

Maryland Higher Education Commission
Meeting Minutes

April 26, 2023
1:00 p.m.

The Maryland Higher Education Commission (MHEC) met on Wednesday, April 26, 2023 via video teleconference (Google Meet).

Commission members present:

Mary Pat Seurkamp, Ph.D., Chair	James E. Coleman
Charles McDaniels, Jr., Vice Chair	Judge Barbara Kerr Howe
Senchal D. Barrolle, Esq.	Ray Serrano, Ph.D.
Vivian S. Boyd, Ph.D.	

Commission members not present:

Lewis R. Brown, Ed.D.	Craig A. Williams, Ph.D.
James B. Sellinger, Sr.	Sade Davis, Student Commissioner

Staff members present:

Al Dorsett	Emily A. A. Dow, Ph.D.
Ebony Walters	Jeffrey White
Lee Towers	Trish Gordon McCown
Glenda Abney	Jennifer Fischetti
Deborah Ing	Alexandra Edelstein
Rhonda Wardlaw	Soma Kedia
Shayla Hunter	Rose Robinson
Lyndsay Bates	Frances Turner
Bryson Barksdale	

Call to Order

The meeting was called to order by **Chair Seurkamp** at approximately 1:00 p.m. A meeting quorum was established with seven (7) of the eleven (11) members present.

Chair's Remarks

Chair Seurkamp welcomed everyone and announced the appointment of Dr. Sanjay Rai by the Governor to the position of Acting Secretary of Higher Education. He is the former Senior Vice President for Academic Affairs at Montgomery College. His first day will be May 3rd. Senior staff at MHEC are currently planning the transition. **Chair Seurkamp** then gave an overview of the meeting agenda.

Public Comments

There were no public comments.

Approval of Minutes – Action Item

There was a motion by **Commissioner Serrano** and a second by **Commissioner Coleman** for the approval of the February 22, 2023 open meeting minutes and the February 22, 2023 closed session minutes. The motion was approved unanimously.

Commissioner Committee Updates

Education Policy Committee: There was no update to share.

Outreach, Grants, and Financial Assistance Committee: **Commissioner Coleman** invited Commissioners to participate in a podcast or video promoting the work of MHEC. Those interested should let him know. He would then place them in touch with the Director of Communications about producing a podcast or video.

Finance and Operations Committee: There was no update to share.

Diversity, Equity, and Inclusion Committee: **Vice Chair McDaniels** reported that, at their last meeting in March, the committee was able to provide input into questions for institutions completing their Performance Accountability Report. Their next meeting will be in May.

Department of Finance and Administration – Office of Finance Policy – Final Adoption of Amendments to COMAR 13B.07.02.03 – Community Colleges Student Residency Policy – Action Item

Chair Seurkamp recognized Ms. Soma Kedia, Assistant Attorney General, who presented this item. On August 24, 2022, the Commission approved a proposed regulatory amendment to the computation of State aid to community colleges based on a newly enacted § 15-106.11 of the Education Article, Annotated Code of Maryland, which exempts returned Peace Corps volunteers who are domiciled in the State from paying nonresident tuition at a public institution of higher education in the State and establishes that returned Peace Corps volunteer students shall be included as in-State residents for the computation of State aid to community colleges.

The proposed amendments were published in the Maryland Register on February 24, 2023. The public comment period for the amendments ended on March 27, 2023, and no public comments were received. The regulatory amendments became eligible for final adoption on April 11, 2023.

The proposed amendments to the regulations are ready for the Commission's final adoption. The amendments will become effective 10 days after notice of the final adoption is published in the Maryland Register.

Ms. Kedia recommended that the Commission approves for final adoption the proposed regulatory amendment to the computation of State aid to community colleges. **Commissioner Howe** made a motion for approval and **Commissioner Serrano** seconded the motion. The motion was approved unanimously.

Department of Finance and Administration – Office of Student Financial Assistance – Update on Initial Educational Excellence Awards (EEA) for the 2023-2024 Award Year – Information Item

Chair Seurkamp recognized Mr. Al Dorsett, Director of the Office of Student Financial Assistance, to present this item. Initial awarding for the Educational Excellence Awards (EEA) was recently completed. The final deadline for students to submit required documents is May 15. In total, 43,323 students and \$147,928,575 were awarded.

Department of Finance and Administration – Office of Student Financial Assistance – Approval of Proposed Amendments to COMAR 13B.08.20 – Cybersecurity Public Scholarship Program – Action Item

Chair Seurkamp recognized Mr. Dorsett to present this item. Under § 18-3501 et seq., of the Education Article, Annotated Code of Maryland, the Cybersecurity Public Service Scholarship Program supports students who are pursuing an education in programs that are directly relevant to cybersecurity. The awarding of the Cybersecurity Public Service Scholarship Program is governed by COMAR 13B.08.20.

On September 29, 2022, the Commission approved proposed amendments to the regulations for the Cybersecurity Public Service Scholarship Program for submission to AELR and publication in the Maryland Register. The purpose of the proposed amendments was to: (a) adjust the scholarship regulations to accommodate legislative changes that expanded eligibility to part-time students and altered the eligible employers for the mandatory service obligation; (b) streamline the renewal process and limit the bases for deferment of the service obligation; and (c) make stylistic and basic formatting changes. The proposed amendments were published in the Maryland Register on February 24, 2023.

Though the prior proposed amendments received no public comments and are eligible for final adoption, the Office of Student Financial Assistance recommends withdrawing that proposal and submitting a new proposal including additional amendments to change the definition of full-time and part-time for graduate students and to make an additional adjustment to appropriately accommodate part-time students. These changes to the proposal have been approved for legality by MHEC's Assistant Attorneys General as required by the Maryland Administrative Procedure Act.

Upon 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.

Mr. Dorsett recommended that the Commission: (1) Authorizes the withdrawal of the proposed regulatory amendments to the Cybersecurity Public Service Scholarship Program approved by the Commission on September 29, 2022; (2) Approves for publication in the Maryland Register the proposed regulatory amendments to the Cybersecurity Public Service Scholarship Program; and (3) Authorizes its Assistant Attorney General to make non-substantive edits to the proposed regulations to conform to the stylistic and formatting requirements of AELR and DSD.

Commissioner Howe made a motion for approval and **Commissioner Boyd** seconded the motion. The motion was unanimously approved.

Department of Finance and Administration – Office of Student Financial Assistance – Final Adoption of New Regulations for COMAR – Veterans of the Afghanistan and Iraq Conflicts Scholarship Program – Action Item

Chair Seurkamp recognized Mr. Dorsett to present this item. On September 29, 2022, the Commission approved new regulations for the Veterans of the Afghanistan and Iraq Conflicts Scholarship Program, which provides financial assistance to military service members, veterans, reservists, and their family members. The purpose of the regulations is to formalize internal guidelines for the program and expand the eligibility of family members for the program by including stepchildren in addition to children and spouses, pursuant to Ch. 23, 2022 Acts of Maryland (HB 734).

The proposed amendments were published in the Maryland Register on February 24, 2023. The public comment period for the amendments ended on March 27, 2023, and no public comments were received. The regulatory amendments became eligible for final adoption on April 11, 2023.

The proposed amendments to the regulations are ready for the Commissioner's final adoption. The amendments will become effective 10 days after notice of the final adoption is published in the Maryland Register.

Mr. Dorsett recommended that the Commission approves for final adoption the proposed new regulations for the Veterans of the Afghanistan and Iraq Conflicts Scholarship Program.

Commissioner Howe made a motion for approval and **Commissioner McDaniels** seconded the motion. The motion was approved unanimously.

Department of Academic Affairs – Final Adoption of Amendments to COMAR 13B.01.01.17 and 13B.02.06 – Veterans' Education Protection Act (90/10 Rule) – Action Item

Chair Seurkamp recognized Dr. Emily Dow, Assistant Secretary for Academic Affairs, to present this item. On October 26, 2022, the Commission approved proposed regulatory amendments regarding the Veterans' Education Protection Act, 2020 Maryland Laws Ch. 546 (SB 294), which is codified at § 11-210 of the Education Article, Annotated Code of Maryland. The purpose of the amendments is to create a process for MHEC to monitor and enforce the compliance of for-profit institutions of higher education and private career schools that are

requirements for these schools. The schools are prohibited from enrolling new Maryland residents if revenue from federal funds, including veterans' education benefits, exceeds 90% of all annual instructional revenue during two of the three preceding fiscal years.

The proposed amendments were published in the Maryland Register on February 24, 2023. The public comment period for the amendments ended on March 27, 2023 and one public comment was received. The comment supports the regulatory amendments. The regulatory amendments became eligible for final adoption on April 11, 2023.

The proposed amendments to the regulations are ready for the Commission's final adoption. The amendments will become effective 10 days after notice of the final adoption is published in the Maryland Register.

Dr. Dow recommended that the Commission approves for final adoption the proposed regulatory amendments regarding the Veterans' Education Protection Act (90/10 Rule). **Commissioner Howe** made a motion for approval and **Commission Boyd** seconded the motion. The motion was approved unanimously.

Department of Academic Affairs – Final Adoption of Amendments to COMAR 13B.03.01 – Certification Standards and Procedures for Emergency Services Instructors – Action Item

Chair Seurkamp recognized Dr. Dow to present this item. On August 24, 2022, the Commission approved proposed regulatory amendments to the regulations governing certification standards for emergency services instructors. The purpose of the amendments is to change these standards to emphasize core knowledge for training of emergency services personnel. These regulations are enforced by the Maryland Instructor Certification Review Board (MICRB) through the Maryland Fire-Rescue Education and Training Commission, an entity within the Maryland Higher Education Commission.

The proposed amendments were published in the Maryland Register on February 24, 2023. The public comment period for the amendments ended on March 27, 2023, and no public comments were received. The regulatory amendments became eligible for final adoption on April 11, 2023.

The proposed amendments to the regulations are ready for the Commission's final adoption. The amendments will become effective 10 days after notice of the final adoption is published in the Maryland Register.

Dr. Dow recommended that the Commission approves for final adoption the proposed regulatory amendments to the certification standards and procedures for emergency services instructors. **Commissioner Howe** made a motion for approval and **Commissioner Serrano** seconded the motion. The motion was approved unanimously.

Review Meeting – Proposal of Stevenson University for a Doctor of Physical Therapy Program

Chair Seurkamp gave an overview of the review meeting process. Dr. Dow will have 30 minutes to explain her decision to recommend for implementation the proposed program from Stevenson University for a new Doctor of Physical Therapy (DPT). The University of Maryland, Baltimore (UMB) and the University of Maryland Eastern Shore (UMES), the objecting institutions, will each also have 30 minutes to explain the rationale for their objections. Lastly, Stevenson University will have 10 minutes to present their proposed program to the Commissioners. All parties may use any remaining time to respond to the others' presentations.

Chair Seurkamp recognized Dr. Dow to give her presentation. Dr. Dow remarked that there is, in fact, duplication amongst the programs. However, there is educational justification for duplication for three reasons:

- 1) There is evidence of market demand for physical therapists, according to statistics from the Maryland Department of Labor and the U. S. Department of Labor. Furthermore, the American Council of Academic Physical Therapy (ACAPT) has retracted their 2021 letter, which had suggested a national pause in the implementation of new DPT programs due to a projected surplus of professionals.
- 2) There is market demand for Maryland students interested in physical therapy education.
- 3) There is a clear distinction between the institutions. Stevenson is a small, private, independent institution located in Baltimore County, UMB is a public institution located in Baltimore City, and UMES is a public institution located on the eastern shore.

Commissioner Serrano asked Dr. Dow how often are the statistics from the state and federal labor departments updated, and what was the change between the time that Stevenson's program was initially denied in 2021 to the present day. Dr. Dow answered that statistics are updated every 2-3 years. Both times, there was a need projected. The difference this time is the retraction of ACAPT's letter. **Commissioner Boyd** asked how the extra demand for clinical placements would affect the existing programs. Dr. Dow replied that they did not find evidence of demonstrable harm to UMB, which is in relative close proximity to Stevenson. **Chair Seurkamp** asked what consideration was given to the additional demand for faculty with the implementation of Stevenson's program. Dr. Dow responded that this factor did not play a role in their decision-making. Other clarifying questions were asked.

Chair Seurkamp recognized Dr. Alison Wrynn, Senior Vice Chancellor for Academic and Student Affairs, University System of Maryland, who emphasized the importance of addressing workforce demand and avoiding unnecessary duplication. Dr. Roger Ward, Provost and Executive Vice President and Dean, Graduate School, University of Maryland, Baltimore, remarked that the proposed program would cause demonstrable and irreparable harm. Stevenson University cannot be successful, if the proposed program is allowed to be implemented, without competing for resources, including faculty and clinical placements. President Bruce Jarrell of the University of Maryland, Baltimore added that the proposed program would increase the competition for students and lower their enrollment, impacting their finances and program quality. Dr. Victoria Marchese, Chair of the Department of Physical Therapy and Rehabilitation Science at UMB, noted that the climate of the field has changed. There is now a large number of existing and developing DPT programs in the country, a decline in the number of applicants, and

a decline in their outcome measures. Additionally, despite the fact that demand is going up, an over-supply of PT students will follow in the near future. There are also the issues related to competition for faculty and clinical placements. Several Commissioners asked clarifying questions.

Chair Seurkamp recognized Dr. Heidi Anderson, President of the University of Maryland Eastern Shore, who urged the Commission to overturn Assistant Secretary Dow's decision. Stevenson's proposed program would do harm to the other two programs and negatively affect students and, eventually, patients. Dr. Michael Rabel, Chair of the Department of Physical Therapy at UMES, claimed that the Assistant Secretary's decision was biased and did not explain all the data. There is currently a decrease in enrollment and matriculation. Furthermore, there will be a future over-supply of physical therapists (not enough jobs). ACAPT's retraction of their 2021 letter was also portrayed inaccurately. It should not be inferred that retracting the letter was due to a change in circumstances. UMES reached out to Stevenson as well about collaborating, but they did not receive a response from them. Dr. Sandeep Gopalan, Vice Provost for Academic Affairs, remarked that Stevenson's program would create a shortage of faculty and a decline in applicants. He also alleged that the Assistant Secretary's decision is a violation of the coalition settlement.

Chair Seurkamp recognized Dr. Dow for responsive comments. Dr. Dow clarified that the coalition case is specific to public institutions. (Stevenson University is a private, independent institution.) She also reiterated that there is educational justification for duplication. First, there is market demand for physical therapists in Maryland over the next 10 years. Second, there is demand for physical therapist education. Third, Stevenson is different from UMB and UMES in that it is a small, private liberal arts college. Lastly, Dr. Dow explained that when the ACAPT letter was retracted, they could no longer factor it into their decision-making. A clarifying question was asked.

Chair Seurkamp recognized UMB for responsive comments. Dr. Marchese remarked that if Stevenson's program is implemented, they will not cap their class size. They will expand their program. In fact, they are planning to create a hybrid option for students.

Chair Seurkamp recognized UMES for responsive comments. Dr. Anderson urged the Commission to overturn the Assistant Secretary's decision. Dr. Rabel reiterated that the pool of applicants was declining, and there could possibly be more physical therapists produced in the near future than jobs available.

Chair Seurkamp recognized Stevenson University's President Elliot Hirshman who urged the Commission to affirm the Assistant Secretary's decision. The vacancy rate of physical therapists dramatically increased during the pandemic. Moreover, Maryland students are demanding the program. Stevenson will be limiting their class size to 25 students. Dr. Susan Gorman, Executive Vice President and Provost, emphasized the growing demand for and decreased supply of physical therapists. Dr. Meredith Durmowicz, Vice Provost, reported that Stevenson's data shows that demand is robust. The demand by Maryland students is unmet. Ms. Antionette Marbray, Vice President of Legal Affairs, contended that the two objecting institutions have not shown how Stevenson's program would cause demonstrable harm to their programs. In terms of

clinical placements, they have received assurance from clinical sites that other schools and students would not be negatively affected. Lastly, Dr. Hirshman thanked the Commissioners for the opportunity to present.

Commissioner Serrano made a motion to enter into a closed session to render a decision. **Commissioner Coleman** seconded the motion. **Chair Seurkamp** took the roll:

McDaniels – Yes

Barrolle – Yes

Boyd – Yes

Coleman – Yes

Howe – Yes

Seurkamp – Yes

Serrano – Yes

Adjournment

The meeting adjourned at approximately 3:20 p.m.