

MARYLAND HIGHER EDUCATION COMMISSION

MEETING BOOKLET

Time: 1:00 PM
Wednesday, December 15, 2021

Place: Video Teleconference
(GoToMeeting)

Maryland Higher Education Commission

Mary Pat Seurkamp, Ph.D., Chair

Vera R. Jackson, Ph.D., Vice-Chair

Senchal D. Barrolle, Esq.

Vivian S. Boyd, Ph.D.

Lewis R. Brown, Ed.D.

James E. Coleman

Charles McDaniels, Jr.

James B. Sellinger, Sr.

Ray Serrano, Ph.D.

Craig A. Williams, Ph.D.

Haleemat Y. Adekoya, Student Commissioner

James D. Fielder, Jr., Ph.D.
Secretary

Lawrence J. Hogan, Jr.
Governor

Boyd K. Rutherford
Lt. Governor



Larry Hogan
Governor

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Mary Pat Seurkamp, Ph. D.
Chair

James D. Fielder, Jr., Ph. D.
Secretary

Maryland Higher Education Commission Meeting Agenda

TIME: 1:00 p.m.
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Call to Order		
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Adjournment		

**The next Commission meeting is on Wednesday, January 26, 2022 @ 1:00 p.m.*

Maryland Higher Education Commission
Meeting Minutes

November 17, 2021
1:00 p.m.

The Maryland Higher Education Commission (MHEC) met on Wednesday, November 17, 2021 via video teleconference (GoToMeeting).

Commission members present:

Mary Pat Seurkamp, Ph.D., Chair	James E. Coleman
Vera R. Jackson, Ph.D., Vice Chair	Ray Serrano, Ph.D.
Senchal D. Barrolle, Esq.	Craig A. Williams, Ph.D.
Vivian S. Boyd, Ph.D.	Haleemat Y. Adekoya, Student Commissioner

Commission members absent:

Lewis R. Brown, Ed.D.	James B. Sellinger, Sr.
Charles McDaniels, Jr.	

Staff members present:

James D. Fielder, Ph.D.	Emily A. A. Dow, Ph.D.
Geoffrey Newman	Donna Thomas
Soma Kedia	Trish Gordon McCown
Priscilla Moore	Bryson Barksdale
Barbara Schmertz, Ph.D.	Karen King-Sheridan
Jennifer Katz	

Call to Order

The meeting was called to order by **Chair Seurkamp** at approximately 1:03 p.m. A meeting quorum was established with eight (8) out of eleven (11) members present.

Chair's Remarks

Chair Seurkamp shared that she and Secretary Fielder recently participated in the MICUA (Maryland Independent College and University Association) Presidents' Workshop. They were invited to speak about MHEC's work. Additionally, **Chair Seurkamp** reminded everyone of the Maple Springs v. MHEC Exceptions Hearing scheduled on November 30 at 10 AM.

Secretary's Remarks

Secretary Fielder added that, at the MICUA Presidents' Workshop, institutions urged MHEC to advocate for additional funding for higher education. Additionally, Secretary Fielder offered a glimpse at the preliminary opening fall enrollment data. Total enrollment (undergraduate and graduate students) statewide declined slightly (3.4%). National data show a 2.3% decline in total postsecondary enrollment. Undergraduate enrollment decreased 5.8% statewide. This is higher than the nationally reported decline of 3.2%.

Public Comments

There were no public comments.

Commission Minutes Approval

Commissioner Williams motioned to approve the October 27, 2021 meeting minutes and the October 27, 2021 closed session minutes. **Commissioner Serrano** seconded the motion, and the motion was approved unanimously.

Commissioner Committee Updates

Education Policy Committee: Commissioner Boyd reported that the Committee will meet on Monday, November 22. Among other things, they will discuss House Bill 460 Transfer with Success Act (passed during the 2021 legislative session).

Outreach, Grants, and Financial Assistance Committee: Commissioner Coleman reported that the Committee met last week and were briefed by staff on current undertakings in the outreach and grants divisions.

Finance and Operations Committee: Mr. Geoffrey Newman, Assistant Secretary for Finance and Administration and staff contact for the Committee, reported that all vacancies in the agency are currently in various stages of the recruitment and hiring process. Additionally, his department is involved at this time in the FY 2023 budget process.

Diversity, Equity, and Inclusion Committee: Commissioners Coleman and Serrano reported that they will be meeting again soon. At that time, there will be some materials for their review.

Department of Academic Affairs – Report on Institutions of Higher Education Program Review: Secretary Actions for Quarter 2 (April 1, 2021 – June 30, 2021) – Information Item

Chair Seurkamp recognized Dr. Emily Dow, Assistant Secretary for Academic Affairs, who asked Ms. Trish Gordon McCown, Director of Academic Affairs, to present this item. Ms. McCown provided an overview of the Secretary's actions concerning one program objection, new degree programs, new certificate programs, new areas of concentration, substantial modifications to existing programs, non-substantial modifications to existing programs, proposals withdrawn, institutional program partnerships, a proposal not approved or recommended, online registration institutions, Academic Common Market certifications, and Unique Major reviews.

Department of Academic Affairs – Report on Career & Workforce Education/Private Career Schools Program Review: Secretary Actions for Quarter 2 (April 1, 2021 – June 30, 2021) – Information Item

Ms. McCown provided an overview of the Secretary’s actions concerning a new school, new programs, an approval of separate classrooms, certificate renewals, a notice of deficiencies, a school approval withdrawn, and training provider questionnaires.

Department of Academic Affairs – Report on VA Education and Training Benefits: MD State Approving Agency/Veterans Affairs Actions for Quarter 2 (April 1, 2021 – June 30, 2021 (Federal Fiscal Year 2021 – Quarter 3)) – Information Item

Ms. McCown provided an overview of the Maryland State Approving Agency’s actions concerning program approval actions, other approval actions, visits to facilities, technical assistance actions, and liaison activities.

Approval of Proposed Amendments to COMAR – Workforce Development Sequence Scholarship – Action Item

Chair Seurkamp recognized Ms. Donna Thomas, Director of the Office of Student Financial Assistance, who presented this item. The Workforce Development Sequence Scholarship is intended to provide financial support to students who enroll in a group of noncredit courses at community colleges that, rather than leading to a degree, are related to job preparation, a registered apprenticeship, licensure, certification, or job skill enhancement. The scholarship is “decentralized,” meaning that funds are allocated to the community colleges, who then make awards to individual students.

During the 2021 session, the legislature enacted HB 905 (Ch. 96) and SB 845 (Ch. 97), which altered the definition of “eligible student” to include students enrolled directly in registered apprenticeship programs that partner with a community college. The proposed regulatory amendments include the necessary changes to align with the legislation.

Additionally, the amendments make other minor changes to the existing language by setting a date certain by which community colleges get notification of their annual allocation amount and deleting several unnecessary and obsolete references.

The proposed regulatory amendments have been approved for legality by MHEC’s Assistant Attorneys General as required by the Maryland Administrative Procedure Act. They are now presented to the Commission for their review and approval.

Upon the Commission’s approval, proposed regulations and regulatory amendments are submitted to the legislature’s Joint Committee on Administrative, Executive, and Legislative Review (AELR), after which they are submitted to the Division of State Documents (DSD) for publication in the Maryland Register. After a public comment period, they may be brought back before the Commission for final adoption.

Ms. Thomas recommended that the Commission:

- 1) Approves for publication in the Maryland Register the proposed regulatory amendments to the Workforce Development Sequence Scholarship; and
- 2) Authorizes its Assistant Attorneys General to make non-substantive edits to the proposed regulations to conform to the stylistic and formatting requirements of AELR and DSD.

Commissioner Adekoya made a motion for approval and **Commissioner Coleman** seconded the motion. The motion was approved unanimously.

Adjournment

Commissioner Adekoya made a motion to adjourn and **Commissioner Boyd** seconded the motion. The motion passed unanimously. The meeting adjourned at approximately 1:36 p.m.



Larry Hogan
Governor

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Lt. Governor

Mary Pat Seurkamp, Ph.D.
Chair

James D. Fielder, Jr., Ph. D.
Secretary

MEMORANDUM

DATE: December 15, 2021

TO: Maryland Higher Education Commissioners

FROM: Emily A. A. Dow, Ph.D.
Assistant Secretary for Academic Affairs

SUBJECT: Final Adoption of COMAR Amendments –
Financial Guarantee Requirements for Private Career Schools

On August 25, 2021, the Commission approved proposed amendments to regulations regarding the financial guarantee requirements for fully online or hybrid programs offered by private career schools. The purpose of these amendments is to eliminate the outdated distinction between the calculation of financial guarantees for online/hybrid programs and programs offered in a traditional format. With this change, financial guarantee calculations for hybrid and fully online programs would be the same as programs in a traditional format, with a minimum guarantee of 100% of non-Title IV tuition liability and an increased guarantee based on how long the institution has been operating and if the institution is financially viable.

In order to allow private career schools to continue to offer post-pandemic hybrid and online education without interruption, the Commission approved these amendments for emergency adoption, which lasts a maximum of six months. Therefore, in order to make a permanent change, the Commission also approved these amendments for publication in the Maryland Register.

The legislature's Joint Committee on Administrative, Executive, and Legislative Review (AELR) granted emergency status to these regulatory amendments on September 22, 2021. The emergency status expires on January 15, 2022. The Commission does not need to take any further action with regard to the emergency adoption.

The proposed permanent changes to the regulations were published in the Maryland Register on October 8, 2021. The public comment period for the amendments ended on November 8, 2021, and no public comments were received. The regulatory amendments became eligible for final adoption on November 23, 2021.

The enclosed proposed amendments to the regulations are ready for the Commission's final adoption, with non-substantive changes as highlighted in the attached text. The purpose of

the non-substantive changes is to adjust cross-references within the regulation that are affected by the regulatory amendments. The amendments will become effective 10 days after notice of the final adoption is published in the Maryland Register.

RECOMMENDATION: It is recommended that the Commission approves for final adoption the enclosed amendments, including the non-substantive changes indicated in the text, to the regulations regarding financial guarantees for distance education by Private Career Schools.

Title 13B MARYLAND HIGHER EDUCATION COMMISSION

Subtitle 01 NONPUBLIC SCHOOLS

Chapter 01 Minimum Requirements for Private Career Schools

Authority: Education Article, Title 11, Subtitles 1, 2, and 4; State Government Article, Title 10, Subtitle 2; Annotated Code of Maryland

.19 Financial Guarantee.

A. A financial guarantee required by this chapter shall be:

- (1) In the form of a performance bond or an irrevocable letter of credit;
- (2) Made under the terms and conditions determined by the Secretary, including the conditions that the school shall:

- (a) Perform faithfully all agreements or contracts it makes with its students; and

- (b) Comply with Education Article, Annotated Code of Maryland, and with this chapter;

- (3) Made payable to the Secretary on behalf of the Commission, and provided to the Secretary;

- (4) Between the Commission and the surety; and

- (5) In the amount the Secretary requires, which at a minimum shall be:

- (a) The amount prescribed by §B of this regulation, if the school is a non-Title IV school;

- (b) The amount prescribed by §C of this regulation, if the school is a Title IV school; ~~or~~

- (c) The amount prescribed by §D of this regulation, if the school is a Title IV school that has been notified by the U.S. Department of Education of an adverse, or potentially adverse, action affecting the school's participation in Title IV; ~~or~~

~~(d) The amount prescribed by §E of this regulation, if the school delivers its programs in whole or in part by distance education.~~

B. Financial Guarantee Amount — Non-Title IV Schools. A non-Title IV school shall provide a financial guarantee in an amount sufficient to cover 100 percent of the total tuition liability of the school.

C. Financial Guarantee Amount — Title IV School.

- (1) Minimum Amount. A Title IV school shall maintain a financial guarantee in an amount sufficient to cover 100 percent of the total non-Title IV tuition liability of the school, unless a greater amount:

(a) Is deemed necessary by the Secretary; or

(b) Is required by the provision of this §C.

(2) During a Title IV school's 1st through 5th years of operation, the school shall provide a financial guarantee in an amount sufficient to cover 100 percent of the total tuition liability of the school.

(3) During a Title IV school's 6th through 10th years of operation, the school shall provide a financial guarantee in an amount sufficient to cover:

(a) 50 percent of the total tuition liability of the school, if the school does not meet financial viability requirements set forth in §F.5E of this regulation, and if 50 percent of the total tuition liability of the school is greater than 100 percent of the school's total non-Title IV tuition liability;

(b) 100 percent of the school's total non-Title IV tuition liability, if the school meets the financial viability requirements set forth in §F.5E of this regulation; or

(c) A greater amount if deemed necessary by the Secretary.

(4) After a Title IV school's 10th year of operation, the school shall provide:

(a) A financial guarantee in an amount sufficient to cover 30 percent of the total tuition liability of the school, if the school does not meet the financial viability requirements set forth in §F.5E of this regulation, and if 30 percent of the total tuition liability is greater than 100 percent of the school's total non-Title IV tuition liability;

(b) A financial guarantee in an amount sufficient to cover 100 percent of the school's total non-Title IV tuition liability, if the school meets the financial viability requirements set forth in §F.5E of this regulation; or

(c) A greater amount if deemed necessary by the Secretary.

D. Financial Guarantee Amount — Title IV Schools Notified of Potentially Adverse Action by the U.S. Department of Education.

(1) If the U.S. Department of Education notifies a Title IV school that the school is subject to an adverse or potentially adverse action, including any action that limits, suspends, terminates, or otherwise negatively affects the school's participation in Title IV, the school shall notify the Commission in accordance with regulation .06 of this chapter.

(2) Upon receipt of the school's notice under §D(1) of this regulation, or on the Secretary's own initiative, the Secretary may require the school to provide a financial guarantee in an amount deemed necessary by the Secretary to protect students, up to 100 percent of the school's total tuition liability.

~~E. Financial Guarantee Amount — Schools Delivering Programs in Whole or in Part by Distance Education. A school that delivers a program in whole or in part by distance education shall provide a financial guarantee in the amount prescribed by §§B—D of this regulation, plus an amount sufficient to cover the sum of the tuition of each program delivered in whole or in part by distance education, multiplied by the maximum permissible enrollment for that program.~~

~~F.E. Reduced Financial Guarantees Based on Financial Viability.~~

(1) Upon submission of its annual report under Regulation .06 of this chapter, a school that provides a financial guarantee in an amount greater than 100 percent of its non-Title IV tuition liability may request in writing that the

Secretary reduce the school's financial guarantee amount, in accordance with the criteria set forth in ~~§§B—E.D.~~ of this regulation.

(2) The school's request shall include the two most recent audited financial statements of the school, and of any corporate parent or holding company of the school.

(3) The Secretary may grant the school's request if the Secretary finds that:

(a) The financial statements and other relevant financial information, including external accounting reports, demonstrate that the school and its ownership meet the financial viability requirements set forth in ~~§F(4), §E(4)~~ of this regulation, operate in accordance with sound principles of financial management, and maintain financial resources adequate for the satisfactory conduct of the school; and

(b) A reduction of the financial guarantee is appropriate under the criteria set forth in ~~§§B—E.D.~~ of this regulation.

(4) Financial Viability Requirement. A school is considered financially viable if its financial statements, and those of its corporate parent or holding company, demonstrate that the school and its ownership, for each of the 2 most recent years:

(a) Had a net income that exceeded expenditures; and

(b) Maintained at least a 1:1 ratio of total current assets to total current liabilities.

(5) In no instance shall a financial guarantee of a school be reduced below an amount equal to 100 percent of the school's total non-Title IV tuition liability.

.26 Interactive Distance Education by Private Career Schools—Commitment to Support.

A. A school shall demonstrate a commitment to ongoing support, both financial and technical, and to a continuation of the program for a period sufficient to enable a student to complete a program.

B. A school shall ~~forward-provide~~ a financial guarantee ~~in the form of a performance bond or an irrevocable letter of credit that is sufficient to cover the tuition liability of a program delivered in part or whole by distance education. The bond or letter of credit shall be in an amount and under terms and conditions determined by the Secretary and made payable to the Secretary of Higher Education. The completed bond or letter of credit shall be forwarded to the Secretary of Higher Education in accordance with Regulation .19 of this chapter.~~



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Chair

James D. Fielder, Jr., Ph. D.
Secretary

Maryland Higher Education Commission 2022 Meeting Dates

The Maryland Higher Education Commission (MHEC) is Maryland’s higher education coordinating board responsible for the management of statewide financial aid programs and the establishment of statewide policies for public and private colleges and career schools to support students’ postsecondary pursuits.

Meeting Dates and Locations

January 26, 2022	July 27, 2022 (if needed)
February 23, 2022	August 24, 2022 (if needed)
March 23, 2022	September 28, 2022 10:00am to 4:00pm
April 27, 2022	October 26, 2022
May 25, 2022	November 16, 2022 *Please note date change.*
June 22, 2022	December 14, 2022 *Please note date change.*

All Commission meetings will be held on the 4th Wednesday of each month from 1:00pm to 4:00pm, with certain exceptions. Meetings in 2022 will be conducted via video teleconference (GoToMeeting), unless otherwise noted.

Dates and times are subject to change.

<http://www.mhec.maryland.gov/About/Pages/Meetings.aspx>