

UNNECESSARY Duplication**The Commission’s charge under HB 1244 (Ch. 963, Acts of 2024):**

The Commission is required to adopt regulations on procedures for conducting an analysis of objections that clearly identify all of the specific criteria and factors used by the Commission. There are four objections total: (1) inconsistency of a proposed program with the institution’s mission, (2) not meeting a regional or statewide need in the State Plan for Higher Education, (3) unreasonable duplication, and (4) unnecessary duplication.

For **unnecessary duplication**, an institution may object based on “*unnecessary program duplication in violation of the State’s equal educational opportunity obligations under State and federal law.*”

For an objection based on unnecessary program duplication, the legislature required that MHEC consult with the Office of the Attorney General in adopting regulations for standards for conducting an unnecessary duplication analysis.

13B.02.03.09-1. Unnecessary Program Duplication.**A. Scope.**

(a) This regulation is only applicable to public senior higher education institutions in the State.

(b) This regulation is only applicable to graduate programs.

B. Pursuant to Education Article, § 11-206.2(e)(1)(iv), Annotated Code of Maryland, approval or recommendation of a proposed new program or substantial modification of an existing program may not result in unnecessary program duplication in violation of the State’s equal educational opportunity obligations under State and federal law.

C. The primary purpose of reviewing academic program proposals for unnecessary duplication is to ensure that traditionally white public institutions of higher education are not duplicating existing programs at historically black public institutions of higher education without sound educational justification.

D. An institution of higher education shall use the standards in this regulation to:

(1) Analyze potential unnecessary program duplication prior to the submission of academic program proposals or letters of intent;

(2) Demonstrate the nonexistence of unnecessary program duplication within an academic program proposal or letter of intent;

(3) Determine if the institution has a rationale for the filing of objection based on unnecessary program duplication;

(4) Demonstrate the existence of unnecessary duplication within an objection filing.

E. Determination of Unnecessary Duplication.

(1) Steps.

(a) In determining whether a program is unnecessary duplicative, the Secretary shall first determine if the content of the two programs is broadly similar.

(b) If the content of the two programs is not broadly similar, the Secretary shall find that there is no unnecessary program duplication.

(c) If the content of the two programs is broadly similar, the Secretary shall determine if sound educational justification exists.

(d) If sound educational justification exists, the Secretary shall find that there is no unnecessary program duplication.

(e) If sound educational justification does not exist, the Secretary shall find that approval of the proposed program would result in unnecessary duplication.

(f) If the Secretary finds that approval of the proposed program would result in unnecessary duplication, the Secretary shall deny the proposed program.

(2) Broad Similarity of Content.

(a) In determining whether the content of two programs is broadly similar, the Secretary shall consider:

- (i) Learning objectives;
- (ii) Projected competencies and skills;
- (iii) Intended employment upon program completion;
- (iv) Licensure, certification, stackable credentials, or industry recognitions;
- (v) Program title;
- (vi) Requested or recommended CIP code;
- (vii) Program accreditation; and
- (viii) As needed, course titles, course objectives, and course descriptions.

(b) Consideration of these factors shall be a holistic analysis and the Secretary may weigh the importance of each factor depending on the elements of the program proposal.

(3) Sound Educational Justification. In determining whether sound educational justification exists, the factors the Secretary shall consider include, but are not limited to:

- (a) The geographical distance between the institutions;
- (b) State and regional workforce need;
- (c) If applicable, the availability of clinical placements or other experiential learning opportunities

(d) The existence of unique educational resources, such as specialized research centers, that support the existing or proposed program;

(e) The national reputation of the department or school within each institution in which the program is or will be housed;

(f) Existing collaborative partnerships with industry, government, or other educational institutions in the State, region, nation, or globally, or the capacity to create such partnerships; and;

(g) ADDITIONAL CONSIDERATIONS