors or presidents of the council or of public institutions of higher education, as defined in section 5 of chapter 15A of the General Laws.

(b) Elections to participate in the optional retirement program shall be made as follows:

(i) Any eligible employee who is initially appointed on or after the effective date of the optional retirement program may elect in writing to participate in the optional retirement program within ninety days of the effective date of the appointment. Any such election shall be effective as of the effective date of appointment. If an eligible employee fails to make an election as provided in this paragraph, such employee shall become a member of the state employees’ retirement system established under the provisions of said chapter 32.

(ii) Any eligible employee who is a member of any retirement system established under the provisions of said chapter 32 on the effective date of the optional retirement program but who has less than ten years of creditable service on the effective date of the optional retirement program may elect in writing to participate in the optional retirement program within ninety days after the effective date of the optional retirement program. Any such election shall become effective on the first day of the pay period next following such election, and shall constitute a waiver of all retirement benefits to which the individual may be entitled as an employee under any retirement system established under the provisions of said chapter 32.

(iii) Any employee who is a member of any retirement system established under the provisions of said chapter 32 but who has less than ten years of creditable service on the date such employee becomes eligible to participate in the optional retirement program may elect in writing to participate in such optional retirement program within ninety days of the date said employee becomes eligible. Any such election shall become effective on the first day of the pay period next following such election, and shall constitute a waiver of all retirement benefits to which the individual may be entitled as an employee under any retirement system established under the provisions of said chapter 32.

(iv) Any eligible employee electing to participate in the optional retirement program shall be ineligible for membership in the state employees’ retirement system as long as he remains continuously [FN2] employed in any eligible position within a public institution of higher education as defined in section five; provided, that the election by an eligible employee to participate in the optional retirement program shall be irrevocable for so long as the employee continues to meet the eligibility requirements; provided further, however, if an employee becomes ineligible to continue in the optional retirement program, the employee shall thereafter participate in the state employees’ retirement system established in accordance with the provisions of said chapter 32.

3(a) Any eligible employee electing to participate in the optional retirement program shall not be required to make contributions to the state employee’s retirement system but shall contribute to the optional retirement program an amount equal to the contribution which would have
been required had such employee been a member of the state employees’ retirement system.

(b) For each eligible employee electing to participate in the optional retirement program, the state employees retirement system shall contribute an amount equal to five percent of each employee's regular compensation, as defined in section one of chapter 32, to the optional retirement program and a plan established to provide life and disability benefits to all participants in the program; provided, however, that not more than one percent of said contribution shall be made to the plan established to provide said life and disability benefits; and provided, further, that the balance of said contribution shall be remitted to the appropriate provider for application to the participating employee's contract or custodial account, less any monthly fees established by the council and approved in advance by the state comptroller in order to cover the reasonably necessary direct costs incurred by the council in establishing and administering the plan; and provided, further, that no funds shall be invested in any bank or financial institution which directly or through any subsidiary has outstanding loans to any individual or corporation engaged in the manufacture, distribution or sale of firearms, munitions, including rubber or plastic bullets, tear gas, armored vehicles or military aircraft for use or deployment in any activity in Northern Ireland, and no assets shall be invested in the stocks, securities or other obligations of any such company so engaged.

(c) If any eligible employee is a member of any retirement system established under the provisions of said chapter 32 at the time such employee elects to participate in the optional retirement program, the employee may direct that the amount of the accumulated total deductions, and any interest to which the employee would be entitled under said chapter 32 if the employee withdrew from the system, credited to such employee's account in such retirement system be transferred directly to such employee's account in the optional retirement program. Any such transfer shall be made in the form of a direct trustee-to-trustee transfer in compliance with the requirements of subchapter D of chapter one of the federal Internal Revenue Code.

(d) The funds accumulated under the optional retirement program shall be exempt from taxation. The rights of a participant to a custodial account, an annuity, the annuity contracts or certificates providing coverage to participants, and all right in and to the funds accumulated under the custodial accounts, annuity contracts or certificates shall be exempt from taxation, including income taxes levied under the provisions of said chapter 62. No assignment of any right in or to any funds or annuities under the optional retirement program shall be valid except such assignment as may be made for the purpose of making restitution in the case of dereliction from duty by any participant as set forth in section fifteen of said chapter 32 as long as such assignment does not violate the restrictions of the Internal Revenue Code; provided that nothing in this section shall prevent a participant's custodial account or annuity from being attached, taken on execution, assigned, or subject to other process to satisfy a support order under chapter 208, 209, or 273 as long as such order constitutes a qualified domestic relations order under the terms of the Internal Revenue Code.

(f) After December 31, 1995, no contribution shall be made under any provision of this section in excess of, or on the basis of compensation in excess of, any limitation that may be imposed pursuant to federal law, including, but not limited to, the limitations in 26 U.S.C. sections 401(a)(17), 402(g), 403(b) and 415, to the extent such limitations apply. The board of higher education may adopt rules and regulations as it deems necessary from time to time to effectuate the purposes of this section, including, but not limited to, rules or regulations establishing such limitations only when it determines that such limitations are necessary to comply with applicable provisions of the United States Internal Revenue Code. For these purposes section 13212(d)(3) of the Revenue Reconciliation Act of 1993,
Public Law 103-66, which provides for a special governmental limit under 25 U.S.C. section 401(1)(17), and section 1.401(a)(17)-1(d)(3), shall apply to all members in service who were members in service on or before December 31, 1995.

(Chapter 15A, Section 40; WEB 7/12/2005)

(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
DEFINITION OF "EMPLOYER"

In the case of employees of the system of public institutions of higher education, the employer shall mean the higher education coordinating council or any individual who is designated to represent it and act in its interest in dealing with employees, except that the employer of employees of the University of Massachusetts shall be the board of trustees of the university or any individual who is designated to represent it and act in its interest in dealing with employees.

SECTION 25. The third sentence in section 1 of chapter 150E of the General Laws, as appearing in the 1990 Official Edition, is replaced by the above definition.

(The Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
HAZING PROHIBITED

Section 17. Whoever is a principal organizer or participant in the crime of hazing, as defined herein, shall be punished by a fine of not more than three thousand dollars or by imprisonment in a house of correction for not more than one year, or both such fine and imprisonment.

The term "hazing" as used in this section and in sections eighteen and nineteen, shall mean any conduct or method of initiation into any student organization, whether on public or private property, which willfully or recklessly endangers the physical or mental health of any student or other person. Such conduct shall include whipping, beating, branding, forced calisthenics, exposure to the weather, forced consumption of any food, liquor, beverage, drug or other substance, or any other brutal treatment or forced physical activity which is likely to adversely affect the physical health or safety of any such student or other person, or which subjects such student or other person to extreme mental stress, including extended deprivation of sleep or rest or extended isolation.

Notwithstanding any other provisions of this section to the contrary, consent shall not be available as a defense to any prosecution under this action.

Failure to Report Hazing; Penalty.

Section 18. Whoever knows that another person is the victim of hazing as defined in section seventeen and is at the scene of such crime shall, to the extent that such person can do so without danger or peril to himself or others, report such crime to an appropriate law enforcement official as soon as reasonably practicable. Whoever fails to report such crime shall be punished by a fine of not more than one thousand dollars.

Issuance to Students and Student Groups, Teams and Organizations; Report

Section 19. Each institution of secondary education and each public and private institution of post secondary education shall issue to every student group, student team or student organization which is part of such institution or is recognized by the institution or permitted by the institution to use its name or facilities or is known by the institution to exist as an unaffiliated student group, student team or student organization, a copy of this section and sections seventeen and eighteen; provided however, that an institution's compliance with this section's requirements that an institution issue copies of this section and sections seventeen and eighteen to unaffiliated student groups, teams or organizations shall not constitute evidence of the institution's recognition or endorsement of said unaffiliated student groups, teams or organizations.

Each such group, team or organization shall distribute a copy of this section and sections seventeen and eighteen to each of its members, plebes, pledges or applicants for membership. It shall be the duty of each such group, team or organization, acting through its designated officer, to deliver annually, to the institution an attested acknowledgment stating that such group, team or organization has received a copy of this section and said sections seventeen and eighteen, that each of its members, plebes, pledges, or applicant has received a copy of sections seventeen and eighteen, and that such group, team or organization understands and agrees to comply with the provisions of this section and sections seventeen and eighteen.

Each institution of secondary education and each public or private institution of post secondary education shall, at least annually, before or at the start of enrollment, deliver to each person who enrolls as a full time student in such institution a copy of this section and sections seventeen and
eighteen.

Each institution of secondary education and each public or private institution of post secondary education shall file, at least annually, a report with the regents of higher education and in the case of secondary institutions, the board of education, certifying that such institution has complied with its responsibility to inform student groups, teams or organizations and to notify each full time student enrolled by it of the provisions of this section and sections seventeen and eighteen and also certifying that said institution has adopted a disciplinary policy with regard to the organizers and participants of hazing, and that such policy has been set forth with appropriate emphasis in the student handbook or similar means of communicating the institution's policies to its students. The board of regents and, in the case of secondary institutions, the board of education shall promulgate regulations governing the content and frequency of such reports, and shall forthwith report to the attorney general any such institution which fails to make such report.

M.G.L.  269, (WEB 7/12/2005)

(The (Board of Regents) Higher Education Coordinating Council became the Board of Higher Education in July 1996.)
OPEN MEETING LAW
Section 1, Chapter 30A of the General Laws*

Section 11A. The following terms as used in section eleven B shall have the following meanings:

"Deliberation", a verbal exchange between a quorum of members of a governmental body attempting to arrive at a decision on any public business within its jurisdiction.

"Emergency", a sudden, generally unexpected occurrence or set of circumstances demanding immediate action.

"Executive session", any meeting or part of a meeting of a governmental body which is closed to certain persons for deliberation on certain matters.

"Governmental body", a state board, committee, special committee, subcommittee or commission, whether or not created by executive order, within the executive or legislative branch of the commonwealth or the governing board or body of any authority established by the general court to serve a public purpose in the commonwealth or any part thereof, but shall not include the general court or the committees or recess commissions thereof, or bodies of the judicial branch, or any meeting of a quasi-judicial board or commission held for the sole purpose of making a decision required in an adjudicatory proceeding brought before it, nor shall it include the Board of Bank Incorporation, the State Tax Commission and the General Insurance Guaranty Fund.

"Meeting", any corporal convening and deliberation of a governmental body for which a quorum is required in order to make a decision at which any public policy matter over which the governmental body has supervision, control, jurisdiction-diction or advisory power is discussed or considered; but shall not include any on-site inspection of any project or program.

"Quorum", a simple majority of a governmental body unless otherwise defined by constitution, charter, rule or law applicable to such governing body.

Section 11B. All meetings of a governmental body shall be open to the public and any person shall be permitted to attend any meeting except as otherwise provided by this section.

No quorum of a governmental body shall meet in private for the purpose of deciding on or deliberating toward a decision on any matter except as provided by this section.

No executive session shall be held until the governmental body has first convened in an open session for which notice has been given, a majority of the members of the governmental body have voted to go into executive session and the vote of each member is recorded on a roll call vote and entered into the minutes, the presiding officer has cited the purpose for an executive session, and the presiding officer has stated before the executive session if the governmental body will reconvene after the executive session.
Nothing except the limitations contained in this section shall be construed to prevent the governmental body from holding an executive session after an open meeting has been convened and after a recorded vote has been taken to hold an executive session. Executive sessions may be held only for the following purposes:

1. to discuss the reputation, character, physical condition or mental health, rather than the professional competence, of an individual. A governmental body shall hold an open meeting if the individual involved requests that the meeting be open.

2. to consider the discipline or dismissal of, or to hear complaints or charges brought against, a public officer, employee, staff member, or individual. A governmental body shall hold an open meeting if the individual involved requests that the meeting be open.

3. to discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the governmental body.

4. to discuss the deployment of security personnel or devices.

5. to consider allegations of criminal misconduct.

6. to consider the purchase, exchange, lease, or value of real property, if such discussions may have a detrimental effect on the negotiating position of the governmental body and a person, firm or corporation.

7. to comply with the provisions of any general or special law or federal grant in aid requirements.

This section shall not apply to any chance meeting or social meeting at which matters relating to official business are discussed so long as no final agreement is reached. No chance meeting or social meeting shall be used in circumvention of the spirit or requirements of this section to discuss or act upon a matter over which the governmental body has supervision, control, jurisdiction, or advisory power.

Except in an emergency, a notice of every meeting of a governmental body subject to this section shall be filed with the secretary of state, and a copy thereof posted in the office of the executive office for administration and finance at least forty-eight hours, including Saturdays but not Sundays and legal holidays, prior to the time of such meeting. The notice shall include the date, time and place of such meeting. Such filing and posting shall be the responsibility of the officer calling such meetings.

A governmental body shall maintain accurate records of its meetings, setting forth the date, time, place, members present or absent and action taken at each meeting, including executive sessions. The records of each meeting shall become a public record and be available to the public; provided, however, that the records of any executive session may remain secret as long as publication may defeat the lawful purposes of the executive session, but no longer. All votes taken in executive sessions shall be recorded votes and shall become a part of the record of said executive sessions. Upon request of any member of a governmental body, any vote taken in its executive session shall be verified by a roll call.

A meeting of a governmental body may be recorded by any person in attendance by means of a tape recorder or any other means of sonic reproduction except when a meeting is held in executive session; provided, that in such recording there is no active interference with the conduct of the
Upon qualification for office following an appointment or election to a governmental body, a member shall be furnished by the state secretary with a copy of this section. Each member shall sign a written acknowledgment that he has been provided with such a copy.

The attorney general shall enforce the provisions of this section.

Upon proof of failure by any governmental body or by any member or officer thereof to carry out any of the provisions of this section, any justice of the supreme judicial court or the superior court sitting in any county shall issue an appropriate order requiring such governmental body or member or officer thereof to carry out such provisions at future meetings. Any such order may be sought by petition of three or more registered voters, by the attorney general, or by the district attorney for the district in which the governmental body is located. The order of notice on the petition shall be heard no later than ten days after the filing thereof or on such day thereafter as the court shall fix, having regard to the speediest possible determination of the cause consistent with the rights of the parties; provided, however, that orders with respect to any of the matters referred to in this section may be issued at any time on or after the filing of the petition without notice when such order is necessary to fulfill the purposes of this section. In the hearing of such petition the burden shall be on the respondent to show by a preponderance of the evidence that the actions complained of in such petition were in accordance with and authorized by this section, by section twenty-three B or by section nine G of chapter thirty-four. All processes may be issued from the clerk's office in the county in which the action is brought and, except as aforesaid, shall be returnable as the court orders.

Such order may invalidate any action taken at any meeting at which provisions of this section may have been violated, provided that such petition is filed without fourteen days of the date when such action is made public.

Any such order may also, when appropriate, require the records of any such meeting to be made public, unless it shall have been determined by such justice that the maintenance of secrecy with respect to such records is authorized by the provisions of this section. The remedy hereby created is not exclusive, but shall be in addition to every other available remedy.

(Chapter 30A, Section 11A 1/2; WEB 7/12/2005)
PROHIBITING SEXUAL HARASSMENT

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1: Subsection (e) of section 25 of chapter 151A of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following two paragraphs:-

An individual shall not be disqualified, under the provisions of this subsection, from receiving benefits if it is established to the satisfaction of the director that the reason for leaving work and that such individual became separated from employment due to sexual, racial or other unreasonable harassment where the employer, its supervisory personnel or agents knew or should have known of such harassment.

For the purposes of this paragraph, the term "sexual harassment" shall mean sexual advances, requests for sexual favors, and other physical conduct of a sexual nature when (a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; (b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individuals work performance; or 8 such advances, requests or conduct have the purpose or effect of creating an intimidating, hostile, humiliating or sexually offensive work environment. The division shall promulgate regulations necessary to carry out the provisions of this paragraph.

SECTION 2. Section 1 of chapter 151B of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

18. The term "sexual harassment" shall mean sexual advances, requests for sexual favors, and other physical conduct of a sexual nature when (a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; or (b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individuals work performance by creating intimidating, hostile, humiliating or sexually offensive work environment. Discrimination on the basis of sex shall include, but not be limited to, sexual harassment.

SECTION 3. Section 4 of said chapter 151B, as amended by chapter 239 of the acts of 1985, is hereby further amended by inserting after subsection 16 the following subsection: -

16A. For an employer, personally or through its agents, to sexually harass any employee.

SECTION 4. Section 1 of chapter 151C of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following paragraph:-

(e) The term "sexual harassment" means any sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when: (I) submission or to rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of the provision of the benefits, privileges or placement services or as a basis for the evaluation of academic achievement; or (ii) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's education by creating an intimidating, hostile, humiliating or sexually offensive educational environment.
SECTION 5. Section 2 of said chapter 151C, as so appearing, is hereby amended by adding the following subsection:-

(g) To sexually harass students in any program or course of study in any educational institution.

SECTION 6. Chapter 214 of the General Laws is hereby amended by adding after section 1B the following section:-

Section 1C. A person shall have the right to be free from sexual harassment, as defined in chapter one hundred and fifty-one B and one hundred and fifty-one C. The superior court shall have the jurisdiction in equity to enforce this right and to award damages.

Approved December 9, 1986
SMOKING REGULATIONS

As used in this section, the following words shall have the following meanings, unless the context requires otherwise:

"Business agent", an individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of the establishment.

"Compensation", money, gratuity, privilege, or benefit received from an employer in return for work performed or services rendered.

"Customer service area", an area of the workplace that a business invitee may access.

"Employee", an individual or person who performs a service for compensation for an employer at the employer's workplace, including a contract employee, temporary employee, and independent contractor who performs a service in the employer's workplace for more than a de minimis amount of time.

"Employer", an individual, person, partnership, association, corporation, trust, organization, school, college, university or other educational institution or other legal entity, whether public, quasi-public, private, or non-profit which uses the services of 1 or more employees at 1 or more workplaces, at any 1 time, including the commonwealth or its agencies, authorities or political subdivisions.

"Enclosed", a space bounded by walls, with or without windows or fenestrations, continuous from floor to ceiling and enclosed by 1 or more doors, including but not limited to an office, function room or hallway.

"Lodging home", a dwelling or part thereof which contains 1 or more rooming units in which space is let or sublet for compensation by the owner or operator to 4 or more persons. The residential portion of boarding houses, rooming houses, dormitories, and other similar dwelling places are included in this definition. Hospitals, sanitariums, jails, houses of correction, homeless shelters, and assisted living homes are not included in this definition.

"Membership association", a not-for-profit entity that has been established and operates, for a charitable, philanthropic, civic, social, benevolent, educational, religious, athletic, recreation or similar purpose, and is comprised of members who collectively belong to:

(i) a society, organization or association of a fraternal nature that operates under the lodge system, and having 1 or more affiliated chapters or branches incorporated in any state; or

(ii) a corporation organized under chapter 180; or

(iii) an established religious place of worship or instruction in the commonwealth whose real or personal property is exempt from taxation; or

(iv) a veterans' organization incorporated or chartered by the Congress of the United States, or otherwise, having 1 or more affiliated chapters or branches incorporated in any state.

Except for a religious place of worship or instruction, an entity shall not be a membership association for the purposes of this definition, unless individual membership is required for all members of the association for a period of not less than 90 days.

"Outdoor space", an outdoor area, open to the air at all times and cannot be enclosed by a wall or side covering.
"Public building", a building owned by the commonwealth or any political subdivision thereof, or in an enclosed indoor space occupied by a state agency or department of the commonwealth which is located in a building not owned by the commonwealth.

"Public transportation conveyance", a vehicle or vessel used in mass public transportation or in the transportation of the public, including a train, passenger bus, school bus or other vehicle used to transport pupils, taxi, passenger ferry boat, water shuttle or other equipment used in public transportation owned by, or operated under the authority of the Massachusetts Bay Transportation Authority, the Woods Hole, Martha's Vineyard & Nantucket Steamship Authority, Massachusetts Port Authority; state transportation department; or a vehicle or vessel open to the public that is owned by, or operated under the authority of a business, including tour vehicles or vessels, enclosed ski lifts or trams, passenger buses or vans regularly used to transport customers. Notwithstanding the foregoing, a private vehicle or vessel not open to the public or not used for the transportation of the public during the times of use, including a private passenger vehicle, a private charter or rental of a limousine, bus or van or the private rental of a boat or other vessel, shall not be considered a public transportation conveyance.

"Residence", the part of a structure used as a dwelling including without limitation: a private home, townhouse, condominium, apartment, mobile home; vacation home, cabin or cottage; a residential unit in a governmental public housing facility; and the residential portions of a school, college or university dormitory or facility. A residential unit provided by an employer to an employee at a place of employment shall be considered to be a residence; if the unit is an enclosed indoor space used exclusively as a residence, and other employees, excluding family members of the employee, or the public has no right of access to the residence. For the purposes of this definition, a hotel, motel, inn, lodge, bed and breakfast or other similar public accommodation, hospital, nursing home or assisted living facility shall not be considered a residence.

"Retail tobacco store", an establishment which is not required to possess a retail food permit whose primary purpose is to sell or offer for sale to consumers, but not for resale, tobacco products and paraphernalia, in which the sale of other products is merely incidental, and in which the entry of persons under the age of 18 is prohibited at all times, and maintains a valid permit for the retail sale of tobacco products as required to be issued by the appropriate authority in the city or town where the establishment is located.

"Smoking" or "smoke", the lighting of a cigar, cigarette, pipe or other tobacco product or possessing a lighted cigar, cigarette, pipe or other tobacco or non-tobacco product designed to be combusted and inhaled.

"Smoking bar", an establishment that occupies exclusively an enclosed indoor space and that primarily is engaged in the retail sale of tobacco products for consumption by customers on the premises; derives revenue from the sale of food, alcohol or other beverages that is incidental to the sale of the tobacco products; prohibits entry to a person under the age of 18 years of age during the time when the establishment is open for business; prohibits any food or beverage not sold directly by the business to be consumed on the premises; maintains a valid permit for the retail sale of tobacco products as required to be issued by the appropriate authority in the city or town where the establishment is located; and, maintains a valid permit to operate a smoking bar issued by the department of revenue.

"Workplace", an indoor area, structure or facility or a portion thereof, at which 1 or more employees perform a service for compensation for the employer, other enclosed spaces rented to or otherwise used by the public; and where the employer has the right or authority to exercise control over the space.
"Work space or work spaces", an enclosed area occupied by an employee during the course of his employment.

(b)(1) It shall be the responsibility of the employer to provide a smoke free environment for all employees working in an enclosed workplace.

(2) Smoking shall be prohibited in workplaces, work spaces, common work areas, classrooms, conference and meeting rooms, offices, elevators, hallways, medical facilities, cafeterias, employee lounges, staircases, restrooms, restaurants, cafes, coffee shops, food courts or concessions, supermarkets or retail food outlets, bars, taverns, or in a place where food or drink is sold to the public and consumed on the premise as part of a business required to collect state meals tax on the purchase; or in a train, airplane, theatre, concert hall, exhibition hall, convention center, auditorium, arena, or stadium open to the public; or in a school, college, university, museum, library, health care facility as defined in section 9C of chapter 112, group child care center, school age child care center, family child care center, school age day or overnight camp building, or on premises where activities are licensed under section 38 of chapter 10 or in or upon any public transportation conveyance or in any airport, train station, bus station, transportation passenger terminal, or enclosed outdoor platform.

(3) A person shall not smoke in the state house or in a public building or in a vehicle or vessel, owned, leased, or otherwise operated by the commonwealth or a political subdivision thereof, or in a space occupied by a state agency or department of the commonwealth which is located in another building, including a private office in a building or space mentioned in this sentence, or at an open meeting of a governmental body as defined in section 11A of chapter 30A, section 23A of chapter 39 and section 9F of chapter 34, or in a courtroom or courthouse. This subsection shall not apply to a resident or patient of a state hospital, the Soldiers' Home in Massachusetts located in the city of Chelsea or the Soldiers' Home in Holyoke.

(c) Notwithstanding subsection (b), smoking may be permitted in the following places and circumstances:

(1) Private residences; except during such time when the residence is utilized as part of a business as a group childcare center, school age day care center, school age day or overnight camp, or a facility licensed by the office of child care services or as a health care related office or facility;

(2)(i) premises occupied by a membership association, if the premises is owned, or under a written lease for a term of not less than 90 consecutive days, by the association during the time of the permitted activity if the premises are not located in a public building; but no smoking shall be permitted in an enclosed indoor space of a membership association during the time the space is:

(A) open to the public; or

(B) occupied by a non-member who is not an invited guest of a member or an employee of the association; or

(C) rented from the association for a fee or other agreement that compensates the association for the use of such space.

(ii) Smoking may be permitted in an enclosed indoor space of a membership association at all times, if the space is restricted by the association to admittance only of its members, the invited guest of a member, and the employees of the membership association. A person who is a contract employee, temporary employee, or independent contractor shall not be considered an employee of a membership association under this subsection. A person who is a member of an
affiliated chapter or branch of a membership association that is fraternal in nature operating under the lodge system, and is visiting the affiliated association, shall be an invited guest for the purposes of this subsection.

(3) A guest room in a hotel, motel, inn, bed and breakfast or lodging home that is designed and normally used for sleeping and living purposes, that is rented to a guest and designated as a smoking room pursuant to paragraph (1) of subsection (g).

(4) A retail tobacco store, if the store maintains a valid permit for the sale of tobacco products issued by the appropriate authority in the city or town in which the retail tobacco store is located. All required permits shall be displayed in a conspicuous manner, visible at all times to patrons of the establishment.

(5) A smoking bar, if the smoking bar maintains a valid permit pursuant to this section. All required permits shall be displayed in a conspicuous manner, visible at all times to patrons of the establishment.

(6) By a theatrical performer upon a stage or in the course of a professional film production, if the smoking is part of a theatrical production, and if permission has been obtained from the appropriate local authority;

(7) By a person, organization or other entity that conducts medical or scientific research on tobacco products, if the research is conducted in an enclosed space not open to the public, in a laboratory facility at an accredited college or university, or in a professional testing laboratory as defined by regulation of the department of public health;

(8) Religious ceremonies where smoking is part of the ritual; and

(9) A tobacco farmer, leaf dealer, manufacturer, importer, exporter, or wholesale distributor of tobacco products, may permit smoking in the workplace for the sole purpose of testing said tobacco for quality assurance purposes; if the smoking is necessary to conduct the test.

(e) If the outdoor space has a structure capable of being enclosed by walls or covers, regardless of the materials or the removable nature of the walls or covers, the space will be considered enclosed, when the walls or covers are in place. All outdoor spaces shall be physically separated from an enclosed work space. If doors, windows, sliding or folding windows or doors or other fenestrations form any part of the border to the outdoor space, the openings shall be closed to prevent the migration of smoke into the enclosed work space. If the windows, sliding or folding windows or doors or other fenestrations are opened or otherwise do not prevent the migration of smoke into the work space, the outdoor space shall be considered an extension of the enclosed work space and subject to this section.

(f) (1) A nursing home, licensed pursuant to section 71 of chapter 111 and any acute care substance abuse treatment center under the jurisdiction of the commonwealth, may apply to the local board of health having jurisdiction over the facility for designation of part of the facility as a residence. (2) All applications shall designate the residential area of the facility. The residential area shall not contain an employee workspace, such as offices, restrooms or other areas used primarily by employees. (3) The entire facility may not be designated as a residence. (4) The designated residential area must be for the sole use of permanent residents of the facility. No temporary or short-term resident may reside in the residential portion of the facility. (5) All areas in the designated residential area in which smoking is allowed shall be conspicuously designated as smoking areas and be adequately ventilated to prevent the migration of smoke to nonsmoking areas. (6) The facility shall provide suitable documentation, acceptable to the local board of health, that the facility is the permanent domicile of the residents residing in that portion of the facility, that information on the hazards of smoking and second hand smoke have
been provided to all residences and that smoking cessation aids are available to all residents who use tobacco products. (7) The designated residential area shall be in conformance with the smoking restriction requirements of section 72X of chapter 111 and 105 CMR 150.015 (D)(11)(b). All residential areas shall be clearly designated as such and shall not be altered or otherwise changed without the express approval of the local board of health. (8) All areas of a nursing home not designated as a residence shall comply with this section. (9) The nursing home shall make reasonable accommodations for an employee, resident or visitor who does not wish to be exposed to tobacco smoke. (10) Upon compliance with this section, submission of the required documentation and satisfactory inspection, the local board of health shall certify the designated portion of the facility as a residence. The certification shall be valid for 1 year from the date of issuance. No fewer than 30 days before the expiration of the certification, the facility may apply for re-certification. If the local board of health does not renew the certification before its expiration or provide notice that it has found sufficient cause to not recertify the residence portion of the nursing home as such, the certification shall be considered to continue until the time as the local board of health notifies the nursing home of its certification status.

(g)(1) A designated smoking room in a hotel, motel, inn, bed and breakfast and lodging home shall be clearly marked as a designated smoking room on the exterior of all entrances from a public hallway and public spaces; and in the interior of the room. Instead of marking each room, an establishment may designate an entire floor of residential rooms as smoking. The floor shall be conspicuously designated as smoking at each entranceway on to the floor. Smoking shall not be allowed in the common areas of the floor, such as halls, vending areas, ice machine locations and exercise areas and shall comply with paragraph (4). (2) A retail tobacco store that permits smoking on the premises shall, pursuant to paragraph (4), post in a clear and conspicuous manner, a sign at each entrance warning persons entering the establishment that smoking may be present on the premises; of the health risks associated from second hand smoke; and, that persons under the age of 18 years of age may not enter the premises. (3) A smoking bar shall, pursuant to paragraph (4), post in a clear and conspicuous manner signs at all entrances which warn persons entering the establishment that smoking may be present on the premises; and, of the health risks associated from second hand smoke; and, that persons under the age of 18 years of age may not enter the premises. (4) Every area in which smoking is prohibited by law shall have "no smoking" signs conspicuously posted so that the signs are clearly visible to all employees, customers, or visitors while in the workplace. (5) Additional signs may be posted in public areas such as, the following areas: lobbies; hallways; cafeterias; kitchens; locker rooms; customer service areas; offices where the public is invited; conference rooms; lounges; waiting areas; and elevators. (6) Approved signs and templates for signage design may be obtained from the department of public health or the local boards of health. (7) It shall be the responsibility of the establishment to ensure that the appropriate signage is displayed and that an individual or group renting the space enforces the prohibition against smoking.

(h)(a)(1) A smoking bar operating in the commonwealth shall obtain a smoking bar permit from the department of revenue. A permit issued by the department shall be valid for a period of 2 years from date of issuance unless suspended or revoked. A valid permit that is not suspended at the time of its expiration may be renewed for consecutive 2-year periods. (2) A non-refundable fee may be required with each permit and renewal application. Each permit issued by the department shall be non-transferable, for a specific location and business; and, only 1 permit may be issued to a business for a specific location during any permit period. (3) The department shall not issue or renew a smoking bar permit to any business that has not filed all tax returns and paid all taxes due the commonwealth; or is delinquent in filing all declaration statements in connection with the smoking bar permit as required by the department. (4) The department shall notify the local board of health or municipal health department in the city or town where the establishment is located of any permits issued, renewed, suspended, revoked
or reinstated to a business.  (b) A smoking bar shall demonstrate on a quarterly basis that revenue generated from the sale of tobacco products are equal to or greater than 51 per cent of the total combined revenue generated by the sale of tobacco products, food and beverages. The department shall require each business that has been issued a smoking bar permit to submit a quarterly declaration for each 3 month period that the business is in operation; notwithstanding, the first declaration may include a period of not to exceed 4 months. A declaration submitted to the department in connection with a smoking bar permit shall be signed by the owner or business agent under the pains and penalties of perjury. A declaration received by the department shall be confidential and the financial information contained therein shall not be disclosed to the public or any other state governmental agency or department except the attorney general. In the event a business has not filed a required declaration statement, the department shall give written notice to the business that the statement is delinquent and, shall suspend the permit of a business that does not submit the required report after 21 days of the date of notice; but the department shall reinstate the suspended permit within 5 days after receiving the delinquent report.  (c) The department of revenue shall promulgate regulations to implement this section.

(i) Companies which sell ownership rights to owners of time share properties shall distinguish between smoking and non-smoking time share properties. Companies shall disclose to potential buyers whether the unit they are purchasing is a smoking or non-smoking property and post signs accordingly.

(j) Nothing in this section shall permit smoking in an area in which smoking is or may hereafter be prohibited by law including, without limitation: any other law or ordinance or by-law or any fire, health or safety regulation. Nothing in this section shall preempt further limitation of smoking by the commonwealth or any department, agency or political subdivision of the commonwealth.

(k) An individual, person, entity or organization subject to the smoking prohibitions of this section shall not discriminate or retaliate in any manner against a person for making a complaint of a violation of this section or furnishing information concerning a violation, to a person, entity or organization or to an enforcement authority. Notwithstanding the foregoing, a person making a complaint or furnishing information during any period of work or time of employment, shall do so only at a time that will not pose an increased threat of harm to the safety of other persons in or about such place of work or to the public.

(l) An owner, manager or other person in control of a building, vehicle or vessel who violates this section, in a manner other than by smoking in a place where smoking is prohibited, shall be punished by a fine of $100 for the first violation; $200 for a second violation occurring within 2 years of the date of the first offense; and $300 for a third or subsequent violation within 2 years of the second violation. Each calendar day on which a violation occurs shall be considered a separate offense. If an owner, manager or other person in control of a building, vehicle or vessel violates this section repeatedly, demonstrating egregious noncompliance as defined by regulation of the department of public health, the local board of health may revoke or suspend the license to operate and shall send notice of the revocation or suspension to the department of public health. The department of public health shall promulgate regulations to implement this section including, but not limited to notice, collection, and reporting of the fines or license action, and defining uniform standards that warrant license suspension or revocation.

(m)(1) The local board of health, the department of public health, the local inspection department or the equivalent, a municipal government or its agent, and the alcoholic beverages control commission shall enforce this section. In addition, in the city of Boston, the commissioner of health and his authorized agents shall enforce this section.
(2) An individual or person who violates this section by smoking in a place where smoking is prohibited shall be subject to a civil penalty of $100 for each violation. As an alternative to criminal prosecution, a violation of subsection (I) may also be considered a civil violation. Each enforcing agency under paragraph (I) shall dispose of a civil violation of this section by the non-criminal method of disposition procedures contained in section 21D of chapter 40, without an enabling ordinance or by-law, or by the equivalent of these procedures by a state agency under regulations of the department of public health. The disposition of fines assessed under this section shall be subject to section 188 of chapter 111. Fines assessed by the commonwealth or its agents shall be subject to section 2 of chapter 29. In a city or town having an ordinance or by-law that imposes a fine greater than the fine imposed by this section, the ordinance or by-law shall prevail over this section. (3) Any person may register a complaint to initiate an investigation and enforcement with the local board of health, the department of public health, or the local inspection department or the equivalent. (4) The supreme judicial court or the superior court shall issue appropriate orders to enforce this section and any regulation under it, at the request of any agency mentioned in paragraph (I). (5) A fine or fee collected by the commonwealth under this section shall be used for the enforcement or for educational programs on the harmful effects of tobacco.

(n) Each local board of health, each local inspection department or its equivalent, and the alcoholic beverages control commission shall report annually to the commissioner of public health, beginning January 1, 2006: the number of citations issued; the workplaces which have been issued citations and the number of citations issued to each workplace; the amount that each workplace has been fined; and the total amount collected in fines. The department of public health shall file a copy of the report with the clerks of the house of representatives and the senate.

(o) The department of public health may issue regulations to implement this section.

Chapter 270, Section 22, (WEB 7/12/2005)
STUDENT ABSENCES DUE TO RELIGIOUS BELIEFS

Any student in an educational or vocational training institution, other than a religious or denominational educational or vocational training institution, who is unable, because of his religious beliefs, to attend classes or to participate in any examination, study, or work requirement on a particular day shall be excused from any such examination or study or work requirement, and shall be provided with an opportunity to make up such examination, study, or work requirement which he may have missed because of such absence on any particular day; provided, however, that such makeup examination or work shall not create an unreasonable burden upon such school. No fees of any kind shall be charged by the institution for making available to the said student such opportunity. No adverse or prejudicial effects shall result to any student because of his availing himself of the provisions of this section.

A copy of this section shall be published by each institution of higher education in the catalog of such institution containing the list of available courses.

(Chapter 151C of the General Laws, Section 2B. WEB 7/12/2005)
FUND FOR LEGISLATIVE AGENTS OR ORGANIZATIONS ATTEMPTING TO INFLUENCE LEGISLATION

The board of trustees shall not allow any funds for legislative agents as defined in section thirty-nine of chapter three or organizations attempting to influence legislation as defined in section forty-four of said chapter three to be assessed on student tuition bills; provided, however that optional fees for nonpartisan organizations which employ said legislative agents or attempt to influence legislation shall be collected by the board of trustees whenever students have authorized an optional fee by a majority vote of those students voting in an official student referendum. Said optional fee shall be collected as provided in paragraph (b) of section eighteen or chapter fifteen A.

No funds collected as a mandatory student activities fee shall be paid to legislative agents as defined in section thirty-nine of said chapter three or organizations attempting to influence legislation as defined in section forty-four of said chapter three. As used in this section, the term "legislative agent" or "organization attempting to influence legislation" shall not include any official representative of the student body.

(Chapter 73 of the General Law, Section 1F, WEB 7/12/2005)
VOTER REGISTRATION

All public and independent colleges, universities, high schools and vocational schools shall make available affidavit of voter registration forms at all locations where students may register for classes. Such locations shall be published along with the annual course listing for students or in some other school-wide publication. Every such school shall publicize the availability of such voter registration affidavit forms within the school.

Chapter 51, Section 42E (Section 17 of Chapter 475 of the Acts of 1993)