

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND**

UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF RHODE ISLAND; RHODE  
ISLAND BOARD OF EDUCATION;  
RHODE ISLAND COUNCIL ON  
POSTSECONDARY EDUCATION;  
SHANNON GILKEY, in his official  
capacity as Rhode Island Commissioner of  
Postsecondary Education,

Defendants.

Civil Action No. 1:26-cv-419

**COMPLAINT**

Plaintiff, the United States of America, by and through its undersigned counsel, brings this civil action for declaratory and injunctive relief, and alleges as follows:

**INTRODUCTION**

Federal law prohibits illegal aliens in our Nation from receiving resident tuition benefits that are denied to U.S. citizens residing in other states. *See* 8 U.S.C. § 1623(a). There are no exceptions. Yet, Rhode Island has ignored this Congressional prohibition for over a decade. In 2011, Rhode Island amended its state Residency Policy to allow eligible alien students living in Rhode Island, including DACA recipients, to access in-state tuition. The Rhode Island Student Success Act (§ 16-59-9.3) (the “Act”), signed into law on July 12, 2021, codified the state’s Residency Policy into law, extending access to in-state tuition to state residents regardless of immigration status. The Act extends eligibility for in-state tuition benefits at Rhode Island public universities, colleges, or community colleges to illegal aliens, while requiring payment of higher tuition rates for U.S. citizens from other states. These statutes engage in blatant unequal treatment favoring illegal aliens over U.S. citizens from other states. Worse, such preferential treatment is squarely prohibited and preempted by Congress. Federal law mandates that “an alien who is not lawfully present in the United States *shall not be* eligible on the basis of residence within a

State . . . for any postsecondary education benefit unless a citizen or national of the United States is eligible for such a benefit . . . without regard to whether the citizen or national is such a resident.” 8 U.S.C. § 1623(a) (emphasis added). Accordingly, under the Supremacy Clause of our Nation’s Constitution, R.I. Gen. Laws § 16-59-9.3’s extension of eligibility for post-secondary education benefits to illegal aliens is unconstitutional and must yield to Federal law.

This Court should declare that the challenged Rhode Island law is preempted by federal law and unconstitutional, and thus should permanently enjoin the Act’s operation and enforcement.

### **JURISDICTION AND VENUE**

1. The Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345.
2. Venue is proper in this jurisdiction under 28 U.S.C. § 1391(b) because: (1) all Defendants reside in this judicial district; and (2) a substantial portion of the events giving rise to this Complaint arose from events occurring within this judicial district.
3. The Court has the authority to provide the relief requested under the Supremacy Clause, U.S. Const. art. VI, cl. 2; 28 U.S.C. §§ 1651, 2201, and 2202; and the Court’s inherent equitable powers.

### **PARTIES**

4. Plaintiff, the United States of America, regulates immigration under its inherent, constitutional, and statutory authorities. Plaintiff enforces Federal immigration laws through its Executive agencies, including the Department of Justice, Department of Homeland Security (“DHS”), and DHS component agencies, U.S. Immigration and Customs Enforcement, U.S. Citizenship and Immigration Services, and U.S. Customs and Border Protection.
5. Defendant State of Rhode Island is a state of the United States.
6. Defendant Rhode Island Board of Education (“Board”) is the chief policy-making body overseeing all public education in the state. R.I. Gen. Laws §§ 16-97-1, 16-97-1.1, 16-97-1.2.
7. Defendant the Rhode Island Council on Postsecondary Education (“Council”) administers the business and operations of the Act. *See* R.I. Gen. Laws §§ 16-59-1, 16-59-4.

8. Defendant Shannon Gilkey is the Rhode Island Commissioner of Postsecondary Education. *See* R.I. Gen. Laws § 16-59-6. Plaintiff sues the Commissioner in his official capacity.

### FEDERAL LAW

9. The Constitution empowers Congress to “establish an uniform Rule of Naturalization,” U.S. Const. art. I, § 8, cl. 4, and to “regulate Commerce with foreign Nations,” U.S. Const. art. I, § 8, cl. 3.

10. The Constitution also vests the President of the United States with “[t]he executive Power,” U.S. Const. art. II, § 1, and authorizes the President to “take Care that the Laws be faithfully executed,” U.S. Const. art. II, § 3, which necessarily includes his duty to take care over immigration matters.

11. The United States has inherent, well-established, preeminent, and preemptive authority to regulate immigration matters. This authority derives from its inherent obligations as a sovereign, the Constitution, and numerous acts of Congress. *See, e.g., Fong Yue Ting v. United States*, 149 U.S. 698, 711 (1893) (“The right to exclude or to expel all aliens, or any class of aliens, absolutely or upon certain conditions, in war or in peace, [is] an inherent and inalienable right of every sovereign and independent nation, essential to its safety, its independence, and its welfare . . .”); *Ping v. United States*, 130 U.S. 581, 603–04 (1889) (“Jurisdiction over its own territory to that extent is an incident of every independent nation. It is a part of its independence. If it could not exclude aliens it would be to that extent subject to the control of another power.”); *U.S. ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 542 (1950) (“The exclusion of aliens is a fundamental act of sovereignty. The right to do so stems not alone from legislative power but is inherent in the executive power to control the foreign affairs of the nation. When Congress prescribes a procedure concerning the admissibility of aliens, it is not dealing alone with a legislative power. It is implementing an inherent executive power.”).

12. Based on its enumerated constitutional and sovereign powers to control and conduct relations with foreign nations, the Federal Government has broad authority to establish immigration laws. *See Fiallo v. Bell*, 430 U.S. 787, 798 (1977) (explaining that matters of immigration concern “policy questions entrusted exclusively to the political branches of our

Government,” leaving “no judicial authority” for courts “to substitute [their] political judgment for that of the Congress”).

13. Specifically, in 1996, Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act (“PRWORA”) and the Illegal Immigration Reform and Immigrant Responsibility Act (“IIRIRA”). *See* PRWORA, Pub. L. No. 104-193, 110 Stat. 2268 (1996); IIRIRA, Pub. L. No. 104-208, Div. C, 110 Stat. 3009-546 (1996). Those Acts sought to encourage self-sufficiency among immigrants, limit their dependence on public assistance, and prevent public benefits from serving as an incentive for illegal immigration. *See id.*; *see also* 8 U.S.C. § 1601(1) (“Self-sufficiency has been a basic principle of United States immigration law since this country’s earliest immigration statutes.”).

14. Congress declared that “aliens within the Nation’s borders [should] not depend on public resources to meet their needs, but rather rely on their own capabilities and the resources of their families, their sponsors, and private organizations.” 8 U.S.C. § 1601(2)(A).

15. Congress also emphasized that “the availability of public benefits [should] not constitute an incentive for immigration to the United States.” *Id.* § 1601(2)(B).

16. Moreover, Congress determined that “[i]t is a compelling government interest to enact new rules for eligibility and sponsorship agreements in order to assure that aliens be self-reliant in accordance with national immigration policy” and “to remove the incentive for illegal immigration provided by the availability of public benefits.” 8 U.S.C. § 1601(5)–(6).

17. PRWORA also states: “A State may provide that an alien who is not lawfully present in the United States is eligible for any State or local public benefit for which such alien would otherwise be ineligible . . . only through the enactment of a State law after August 22, 1996, which affirmatively provides for such eligibility.” 8 U.S.C. § 1621(d).

18. But even in such cases, a state may not offer in-state tuition (or “resident tuition”) benefits to illegal aliens present in the United States based on their residence in the state, if those same benefits are denied to American citizens from other states. *See* 8 U.S.C. § 1623(a). IIRIRA included a clear “[l]imitation on eligibility for preferential treatment of aliens not lawfully present on basis of residence for higher education benefits.” *Id.*

19. Section 1623(a) provides that:

Notwithstanding any other provision of law, an alien who is not lawfully present in the United States shall not be eligible on the basis of residence within a State (or a political subdivision) for any postsecondary education benefit unless a citizen or national of the United States is eligible for such a benefit (in no less an amount, duration, and scope) without regard to whether the citizen or national is such a resident.

8 U.S.C. § 1623(a).

20. Accordingly, under 8 U.S.C. § 1623(a), illegal aliens present in the United States are not eligible for postsecondary education benefits based on state residency unless those same benefits are also offered to all American citizens, regardless of their state of residence.

21. On February 19, 2025, President Trump issued Executive Order 14218, *Ending Taxpayer Subsidization of Open Borders*,<sup>1</sup> ordering Federal Departments and Agencies to “ensure, to the maximum extent permitted by law, that no taxpayer-funded benefits go to unqualified aliens.” *Id.* § 2(a).

22. On April 28, 2025, President Trump issued Executive Order 14287, *Protecting American Communities From Criminal Aliens*,<sup>2</sup> directing relevant officials to ensure the “[e]qual [t]reatment of Americans” and to “take appropriate action to stop the enforcement of State and local laws, regulations, policies, and practices favoring aliens over any groups of American citizens that are unlawful, preempted by Federal law, or otherwise unenforceable, including State laws that provide in-State higher education tuition to aliens but not to out-of-State American citizens.” *Id.* § 5.

23. These Executive Orders emphasize that Federal and state governments must not confer greater benefits to illegal aliens present in our Nation than to U.S. citizens. They also reflect Congress’s end—expressed in multiple provisions of the Immigration and Nationality Act—to reduce incentives for illegal immigration by limiting access to certain public benefits intended for U.S. citizens.

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<sup>1</sup> Executive Order, *Ending Taxpayer Subsidization of Open Borders*, 90 Fed. Reg. 10581 (Feb. 19, 2025), <https://www.whitehouse.gov/presidential-actions/2025/02/ending-taxpayer-subsidization-of-open-borders/>.

<sup>2</sup> Executive Order, *Protecting American Communities From Criminal Aliens*, 90 Fed. Reg. 18761 (Apr. 28, 2025), <https://www.whitehouse.gov/presidential-actions/2025/04/protecting-american-communities-from-criminal-aliens/>.

## THE RHODE ISLAND LAWS

### I. Rhode Island Makes Illegal Aliens Eligible for Resident Tuition.

24. In direct conflict with Federal law, Rhode Island law rewards an illegal alien present in our Nation with eligibility for in-state tuition based on residence within that state, while explicitly denying eligibility for resident tuition rates to U.S. citizens who are not Rhode Island residents. *See* R.I. Gen. Laws § 16-59-9.3.

25. Rhode Island, like most states, charges two separate tuition rates at Rhode Island public universities, colleges, and community colleges: resident and nonresident tuition. *See* R.I. Gen. Laws § 16-59-1 *et seq.*

26. The Rhode Island Board is “responsible for long-range planning” and “coordinating and evaluating policies and programs for the public educational systems of the state,” including the University of Rhode Island, Rhode Island College, and Community College of Rhode Island, under the authority of Rhode Island law. R.I. Gen. Laws § 16-97-1.1; *see id.* § 16-97-1.2. And the Board indeed has approved different resident and non-resident rates at these schools.

27. Rhode Island’s Council is the public higher education agency that develops and approves a strategic plan to implement the goals and objectives of the Board as well as exercises “general supervision over all public higher education in the state.” R.I. Gen. Laws § 16-59-1.

28. For example, the University of Rhode Island charges Rhode Island residents approximately \$15,684 for one academic year for tuition but charges non-Rhode Island residents approximately \$17,116.<sup>3</sup>

29. Similarly, Rhode Island College charges Rhode Island residents approximately \$5,230.50 for one academic year of tuition and non-Rhode Island residents approximately \$13,799.50.<sup>4</sup>

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<sup>3</sup> The University of Rhode Island, 2026-2027 *Tuition and Fees Full Time Students*, <https://web.uri.edu/tuition-billing/tuition-and-fees/tuition-and-fees-full-time/>.

<sup>4</sup> Rhode Island College, 2026-2027 *Undergraduate Tuition and Fees*, <https://www.ric.edu/admissions-financial-aid/tuition-fees/undergraduate-tuition-and-fees>.

30. The same structure of substantially less-expensive in-state tuition for Rhode Island residents as compared to non-Rhode Island residents holds across community colleges in Rhode Island as well.<sup>5</sup>

31. Since 2021, R.I. Gen. Laws § 16-59-9.3 (“Section 16-59-9.3”) has rewarded illegal aliens who violate Federal law with eligibility for these in-state tuition benefits in Rhode Island while denying that same benefit to U.S. citizens who are not residents of Rhode Island.

32. Section 16-59-9.3 unequivocally makes illegal aliens living in Rhode Island eligible to receive resident tuition in Rhode Island. Under Section 16-59-9.3,

(1) A student, other than a nonimmigrant alien within the meaning of 8 U.S.C. § 1101(a)(15), who meets all of the following requirements shall be exempt from paying nonresident tuition at Rhode Island public universities, colleges, or community colleges, if he or she:

(i) Attended an approved Rhode Island high school for three (3) or more consecutive years;

(ii) Continues to reside in the state of Rhode Island;

(iii) Has graduated from an approved Rhode Island high school or received a high school equivalency diploma from the state of Rhode Island;

(iv) Has filed, or will file, upon matriculation, with the Rhode Island public university, college, or community college of expected attendance, an affidavit stating that:

(A) The student meets the requirements of subsections (1)(i) and (1)(ii) of this section; and

(B) If the student is not a United States citizen and does not have a lawful immigration status, that the student has filed an application for lawful immigration status, or will file the application as soon as the student is eligible to do so. The affidavit shall not require students to reveal their immigration or citizenship status.

33. Put differently, Rhode Island state law grants illegals alien eligibility to receive in-state tuition so long as they continue to reside in Rhode Island, attended high school in Rhode

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<sup>5</sup> See, e.g., Community College of Rhode Island, *Fall 2026 Tuition and Fees*, <https://www.ccri.edu/bursar/tuitionfees/fall-tuition-fees.html>.

Island for three years, graduated from a Rhode Island high school, and have filed or will file an affidavit affirming his purported intent to apply to legalize his immigration status once eligible to do so. R.I. Gen. Laws § 16-59-9.3.<sup>6</sup>

34. Accordingly, the tuition rate for illegal aliens in Rhode Island who satisfy Section 16-59-9.3's criteria is the same tuition rate as other Rhode Island residents. Conversely, a U.S. citizen that is not eligible for in-state tuition under Section 16-59-9.3, due to residency requirements, is required to pay higher, nonresident tuition.

35. Put simply, Section 16-59-9.3's requirements confer preferential treatment to illegal aliens within our Nation over U.S. citizens on the basis of residence. That clearly contravenes Congress's command in Section § 1623(a).

## **II. Rhode Island Makes Illegal Aliens Eligible for Scholarships and Financial Assistance on the Basis of Residence.**

36. In direct conflict with Federal law, Rhode Island law also rewards an illegal alien present in our Nation with eligibility for state-funded scholarships and financial assistance based on residence within Rhode Island while explicitly denying eligibility for the same state-funded scholarships to U.S. citizens who are not Rhode Island residents.

37. Since 2021, Rhode Island has made illegal aliens eligible for state financial aid programs through the Rhode Island Alternative Application for State Postsecondary Student Financial Assistance ("R.I. Alternate Application").<sup>7</sup>

38. Eligibility for the student financial aid program turns on the same requirements that Rhode Island uses to make illegal aliens eligible for in-state tuition. *See* Rhode Island Alternative Application for State Postsecondary Student Financial Assistance, available at

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<sup>6</sup> A pending amendment to the Student Success Act, introduced on February 27, 2026, in no way cures the current, unconstitutional statute given it further loosens the requirements for illegal aliens to receive in-state tuition by removing the affidavit requirement and residency requirement. Under the proposed amendment to Section 16-59-9.3, which has now passed the Rhode Island House and Senate, any student, regardless of immigration status, may receive in-state tuition if they meet certain in-state domiciliary requirements. But high school attendance in Rhode Island for two years or graduation from a Rhode Island high school are near perfect proxies for residence. *See* H.B. 8252, 2026 Gen. Assemb. (R.I. 2026). And independent of Section 16-59-9.3, Rhode Island law conditions attendance at its public high schools on domicile within each school district. *See* R.I. Gen. Laws § 16-64-1.

<sup>7</sup> *See R.I. Alt. Application for State Postsecondary Student Fin. Assistance, 2026-2027, available at <https://www.ccri.edu/onestop/fa/pdfs/2526-alt-fafsa.pdf>.*

<https://web.uri.edu/financial-aid/wp-content/uploads/sites/2069/26-27-Aid-Application.pdf>

(conditioning eligibility on living in Rhode Island for 3 or more years an attending Rhode Island high school for three or more years); R.I. Gen. Laws § 16-59-9.3.

39. Furthermore, the Rhode Island Promise Scholarship is available for any Community College of Rhode Island student, regardless of illegal alien status, as long as they meet the Rhode Island residency requirements and have completed high school. *See* R.I. Gen. Laws § 16-107-1 *et seq.*

40. Defendant Commissioner of Postsecondary Education, appointed by the Governor of Rhode Island, R.I. Gen. Laws § 16-59-6, is responsible for, *inter alia*, “allocat[ing] annually the appropriation for need-based scholarships and grants,” and eligibility for need-based grants and scholarships is “determined by the office of the postsecondary commissioner.” R.I. Gen. Laws § 16-96-3.

41. The Commissioner, the Office of the Postsecondary Commissioner (as supervised by its chief administrative officer, the Commissioner), and the Rhode Island Board of Education administer scholarships, grants, and funds designed to help students pay for college tuition and related expenses. *See* R.I. Gen. Laws §§ 16-96-3, 16-97-1.1, 16-56-2.

A. Financial Aid Under the Rhode Island Alternative Application for State Postsecondary Student Financial Assistance

42. The federal Free Application for Federal Student Aid (“FAFSA”) is an application form used to determine students’ eligibility for financial assistance for higher education, including federal grants. Federal student aid, however, is not available for illegal aliens. Many states require a student to complete the FAFSA to be eligible for state financial assistance.

43. The R.I. Alternative Application is an alternative form crafted to allow students who are not permitted to fill out the FAFSA to still have an opportunity to apply for state financial aid “regardless of their immigration status.” R.I. Gen. Laws § 16-96-3.

44. The R.I. Alternate Application offers need-based assistance to “undocumented/DACA students who meet the Rhode Island College Residency Requirements.”<sup>8</sup>

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<sup>8</sup> Rhode Island College, *DACA and Undocumented Student Admission*, <https://www.ric.edu/admissions-financial->

45. Eligibility is explicitly conditioned on residence. The R.I. Alternate Application states that the student must, *inter alia*, “currently live in the state of Rhode Island,” “have lived in Rhode Island for three (3) or more years” or “have attended an approved high school in the state of Rhode Island for three (3) or more years.”

46. For students without lawful immigration status, an affidavit must be filed stating that the student has filed or will file an application to legalize his immigration status. *Id.*

47. Furthermore, to qualify, the applicant must not be a U.S. citizen or an eligible noncitizen, and the applicant must be ineligible to fill out the federal Free Application for Federal Student Aid (FAFSA).<sup>9</sup>

48. The R.I. Alternative Application thus makes illegal aliens residing in Rhode Island eligible for financial assistance so long as they satisfy, among other criteria, Rhode Island residency requirements, while a U.S. citizen residing outside of Rhode Island is not eligible.

#### B. The Rhode Island Promise Scholarship

49. The Rhode Island Promise Scholarship (“R.I. Promise Scholarship”) is administered by the office of enrollment management at the Community College of Rhode Island and rewards illegal aliens who violate Federal law with eligibility for financial assistance based on financial need while denying that same benefit to U.S. citizens who are not residents of Rhode Island. R.I. Gen. Laws § 16-107-5.

50. The general assembly annually appropriates the necessary funds for the implementation of the R.I. Promise Scholarship. R.I. Gen. Laws § 16-107-3.

51. An award of the R.I. Promise Scholarship covers the cost of “two (2) years of tuition and mandatory fees, less federal and all other financial aid monies available to the recipient student.” *Id.*

52. Pursuant to state law, the R.I. Promise Scholarship provides financial assistance to eligible undergraduate students on the basis of, *inter alia*, demonstration that the student qualifies for in-state tuition “pursuant to the residency policy adopted by the council on postsecondary

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<sup>9</sup> The University of Rhode Island, *Financial Aid for Undocumented Rhode Island Students*, <https://web.uri.edu/financial-aid/apply-for-aid/ineligible-students/>.

education,” R.I. Gen. Laws § 16-107-6. The Council’s residency policy, Policy No. S-5, provides students who satisfy the requirements of R.I. Gen. Laws § 16-59-9.3 qualify for in-state tuition for the purposes of eligibility for the R.I. Promise Scholarship.<sup>10</sup>

53. Additionally, the student “must be admitted to, and must enroll and attend the community college of Rhode Island on a full-time basis by the semester immediately following high school graduation.” R.I. Gen. Laws § 16-107-6.

54. Pursuant to state law, the R.I. Promise Scholarship makes illegal aliens residing in Rhode Island eligible for financial assistance so long as they satisfy, among other criteria, Rhode Island residency requirements, while a U.S. citizen residing outside of Rhode Island is not eligible.

### C. The Rhode Island Hope Scholarship

55. The Rhode Island Hope Scholarship (“R.I. Hope Scholarship”) is administered by the financial aid office at Rhode Island college, in conjunction with the admissions office or their respective equivalent offices. R.I. Gen. Laws § 16-113-5.

56. An award of the Hope Scholarship can cover the cost of “up to two (2) years of tuition and mandatory fees, for the junior and senior years of the student.” *Id.*

57. Similar to the R.I. Promise Scholarship, pursuant to state law, the R.I. Hope Scholarship is provided to eligible students on the basis of, *inter alia*, demonstration that the student qualifies for in-state tuition “pursuant to the residency policy adopted by the council on postsecondary education,” R.I. Gen. Laws § 16-113-6; *see* R.I. Gen. Laws 16-59-9.3. The Council’s residency policy, Policy No. S-5, provides students who satisfy the requirements of R.I. Gen. Laws § 16-59-9.3 qualify for in-state tuition for the purposes of eligibility for the R.I. Promise Scholarship.<sup>11</sup>

58. The student must also commit to work, live, or continue their education in Rhode Island after graduation. R.I. Gen. Laws § 16-113-6.

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<sup>10</sup> Council on Postsecondary Education State of Rhode Island, *Policy No. S-5*, at 5, available at <https://riopc.edu/wp-content/uploads/2025/09/S5-Residency-2025.pdf>.

<sup>11</sup> *Id.*

59. Thus, through the R.I. Promise Scholarship, illegal aliens residing in Rhode Island are eligible for financial assistance so long as they satisfy, among other criteria, Rhode Island residency requirements, while a U.S. citizen residing outside of Rhode Island is not eligible.

#### **THE RHODE ISLAND LAWS ARE PREEMPTED**

60. The Constitution's Supremacy Clause mandates that "[t]his Constitution, and the Laws of the United States which shall be made in Pursuance thereof . . . shall be the supreme Law of the Land . . . any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." U.S. Const. art. VI, cl. 2.

61. Express preemption occurs when Congress, through statutory language, explicitly supersedes all state enactments in a particular area. *Pac. Gas & Elec. Co. v. State Energy Res. Conserv. & Dev. Comm'n*, 461 U.S. 190, 203–04 (1983).

62. Federal statutes may preempt state laws and render them ineffective. They may do this expressly, by declaring that intent on the face of the statute. *Arizona v. United States*, 567 U.S. 387, 399 (2012) ("There is no doubt that Congress may withdraw specified powers from the States by enacting a statute containing an express preemption provision.").

63. "[U]nder the Supremacy Clause, from which our pre-emption doctrine is derived, "any state law, however clearly within a State's acknowledged power, which interferes with or is contrary to federal law, must yield." *Gade v. Nat'l Solid Wastes Mgmt. Ass'n*, 505 U.S. 88, 108 (1992) (citation and quotation marks omitted); *Maryland v. Louisiana*, 451 U.S. 725, 746 (1981) (explaining that under the Supremacy Clause, state laws that conflict with Federal law are "without effect"); *Cipollone v. Liggett Grp., Inc.*, 505 U.S. 504, 516 (1992) (same).

64. When the Federal statute contains an express preemption clause, the court does not indulge "any presumption against pre-emption but instead 'focus[es] on the plain wording of the clause, which necessarily contains the best evidence of Congress' pre-emptive intent." *Puerto Rico v. Franklin Cal. Tax-Free Tr.*, 579 U.S. 115, 125 (2016) (citation and quotation marks omitted). Further, "the purpose of Congress is the ultimate touchstone in every pre-emption case." *Nat'l Ass'n of Indus. Bankers v. Weiser*, 159 F.4th 694, 711 (10th Cir. 2025) (quoting *Wyeth v. Levine*, 555 U.S. 555, 565 (2009)).

65. Here, 18 U.S.C. § 1623(a) contains an express preemption clause as it directs that “[n]otwithstanding any other provision of law,” an illegal alien “shall not be eligible on the basis of residence within a State . . . for any postsecondary education benefit unless a citizen or national of the United States is eligible for such a benefit . . . without regard to whether the citizen or national is such a resident.” 8 U.S.C. § 1623(a).

66. As indicated by its title—‘Limitation on eligibility for preferential treatment of aliens not lawfully present on basis of residence for higher education benefits’—§ 1623(a) mandates that all U.S. citizens must be eligible for a benefit regardless of residency before any illegal alien can receive that benefit based on residency.

67. At least three courts have found that § 1623(a) “expressly preempts state rules that grant illegal aliens benefits when U.S. citizens haven’t received the same.” *Young Conservatives of Tex. Found. v. Smatresk*, 73 F.4th 304, 313 (5th Cir. 2023); *see also Equal Access Educ. v. Merten*, 305 F. Supp. 2d 585, 606 (E.D. Va. 2004) (stating that under § 1623(a) “public post-secondary institutions need not admit illegal aliens at all, but if they do, these aliens cannot receive in-state tuition unless out-of-state U.S. citizens receive this benefit”); *Foss v. Ariz. Bd. of Regents*, No. 1 CA-CV 18-0781, 2019 WL 5801690, at \*3 (Ariz. Ct. App. Nov. 7, 2019) (“Section 1623 is directed at institutional practices, curtailing the authority of educational institutions to grant in-state tuition benefits to undocumented aliens. . . .”).

68. Since 2025, four other courts have enjoined laws similar to those challenged here. The United States District Court for the Northern District of Texas held that 8 U.S.C. § 1623(a) expressly preempted Texas Education Code §§ 54.051(m) and 54.052(a), which permitted illegal aliens to qualify for in-state tuition, even though out-of-state American citizens were not afforded the same benefit. *See United States v. Texas*, 350 F.R.D. 74, 79–81 (N.D. Tex. 2025); *see also United States v. Texas*, No. 7:25-CV-00055, 2025 WL 1583869, at \*1 (N.D. Tex. June 4, 2025) (permanently enjoining Texas defendants from enforcing Texas Education Code §§ 54.051(m) and 54.052(a) because the challenged provisions violated the Supremacy Clause). In so doing, the court found that Section 1623(a) “expressly preempts state rules that grant illegal aliens benefits when U.S. citizens haven’t received the same. No matter what a state says, if a state did not make U.S.

citizens eligible, illegal aliens cannot be eligible.” *Texas*, 350 F.R.D. at 79 (citation and internal citations omitted).

69. Similarly, the United States District Court for the Eastern District of Oklahoma found that Oklahoma in-state tuition provisions “as applied to aliens who are not lawfully present in the United States, violate[] the Supremacy Clause and are unconstitutional and invalid.” *United States v. Oklahoma*, No. 6:25-cv-00265, ECF 23 at 1 (E.D. Okla. Aug. 29, 2025) (Order and Final Consent Judgment); *see also United States v. Oklahoma*, No. 6:25-cv-00265, ECF 11 at 1 (E.D. Okla. Aug. 7, 2025) (Report and Recommendation) (holding that 8 U.S.C. § 1623(a) expressly preempts Oklahoma laws providing that individuals “who are not lawfully present in the United States may qualify for in-state tuition or nonresident tuition waivers if they meet certain residency and high school graduation criteria”).

70. The United States District Court for the Eastern District of Kentucky entered a consent judgement between Plaintiff United States of America and Defendant Kentucky Council on Postsecondary Education (“CPE”) permanently enjoining the Kentucky CPE from enforcing Kentucky regulation 13 KAR 2:045, Section 8(4)(a) (eff. 6-22-2022), the Tuition Assessment Regulation. *See* ECF 57, Opinion & Order, *United States v. Kentucky Council on Postsecondary Educ., et al.*, No. 3:25-cv-00028 (E.D. Ky. Mar. 31, 2026). The Kentucky regulation allowed illegal aliens who graduated from a Kentucky high school, among other criteria, to be considered Kentucky residents for purposes of in-state tuition. The court found that the Kentucky regulation violated federal law, 8 U.S.C. § 1621(d), because it was promulgated and enforced by the Kentucky CPE and therefore was not a valid State law, which Section 1621(d) requires, but a regulation instead. *see id.* at 21. The court noted its subject matter jurisdiction per 28 U.S.C. §§ 1331, 1345 (*see id.* at 6, 7), and found that although both parties agreed on the merits of the consent judgement, a “justiciable controversy remains present[,]” as the Kentucky CPE continued to enforce the regulation. *id.* at 8. The court determined that it had jurisdiction and adopted the consent decree “[h]aving determined that the proposed consent decree is necessary to remedy a violation of federal law, the Court must approve it...” *Id.* at 21.

71. On June 3, 2026, the United States District Court for the District of Nebraska entered a consent judgement between Plaintiff United States of America and Defendant the State of Nebraska permanently enjoining the Nebraska from enforcing Neb. Rev. Stat. §§ 85-502, 85-1907(3), 85-2102(6), and 85-3202(6). *United States v. Nebraska*, ---F.Supp.3d--- 2026 WL 1584862 (2026). The now preempted Nebraska laws “allow[ed] aliens unlawfully present in the United States who me[et] certain Nebraska residency requirements to pay in-state tuition rather than out-of-state tuition,” and made illegal aliens eligible for “state educational grant or scholarship programs” on the same basis. *Id.* at \*1. The court held that the Nebraska laws were preempted by Section 1623(a) because “they allow aliens unlawfully present in the United States to qualify as ‘residents’ of Nebraska for the purpose of post-secondary education benefits but deny such benefits to United States citizens of other states.” *Id.* at \*27. Additionally, the court found that a “Case or Controversy” remained despite the “[f]riendly” nature of the lawsuit because “[t]he Nebraska Attorney General’s position—agreeing with the legal contention of the United States but refusing to give it effect—means that there is a justiciable controversy between the parties, despite the apparent inconsistency in the Nebraska Attorney general’s position.” *Id.* at \*20 (citing *United States v. Windsor*, 570 U.S. 744, 756 (2013)).

72. Here, Section 16-59-9.3 conflicts with 8 U.S.C. § 1623(a) because the law confers eligibility for post-secondary education benefits to aliens not lawfully present in the United States that are not available to American citizens on the same terms, regardless of residency. Section 16-59-9.3 makes illegal aliens eligible for in-state tuition benefits on the basis of residence.

73. Similarly, state laws Sections 16-107-6 and 16-113-6 make illegal aliens eligible for financial assistance, scholarships, and grants on the basis of residence given the Council’s S-5 policy incorporates Section 16-59-9.3.

74. Resident tuition, scholarships, financial assistance, and grants for college and university students are post-secondary education benefits. 8 U.S.C. § 1623(a).

75. Unlike illegal aliens residing in Rhode Island, U.S. citizens who do not meet the requirements of Sections 16-59-9.3, 16-107-6, and 16-113-6 are not eligible for postsecondary

education benefits in no less an amount, duration, and scope without regard to whether the citizen is such a resident. 8 U.S.C. § 1623(a).

76. As a result, Section 1623(a) expressly preempts Sections 16-59-9.3, 16-107-6, and 16-113-6 because those Rhode Island statutes bestow eligibility for postsecondary education benefits on illegal aliens that U.S. citizens who reside elsewhere are not eligible for. Sections 16-59-9.3, 16-107-6, and 16-113-6 are, therefore, unconstitutional.

## **CLAIMS FOR RELIEF**

### **COUNT I VIOLATION OF THE SUPREMACY CLAUSE (PREEMPTION OF R.I. GEN LAWS § 16-59-9.3 – TUITION)**

77. The United States hereby incorporates the preceding paragraphs of the Complaint as if fully stated herein.

78. Section 16-59-9.3, because it extends eligibility for in-state tuition benefits to illegal aliens, violates Federal immigration law. It directly conflicts with Congress's prohibition on providing eligibility for postsecondary education benefits (lower, resident tuition rates) based on residency to illegal aliens present in the United States that are not available to all U.S. citizens regardless of residency. *See* 8 U.S.C. § 1623(a).

79. Accordingly, the challenged provision, R.I. Gen Laws § 16-59-9.3, is preempted and unconstitutional.

### **COUNT II VIOLATION OF THE SUPREMACY CLAUSE (PREEMPTION OF R.I. Gen Laws §§ 16-113-6 and 16-107-6 – FINANCIAL AID)**

80. The United States hereby incorporates the preceding paragraphs of the Complaint as if fully stated herein.

81. Sections 16-113-6 and § 16-107-6, because they extend eligibility for postsecondary education benefits to illegal aliens, violate Federal immigration law. They directly conflict with Congress's prohibition on providing eligibility for postsecondary education benefits based on residency to illegal aliens present in the United States that are not available to all U.S. citizens regardless of residency. *See* 8 U.S.C. § 1623(a).

82. Accordingly, the Court should find the challenged provision, R.I. Gen Laws § 16-107-6 and 16-113-6, unconstitutional.

**PRAYER FOR RELIEF**

WHEREFORE, the United States respectfully requests the following relief:

1. That this Court enter a judgment declaring R.I. Gen Laws § 16-59-9.3 violates the Supremacy Clause and 8 U.S.C. § 1623(a) because it extends state and local public benefits to illegal aliens based on residency that are not available to all U.S. citizens, and is therefore unconstitutional and preempted;

2. That this Court enter a judgment declaring that R.I. Gen Laws §§ 16-107-6 and 16-113-6 violate the Supremacy Clause and 8 U.S.C. § 1623(a) because they extend eligibility for postsecondary education benefits to illegal aliens based on residency that are not available to all U.S. citizens, and are therefore unconstitutional and invalid;

3. That this Court issue a permanent injunction that prohibits Defendants as well as their successors, agents, and employees, from enforcing R.I. Gen Laws § 16-59-9.3 because it extends State and local public benefits to illegal aliens based on residency that are not available to all U.S. citizens;

4. That this Court issue a permanent injunction that prohibits Defendants as well as their successors, agents, and employees, from enforcing R.I. Gen Laws §§ 16-107-6 and 16-113-6 because they extend eligibility for postsecondary education benefits to illegal aliens based on residency that are not available to all U.S. citizens;

5. That this Court award the United States its costs and fees in this action; and

6. That this Court award any other relief it deems just and proper.

DATED: June 29, 2026

Respectfully Submitted,

STANLEY E. WOODWARD, JR.  
Associate Attorney General

BRETT A. SHUMATE  
Assistant Attorney General  
Civil Division

ANNA EDWARDS  
Counsel to the Associate Attorney General

SEAN SKEDZIELEWSKI  
Counsel to the Assistant Attorney General  
Civil Division

*s/ Jackson M. Story*  
\_\_\_\_\_  
JACKSON M. STORY (FL 1032001)  
Trial Attorney  
U.S. Department of Justice, Civil Division  
Enforcement & Affirmative Litigation Branch  
P.O. Box 386  
Washington, D.C. 20044  
Tel: (202) 451-7304  
Email: jackson.m.story@usdoj.gov

*Attorneys for the United States*

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

U.S. DEPARTMENT OF JUSTICE (see attachment)

DEFENDANTS

STATE OF RHODE ISLAND (see attachment)

County of Residence of First Listed Defendant PROVIDENCE (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal codes and descriptions.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. §§ 1651, 2201, and 2202.

Brief description of cause:

Challenge to the constitutionality of R.I. Gen Laws §§ 16-59-9.3, 16-107-6, and 16-113-6, which are preempted by 8 U.S.C. § 1623(a).

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

Jun 29, 2026 s/ Jackson M. Story

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related cases, if any. If there are related cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

**ATTACHMENT TO CIVIL COVER SHEET**

**Defendants**

STATE OF RHODE ISLAND;

RHODE ISLAND BOARD OF EDUCATION;

RHODE ISLAND COUNCIL ON POSTSECONDARY EDUCATION;

SHANNON GILKEY, in his official capacity as Rhode Island Commissioner of Postsecondary Education

**Attorneys for the Plaintiff**

U.S. Department of Justice, Civil Division  
Enforcement & Affirmative Litigation Branch  
P.O. Box 386  
Washington, DC 20044-0386  
Fax: (202) 514-8742

Jackson M. Story  
Trial Attorney  
Phone: (202) 451-7304  
Email: [jackson.m.story@usdoj.gov](mailto:jackson.m.story@usdoj.gov)

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Rhode Island

UNITED STATES OF AMERICA

Plaintiff(s)

v.

STATE OF RHODE ISLAND, et al.

Defendant(s)

Civil Action No. 1:26-cv-419

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) STATE OF RHODE ISLAND
Office of the Attorney General
Civil Division
150 South Main Street
Providence, RI 02903

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

JACKSON M. STORY
U.S. Department of Justice, Civil Division
Enforcement & Affirmative Litigation Branch
P.O. Box 386
Washington, D.C. 20044

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 1:26-cv-419

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_ .

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Rhode Island

UNITED STATES OF AMERICA

Plaintiff(s)

v.

STATE OF RHODE ISLAND, et al.

Defendant(s)

Civil Action No. 1:26-cv-419

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) RHODE ISLAND BOARD OF EDUCATION
c/o Michael Grey, Chair
Westminster Street
Providence, RI 02903

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

JACKSON M. STORY
U.S. Department of Justice, Civil Division
Enforcement & Affirmative Litigation Branch
P.O. Box 386
Washington, D.C. 20044

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 1:26-cv-419

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\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

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Other *(specify)*:

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Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Rhode Island

UNITED STATES OF AMERICA

Plaintiff(s)

v.

STATE OF RHODE ISLAND, et al.

Defendant(s)

Civil Action No. 1:26-cv-419

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) RHODE ISLAND COUNCIL ON POSTSECONDARY EDUCATION
c/o David Caprio, Council Chairman
80 Washington Street, 2nd Floor
Providence, RI 02903

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: JACKSON M. STORY
U.S. Department of Justice, Civil Division
Enforcement & Affirmative Litigation Branch
P.O. Box 386
Washington, D.C. 20044

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 1:26-cv-419

**PROOF OF SERVICE**

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This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_ .

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 .

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Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Rhode Island

UNITED STATES OF AMERICA

Plaintiff(s)

v.

STATE OF RHODE ISLAND, et al.

Defendant(s)

Civil Action No. 1:26-cv-419

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) SHANNON GILKEY, in his official capacity as Rhode Island Commissioner of Postsecondary Education 80 Washington Street, 2nd Floor Providence, RI 02903

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

JACKSON M. STORY
U.S. Department of Justice, Civil Division
Enforcement & Affirmative Litigation Branch
P.O. Box 386
Washington, D.C. 20044

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 1:26-cv-419

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\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 \_\_\_\_\_ .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: