

(H. B. 1542)

(No. 212-2018)

(Approved August 12, 2018)

AN ACT

To implement the Education Council Reorganization Plan of 2018; enforce the provisions of Section 2.05 of Act No. 122-2017, known as the “Puerto Rico New Government Act”; adopt the “Educational Institutions Registration and Licensure Act”; amend Sections 3, 5, 6, 12, 13, 15, 16, 17, 19, and 21 of Act No. 33-2017, known as the “Church-Schools Act”; repeal Sections 5 and 6 of Act No. 213-2013, as amended, known as the “Puerto Rico Alternative Education Development Enabling Act”; repeal Act No. 435-2004, as amended, known as the “Postsecondary Students Permanent Financial Assistance and Scholarships Fund Act”; amend subsection (4) of Section 3 of Act No. 300-1999, as amended, known as the “Puerto Rico Crime Record Verification of Care Service Providers for Children and the Elderly Act”; repeal Sections 5 and 6 and renumber Sections 7, 8, 9, 10, and 11 of Act No. 267-2000, known as the “Act for the Protection of Boys, Girls, and Youths in the Use and Management of the Internet”; repeal Reorganization Plan 1-2010; amend Sections 2, 3, and 4 of Act No. 150-2002, as amended, known as the “Puerto Rico Disasters and Emergencies Prevention and Management Education Act”; amend Sections 1 and 2 of Act No. 179-1999, known as the “Act to Direct Every Educational or University Institution of the Country to establish a Registry of Fraternities, Sororities or Association of any Type”; amend Sections 3 and 9 of Act No. 109-2003, known as the “Act to Regulate Contractual Relationships Between Military Students in Postsecondary Education in the Commonwealth of Puerto Rico and Higher Education Institutions”; amend Section 7, subsection 2 of Act No. 94 of June 22, 1977, known as the “Establishment for the Elderly Act”; amend subsection (a) of Section 2 and Section 5 of Act No. 284-2011, known as the “Act to Establish that Education Requirements in Puerto Rico shall be Measured, Accredited, Licensed, and Approved in Credit Hours or Clock Hours when any Entity or Agency that Regulates or Accredits the Various Professions or Trades”; amend subsection (c) of Section 15 of Act No. 10-1994, as amended, known as the “Act to Regulate the Real Estate Business and the Profession of Real Estate Broker, Salesperson or Companies in Puerto Rico”; amend Sections 6, 8, and 10 of Act No. 85-2017, known as the “Government of Puerto Rico

Anti-bullying and Harassment Act”; amend Sections 8 and 15 of Act No. 199-2015, known as the “Puerto Rico Public and Private Educational Institutions Students with Type 1 and Type 2 Diabetes Assistance Act”; for the purposes of transferring the duties of the Education Council to the new “Board of Postsecondary Institutions” attached to the Department of State in order to achieve a more efficient Government; temper the statutes in effect to the new government structure; create the Permanent Financial Aid and Scholarship Fund for Postsecondary Students; and for other related purposes.

STATEMENT OF MOTIVES

Leading Puerto Rico to the right path requires a paradigm shift, such as that proposed by this Administration in the Puerto Rico Socioeconomic Transformation Model included in the Plan for Puerto Rico. The Plan for Puerto Rico seeks to implement a new Government structure that significantly reduces public spending and substantially improves government functions. To achieve this, the services provided by the government must be thoroughly assessed in order to determine which services may be consolidated, delegated to the private sector, or eliminated for they are no longer necessary. Our goal is to prevent the dismissal of public employees, and move such employees according to our People’s service needs. In turn, the certified Fiscal Plan ratifies our commitment to reform the government apparatus thereby eliminating obsolete, inefficient, or redundant structures and achieving transparency and efficiency.

Since January 2, 2017, we have been implementing a systematic plan to control government spending, reactivate our economy, and allow for the conditions to create more and better jobs in the private sector. We are showing the world that Puerto Rico is open to do business in a safe and stable governmental environment. The measures introduced by the Governor and approved by this Legislative Assembly during the first year of his administration have changed the course of the Government of Puerto Rico and have set it on a path of fiscal responsibility, but

there is still much to do. Together, we are honoring our commitment at a fast pace and moving Puerto Rico towards stability.

Consistent with this commitment, on December 18, 2018[sic], the Governor of Puerto Rico, the Hon. Ricardo Roselló-Nevores, signed the “New Government of Puerto Rico Act,” which became Act No. 122-2017. Pursuant to Act No. 122-2017, the Governor submitted to the Legislative Assembly a Reorganization Plan that provides for the transfer to the Department of State of the duties, services, programs and/or powers previously assigned to the Puerto Rico Education Council created under Reorganization Plan 1-2010. Upon the approval of the Reorganization Plan submitted by the Governor, in accordance with Section 2.05 of Act No. 122-2017, this Legislative Assembly promulgates this Act to repeal and/or adjust any laws or parts thereof that were affected by such Reorganization Plan.

Furthermore, in view of Puerto Rico’s serious economic and fiscal emergency situation, it is necessary to approve this Act by virtue of the Police Power and in accordance with Sections 18 and 19 of Article II, and Sections 7 and 8 of Article VI of the Constitution of Puerto Rico in order to achieve a more efficient and less costly Government. We exercise this Police Power to take the necessary measures and set Puerto Rico on the path to financial recovery.

Education is the cornerstone of our society and a vital element in the development of human beings as future citizens. Its goal is to provide students with the knowledge and necessary skills so that they may acquire the tools and the capabilities that shall allow them to meet the demands of a changing and ever-evolving world.

The State’s ministerial and constitutional duty is to provide a quality public education system focused on students. The development of a modern, efficient, humane, and excellent public education system is critical for the Island to achieve sustainable growth and maximize the resources currently available without

compromising the progress of future generations. Therefore, on March 29, 2018, the Governor signed Act No. 85-2018, known as the “Puerto Rico Education Reform Act,” for the purpose of putting the best interests of students above everything else, so that they may receive, in the Public Education System, quality education that allows them to fully develop their skills and become successful adults who contribute to all aspects of our society.

This Administration’s commitment to education is not limited to reforming the Public Education System. Government structures that supervise private and postsecondary education should be revised and adjusted to the current reality and the challenges that the government is facing without compromising the quality of the services rendered, while promoting the development of knowledge and innovation as well as the development of new academic programs and offerings. We must do away with administrative bureaucracy and innovate in all government fields and endeavors. All electronic media must be incorporated to allow private Basic Education institutions to register and be authorized to operate. The Department of State already manages the Corporations and the Trademarks Registries, among others. The Department of State is already responsible for evaluating and recording the articles of incorporation of the organizations under its jurisdiction. Thus, it is convenient to entrust the Department of State with the creation of the Basic Education Institutions Registry proposed herein.

We must focus on applying emerging technologies to teaching, research, and administration, so that our graduates’ knowledge and creativity are compatible with the job market and the academic contents. Also, we must encourage the internationalization of university education by promoting collaboration agreements between local universities and foreign and local universities in order to promote Puerto Rico as an education destination. We have the opportunity to make education the engine of Puerto Rico’s economic development. These agreements may be

developed in a reciprocal manner in projects that integrate elements of the fields of tourism, medicine, and technology, among others, which have the potential to benefit the student with a better educational experience, while generating revenues and substantial profit for the universities, the government, the private sector, and various organizations. Puerto Rico is in a unique position to provide education to Spanish-speaking individuals who are interested in obtaining an education that meets the requirements of the United States academic programs. In fact, this initiative was launched by this Administration under the leadership of the Secretary of State.

This Act enables the outsourcing of certain functions or services while others are delegated to the new Board of Postsecondary Institutions in order to achieve savings and efficiencies. Specifically, accreditation processes, which shall continue to be voluntary at all levels, shall be outsourced to private entities. Regarding this matter, the Puerto Rico Association of Private Schools and Colleges (ACUP, Spanish acronym) has always stated that private nonprofit organizations and nongovernmental organizations have been in charge of the accreditation process and that said process should be separate from the government's licensing function. By outsourcing this function, we clarify the limits of the licensing function and allow the new Board of Postsecondary Institutions to focus on the duties that must be performed by a governmental body. The foregoing shall allow for more streamlined processes for the benefit of all sectors.

Lastly, by attaching the new regulatory body to the Department of State, we provide it with administrative and institutional support and place the Government in a better position to enter into collaboration agreements to fulfill its commitment to internationalize education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.-Purpose and Scope.

The purpose of this Act is to implement and enforce the Education Council Reorganization Plan of 2018 (hereinafter the Plan) adopted under Act No. 122-2017, which created the Board of Postsecondary Institutions within the Department of State and transferred thereto the powers and authorities of the Puerto Rico Education Council. The implementation of the Plan is consistent with the general principles and purposes of Act No. 122-2017, as stated by the Legislative Assembly in this bill. In addition to those expressly provided for herein, the Secretary of State shall have all the powers and faculties as are necessary for to implement the Plan and the provisions of this Act. The implementation of the Reorganization Plan shall abide by the general principles and purposes established in Act No. 122-2017.

This Act shall promote a government structure that addresses the real needs and contributes to improving the quality of life of our people. It shall also optimize the effectiveness and efficiency of the government endeavor; improve the service rendering process; reduce government spending; improve the strategic allocation of resources; increase the people's accessibility to public services; and simplify the regulations governing private activities without impairing the public interest.

Section 2.-Title

This Act shall be known and may be cited as the "Educational Institution Registration and Licensure Act."

Section 3.-Declaration of Public Policy.

Education is a continuous learning process that encompasses all stages of life, the purpose of which is to achieve spiritual, ethical, moral, emotional, intellectual, creative, and physical development through the transmission and cultivation of values, knowledge, and skills that enable a person to lead a full life, coexist with others and partake in the community in a responsible, tolerant, supportive,

democratic, and active manner, as well as work towards and contribute to the development of Puerto Rico. The Government of Puerto Rico is responsible for promoting and fostering the educational diversity which is available to the people at all levels, from basic to postsecondary education. It is also responsible for ensuring that Educational Institutions operating within its jurisdiction meet the established standards.

The public policy of the Government of Puerto Rico is based on the mandate set forth in Section 5 of Article II of the Constitution of Puerto Rico: “Every person has the right to an education which shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. There shall be a system of free and wholly non-sectarian public education.” In order to fully uphold this right, said public policy must be governed by the following fundamental principles:

1. The protection of educational freedom for students at the postsecondary level, and for the parents of students at the primary and secondary education level;
2. The availability of educational and training programs at the postsecondary level which meet the standards of the academic and professional communities, so that the courses offered in Puerto Rico are recognized by the educational and professional regulatory authorities beyond the local jurisdiction;
3. Respect for the free exchange of ideas within the professional and academic communities, as well as for the freedoms of every institution; and
4. Respect for the institutional autonomy which enables such institutions to organize and administer themselves, as well as to adopt educational philosophies that are consistent with their institutional principles.

To do so, the Government of Puerto Rico shall ensure that the physical facilities of educational centers are in good condition, safe, and sanitary, and that teachers and professors have the appropriate high-quality training. It shall also

promote the analysis of and research on education in Puerto Rico and provide prompt, appropriate, and effective assistance that allows for the establishment, development, and strengthening of institutions capable of contributing to the aspirations of our people and their socioeconomic development.

Regarding the Basic Education Institutions, the Government recognizes that traditional public education is not the only option for parents to ensure their children's access to the learning-teaching process. In order to promote democratic and pluralistic societies such as ours, private education may provide an alternative to the methods, approach, values, and academic offerings of the Public Education System. Parents are entitled to opt for either public or private education by virtue of their freedom of speech, association, and belief. Hence, the current public policy on education promulgated over the past decades has acknowledged the need to strike a balance between the compelling public interest in education and the promotion of educational diversity in the evaluation process for the issuance of authorizations and licenses to educational institutions.

It is hereby recognized the existence of institutional autonomy which protects schools, universities, and private colleges from official interference that impairs or jeopardizes their academic freedom. Moreover, respecting the autonomy of universities and public or private colleges is essential in order to allow for the free flow of thoughts, as well as intellectual and teaching initiatives that contribute to improving our people's social, cultural, and economic betterment.

The development of education in Puerto Rico requires establishing institutions, whose academic offerings satisfy the needs of the people of Puerto Rico. The State should not dictate which and how academic programs shall be offered, given that educational institutions are the ones in charge of selecting their teaching and nonteaching personnel according to their professional and intellectual capabilities as well as their ethical commitment to pass judgment on said aspects.

Through this Act, our Government reasserts said public policy and establishes that the regulatory power of the state shall be exercised in such a manner so as to promote a dynamic relationship between the Government, the institutions, and society that facilitates the development of Educational Institutions. In order to protect the public interest, without unduly interfering in the core aspects of the learning-teaching process relating to every institution's right to academic freedom, it is hereby provided that these aspects shall be under the exclusive jurisdiction of the entities responsible for the decision-making if governing bodies of the Educational Institutions, which shall decide on these matters in accordance with the mission and philosophy that every institution has adopted on their own volition in order to develop an education system that is highly competitive and geared to prepare students to face the ever-changing requirements of the labor market.

To achieve this, there shall be total separation between the licensure process, which requires compliance with the criteria established in this Act, and the accreditation process that guarantees the adequacy and content of the programs based on their quality and excellence. Educational Institutions may voluntarily undergo the process of accreditation by a private accrediting agency to show that they fulfill or exceed the standards of the academic and professional community beyond our territorial boundaries. The State shall focus on the Basic Education Institutions Registry and the licensure of Postsecondary Education Institutions; thus, the accreditation process shall be outsourced and carried out by qualified and recognized organizations.

It is hereby reasserted the public policy on the role of the State as a facilitator rather than director, so as to promote the creation and development of new academic offerings which are necessary for the integrated development of the people, while ensuring that the education offered is sufficient for those receiving it. To such effect, it is hereby set forth as public policy to lessen the burden that the licensure process

constitutes for Postsecondary Education Institutions with a recognized and proven history by incorporating processes that allow for the swift development of new programs and offerings. The licensure process shall be streamlined so as not to hinder nor delay the development of academic programs, which allows for the evolution of education to have a positive impact on the socioeconomic development of Puerto Rico.

Section 4.-Definitions.

For purposes of this Act, the following terms shall have the meaning stated below:

(a) “Accreditation”- Means a voluntary process whereby an Educational Institution receives the official recognition of an accrediting agency duly recognized as such by the U.S. Department of Education, or other national or international accrediting agencies, or by the Board, as the case may be, that distinguishes said institution or a specific program thereof which, according to the academic community, performs at a level or is of a quality, and integrity higher than that required to hold a license.

(b) “Significant Change”- Means certain actions taken by the institution that, even when they do not warrant an amendment to the license nor need adjudication or approval of the Board, they entail institutional changes that must be notified to the Board.

(c) “Substantial Change”- Means any action taken by a Postsecondary Institution constituting a modification or alteration to its structure, academic offering as authorized in the license, or in the manner and scope of its operations, which is not authorized, included, or foreseen in the license that allows it to operate in Puerto Rico.

(d) “Church-school Certification”- Means an official document issued by the Secretary, or the person designated by him under Act No. 33-2017.

(e) “Certification of Compliance”- Means an official document issued by the Secretary, or the person designated by him, under Section 12 of this Act to Basic Education Institutions that meet the requirements provided in Sections 10 and 11.

(f) “Council” or “Education Council”- Means a government entity created under Plan No. 1-2010 to implement the provisions thereof.

(g) “Department”- Means the Department of State of Puerto Rico;

(h) “Amendment to the License”- Means a modification to a license for the purpose of allowing Postsecondary Education Institutions to make a substantial change, as defined in this Plan.

(i) “Educational Institution”- Means an educational institution that offers any of the following education levels: basic education (k-12), vocational-technical postsecondary education or higher education. Therefore, this definition includes both Basic Education Institutions and Postsecondary Education Institutions.

(j) “Basic Education Institution”- Means a private or municipal educational institution with elementary or secondary academic offerings. This definition does not include the schools of the Public Education System within the Department of Education of Puerto Rico, as such term is defined in the “Puerto Rico Education Reform Act.”

(k) “Basic Education Institution with an Accelerated Learning Program”- Means a basic education institution that offers secondary education, from seventh to twelfth grade, for persons older than the age of sixteen (16) years, which allows them to fulfill grade requirements within a timeframe shorter than that established by the Department of Education.

(l) “Postsecondary Institution”- Means a public or private educational institution, including higher education institutions (university) and institutions that offer vocational-technical education (non-university).

(m) “Vocational-Technical Postsecondary Education Institution (VTP) or Non-university Postsecondary Education”- Means an educational institution that offers a mainstream and technological curriculum intended for students who have completed their high school education, or its equivalent; however, these are non-university institutions.

(n) “Institution of Higher Education”- Means a public or private university or educational institution whose admission requirements include a high school diploma or certificate, or its equivalent, and which academic offerings provide an educational program that is acceptable for full credit toward a college degree, whether an associate’s degree or higher.

(o) “Board”- Means the Board of Postsecondary Institutions of the Department of State.

(p) “License”- Means a permit issued by the Board of Postsecondary Institutions of the Department of State to operate or continue operating in Puerto Rico. It is granted upon attesting favorably that the criteria established in this Act was met.

(q) “Licensure”- Means the process whereby a Postsecondary Education Institution is authorized to operate in the jurisdiction of Puerto Rico, upon meeting the minimum requirements established in this Act.

(r) “Authorization License”- Means the initial permit issued by the Board to operate or establish in Puerto Rico a Postsecondary Education Institution upon determining that the institution has met the minimum requirements established in this Act.

(s) “Members”- Means the five (5) members of the Board of Postsecondary Institutions of the Department of State.

(t) “Office”– Means the operational unit of the Department of State which provides support to the Board in the processing of license applications and matters under its jurisdiction.

(u) “Registry”- Means the Registry of Basic Education Institutions that the Secretary of the Department of State shall keep by virtue of this Act.

(v) “Church-schools Registry”- Means the Registry that the Secretary of the Department of State shall keep by virtue of Act No. 33-2017, known as the “Church-schools Act.” Schools that meet the definition of Church-schools as provided in Act No. 33-2017, *supra*, shall be included in this registry.

(w) “Renewal”- Means a permit issued by the Board to continue operating as a Postsecondary Education Institution in Puerto Rico when said institution already holds an expired authorization license, upon determining that the institution meets the minimum requirements, as well as complies with the terms and conditions established for such renewal.

(x) “Operate in Puerto Rico”- Means to offer, declare, promise, or express the intention to offer in Puerto Rico degrees or courses acceptable for full credit toward degrees, diplomas, certificates, titles, or other official academic recognitions of basic or postsecondary education, even when these are awarded outside the Island. It shall be understood that an institution operates or has presence within the jurisdiction of Puerto Rico, when one or more of the following occur:

i. a location is established in Puerto Rico where students partake in synchronous and asynchronous learning.

ii. students are required to meet at a location in Puerto Rico for teaching purposes, more than once in an academic term or period.

(y) “Secretary”– Means the Secretary of the Department of Education of the Government of Puerto Rico.

(z) “Institutional Unit”- Means a location where an Educational Institution offers an academic program, or courses, materials, or curriculum acceptable for full credit or credit-hours toward academic degrees.

(aa) “University”- Means an Institution of Higher Education with academic programs in arts and sciences, geared to the exchange of ideas to generate or promote practical and theoretical knowledge so as to allow for a transformation of the social, economic, and political environment. Its academic offering may include associate’s, bachelor’s, and doctoral degrees, or graduate programs only.

Section 5.-Composition of the Board.

The Board of Postsecondary Institutions created under the Education Council Reorganization Plan of 2018, shall consist of five (5) members knowledgeable in the field of Education in Puerto Rico, one (1) of whom shall be its chair, to be appointed by the Governor with the Advice and Consent of the Senate, to represent the public interest.

Board members shall be of legal age, U.S. citizens, of recognized professional capacity, knowledgeable in the field of education, and shall represent the public interest. Board members shall be initially appointed as follows: two (2) members, for a term of six (6) years, one (1) of whom shall be its chair, two (2) members, for a term of three (3) years, and one (1) member for a term of two (2) years. This term shall begin after the Board is constituted and begins its functions. Subsequent appointments shall be for a term of five (5) years until successors are appointed and take office. To the extent possible, members shall be professionals of the different academic disciplines. At the time of making the appointments, the Governor may be advised by and receive recommendations from educational organizations of the Island.

No person who holds an elective public office or a full-time teaching, consulting, administrative, managerial, or executive position in a Postsecondary

Education Institution may be a board member. None of the board members may have a professional or financial relationship, in their capacity as students or as a non-teaching employees, with a Postsecondary Education Institution authorized to operate in Puerto Rico; provided, that this requirement shall not prevent the member from meeting the requirements to maintain valid his professional license or to stay current in his profession. It is hereby provided that board members shall be required to notify any conflict of interest or perceived conflict of interest that may arise in connection with any matter, and to recuse themselves during the consideration and decision-making stages related to such matter. Members shall be covered by the provisions of the “Puerto Rico Government Ethics Act,” Act No. 1-2012, as amended.

Any member or Postsecondary Education Institution may ask the Chair to recuse a member if he believes that a conflict of interest or perceived conflict of interest exists that may tarnish the image of the Board. The Chair shall be required to introduce the matter at a Board’s meeting while keeping the confidentiality of the person or institution who thus request it. Hiding or remaining silent about a conflict of interest or perceived conflict of interest shall be grounds for requesting immediate separation of a member from his office.

No Board member shall earn a salary for discharging his duties. However, the Board may authorize the payment of per diems to members who are not government employees, for the time devoted to discharging their duties at duly-called Board meetings or official activities. If the payment of per diems is authorized, these shall never exceed seventy-five dollars (\$75.00) per day in the case of members and ninety dollars (\$90.00) in the case of the Chair.

Section 6.-Vacancies and Removal.

In the case of vacancies, the Governor shall appoint another person that is identified with and committed to the objectives set forth herein, in compliance with

the provisions of Section 5 of this Act. Members shall discharge their duties during the term of their appointments and until their successors take office.

The Governor may declare a vacancy in the office of any Board member, prior to the expiration of his appointment, if there is cause for his removal. There is cause for removal if the member:

(a) violates the provisions of Act No. 1-2012, as amended, known as the “Puerto Rico Government Ethics Act of 2011.”

(b) engages in gross negligence, inability to perform the duties of office or professional incompetence.

(c) fails to act in accordance with the public policy set forth in this Act.

(d) is convicted of any felony or misdemeanor.

(e) fails to attend three (3) meetings without good cause.

(f) performs poorly, engages in willful misconduct or breach of duty.

(g) Suffers from any mental or physical condition, whether temporary or permanent that adversely affects the performance of his duties.

In the case of vacancies, the Governor shall appoint other person(s) that are identified with and committed to the objectives set forth herein, and pursuant to the provisions of this Act. The person appointed to fill the vacancy shall discharge his duties for the remainder of the unexpired term of the member who caused the vacancy; however, upon the expiration of said term, he shall be eligible for a new appointment, if the Governor deems it convenient.

Section 7.-Operations of the Board.

The Board shall hold regular meetings every month, in accordance with the meeting calendar approved at the first meeting of the year. Said calendar shall establish the dates for said year’s meetings and shall be disclosed as appropriate. The dates established for the holding of regular meetings may be altered as provided in

the bylaws of the Board. In addition, it may hold special meetings, called by the Chair or at the request of a majority of members.

The members shall prescribe in its bylaws the quorum necessary to conduct businesses. However, determinations regarding the issuance, revocation, cancellation, or nonrenewal of a license for an educational institution, shall require the affirmative vote of at least three (3) members.

The Chair shall coordinate the businesses and operations of the Board. In accordance with the public policy on efficiency and innovation, the Board is hereby expressly authorized to address the matters under its consideration by employing technology so that meetings do not necessarily need to be held in-person. In the event a regular meeting is cancelled due to lack of a quorum, the official designated to handle Board matters may forward such matters to the Board Members for the latter to decide on them through a Referendum.

Section 8.-Powers and Duties of the Secretary of State.

The Secretary shall have, through his personnel, and in addition to those listed in Section 2.03 of Act No. 122 -2017 and vested by the Constitution or any law, the following functions, powers and duties:

a) to provide the Board with administrative support in discharging its powers and duties, including those areas relating to human resources, legal matters, service contracting, budget allocation, accounting, finance, procurement, equipment use and control, information and technology systems, public relations, materials and property, certifications registry maintenance, and reproduction of documents, and other materials;

b) to provide the Board with resources as are necessary to discharge its powers and duties.

c) to appoint or provide the Board with personnel as are necessary to discharge its functions and duties;

d) to develop, prepare, and/or maintain technology platforms to streamline processes and allow access to citizens interested in ascertaining Educational Institutions' compliance with the requirements of this Act;

e) to promote, develop, and maintain relationships as are necessary between Puerto Rico, other United States jurisdictions, and other countries for the purpose of furthering the internationalization of postsecondary education in Puerto Rico; and to promote Puerto Rico's participation in national and international bodies and initiatives in favor of the development of education;

f) to evaluate, through the Office, certifications submitted by Basic Education Institutions, conduct verification visits, if necessary, and issue Certifications of Compliance in accordance with Section 12 of this Act;

g) to require, collect, and maintain statistical data on Educational Institutions and their students; provided, that these duties may be outsourced or discharged through collaboration agreements entered into with the Department of Economic Development and Commerce, the Science, Technology and Research Trust, the Institute of Statistics, and/or any other public or private entity;

h) to promote analysis and research on education in Puerto Rico;

i) to publish a Registry of Basic Education Institutions that were issued a Certification of Compliance and the Church-schools Registry pursuant to Act No. 33-2017. Provided, that the information may be published together but subject to their respective laws;

k) [sic] to initiate and maintain dialogue with the different educational sectors in Puerto Rico in order to establish education strategies that promote and further the establishment of educational institutions and the creation of highly competitive and innovative programs geared toward the socioeconomic development of Puerto Rico; and

l) any other authority, function, duty or power as is necessary to attain the purposes of this Act.

Section 9.-Powers and Duties of the Board.

a) To decide on the applications for licenses to operate or continue operating Postsecondary Education Institutions;

b) To authorize amendments to or renewals of licenses issued to Postsecondary Education Institutions;

i. The Board may delegate to the Director of the Office the authorization of amendments, except in cases of denials, which shall be addressed by the Board.

c) To hear and adjudicate complaints on Postsecondary Education Institutions' noncompliance with the applicable provisions of this Act and the regulations approved thereunder;

d) To deny, modify, condition, cancel, or suspend previously issued licenses that fail to comply with the laws, regulations or terms under which they were issued;

e) To recognize accrediting agencies in accordance with the regulations adopted for such purposes. Provided, that in the case of Postsecondary Education Institutions, it shall act in accordance with the federal legislation and the rules of the Department of Education of the United States of America and other national and international accrediting agencies, as applicable;

f) To recognize accrediting agencies established in Puerto Rico in order to accredit Basic Education Institutions;

g) To adopt regulations as are necessary to attain the purposes of this Act;

h) To impose administrative fines for violations of or noncompliance with the laws or regulations under its jurisdiction; issue orders to enforce its

determinations or protect its jurisdiction, including cease and desist orders. These procedures shall be implemented in accordance with the provisions of the UAPA;

- i) To adopt and use an official seal;
- j) To establish rules and procedures for the preservation, custody, and/or disposition of academic records transferred from closed basic or postsecondary education institutions;
- k) Regarding the academic records under its custody, to issue copies of certified academic transcripts upon payment of the fees fixed by regulations;
- l) To administer any scholarship fund assigned thereto and prescribe the rules and procedures for the award thereof;
- m) To delegate to qualified officials or Evaluating Committees administrative processes that do not require consideration by the Whole Board; provided that the Board shall adopt parameters for these delegations so they do not cause process delays.
- n) To maintain participation in the National Council for State Authorization Reciprocity Agreement (NC-SARA) and to take steps as are necessary to establish it in Puerto Rico;
- o) To enter into collaboration agreements with any agency, municipality or public or private entity, as are necessary to further the purposes of this Act and Act No. 122-2017;
- p) To coordinate with the authorities of public and private postsecondary education institutions accredited in Puerto Rico, in accordance with the rules of each institution, the policy on university students who are members of the United States Army Reserve and the Puerto Rico National Guard and are called to active duty. To this end, institutions shall establish the requirements and procedures to apply for a pro rata refund of or credit for the paid tuition, fees, or on-campus housing costs; for scholarship refund, if awarded, to receive credit for completed course work; to be

allowed to complete it, upon returning from active duty service, and any other measure that institutions deem necessary to be eligible for tuition or fee credit or refund, or the reinstatement or award of other benefits to said students in the postsecondary institution.

q) To designate an Office director to be in charge, among other things, of planning, organizing, and directing the general operations of the Board, supervising support personnel, and distributing work among them, coordinating with the Department all administrative matters of the Board; serve as a liaison between the Secretary and the Board; administering financial aid programs to provide assistance to students with demonstrated need or academic excellence, and receiving, keeping custody, and administering funds; preparing and submitting to the Board or the Secretary any requested report; notifying the decisions of the Board; issuing certifications containing the determinations of the Board, among others, and keeping a record thereof; developing processes that allow for discharging the functions provided in thin Act as swiftly and as appropriately as possible, as well as any other function or duty assigned or delegated to such official by the Board or the Secretary;

r) any other authority, function, duty or power conferred thereto by law.

Section 10.-Basic Education Institutions.

Any private person, either natural or juridical, that wishes to operate in Puerto Rico a Basic Education Institution shall be responsible for:

1. Ensuring that the physical facilities and buildings have equipment, areas, and resources in a proportion that is consistent with the objectives and nature of the institution, according to the educational institution's criteria, including a library or similar recourse center, and well as lunchroom or cafeteria services;

2. Having the permits required by federal, state, and municipal agencies to ensure the safety and security of the academic community and publicly displaying them in the principal's office. These permits include, but shall not be limited to,

those issued by the Puerto Rico Firefighters Bureau, the Permit Management Office, and the Department of Health;

3. Developing and having available for examination by the Department an academic program, educational plan, or curriculum that is consistent with the mission and objectives of the educational institution;

4. Ensuring that the teaching personnel teaching Spanish, English, Math, Science, and Social Studies or History hold, at least, a bachelor's degree. In the case of electives, the institution shall evaluate the candidates based on their education and experience in their field of expertise according to the educational institution's criteria and while taking into account the institution's mission and educational approach;

5. Ensuring that faculty members comply with the provisions of Act No. 300-1999, as amended, known as the "Puerto Rico Crime Record Verification of Care Service Providers for Children and the Elderly Act," and are not subject to registration under said statute or Act No. 266-2004, as amended, known as the "Registry of Persons Convicted of Sex Offenses and Child Abuse Act";

6. Developing institutional bylaws on academic affairs; student affairs; administrative affairs; and fiscal affairs;

7. Keeping students' attendance records;

8. Requiring the vaccination certificate as provided in Act No. 25 of September 25, 1983;

9. Having a protocol in place to ensure the security of the students' academic records and transcripts, as well as the confidentiality of students' personal information. This protocol shall include the process to be followed in the event of the institution closes down;

10. Complying with the laws and regulation on reasonable rules and salaries;

11. Having a State Insurance Fund policy and a public liability policy or insurance;

12. Having an Evacuation Plan for Emergencies and Disasters and conducting an evacuation drill at least once (1) every year, as provided in Act No. 154-2011, as amended;

13. Coordinating a safety plan with the pertinent government agencies;

14. Implementing an Institutional Anti-Bullying Protocol in accordance with Act No. 85-2017;

15. Adopting a plan to receive and handle complaints;

16. Notifying the pertinent authorities of any school situation involving child neglect, or physical, psychological, or emotional child abuse;

17. Making available documentation about the faculty members' education, as well as copies of the curriculum and study programs to the students' parents.

18. In the case of a Corporation, the certificate of incorporation thereof shall state that it is an educational institution. In addition, Corporations shall file a Certificate of Good Standing; and

19. Certifying that it complies with all student protection laws.

Basic Education Institutions shall be responsible for certifying compliance with these requirements and submitting the necessary documentation and information in order to be issued a certification of compliance and be included in the Register. In addition, parents shall be responsible for ensuring that the Basic Education Institution in which their children are enrolled is compliant with this Section.

Educational Institutions that operate within the military bases of the United States Armed Forces as well as Church Schools, which shall be governed by the Provisions of Act No. 33-2017, are exempted from the requirements of this Section.

Section 11.- Basic Education Institutions with an Accelerated Learning Program.

In addition to certifying compliance with the requirements applicable to every Basic Education Institution, Basic Education Institutions with Accelerated Learning Programs shall also certify:

- 1) that it only serves students older than sixteen (16) years of age;
- 2) that it is accredited;
- 3) that not less than eighty percent (80%) of credit hours are completed in person, and
- 4) the educational methodology used to comply with the remaining twenty percent (20%) of the credit hours.

The number of credits hours needed for a student to complete a grade under this modality shall be governed by Circular Letters or Regulations adopted for such purposes by the Department of Education for the Public Education System.

Section 12.- Certification of Compliance and Basic Education Institutions Registry.

Each year, not later than June 30th, any private person, whether natural or juridical, that wishes to operate in Puerto Rico a Basic Education Institution shall be responsible for submitting the information and documentation required by regulations to comply with Section 10 of this Act, through the electronic form adopted for such purposes by the Secretary, and certify compliance therewith. Basic Education Institutions with an Accelerated Learning Program shall also provide proof of compliance with Section 11. This certification shall be filed under penalty of perjury along with the payment of a two hundred and fifty-dollar fee (\$250).

The Department shall evaluate the certification filed and may require documentary evidence supporting the same and, if it deems it necessary, in the case of nonaccredited or new institutions, it may conduct a verification visit prior to issuing a Certification of Compliance.

In the case of Basic Education Institutions holding an accreditation issued by a national, regional, or local accrediting agency recognized by the United States Department of Education or by the Board, if such accreditation is in effect, free from findings, and was issued within the three (3) years prior to the Application for Registration, the Department shall issue a Certification of Compliance; provided, that the required statistical information is submitted, compliance thereof with student protection laws is certified, and the Registration fee is paid.

Each year, not later than June 30th, the Department of State shall publish in its website the Basic Education Institutions Registry that were issued a Certification of Compliance. This Registry shall contain the following information:

- 1) Name of the Institution;
- 2) Name of the owner;
- 3) Address of the Principal Office and each institutional unit;
- 4) Name of the Academic Director of each institutional unit;
- 5) Grades offered at each institutional unit;
- 6) Accreditations held, if any;
- 7) teaching and learning modality and special programs;
- 8) year in which the Institution began operating as a Basic Education Institution;
- 9) contact information, including mailing address, phone and fax numbers, email and website addresses; and
- 10) any other information provided by the Institution on its educational approach, programs, or modalities.

The same registry shall include information about Church Schools, indicating that these operate by virtue of Act No. 33-2017.

The degrees awarded by a Basic Education Institution that fails to comply with the requirements of this Act shall not be valid.

Section 13.- Postsecondary Education Institutions.

a) No natural or juridical person may operate a Postsecondary Education Institution nor promise, advertise, offer, or express intent to award certificates, titles, diplomas or recognitions of having approved a postsecondary education program within the territorial limits of Puerto Rico without holding a license issued by the Board.

b) The Board shall not impose on an educational institution the form and manner in which it carries out its activities; provided, that such activities are consistent with the applicable local and federal laws and regulations. The Board shall oversee that Postsecondary Education Institutions comply with the minimum licensure requirements established in this Act and the regulations approved thereunder.

c) The Board shall authorize the establishment and operation of Postsecondary Education Institutions and the offering of education programs that meet the requirements established by this Act and the regulations approved thereunder. Likewise, it shall address the renewals submitted for its consideration. License amendments may be processed administratively without the need for the approval of the Whole Board.

d) A reasonable fee shall be required for each application for license or license amendment and such fee shall be fixed by the Department taking into account the level of complexity of, and the number of institutional units, and academic programs included in the application. The fees shall be prescribed through regulations which

shall clearly establish the criteria used to calculate them. Such fees shall never be less than one thousand dollars (\$1,000.00).

e) Licenses shall be valid for five (5) years.

f) Institutions shall submit their applications for licensure within four (4) months prior to the date they intend to start operations or the expiration date of the current license. Once the application has been received, the Office shall certify that the documents filed by the institution meet the requirements, process the application, and notify the Board's decision in writing within one hundred and twenty (120) calendar days as of the filing thereof. If an institution submits an incomplete application, or if the documents submitted do not meet the requirements, the Office shall discard the application and no refund shall be issued for the fees paid. The institution shall be required to submit the application once again with the payment of the appropriate fees. As an exception, the Board may extend such period for an additional twenty (20) calendar days in the case of institutions with more than three (3) institutional units. The application shall be deemed to be duly approved by the Board if the Office fails to act on it within such period. In the event of an adverse determination, the Board shall state the reasons and grounds for its determination in writing as well as notify the institution of its right to request judicial review, once all administrative remedies have been exhausted, pursuant to the provisions of Act No. 38-2017, known as the "Government of Puerto Rico Uniform Administrative Procedure Act."

g) Institutions having debts with the Council, the Board, or the Department that have become due and payable may not submit any application until the aforementioned debts have been fully paid.

h) The Board may suspend, cancel, amend, or modify the authorization held by any Postsecondary Education Institution that fails to meet the requirements established by this Act or the regulations approved thereunder. However, the Board

shall grant the concerned institution a period of six (6) months to cure any deficiencies. If such deficiencies are not cured in accordance with the regulations, the cancellation, suspension, or modification of the authorization shall be warranted.

i) The Board shall approve and promulgate objective licensure rules and criteria which shall be limited to corroborating:

1. The Mission and Institutional Name- the institution's official and legal name, mission and academic programs, as well as its scope and level are all consistent. It uses the legally recognized name which is consistent with its nature and the level of its offerings. Its academic offerings and teaching-learning model are consistent with the institution's mission.

2. The Organizational Structure- the organizational structure is consistent with the institution's philosophy and teaching method. In addition, the organizational structure serves the institution's mission and conforms to its operational reality. Likewise, the administrators' educational and work credentials are consistent with the type of institution as well as its mission and purpose.

3. The Academic Offerings- the education programs are supported by the institution's commitment to all educational, academic, fiscal, and administrative aspects. The programs serve a planned design that is consistent with the selected teaching-learning methodologies, learning modality, and academic terms. Furthermore, the academic offerings prove to be consistent with the knowledge, skills, and attitudes the students are expected to learn. In what pertains to programs that prepare individuals to practice a profession or occupation regulated by law in Puerto Rico, there is proof that graduates shall have completed the academic requirements necessary to qualify for the revalidation examination of the profession or occupation, or for receiving the appropriate proper credentials.

4. The Faculty's Academic and Work Credentials - the institution's faculty has the academic and work credentials required to teach their assigned

courses at the appropriate level, and in accordance with its mission and the programs offered. The faculty is consistent with the institution's nature, teaching-learning model, and program, grade and course levels, as well as the enrollment projections and the profile of the admitted students, in accordance with the various modalities it offers. In the case of regulated professions or occupations, faculty members must hold the license for practicing such profession or occupation. Higher education professors must hold a degree on the subject they teach which is of a higher level than that which they teach.

5. The Information Resources- the institution has the information resources necessary to support the education programs it offers according to the needs of its users and the manner in which the institution offers its education programs.

6. The Student Services- the institution offers student services and has the appropriate personnel, policies, and procedures to provide them. The support services offered to students by the institution are consistent with their teaching-learning modality and help the institution achieve its mission. The institution shall prove that it has the appropriate personnel, policies, and procedures to provide the services offered to students including, but not limited to, academic counseling, and career guidance for students about to graduate. The institution must comply with all federal and state laws related to student services.

7. Admissions- The admission process and requirements are consistent with the institution's mission, the program's objectives, and the teaching-learning modality.

8. The Financial Capacity and Solvency- the institution is capable of obtaining financing and meeting short-, medium-, and long-term financial commitments. In addition, it has the financial resources necessary to guarantee operational and academic continuity, achieve its mission, and meets its obligations

to the students as well as supports its strategic development plan. In the case of the first license, the educational institution applying therefor shall submit an economic feasibility study which certifies the institutions capacity to meet the obligations it shall incur.

9. The Physical Facilities, Laboratories, Equipment, and Safety of the Academic Community- the institution's facilities are adequate to ensure the health and physical safety of the academic community, and complies with all the permits required by the pertinent agencies. The facilities are adequate for the number of students enrolled and the services offered by the institution. Furthermore, it has libraries, laboratories and/or workshops with the necessary equipment to support the educational programs and courses offered by the institution. Such laboratories shall comply with local and federal laws and regulations, and hold all the appropriate permits. Proof of compliance with this requirement shall provide by furnishing the use, health, and fire department permits. An employee of the Office shall conduct the document analysis. In the event that a verification visit is required, such a visit may be conducted through the use of technology.

10. The Civil Liability, Publication, and General Information Disclosure Guarantees- the institution provides true and exact information in its publications, catalogs, and bylaws, and when promoting its academic offerings as well as in any expressions made or when advertising anything related to its nature, services, and offerings. The institution has bylaws for academic affairs, student affairs, administrative affairs, and fiscal affairs. Moreover, the institution shall guarantee the security of students' academic records.

j) The requirements set forth herein shall not be construed to be stricter than those required for accreditation. Accreditation standards shall not be used as criteria to issue, deny, or cancel a license.

k) United States Institutions interested in offering online courses and programs for students who are Puerto Rico residents must be a member of the State Authorization Reciprocity Agreement (SARA) in their jurisdiction of origin. Foreign or United States institutions that are not SARA members, but are interested in offering courses or programs to students who are Puerto Rico residents shall comply with the licensure procedure provided in this Act.

l) The following shall be considered substantial changes for the purpose of license amendments:

- (1) establishing a new institutional unit;
- (2) changing the name of the institution;
- (3) creating new academic offerings regardless of the teaching-learning modality;
- (4) changing the name of an academic offering;
- (5) changing the teaching method of an academic offering;
- (6) change in owner or operational control;
- (7) providing a new academic offering in a unit other than the unit in which it was previously approved;
- (8) merging or consolidating postsecondary institutions licensed by the Board;
- (9) moving or expanding the institution or any of its units; and
- (10) permanently closing the institution or any of its units.

m) The institution shall be required to notify the Office of any substantial or significant changes. The Board shall establish in its bylaws the information and documentation required for each substantial or significant change as well as the evaluation process for such changes which shall take into account the institution's academic level. These changes shall be evaluated and approved administratively by

the Office, if so delegated by the Board, and notified to the Board on a monthly basis. Denials may be submitted to the Board for consideration and approval.

n) When a Postsecondary Education Institution or any of its programs has been accredited and is still accredited by a national, regional, local, or professional accrediting agency recognized by the United States Department of Education, and such accreditation is in effect, free from findings, and was issued within the three (3) years prior to the application for accreditation renewal; the Board shall renew the accreditation or accept the license amendments upon filing, by the institution, of proof of accreditation as well as evidence that it meets the requirements established by this Act for the license or amendment that the accrediting agency shall not evaluate.

o) The Board shall ensure that the methods employed to ascertain compliance with the requirements set forth herein are not unnecessarily onerous for the Postsecondary Education Institution. Verification visits may be conducted in person or through the use of technology during the licensure or amendment processes. The verification visit may be conducted by Office personnel or by the evaluators/advisors appointed by the licensure area for such purposes, as prescribed in the appropriate regulations. Whenever possible, joint visits may be conducted with national, regional, or professional accrediting agencies.

p) The required support documents shall be consistent with the nature of the process (new license, license renewal, or amendment).

Section 14.- Custody of the Records of Institutions that Close Permanently.

(a) If an Educational Institution ceases operations, it shall be required to notify the student body not later than sixty (60) days in advance.

(b) The Educational Institution shall file a copy of the diplomas and transcripts of each student with the Department of State, in the format established by the Secretary, and certify that the documents are complete and true before ceasing

operations permanently if there is no successor entity to assume custody of the documents.

(c) The provisions of Act No. 5 of December 8, 1955, as amended, known as the “Puerto Rico Public Documents Administration Act,” shall not apply to these documents as they are private in nature. The Department shall prescribe by regulations the format in which such documents shall be preserved as well as the protocols to digitize, preserve or destroy such documents. If deemed convenient, the outsourcing of such functions to an entity that is capable of discharging them effectively and efficiently is hereby expressly authorized.

Section 15.- Accreditation of Educational Institutions.

The accreditation process promotes the continuous development of the institution, and evaluates its philosophy, mission and goals, governing body, organizational structure, economic viability, available resources, the attainment of its educational objectives, its academic program and curriculum, as well as the assessment and academic achievements of students. Furthermore, it evaluates the credentials of the teachers/professors, teaching methods, available technology, and the services and activities which improve student life.

The accreditation of an Educational Institution recognizes a level of academic and institutional quality that exceeds the standards required for the holding of a License or authorization to operate.

Except for Basic Education Institutions with an Accelerated Learning Program, accreditation shall be a voluntary process to be conducted by qualified and well-known private entities and it shall not constitute a requirement to operate an Educational Institution.

Section 16.- Applicability.

a) The provisions of this Act shall apply to any natural or juridical person, or group thereof, operating a Basic Education Institution or a Postsecondary Education

Institution in Puerto Rico, which includes any institution that otherwise states, promises, advertises, or expresses its intention to award degrees, diplomas, certificates, titles, or other types of official academic awards in Puerto Rico.

b) This Act shall not apply to the courses or programs for non-university theology degree programs and courses whose only purpose is to train students for jobs or to discharge functions within the religion in which they were trained and do not entail the awarding of a university degree. Furthermore, it shall not apply to Church-schools which shall still be governed by the provisions of Act No. 33-2017.

c) The Board shall not exercise its jurisdiction over the offerings of institutions located within the United States Armed Forces military facilities in Puerto Rico offering educational services towards awarding a higher education degree; provided, that such institutions only work with students who are in active duty. In those cases, the Board shall conform to the policy the United States Congress adopted for such purposes.

d) The Board shall not exercise its jurisdiction over training programs, workshops, seminars, talks, short courses, or professional betterment and training courses which do not result in the awarding of a postsecondary level diploma or certificate. Moreover, it shall not exercise its jurisdiction over the continuing education courses of the various occupations or professions, or over the preparation courses for the exams administered by Examining Boards, or over any other similar courses.

e) The Board may exercise jurisdiction over the education programs that are offered to civilians in the facilities the United States Armed Forces has in Puerto Rico and which are of a level equal to that of a Basic Education Institution pursuant to the policy adopted or to be adopted by the United States Congress for such purpose.

f) The provisions of this Act shall be interpreted by the members of the Board, and its officials and representatives, in a manner that is consistent with the public policy on respect and protection of diversity and educational autonomy of private institutions, and that recognizes the institutional academic freedom enjoyed by every institution regardless of the educational level of the services it offers.

Section 17.- Penalties.

a) Any natural or juridical person operating a Basic Education Institution in Puerto Rico in a manner that is inconsistent with the provisions of this Act shall be guilty of a felony and punished by a fine of five thousand dollars (\$5,000). Likewise, any natural or juridical person that knowingly submits a certification of compliance containing false information shall be guilty of a felony and punished by a fine of five thousand dollars (\$5,000).

b) Any natural or juridical person that fails to comply with the provisions of this Act pertaining to the custody of records upon a permanent closure shall be guilty of a felony and punished by a term of imprisonment of three (3) years, a fine of five thousand dollars (\$5,000), or both penalties at the discretion of the court.

c) Any Postsecondary Institution that fails to comply with the requirements of this Act or that fails to correct any finding shall be subject to the payment of a five thousand dollar (\$5,000)-fine and the cancellation, suspension, or modification of its license according to the regulations adopted pursuant to this Act. The fines referred to in this Section may be increased according to the number of findings of noncompliance, but shall not be greater than ten thousand dollars (\$10,000,000) per instance the Board makes any findings.

d) Any natural or juridical person that receives money after advertising himself or itself as an educational institution without complying with the provisions of this Act shall also be guilty of misappropriation and punished pursuant to Act No.

146-2012, as amended, known as the “Puerto Rico Penal Code.” The affected party shall have a right to file a civil claim for the damages caused by such noncompliance.

Section 18.- Scholarship Program.

The Permanent Financial Aid and Scholarship Fund for Postsecondary Students is hereby created. This fund shall be funded by the following:

(a) Donations from companies, groups, nonprofit organizations, associations and corporate entities from the private sector, private citizens as well as federal, state, and municipal government entities; and

(b) Appropriations made by the Legislative Assembly through Joint Resolutions or donations made specifically for the Fund.

The Board and Secretary are hereby authorized to take the appropriate steps to encourage the private sector’s broad and varied support for such purposes.

The monies contributed to the Fund shall be held in an account separate from any other funds under the custody of the Department. Provided, that the provisions of Act No. 230 of July 23, 1974, as amended, known as the “Puerto Rico Government Accounting Act,” shall not apply. The unused monies of this Fund shall not revert to the General Fund.

Section 19.- Revenues.

The revenues generated on account of the Basic Education Institutions Registry from the Postsecondary Institutions licensure process, and from any other fees or charges prescribed through regulations as well as the revenues generated on account of fines issued pursuant to this Act and the regulations promulgated thereunder, and from fines issued by the former Puerto Rico Education Council shall be deposited in the General Fund in accordance with the provisions of Act No. 26-2017, but they shall be kept in an account separate from any of other fund.

Section 20.- Budget.

As of the approval of this Act, the budget items necessary for the operations of the Board of Postsecondary Institutions shall be included in the Department of State's annual budget request and shall be administered by the Secretary.

As for the budgets approved for the Puerto Rico Education Council's and the Alternative Education Commission's operating expenses for Fiscal Year 2017-2018, the Office of Management and Budget shall determine the amount necessary to provide continuity to the transferred functions and shall transfer such amount to the Department of State. If there is a balance between the amount approved and the amount transferred, the difference shall be transferred to the Budget Fund to be used in accordance with the provisions applicable thereto.

Any balance from special appropriations made to the Puerto Rico Education Council and the Alternative Education Commission in previous fiscal years, which are still in effect as of the approval of this Act, shall be accounted in favor of the Department of State. Their use and balance shall remain unchanged during the transition.

Section 21.- Reorganization Plan No. 1-2010 is hereby repealed.

Section 22.- Sections 5 and 6 of Act No. 213-2012, as amended, known as the "Puerto Rico Alternative Education Development Enabling Act," are hereby repealed.

Section 23.- Act No. 435-2004, as amended, known as the "Postsecondary Students Permanent Financial Assistance and Scholarships Fund Act," is hereby repealed.

Section 24.- Subsection (4) of Section 3 of Act No. 300-1999, as amended, known as the "The Puerto Rico Crime Record Verification of Care Service Providers for Children and the Elderly Act," is hereby amended to read as follows:

"Section 3.- Definitions.

(1) ...

...

(4) ‘Provider of care services’— Is any natural or juridical person that provides care services, whether institutionalized or ambulatory or only during the day, to children or the elderly in Puerto Rico, including, but without limitation to, care centers, child care centers, housekeepers, homes for the elderly, convalescence homes, intermediate care facilities, rehabilitation facilities, centers for psychiatric care or treatment, private basic education facilities when over half of the enrolled students are minors, facilities for the care or treatment of people with physical or mental impediments, or care or treatment of people with intellectual disabilities, and private residences where such services are provided, as well as any other natural or juridical person providing such services in the private residences of the users or beneficiaries thereof; this definition does not include hospitals, clinics, diagnostic and treatment centers, medical offices nor medical-hospital facilities of any type, whether these provide round-the-clock or day care, or ambulatory services, nor does it include correctional facilities, where medical-hospital or diagnostic and treatment services may be provided incidentally.

(5) ...
 ...”

Section 25.- Section 3 of Act No. 33-2017, known as the “Church-school Act,” is hereby amended to read as follows:

“Section 3.-Definitions.

For purposes of this Act, the following terms shall have the meaning stated below, except when the context clearly indicates otherwise:

(1) Certification: Means an official document issued by the Department recognizing the existence and nature of Church-schools, in accordance with Sections 6, 8, 12, and 16 of this Act.

(2) Department: Means the Department of State, which is responsible for the Registry of Basic Education Institutions operating in Puerto Rico.

(3) ...”.

Section 26.-Section 5 of Act No. 33-2017, known as the “Church-school Act,” is hereby amended to read as follows:

“Section 5.- Church-schools shall be exempt from the licensure or operating requirements established by the Department and any other agency of the Government of Puerto Rico; thus, it shall have no authority to regulate, influence, or otherwise intervene in matters related to the selection of the teaching faculty, textbooks, and curricula of Church-schools, among others. Church-schools’ curricula, however, may include subjects such as English, Spanish, and mathematics, without it being understood as an authorization to allow any content that violates the doctrine of separation of church and state. Church-schools shall be required to register in the Department in order to receive the appropriate certification, as provided in this Act and to be included in the Registry of Basic Education Institutions.”

Section 27.-Section 6 of Act No. 33-2017, known as the “Church-school Act,” is hereby amended to read as follows:

“Section 6.- Because it is a legitimate academic offering sanctioned by the Constitution of Puerto Rico, and interpreted in accordance with federal constitutional, jurisprudential, and statutory parameters, it may award degrees, grades, diplomas, and certificates, which shall be equally valid as those awarded by other public and private educational institutions.

Every degree, grade, diploma, and certificate awarded by Church-schools shall be deemed to be valid and legal for purposes of this Act.

It is further established that Church-schools shall submit to the Department the protocol to be followed for the proper custody of student records and transcripts

in the event that the school shuts down. This protocol shall be submitted to the Department within 60 days after the approval of this legislation.”

Section 28.- Section 12 of Act No. 33-2017, known as the “Church-school Act,” is hereby amended to read as follows:

“Section 12.- The director of a Church-school shall submit to the Department at the beginning of every school year proof of compliance with Section 8 of this Act, and of liability insurance policy or coverage. Furthermore, the Church-school shall submit a copy of the curriculum or academic program to the Board of Postsecondary Institutions. The Department shall certify the validity thereof and shall keep an updated registry of all the Church-schools that are compliant with this Act. For such purposes, it shall issue a Certification within 30 days after every Church-school is certified. The Church-school shall also include the contact information of the director or person in charge of the Church-school and his full street and mailing address, telephone, and electronic mail address, if available, to facilitate contact therewith.”

Section 29.-Section 13 of Act No. 33-2017, known as the “Church-school Act,” is hereby amended to read as follows:

“Section 13.- The Department shall notify to the pertinent agencies the name and addresses of those Church-schools that have failed to submit proof of having met any of the requirements of this Act.

Likewise, the Department shall notify the Church-schools that have failed to meet any of the requirements of this Act. The Church-school shall submit in writing the reasons for such failure; thereupon, the Board of Postsecondary Institutions shall issue a warning notice and grant a period of sixty (60) days for the Church-school to obtain the required permits or pertinent insurance policy.”

Section 30.- Section 15 of Act No. 33-2017, known as the “Church-school Act,” is hereby amended to read as follows:

“Section 15.- Church-schools may resume operations once they submit all of the information required by this Act, provided that they comply with and obtain the permits issued by the agencies listed in Section 8 or are in the process of obtaining them in good faith. Upon obtaining them, the Department shall not intervene except to keep up to date the information included in the Registry of Basic Education Institutions.”

Section 31.-Section 16 of Act No. 33-2017, known as the “Church-school Act,” is hereby amended to read as follows:

“Section 16.- The Department’s intervention with Church-schools shall be governed solely and strictly by the provisions of this Act. The Department shall not apply in any manner its criteria or interpretations, or any of the duties it carries out with respect to educational institutions subject to licensure under other laws.

The certification referred to in Section 12 of this Act and which shall be issued by the Department shall include the literally following:

...”.

Section 32.-Section 17 of Act No. 33-2017, known as the “Church-school Act,” is hereby amended to read as follows:

“Section 17.- Church-schools shall have optimum facilities, namely, a library or a similar resource center, and a school cafeteria or lunchroom, in common agreement with the parents of the students enrolled in the institution.”

Section 33.- Section 19 of Act No. 33-2017, known as the “Church-school Act,” is hereby amended to read as follows:

“Section 19.- Church-schools shall disclose to the parents or guardians of the students, or to anyone who lawfully requests so, that their education system is not subject to the Educational Institutions Registration and Licensure Act.”

Section 34.- Section 21 of Act No. 33-2017, known as the “Church-school Act,” is hereby amended to read as follows:

“Section 21.- Notwithstanding the authorities of the concerned agencies referred to in this Act, the Department may impose administrative fines for noncompliance with Section 13.”

Section 35.- Sections 5 and 6 of Act No. 267-2000, known as the “Act for the protection of boys, girls, and youths in the use and management of the Internet,” are hereby repealed, and Sections 7, 8, 9, 10, and 11 are hereby renumbered as Sections 5, 6, 7, 8, and 9, respectively.

Section 36.- Section 2 of Act No. 150-2002, as amended, known as the “Puerto Rico Disasters and Emergencies Prevention and Management Education Act,” is hereby amended to read as follows:

“Section 2.- Public Policy.

This Legislative Assembly hereby resolves and declares as the public policy of the Government of Puerto Rico that the prevention and management of emergencies and disasters is one of the areas that should be emphasized by teaching students of the public and private sectors the pertinent measures to handle emergencies, by improving the physical, social, and emotional aspects before, during, and after the same. To such effects, the Puerto Rico Department of Education shall offer courses, seminars, or lectures for those purposes, to the extent allowed by the resources available and those to be appropriated under this Act.”

Section 37.- Section 3 of Act No. 150-2002, as amended, known as the “Puerto Rico Disasters and Emergencies Prevention and Management Education Act,” is hereby amended to read as follows:

“Section 3.- Establishing a Task Force.

The Department of Education, the Department of Health, the Department of Public Safety, the Department of Natural and Environmental Resources, the Puerto Rico Seismic Network, and the University of Puerto Rico shall establish a multidisciplinary task force to offer education on the prevention and management of

emergencies and disasters, in all basic education institutions in Puerto Rico. This Task Force shall revise the plan established by the Department of Education, called the Model Plan for the Evacuation of Schools in Case of Emergency or Disaster, and shall devise a master plan to achieve the objectives of this Act, which shall be submitted to the Secretary of the Department of Education and to the basic education institutions who shall use it as a guide.

Without it being construed as a limitation, the Department of Education is hereby authorized to request and use, to the extent allowed by the head of the appropriate agency, the professional, human, and technical resources of the agencies, departments, public corporations, and entities included herein in the Task Force. The Department of Public Safety is also authorized to use their professional, human, and technical resources in order to provide support to basic education institutions to achieve the purposes of this Act.”

Section 38.- Section 4 of Act No. 150-2002, as amended, known as the “Puerto Rico Disasters and Emergencies Prevention and Management Education Act,” is hereby amended to read as follows:

“Section 4.- Compliance with Provisions; Plan.

...

The Department of Public Safety in conjunction with the Department of Education shall establish an emergency protocol or plan that is consistent with the School Evacuation Plan for Emergencies or Disasters. The Emergency Prevention and Management Plan shall be tested at least once (1) each semester.”

Section 39.- Section 1 of Act No. 179-1999, known as the “Act to direct every educational or university institution of the country to establish a registry of fraternities, sororities or association of any type,” is hereby amended to read as follows:

“Section 1.- Every educational or university institution operating in Puerto Rico is hereby directed to establish a registry of fraternities, sororities, and associations of any type that group, recruit, or accept the association of any student enrolled in said institution as a member or associate, or engage in activities therein.

The Board of Postsecondary Institutions is hereby empowered and authorized to regulate all that pertains to establishing the registry, including its form and contents, location, custody, and conservation. Provided, that said registry shall include, at least, the following information:

- a) ...
- ...”

Section 40.- Section 2 of Act No. 179-1999, known as the “Act to direct every educational or university institution of the country to establish a registry of fraternities, sororities or association of any type,” is hereby amended to read as follows:

“Section 2.- The Board of Postsecondary Institutions shall impose and collect fines for violations of this Act. Provided, that the violation of this Section shall constitute an administrative fault, and the infraction and noncompliance do not cause a violation of Article 111 of the Penal Code of Puerto Rico, in which case it shall be prosecuted as provided therein.”

Section 41.- Section 3 of Act No. 109-2003, known as the “Act to Regulate Contractual Relationships Between Military Students in Post-Secondary Education in the Commonwealth of Puerto Rico and Higher Education Institutions,” is hereby amended to read as follows:

“Section 3.- Public Policy.

It is hereby established to be the public policy of the Government of Puerto Rico, the strengthening of the intellectual development of students who are members of the United States Armed Forces Reserve in Puerto Rico and of the National Guard,

and who, at the same time, are students in the different post-secondary academic institutions, duly licensed by the Board of Postsecondary Institutions.”

...”

Section 42.- Section 9 of Act No. 109-2003, known as the “Act to Regulate Contractual Relationships Between Military Students in Post-Secondary Education in the Commonwealth of Puerto Rico and Higher Education Institutions,” is hereby amended to read as follows:

“Section 9.- Ministerial Duty of the Board of Postsecondary Institutions.

It is the ministerial duty of the Board of Postsecondary Institutions to ensure that the postsecondary education institutions establish administrative measures related to the provisions of this Act. Likewise, the Board is hereby empowered to impose civil fines on institutions that breach some or all the provisions established herein. It also may issue cease and desist orders to the institutions. It can also resort to the courts in the case of violations of this Act or the regulations, or when necessary, to enforce the orders issued by the Board and the provisions of this Act.”

Section 43.- Section 6 of Act No. 85-2017, known as the “Government of Puerto Rico Anti-Bullying and Harassment Act,” is hereby amended to read as follows:

“Section 6.- The Department of Education shall design a protocol to manage harassment and/or bullying cases internally which shall be used in public schools.

Every public, private, and higher education institution shall develop and implement an Institutional Protocol for the Management of School Harassment that includes the following factors:

A. ...”

Section 44.- Section 8 of Act No. 85-2017, known as the “Government of Puerto Rico Anti-Bullying and Harassment Act,” is hereby amended to read as follows:

“Section 8.- The Department of State of Puerto Rico shall be the agency in charge of overseeing the compliance with this Protocol in private and higher education institutions. Every institution shall be required to report any harassment and/or bullying incident within any of its facilities or campuses to the Department of State, pursuant to the procedure established in the Protocol.”

Section 45.- Section 10 of Act No. 85-2017, known as the “Government of Puerto Rico Anti-Bullying and Harassment Act,” is hereby amended to read as follows:

“Section 10.- It shall be the duty of every primary, secondary, higher education institution, and university, whether public or private, to collect statistics on harassment and/or bullying cases that occur during the school year. Said statistics shall be submitted through annual reports filed not later than July 1st of every year with the Department of Education in the case of public schools, and to the Department of State of Puerto Rico in the case of higher education and private institutions.”

Section 46.- Section 8 of Act No. 199-2015, known as the “Puerto Rico Public and Private Educational Institutions Students with Type 1 and Type 2 Diabetes Assistance Act,” is hereby amended to read as follows:

“Section 8.- The volunteers chosen to assist with and manage a student’s diabetes, other than healthcare professionals, shall receive training on diabetes management, which shall include monitoring blood glucose, administering insulin and glucagon, recognizing and treating hypoglycemia and hyperglycemia, testing for ketone levels, familiarizing with diabetes monitoring equipment, recognizing potential adverse effects of high or low blood glucose, as well as managing the student’s diabetes at school as necessary, when the student is unable to do so by himself or is not authorized to do so by his healthcare provider. Trained personnel shall take this course every year and the school shall keep a record thereof. This

training shall be offered by the Department of Health and the Diabetes Center for Puerto Rico, or its successor entity. The training shall not entail additional costs for private institutions.”

Section 47.- Section 15 of Act No. 199-2015, known as the “Puerto Rico Public and Private Educational Institutions Students with Type 1 and Type 2 Diabetes Assistance Act,” is hereby amended to read as follows:

“Section 15.- Any student who has been discriminated against due to having Type 1 and Type 2 diabetes may file a complaint for damages against any natural or juridical person who engages in discrimination as described in this Act.”

Section 48.- Subsection 2 of Section 7 of Act No. 94 of June 22, 1977, as amended, known as the “Establishment for the Elderly Act,” is hereby amended to read as follows:

“Section 7.- Granting, Renewal, Suspension, Denial, or Cancellation of Licenses.

...

The Department of the Family, specifically the Licensing Office, shall take into account when granting and renewing a license, that the staff at the establishments who take the course(s) or seminar(s) to be offered to attain the Elderly Care Competency Development Training Certificate comply with the following regulations:

(1) The course(s) or seminar(s) taken is administered for a minimum of thirty (30) contact hours for each level of complexity and that the level of complexity of the course taken by the staff corresponds to their level of education.

(2) The certificate shall be granted by institutions accredited by the Board of Postsecondary Institutions of the Department of State or by an institution duly registered in the Department of State, authorized as such by the Office of Regulation and Certification of Health Professionals attached to the Department of

Health, with the pertinent provider number in effect, that have curricula specialized in areas relative to elderly care.

...”

Section 49.- Subsection (a) of Section 2 of Act No. 284-2011, as amended, known as the “Act to establish that education requirements in Puerto Rico shall be measured, accredited, licensed, and approved in credit hours or clock hours when any entity or agency that regulates or accredits the various professions or trades,” is hereby amended to read as follows:

“Section 2.- Definitions.

The following terms shall have the meaning expressed hereinbelow:

(a) Board- Shall mean the Board of Postsecondary Institutions.

...”

Section 50.- Section 5 of Act No. 284-2011, as amended, known as the “Act to establish that education requirements in Puerto Rico shall be measured, accredited, licensed, and approved in credit hours or clock hours when any entity or agency that regulates or accredits the various professions or trades,” is hereby amended to read as follows:

“Section 5.- Duty to Notify.

The Board and all of the regulatory entities and organizations of Puerto Rico are hereby directed to prepare and amend regulations as are necessary for the implementation of this Act.”

Section 51.- Subsection (c) of Section 15 of Act No. 10-1994, as amended, known as the “Act to Regulate the Real Estate Business and the Profession of Real Estate Broker, Salesperson or Companies in Puerto Rico,” is hereby amended to read as follows:

“Section 15.- Professional Education Requirements.

(a) ...

...

(c) The professional education courses mentioned in subsections (a) and (b) of this Section shall be taken in a college, institute, or university recognized by the Board or sponsored by professional real estate associations previously approved by the Board.”

Section 52.- Any resources and facilities, including, records, equipment, materials, documents, real and personal property, funds, and appropriations pertaining to the Education Council created under Plan No. 1-2010 are hereby transferred to the Department of State to be used by the Board. Likewise, any obligations, lawsuits, debts, and liabilities of the Education Council are hereby transferred to the Department.

Section 53.- Transitory Provisions.

A transition process shall begin as of the approval of this Act, which shall conclude within a period not to exceed one hundred eighty (180) days. No new application for accreditation shall be accepted upon the approval of this Act.

The Education Council shall exist for a period of ninety (90) days following the approval of this Act or until the Board of Postsecondary Institutions is constituted and within said term, it shall issue a final determination on any disputes under its jurisdiction, as delegated by virtue of Reorganization Plan No. 1-2010. The Governor may extend said period as needed to complete the transition process and constitute the Board. Any Postsecondary Education Institution licensure process that is pending at the time of approval of this Act shall be adjudicated under the legislation in effect at the time of filing. Any matter that remains pending after the expiration of the period herein provided shall be adjudicated by the Board.

In the case of Basic Education Institutions, the licensure process shall continue to apply to any school that intends to operate during the 2018-2019 academic year. The Secretary shall adopt measures as are necessary for institutions

whose license expire during the transition period; provided, that a registration fee higher than that provided in Section 12 of this Act shall not be charged. The Certification and Registration mechanism provided in Sections 10-12 of this Act shall begin to operate from the 2019-2020 academic year.

Regarding Postsecondary Education Institutions, licenses issued prior to the effective date of this Act shall remain valid until their expiration date or up to one hundred eighty (180) days after the effective date of this Act, whichever is the longer period.

The approval of this Act shall not be used as a defense in any proceeding for noncompliance with the regulations of Plan No. 1-2010; said proceedings, however, shall be adjudicated in accordance with the laws in effect at the time of the events, including the imposition of any appropriate sanction.

The Secretary of the Department of State shall direct the transition and address any administrative matters that may arise therefrom. For such purposes, the Secretary may establish, through administrative orders, any rules deemed necessary to ensure a swift and orderly transition process, including all that pertains to the transfer of functions, funds, employees, and property of the Education Council.

The Secretary of the Department of State shall submit to the Office of Management and Budget any proposal related to the transfer of funds, the approval of organizational structures, or any transaction as necessary to implement this Act and that generally requires the approval of said Office within a period of ninety (90) days from the date of approval of this Act.

The forms, regulations, determinations, resolutions, and certifications of the Education Council that are in effect on the date of approval of this Act shall remain in effect until they are modified, revoked, or substituted by the Board and shall be interpreted in accordance with the provisions of the Plan as supplemented by this

Act. Likewise, to the extent practicable, the electronic platforms and forms of the Education Council shall continue to be used until these are modified or substituted.

The regulations authorized under this Act shall be promulgated within one (1) year after the approval of this Act. The public policy set forth in this Act shall be taken into consideration when drafting the new regulations, specifically, the interest to streamline the licensure process, observing the autonomy of the institution, refraining from interfering in or delaying the program's development, but rather allowing for the evolution of education in order to have a positive impact on the socioeconomic development of Puerto Rico. Furthermore, the new Regulations shall:

1. avoid incorporating its own criteria in the accreditation process;
2. ensure that the procedures are clearly defined;
3. ensure the uniformity of processes and decisions;
4. ensure that all matters are considered independently according to the type of transaction (authorization, renewal, or amendment) so as to expedite those that do not require the consideration of the whole Board.

Section 54.- Transitory Provisions on Basic Education Institutions with an Accelerated Learning Program.

Nonaccredited Basic Education Institutions with an Accelerated Learning Program that are operating as of the effective date of this Act shall have a period of eighteen (18) months to obtain the required accreditation. Within said transition period, these institutions may receive a Certification of Compliance and may enroll in the Registry, provided, that they meet all other requirements set forth in Sections 10 through 12 of this Act.

Section 55.- Transfer of Employees.

Within a period of one hundred eighty (180) days from the approval of this Act, the career and regular employees of the Puerto Rico Education Council shall

become employees of the Department of State or shall be moved pursuant to the provisions of Act No. 8-2017, as amended, known as the “Government of Puerto Rico Human Resources Administration and Transformation Act.”

The provisions of this Act shall not be used as grounds for dismissing any regular or career employee nor shall these be construed as a requirement or grounds for reducing or increasing the wages and fringe benefits that the employees of the agency they were transferred to are receiving.

Section 56.- Substitution Clause.

Any reference to the Puerto Rico Education Council or Alternative Education Commission included in any law, regulation, or official document of the Government of Puerto Rico shall be deemed to be amended so as to refer to the Department of State.

Section 57.- Injunctions.

No injunction shall be issued to prevent the application of this Act or any part thereof.

Section 58.- Severability.

If any clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Act were held to be null or unconstitutional, the ruling, holding, or judgment to such effect shall not affect, impair, or invalidate the remainder of this Act. The effect of said holding shall be limited to the clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Act thus held to be null or unconstitutional. If the application to a person or a circumstance of any clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Act were held to be null or unconstitutional, the ruling, holding, or judgment to such effect shall not affect or invalidate the application of the remainder of this Act

to such persons or circumstances where it may be validly applied. It is the express and unequivocal will of this Legislative Assembly that the courts enforce the provisions and application thereof to the greatest extent possible, even if it renders ineffective, nullifies, invalidates, impairs, or holds to be unconstitutional any part thereof, or even if it renders ineffective, invalidates, or holds to be unconstitutional the application thereof to any person or circumstance. The Legislative Assembly would have approved this Act regardless of any determination of severability that the Court may make.

Section 59.- Effectiveness.

This Act shall take effect immediately after its approval.