

# **MARYLAND HIGHER EDUCATION COMMISSION**

## **MEETING BOOKLET**

Time: 10:00 AM-5:00 PM  
September 25, 2019

Place: Maryland Higher Education Commission  
6 N. Liberty St., 7<sup>th</sup> Floor Board Room  
Baltimore, MD 21201

# Maryland Higher Education Commission

Anwer J. Hasan, Chairman

Sandra L. Jimenez, Vice-Chair

Senchal D. Barrolle, Esq.

Vivian S. Boyd, Ph.D.

James E. Coleman

John W. Holaday

Vera R. Jackson, Ph.D.

Ian D. MacFarlane

Donna M. Mitchell

Rizwan A. Siddiqi

Jordan T. Troutman, Student Commissioner

John W. Yaeger, Ed.D.

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

**Lawrence J. Hogan, Jr.**  
**Governor**

**Boyd K. Rutherford**  
**Lt. Governor**



**Larry Hogan**  
Governor

**Boyd K. Rutherford**  
Lt. Governor

**Anwer Hasan**  
Chairperson

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

## Maryland Higher Education Commission Meeting Agenda

**TIME:** 10:00 a.m.-5:00 p.m.  
Wednesday  
September 25, 2019

**PLACE:** Maryland Higher Education Commission  
6 N. Liberty Street, 7<sup>th</sup> Floor BR  
Baltimore, MD 21201

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<b>Call to Order</b>		
<b>Commission Minutes Approval</b> .....	1	*
• June 26, 2019		
• June 26, 2019 Closed Session Minutes		
• July 17, 2019		
• July 17, 2019 Closed Session Minutes		
<b>Chairman’s and Secretary’s Remarks</b>		
<b>Commissioner Committee Updates</b>		
<b>Department of Finance and Administration – Geoffrey Newman</b>		
• Operation and Capital Budget Presentation		
○ 10:15 am – University System of Maryland, Ellen Herbst, Vice Chancellor for Administration & Finance		
○ 10:45 am – St. Mary’s College of Maryland – Dr. Tuajuanda C. Jordan, President		
○ 11:05 am – Morgan State University – Dr. David Wilson, President		
○ 11:25 am – Maryland Independent College and University Association – Tina Bjarekull, President		
○ 11:45 am – Maryland Association of Community Colleges – Brad Phillips, Director of Research		
○ 12:05 pm – Baltimore City Community College – Dr. Debra L. McCurdy, President		
○ 12:25 pm – Regional Higher Education Centers – Geoffrey Newman, Assistant Secretary of Finance and Administration and Center Directors		
<b>Lunch (12:45-1:30)</b>		
<b>Department of Finance and Administration – Geoffrey Newman</b>		
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**Department of Academic Affairs – Dr. Emily Dow**

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**Review Meeting Regarding a Proposal of Loyola University Maryland to Implement a Master of Business Administration (MBA) at an Off-Campus Location**

**Adjournment**

**Maryland Higher Education Commission**  
Meeting Minutes

June 26, 2019  
1:00 p.m.

The Maryland Higher Education Commission (MHEC) met on Wednesday, June 26, 2019 at 6 North Liberty Street, 7<sup>th</sup> Floor Board Room, Baltimore, MD 21201.

**Commission members present:**

Anwer Hasan, Chairman	Dr. Vera R. Jackson
Sandra L. Jimenez, Vice-Chair	Donna M. Mitchell
Senchal D. Barrolle, Esq.	Rizwan A. Siddiqi (phone)
Dr. Vivian S. Boyd	Dr. John W. Yaeger

**Commission members not present:**

John W. Holaday	Giavanna Tserkis
Ian D. MacFarlane	

**Staff members present:**

Dr. James D. Fielder, Jr.	Dr. Emily Dow
Geoffrey Newman	Soma Kedia
Dr. Barbara Schmertz	Donna Thomas (phone)
Sarahita Wyatt-Paige	Lyndsay Bates
Glenda Abney	Bryson Barksdale
Vanessa Bennett	Trish Gordon-McCown
Alexia Van Orden	Jermal Butler
Stephanie Jennings	Wayne Holmes

**Call to Order**

The meeting was called to order by **Chairman Hasan** at approximately 1:05 p.m. A meeting quorum was established with eight of the eleven members present.

**Approval of Minutes – Action Items**

There was a motion by **Commissioner Yaeger** and a second by **Commissioner Mitchell** for approval of the May 22, 2019 meeting minutes. The motion was approved unanimously.

There was a motion by **Commissioner Boyd** and a second by **Commissioner Jimenez** for approval of the June 6, 2019 meeting minutes. The motion was approved unanimously.

## **Chairman's Remarks**

**Chairman Hasan** welcomed new Commissioner, Mr. James Coleman, who will be sworn in shortly. Mr. Coleman provided the Commission a brief introduction.

## **Secretary's Remarks**

**Chairman Hasan** recognized **Secretary Fielder** who reported that MHEC's 75<sup>th</sup> anniversary celebration of the GI Bill, organized by Ms. Trish Gordon-McCown, Associate Director of Veterans Affairs, was very successful. The event took place at the World Trade Center in Baltimore City and was well-attended.

**Secretary Fielder** recognized Ms. Gordon-McCown who welcomed and introduced her department's newest employee, Mr. Wayne Holmes.

**Secretary Fielder** informed everyone that Dr. Barbara Schmertz recently accepted the Director of the Office of Research & Policy Analysis position.

## **Commissioner Committee Updates**

**Program Review Committee: Commissioner Yaeger** reported on their work over the past year related to the Bachelor of Professional Studies (BPS) program, which included encouraging collaboration between 2-year and 4-year institutions. (One main difference between a BPS and a Bachelor of Science degree is that the former requires the completion of an internship in order to build a very specific skill set.) Another continuing task is the review and update of the Academic Program Inventory.

**Finance and Operations Committee: Commissioner Mitchell** reported that the Committee met via conference call on June 21. Currently, there are some vacancies in the departments of Student Financial Assistance, Academic Affairs, Finance Policy and Budget & Administration. Also, the Student Loan Debt Relief Tax Credit program will begin July 1 and close September 15. Awards will be made by December 15. The fiscal year closes on June 30, after which an audit will be performed by an outside firm. Subsequently, the budget process will begin. They have come up with recommendations for the institutions to standardize their budget presentations during the September meeting.

**Outreach, Grants, and Financial Assistance Committee: Chairman Hasan** remarked that a replacement will be named for former Commissioner Joel Packer who led this Committee.

## **Office of Student Financial Assistance – Proposed Approval of Amendments to COMAR Program Regulations – Cybersecurity Public Service Scholarship Program – Action Item**

**Chairman Hasan** recognized Ms. Donna Thomas, Director of the Office of Student Financial Assistance, who reported that the proposed amendments are for the regulations for the Cybersecurity Public Service Scholarship Program. The amendments clarify that the definition of full-time enrollment for graduate students is 9 credits.

Ms. Thomas recommended that the Commission approve for publication in the Maryland Register the enclosed proposed amendments to the regulations dated June 26, 2019 for the Cybersecurity Public Service Scholarship Program, and authorize MHEC's attorneys to approve non-substantive revisions as necessary to conform the proposed regulations to the stylistic and formatting requirements of AELR and of the Division of State Documents. **Commissioner Boyd** made a motion for approval and **Commissioner Yaeger** seconded the motion. **Chairman Hasan** asked the amount per recipient. Ms. Thomas replied that in 2018-2019, the total amount distributed to 40 students was \$160,000, so that each student received \$4,000. The motion was approved unanimously.

#### **Department of Academic Affairs – PCS Quarterly Report – Information Item**

**Chairman Hasan** recognized Dr. Emily Dow, Assistant Secretary for Academic Affairs, who provided an overview of the Secretary's actions for the first quarter of the year (January 1 to March 31) concerning the approval of a new school, approval of changes of location, approval of name change, approval of change of ownership, approval of change of director, approval of separate classrooms, other business, certificate renewals, cease and desist orders, notices of deficiencies, and Workforce Development Sequence Scholarships approved and denied.

#### **Department of Academic Affairs – Collegiate Quarterly Report – Information Item**

**Chairman Hasan** recognized Dr. Dow who provided an overview of the Secretary's actions for the first quarter of the year (January 1 to March 31) concerning new degree programs, program objected to, new certificate programs, new areas of concentration, substantial modifications to existing programs, non-substantial modifications to existing programs, and partnerships.

#### **Department of Academic Affairs – 2018-2019 Student Advisory Council Annual Report – Information Item**

**Chairman Hasan** recognized Dr. Dow who presented the 2018-2019 Student Advisory Council Annual Report, which included their accomplishments and recommended goals for the 2019-2020 cohort. Presentation of an annual report is the result of the recent adoption of new bylaws.

#### **Office of Research and Policy Analysis – 2019 Retention and Graduation Rates at Maryland Four-Year Institutions – Information Item**

**Chairman Hasan** recognized Dr. Barbara Schmertz, Director of the Office of Research and Policy Analysis, who recognized Ms. Sarahita Wyatt-Paige, Research Analyst. Ms. Wyatt-Paige presented the Commission a report on the 2019 retention and graduation rates at Maryland four-year institutions. This annual report presents the retention and graduation rates of first-time, full-time undergraduate students entering Maryland's public four-year colleges and universities.

#### **Office of Research and Policy Analysis – 2019 Retention, Graduation and Transfer Rates at Maryland Community Colleges – Information Item**

**Chairman Hasan** recognized Ms. Alexia Van Orden, Research Analyst, who presented the Commission a report on the 2019 retention, graduation, and transfer rates at Maryland community colleges. This report provides information on retention, graduation, and transfer rates for students entering Maryland community colleges as first-time, full-time students between 1996 and 2016. This edition of the report includes data about student outcomes two, three, and four years after matriculation.

### **Review Meeting Regarding a Proposal of Goucher College to Implement a Bachelor of Professional Studies (B.P.S.) in Health Services Management**

**Chairman Hasan** recognized Ms. Soma Kedia, Assistant Attorney General, who explained the review meeting procedure as defined in COMAR. The Secretary will be given 30 minutes to explain his decision, after which the University of Baltimore (as the “objecting institution”) will have 30 minutes to share their objection. Subsequently, Goucher College (as the “proposing institution”) will be given 10 minutes to defend their proposal. The Commission will then go into a closed session to confer and render their decision.

**Chairman Hasan** recognized **Secretary Fielder** who explained that after an internal staff review and analysis, he decided to approve Goucher College’s proposal to implement a Bachelor of Professional Studies (B.P.S.) degree program in Health Services Management. He made his decision based on several factors, including workforce needs and potential duplication.

**Secretary Fielder** further highlighted some differences between the two programs:

- Goucher College has articulation agreements with 6 community colleges, which means that 60 credits completed at one of these schools would be accepted at Goucher. On the other hand, University of Baltimore’s (UB) program is more of a standardized 4-year degree.
- Goucher’s program is fully online, whereas the UB program is a hybrid of online and in-person learning.
- The admission requirements are different.

**Commissioner Boyd** asked the names of the 6 community colleges. **Secretary Fielder** replied that the 6 schools were Baltimore City Community College, Harford Community College, Community College of Baltimore County, Wor-Wic Community College, Chesapeake College, and College of Southern Maryland.

**Chairman Hasan** recognized the representatives from the University of Baltimore, Ms. Darlene Smith, Executive Vice President and Provost, and Ms. Tina Di Franco, Director of the School of Health and Human Services. Ms. Smith contended that UB’s program was indeed “transfer-friendly.” Theirs is not a standard 4-year program. In fact, they have articulation agreements with several community colleges, including Anne Arundel Community College, Carroll Community College, Montgomery College, Baltimore City Community College and the Community College of Baltimore County. Ms. Smith listed 3 similarities of the two programs:

- They are very close in terms of specific content and credit hours.
- The intended audience is very similar.



- They are also close in terms of anticipated job outcomes.

Ms. Di Franco talked about some of UB's faculty, sharing their credentials and vast experiences. She also noted that an internship is required in UB's program. They have a relationship with over 70 internship sites.

**Commissioner Boyd** asked if transfer students could come from another 4-year institution. Ms. Di Franco answered that they can. However, most transfer students come from community colleges. **Commissioner Jimenez** asked about the cohort size. Ms. Di Franco replied that there are 141 students. **Commissioner Jackson** asked what the rate of retention is after transfer. Ms. Di Franco responded that it was over 60%. **Chairman Hasan** asked what the major differences were between the two programs. Ms. Smith answered that Goucher's staff was mainly adjunct faculty, and the cost was less at UB. The University of Baltimore also offers more courses. **Commissioner Barrolle** inquired about the "hybrid" nature of UB's program (part online and part face-to-face learning). Ms. Smith responded that they structured their program based on the recommendation of their advisory board who advised that some content is better delivered in a classroom setting.

**Chairman Hasan** recognized the representatives from Goucher College, including Dr. Kathryn Doherty, Associate Vice Provost for Graduate and Professional Studies, Dr. Brian Coker, Acting President, and Dr. Scott Sibley, Provost. They were also joined by Ms. Tina Bjarekull, President of the Maryland Independent College and University Association (MICUA).

Dr. Doherty listed the ways in which Goucher's program differed from UB's and responded to several of UB's claims. Goucher's program is targeted to the career-track student (with an A.A.S. degree) in community colleges. In fact, they cannot attract students with an A.A. or A.S. degree, unlike UB. Internships can also be completed at the student's current job. Furthermore, there are 6 points of entry into the program year-round for students. Their fee of \$300 per credit is competitive, and they have since developed additional articulation agreements, with several more pending. Although their faculty is mostly adjunct, they are currently practicing in their fields.

Ms. Bjarekull urged the Commission to uphold the Secretary's decision. She reminded the Commission of the Applied Baccalaureate workgroup that they formed. This particular program developed by Goucher is in response to the work accomplished by that workgroup.

The Commissioners asked clarifying questions of the presenters from Goucher College.

**Chairman Hasan** recognized Ms. Di Franco from the University of Baltimore who added that their internship can also be completed at the student's current workplace.

**Secretary Fielder** thanked everyone for their professionalism and courtesy.

**Chairman Hasan** recognized Dr. Doherty from Goucher College who emphasized that their faculty are practicing professionals.

**Chairman Hasan** asked for a motion to be made to enter into a closed session. **Commissioner Boyd** made the motion and **Commissioner Yaeger** seconded the motion. The motion was approved unanimously.

### **Adjournment**

The meeting adjourned at approximately 2:52 p.m.

For Inclusion in the Open Session Minutes of the Commission's June 26, 2019 Meeting:

Closed Session Minutes:

On June 26, 2019, during a regular meeting at 1:00 p.m. in the 7<sup>th</sup> Floor Board Room of 6 North Liberty Street, Baltimore, Maryland, the Maryland Higher Education Commission voted to move into closed session. The closed session was held in a conference room adjoining the Board Room. The purpose of the closed session was to review the Secretary's recommendation in favor of a program proposal under COMAR 13B.02.03.28. The proposed program was a Bachelor of Professional Studies (BPS) in Health Services Management by Goucher College.

The Commission members who voted in favor of meeting in closed session were: Anwer Hasan, Sandra Jimenez, Senchal Barrolle, Vivian Boyd, Vera Jackson, Donna Mitchell, John Yaeger, and Rizwan Siddiqi. Commissioners not in attendance were: John Holaday, Ian MacFarlane, and Giavanna Tserkis.

The statutory authorities for closing the session were §§ 3-305 and 3-103 of the General Provisions Article of the Annotated Code of Maryland. Specifically, the session was closed under § 3-103(a) to carry out the administrative function of reviewing a program proposal pursuant to Title 11 of the Education Article, Annotated Code of Maryland; and under § 3-305(b)(7) to obtain the legal advice of counsel regarding program review.

The topic of discussion at the closed session was to review the Secretary's recommendation in favor of Goucher's BPS proposal, and the University of Baltimore's objection to the proposal, under COMAR 13B.02.03.28. The persons present were: Commissioners Anwer Hasan, Sandra Jimenez, Senchal Barrolle, Vivian Boyd, Vera Jackson, Donna Mitchell, and John Yaeger; and Assistant Attorney General Soma Kedia. The action taken during closed session was to uphold the Secretary's recommendation in favor of the program.

**Maryland Higher Education Commission**  
Meeting Minutes

July 17, 2019  
11:30 a.m.

The Maryland Higher Education Commission (MHEC) met on Wednesday, July 17, 2019 via conference call.

**Commission members present:**

Anwer Hasan, Chairman	John W. Holaday
Sandra L. Jimenez, Vice-Chair	Dr. Vera R. Jackson
Senchal D. Barrolle	Giavanna Tserkis
Dr. Vivian S. Boyd	Dr. John W. Yaeger

**Commission members not present:**

Ian D. MacFarlane	Rizwan A. Siddiqi
Donna M. Mitchell	

**Staff members present:**

Dr. James D. Fielder, Jr.	Soma Kedia
Geoffrey Newman	Lee Towers

**Call to Order**

The meeting was called to order by **Chairman Hasan** at approximately 11:31 a.m. A meeting quorum was established with eight of the eleven members present.

**Secretary Fielder's Remarks**

**Chairman Hasan** recognized **Secretary Fielder** who highlighted some recent achievements, such as the online availability of the Student Loan Debt Relief Tax Credit application and the current status of the Maryland Community College Promise Scholarship Program.

**Chairman Hasan's Remarks**

**Chairman Hasan** explained that the purpose of the meeting was to discuss two pending administrative appeals from institutions in California, the Academy of Art University and Fuller Theological Seminary. Both schools applied to register with the Commission as an out-of-state online education provider, but were denied due to various reasons.

**Vote for Closed Session to Discuss Pending Administrative Appeals – Action Item**

**Commissioner Jimenez** moved that the Commission go into a closed session to discuss the pending administrative appeals. **Commissioner Jackson** seconded the motion. The motion was approved unanimously.

**Adjournment**

The meeting adjourned at approximately 11:37 a.m.

For Inclusion in the Open Session Minutes of the Commission's July 17, 2019 Meeting:

EXECUTIVE SESSION Pursuant to § 3-305(b)(1)&(7) of the General Provisions Article, Annotated Code of Maryland, and upon motion of Commissioner Jimenez, seconded by Commissioner Jackson, and with unanimous agreement, the Maryland Higher Education Commission met in closed session on Wednesday, July 17, 2019 by conference call. The following Commission members were not present: Ian MacFarlane, Rizwan Siddiqi, and Donna Mitchell. In attendance was Assistant Attorney General, Elliott Schoen, Deputy Counsel Maryland State Department of Education. The Executive Session commenced at 11:40 a.m. At that time, the Commission received legal advice regarding denial of registration certification appeals from Fuller Theological Seminary and Academy of Art. The Commission discussed with legal counsel whether to refer the appeals to the Maryland Office of Administrative Hearings for evidentiary hearings. Following consultation and discussion the Commission voted unanimously to transmit both appeals to the Maryland Office of Administrative Hearings. The Executive Session ended at 12:00 p.m.



Larry Hogan  
Governor

Boyd K. Rutherford  
Lt. Governor

Anwer Hasan  
Chairperson

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

## MEMORANDUM

**DATE:** September 25, 2019

**TO:** Maryland Higher Education Commissioners

**FROM:** Geoff Newman, Assistant Secretary for Finance and Administration

**SUBJECT:** Proposed COMAR Program Regulations–  
Maryland Community College Workforce Readiness Grant

The purpose of this memorandum is to request approval to publish proposed regulations for the Maryland Community College Workforce Readiness Grant, COMAR13B.07.06.

Senate Bill 515, enacted as Chapter 457 of the Acts of 2019, established the Community College Workforce Readiness Grant Program. The purpose of the program is to provide matching grants to a community college to improve the community college's technology. Under this program, the State will provide matching funds for monetary or technology donations obtained by the community colleges that each community college campus is permitted to accept from eligible donors within the two prior fiscal years. Matching funds will be provided by the State at two specified times; in fiscal 2022 for donations received in fiscal 2020 and 2021, and again in fiscal 2024 for donations received in fiscal 2022 and 2023.

The proposed COMAR regulations are for the purpose of implementing the Community College Workforce Readiness Grant, as was charged to MHEC in the enabling legislation.

**RECOMMENDATION:** It is recommended that the Commission approve for publication in the Maryland Register the enclosed regulations for the Maryland Community College Workforce Readiness Grant, and authorize MHEC's attorneys to approve non-substantive revisions as necessary to conform the proposed regulations to the stylistic and formatting requirements of AELR and of the Division of State Documents.





# **Title 13B Maryland Higher Education Commission**

## **Subtitle 07 Community Colleges**

### **Chapter 06 Workforce Readiness Grant Program**

Authority: Education Article, §§ 11-105(u) and 16-321, Annotated Code of Maryland; Chapter 457, 2019 Laws of Maryland

#### **.01 Applicability.**

The criteria and procedures in this chapter apply to the Workforce Readiness Grant Program provided for by Education Article, § 16-321, Annotated Code of Maryland, as enacted by Chapter 457, 2019 Laws of Maryland.

#### **.02 Definitions.**

A. In this chapter, the following terms have the meanings indicated.

B. Terms defined.

(1) “College” means any public community college authorized to operate in the State and includes Baltimore City Community College.

(2) “Commission” means the Maryland Higher Education Commission.

(3) “Eligible Contribution” means the total amount or fair market value of monetary or equipment contributions pledged by an eligible donor to an eligible institution, and received by the college, that are specifically designated by the donor to improve the college’s technology, during a designated time period.

(4) “Designated Time Period” means:

(a) July 1, 2019, to June 30, 2021; or,

(b) July 1, 2021, to June 30, 2023.

(5) “Eligible Donor” means any individual, corporation, partnership, organization, or other form of business organization, public or private foundation, or other nonprofit organization, other than a local, state, federal, or foreign government.

(6) “Eligible Institution” means each campus of each college and does not include any foundation affiliated with the college or campus.

(7) “Technology” means any technology that will improve the college’s career and workforce instruction.

#### **.03 Reporting to Commission.**

A. No later than 60 days after the end of a designated time period, a college requesting matching funds from the State under § 16-321 of the Education Article shall provide to the Commission, for each eligible institution, a report containing the information set forth in § B of this regulation.

B. For each eligible donor, the college shall provide, in a format specified by the Commission:

(1) An itemized list of all monetary and equipment donations made during the designated time period that includes a description of the purpose for which the eligible contribution was or will be used; and,

(2) Documentation, from the donor, of each monetary or equipment donation made during the designated time period showing that the donation was specifically designated to improve the college’s technology.

C. A college shall provide additional or alternate documentation to the Commission upon the Commission’s request.

D. If a college requesting matching funds does not already provide a copy of its annual audit and management report to the Commission, it shall submit one within 90 days of the close of each fiscal year.

E. On or before August 1, 2022, and on or before August 1, 2024, a college shall provide to the Commission, for each eligible institution, a report specifying how all eligible contributions and state matching funds granted under this program were used.

#### **.04 Recordkeeping Requirements.**

A. Colleges shall maintain all records that document or support the information provided to the Commission under Regulation .03 of this chapter, including documentation showing the use of all eligible contributions and state matching funds granted under this program.

B. Records specific to this program shall be maintained separately from other donation records and provided to the state upon request.

C. All records relating to this program should be kept through June 30, 2029, or until audited, whichever is earlier.

#### **.05 Reporting to Governor.**

On or before October 1, 2021, and on or before October 1, 2023, the Commission shall provide to the Governor a list of the total eligible contributions made to each eligible institution during the preceding designated time period.





Larry Hogan  
Governor

Boyd K. Rutherford  
Lt. Governor

Anwer Hasan  
Chairperson

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

## MEMORANDUM

**DATE:** September 25, 2019

**TO:** Maryland Higher Education Commissioners

**FROM:** Donna Thomas, Director, and Office of Student Financial Assistance

**SUBJECT:** Final Approval of Amendments to COMAR Program Regulations–  
Maryland Community College Promise Scholarship

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On May 22, 2019, the Commission approved for publication in the Maryland Register the enclosed regulations regarding the Maryland Community College Promise Scholarship Program. The regulations were published in the Maryland Register on July 19, 2019. The public comment period for the regulations ended on August 19, 2019, and no public comments were received.

The proposed regulations are ready for the Commission's final adoption.

**RECOMMENDATION:** It is recommended that the Commission approves for final adoption the attached proposed regulations regarding the Maryland Community College Promise Scholarship Program, which were published in the Maryland Register on July 19, 2019.



# Title 13B

## MARYLAND HIGHER EDUCATION COMMISSION

### Subtitle 08 FINANCIAL AID

#### Chapter 21 Maryland Community College Promise Scholarships

Authority: Education Article, § 11-105(u)[,]; 18-204(c)[,]; [18-3603,18-3604,] and [18-3606] *Subtitle 36, Title 18*;[,] Annotated Code of Maryland

#### **.05 Application Process.**

- A. A student shall apply annually and shall submit all supporting documentation requested by the Office:
- (1) For the 2019—2020 award year only, by [June 15, 2019] *a deadline established by the Office*; and
  - (2) Beginning with the 2020—2021 award year and each year thereafter:
    - (a) By [May 15] *June 15*, for initial applications; and
    - (b) By [April 1] *May 1*, for renewal applications.
- B. Form of Application.
- (1) Initial applicants shall submit:
    - (a) [The] *By March 1, the* FAFSA or, if the applicant is ineligible to receive federal Title IV financial aid, but qualifies for in-State tuition under Education Article, §15-106.8, Annotated Code of Maryland, an alternate application form prescribed by the Office; and
    - (b) The Promise Scholarship application, *if any*, prescribed by the Office.
  - (2) [Renewal] *By March 1, renewal* applicants shall submit the FAFSA or, if the applicant is ineligible to receive federal Title IV financial aid, but qualifies for in-State tuition under Education Article, §15-106.8, Annotated Code of Maryland, an alternate application form prescribed by the Office.
- C. Time of Submission. Applications and supporting documentation received by the Office after the deadlines described in §A are untimely and shall not be considered.
- D. If the Office requests supporting documentation from the applicant in order to determine the applicant's eligibility:
- (1) The Office shall notify the applicant to submit such information;
  - (2) The applicant shall submit all information to the Office by the deadline described in §A of this regulation; and
  - (3) Information received by the Office after the deadline shall not be considered.
- E. Upon the request of an applicant, the community college shall assist the applicant to submit a FAFSA or any other application for State or federal student financial aid.

#### **.08 Waiting List.**

- A. An eligible applicant who does not receive an award shall be notified and placed on a waiting list.
- B. The Office shall consider students on the waiting list for late scholarship awards if funds become available after awards have been made.
- C. Notwithstanding any other provision of this chapter, consideration for a late award shall be given, in the following descending order, to students:
- (1) Whose institution reported the applicant's non-loan aid after the deadline established by the Office;
  - (2) Who enrolled in the summer semester to maintain the GPA requirement; [and]
  - (3) Who applied on time and were eligible for an award but were not awarded due to lack of funds[.]; *and*
  - (4) *Whose actual tuition and fee expenses increased as a result of the student adding credits after initial registration.*
- D. If funds become available after commencement of the fall semester and are sufficient to issue late awards, the Office shall require the institution to verify the eligibility of students before making late awards.

#### **.09 Verification of Eligibility.**

- A. Verification by the Office of Initial Applicants.
- (1) Annually, the Office shall verify [the accuracy of adjusted gross income levels and the accuracy of demonstrated need for]:
    - (a) [All initial scholarship applicants who are not federally selected for the V1 and V5 verification groups, as defined by the U.S. Department of Education] *The eligibility of each applicant*; and
    - (b) [All] *The accuracy of adjusted gross income levels and demonstrated need of a representative sample of applicants who are ineligible to receive federal aid and complete the separate application prescribed by the Office.*
  - (2) An applicant selected by the Office for verification *under §A(1)(b) who is ineligible for federal aid and* has filed a State or federal tax return shall verify the following:
    - (a) Adjusted gross income;
    - (b) Income tax paid;
    - (c) Untaxed portions of IRA distributions;

- (d) IRA deductions and payments;
- (e) Tax-exempt interest income;
- (f) Education credits;
- (g) Number of household members; and
- (h) Number of household members enrolled in an institution of higher education.

[(3)] (3) An applicant selected by the Office for verification who earned, or whose family earned if the student is a dependent or married, below the maximum income requirement to file a tax return [shall verify the following:

- (a) Income earned from work;
- (b) Number of household members; and
- (c) Number of household members enrolled in an institution of higher education.

[(4)] (3) The Office shall verify initial applicants have earned a cumulative 2.3 high school GPA, or successfully completed the GED examination, prior to the application deadline under Regulation .04A of this chapter;

[(5)] (4) The Office shall verify that initial applicants graduated from a high school, or earned a GED in Maryland, within the last 2 years; and

[(6)] (5) The Office annually shall verify the accuracy of adjusted gross income *and demonstrated need* for a percentage of renewal recipients, randomly selected, who are not federally selected and who are not eligible to receive federal aid but are eligible for in-State tuition, as described in §A of this regulation.

**B. Institutional Verification.**

(1) An institution annually shall perform federal verification for any scholarship recipient federally selected for verification under the V1 and V5 verification groups, as defined by the U.S. Department of Education.

(2) The Office will identify all scholarship recipients who are federally selected for federal verification under the V1 and V5 verification groups and transmit the information on a roster to the institution.

(3) The federal verification performed by the institution for a student who has filed a federal tax return shall include verification of:

- (a) Adjusted gross income;
- (b) Federal income tax paid;
- (c) Untaxed portions of IRA distributions;
- (d) Untaxed portions of pensions;
- (e) IRA deductions and payments;
- (f) Tax-exempt interest income;
- (g) Education credits;
- (h) Number of household members;
- (i) Number of household members enrolled in an institution of higher education; and
- (j) Transaction number of the Institutional Student Information Report used.

(4) The federal verification performed by the institution for a student who has not filed a federal income tax return, but who has filed a FAFSA, shall include verification of:

- (a) Income earned from work;
- (b) Number of household members; and
- (c) Number of household members enrolled in an institution of higher education.

(5) Institutions shall provide updated and verified data to the Office by the deadline established by the Office.

(6) Information verified by the institutions shall be used to update the recipients' records.

C. Scholarship awards for recipients with corrections shall be recalculated and adjusted or canceled as specified in this chapter.

D. Institutions annually shall report on a roster in MDCAPS each recipient's cumulative GPA.

E. Institutions shall report on a semester basis on a roster in MDCAPS the number of credits each recipient completed.

F. Institutions annually shall verify that each recipient is eligible for in-State tuition under Education Article, Title 15, Annotated Code of Maryland.

**.12 Certification of Award Eligibility.**

A. The Office shall create a certification of award roster for each institution, and the institution shall complete the certification [each semester] by the date established by the Office.

B. The certification of award roster shall contain the name of each applicant *who has been identified by the Office as potentially eligible for an award and* whose tuition and fees are unmet by non-loan aid awards, verified by the community college, and who meets all requirements as described under Regulations .03 and .04 of this chapter by the established deadlines.

C. [Each] *To determine an applicant's unmet tuition, a community college annually shall report in MDCAPS all types of non-loan aid the applicant is receiving and the annual tuition and fees based on the applicant's fall enrollment status.*

[D]. The award amount reported to the Office shall be the amount of tuition remaining after all other non-loan aid has been applied to the applicant's tuition.

E.] *D.* After the community college reports all non-loan aid for each applicant, the institution shall electronically transmit the roster to the Office through MDCAPS.

[F.] *E.* Once the Office receives the roster from the community college by the deadline established by the Office:

- (1) Initial applicants shall be ranked based upon greatest demonstrated financial need; and
- (2) Priority shall be given to eligible prior year recipients.

[G.] *F.* A community college may report an applicant's non-loan aid after the deadline established by the Office only if the applicant satisfied all enrollment requirements at the community college on or before the deadline. The Office shall rank the applicant and, as applicable, award the applicant or place the applicant on the waiting list.

[H.] *G.* A community college shall report in MDCAPS all non-loan aid the recipient is awarded, regardless of whether the non-loan aid has been disbursed for the semester.

[I.] *H.* A community college shall report to the Office all subsequent ISIR transactions that change a recipient's eligibility.

[J.] *I.* The Office will make annual awards prior to the start of the Fall semester.

**.17 Full-time Enrollment Appeal Criteria.**

A. A recipient enrolled for at least 6 credits, but less than 12 credits per semester, may appeal a scholarship denial to the Office on the basis that:

- (1) The recipient is participating in a specific course or activity (such as an internship or practicum) that is required by the institution to complete the academic program; or
- (2) The recipient has a documented disability that prevents full-time enrollment.

B. A recipient appealing under §A of this regulation shall appeal to the Office on a semester basis and shall submit the following:

(1) Documentation from the recipient's department chair at the community college that describes and confirms the program's requirements for the applicable semester, along with a catalog description of the program and courses and activities involved; or

(2) Documentation *from a disability support services office or similar office* that confirms the student is an individual with disabilities who is unable to enroll full-time due to the disability.







Larry Hogan  
Governor

Boyd K. Rutherford  
Lt. Governor

Anwer Hasan  
Chairperson

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

## MEMORANDUM

**DATE:** September 25, 2019  
**TO:** Commissioners, Maryland Higher Education Commission  
**FROM:** Emily A.A. Dow, Ph.D., Assistant Secretary, Academic Affairs  
**RE:** Proposed Regulations Regarding Private Inurement by Nonprofit Institutions of Higher Education

Enclosed for your review are proposed regulations regarding “private inurement” by nonprofit institutions of higher education. These proposed regulations are required by House Bill 461 from the 2019 Legislative Session, which was a response to a change in standards made by the Higher Learning Commission, an accreditor. The change by Higher Learning Commission allows for-profit institutions to reorganize as nonprofit institutions while engaging in transactions that primarily benefit private interests instead of the institution’s educational interests. This arrangement maintains the incentive for the nonprofit company to operate in the same manner as a for-profit company, while allowing it to evade state and federal laws that apply only to for-profits and shed the marketing stigma associated with for-profit colleges. These schools are nonprofit in name only.

As required by the bill, the regulations were developed jointly with the Office of the Attorney General’s Consumer Protection Division. Under the proposed regulations, an institution must submit an annual report with information regarding their nonprofit status and certain transactions that may constitute private inurement. Upon receipt of the report, the Secretary may determine that an institution should be classified as a for-profit institution rather than a nonprofit institution. This determination allows MHEC to take certain actions to protect students, such as requiring an institution to provide a financial guarantee.

### **RECOMMENDATION:**

It is recommended that the Commission:

(1) Approves for publication in the Maryland Register the enclosed regulations regarding private inurement by nonprofit institutions of higher education; and

(2) Authorizes its Assistant Attorneys General to make non-substantive edits to the proposed regulations if necessary to conform to the stylistic requirements of the Joint Administrative, Executive, and Legislative Review Committee or the Division of State Documents.



# Title 13B Maryland Higher Education Commission

## Subtitle 01 Nonpublic Schools

### Chapter 03 Classification of Nonpublic Institutions of Higher Education

Authority: Chapter 515, 2019 Maryland Laws, and Education Article, §§11-105(u) and 11-407.1, Annotated Code of Maryland

#### **.01 Purpose and Scope.**

A. The purpose of this chapter is to provide a procedure for the Commission to determine if a nonpublic institution of higher education is a private nonprofit institution of higher education or a for-profit institution of higher education under § 10-101 of the Education Article.

B. This chapter does not affect any rights or obligations of a nonpublic institution of higher education that are not governed by the Education Article, COMAR Title 13B, or Title 13 of the Commercial Law Article and its applicable COMAR provisions.

#### **.02 Definitions.**

A. In this chapter, the following terms have the meanings indicated.

B. Terms defined.

(1) "Commission" means the Maryland Higher Education Commission.

(2) "Disqualified person" means any person who was in a position to exercise substantial influence over the affairs of the institution any time during the five years prior to the date of a transaction, and includes, but is not limited to:

(a) Current and former officers, directors, trustees, and key employees;

(b) Family members of current and former officers, directors, trustees, and key employees; and

(c) An entity in which a current or former officer, director, trustee, key employee, or a family member thereof has at least 35% ownership.

(3) "Excess benefit" means any economic benefit received by a disqualified person from an institution that exceeds the consideration (including services) given to the institution by the disqualified person.

(4) "Excess benefit transaction" means any transaction in which an excess benefit is provided by the institution, directly or indirectly, to, or for the use of, any disqualified person.

(5) "Family member" means a spouse, sibling, half-sibling, child, grandchild, great-grandchild, parent, grandparent, great-grandparent, or the spouse of any relation listed in this definition.

(6) "For-profit institution of higher education" has the meaning given to it in § 10-101 of the Education Article.

(7) "Institution" means an institution of higher education and its affiliate organizations.

(8) "IRS" means the United States Internal Revenue Service.

(9) "Key employee" means an employee of an institution (other than an officer, director, or trustee) who meets all three of the following tests, applied in the following order.

(a) \$150,000 Test. The employee receives reportable compensation from the institution and all related institutions in excess of \$150,000 for the calendar year ending with or within the institution's tax year.

(b) Responsibility Test. The employee:

(i) Has responsibilities, powers or influence over the institution as a whole similar to those of officers, directors, or trustees;

(ii) Manages a discrete segment or activity of the institution that represents 10% or more of the activities, assets, income, or expenses of the institution, as compared to the institution as a whole; or

(iii) Has or shares authority to control or determine 10% or more of the institution's capital expenditures, operating budget, or compensation for employees.

(c) Top 20 Test. The employee is one of the 20 employees (that meets the \$150,000 Test and the Responsibility Test) with the highest reportable compensation from the institution and related institutions for the calendar year ending with or within the institution's tax year.

(10) "Net earnings" means gross revenue less expenses.

(11) "Person" means an individual, corporation, or other entity.

(12) "Private inurement" means financial arrangements that primarily benefit private interests instead of the institution's charitable interests, which includes but is not limited to:

(a) A compensation arrangement or contract where there is no upper limit or is based on factors extrinsic to performance at, and benefit to, the institution;

(b) Use of gross revenue or net earnings to provide goods and services to an individual or entity that primarily benefits private interests instead of the institution's charitable interests; or

(c) Payment in excess of the fair market value in exchange for goods or services that primarily benefit private interests instead of the institution's charitable interests.

(13) "Private nonprofit institution of higher education" has the meaning given to it in § 10-101 of the Education Article.

(14) "Prohibited tax shelter transaction" has the meaning given to it § 4965(e)(1) of Title 26, United States Code.

(15) "Reportable incident"

(a) Has the meaning set forth in § 10-101 of the Education Article; and

- (b) Includes the following activities:
  - (i) Providing a grant or other assistance to a disqualified person;
  - (ii) Having receivables from or payables to a disqualified person; or
  - (iii) Being a party to a business transaction with a disqualified person.
- (16) "Secretary" means the Secretary of Higher Education.

**.03 Delegation to Secretary.**

A. The Commission delegates to the Secretary the responsibility and authority to act on its behalf in the determination of whether an institution of higher education is a private nonprofit institution of higher education or a for-profit institution of higher education under § 10-101 of the Education Article.

B. The Secretary shall prepare and present a report to the Commission by June 30 of each year and as otherwise requested by the Commission summarizing actions taken under this delegation.

**.04 Criteria for Classification.**

A. An institution of higher education shall be determined to be a private nonprofit institution of higher education under § 10-101 of the Education Article if it:

- (1) Benefits no person or entity through any part of its net earnings;
- (2) Is legally authorized to operate as a nonprofit organization by each state in which it is physically located;
- (3) Has been determined by the IRS to be an organization to which contributions are tax deductible in accordance with 26 U.S.C. 501(c)(3);
- (4) Had no reportable incidents in the previous calendar year that:
  - (a) Are determined by the Secretary to constitute private inurement, and
  - (b) Were not satisfactorily corrected prior to the submission of the report in Regulation .05 of this chapter; and
- (5) Timely files the report required under Regulation .05 of this chapter.

B. An institution shall be determined to be a for-profit institution of higher education under § 10-101 of the Education Article if it:

- (1) Does not request classification as a private nonprofit institution of higher education by filing the report required under Regulation .05;
- (2) Benefits any person or entity through any part of its net earnings;
- (3) Is not legally authorized to operate as a nonprofit organization by each state in which it is physically located;
- (4) Has not been determined by the IRS to be an organization to which contributions are tax deductible in accordance with 26 U.S.C. 501(c)(3);
- (5) Had any reportable incidents in the previous calendar year that:
  - (a) Are determined by the Secretary to constitute private inurement, and
  - (b) Were not satisfactorily corrected prior to the submission of the report in Regulation .05 of this chapter;
- (6) Knowingly fails to disclose a reportable incident in the report required under Regulation .05 of this chapter; or
- (7) Does not timely file the report required under Regulation .05 of this chapter.

**.05 Reporting Requirements.**

A. To be classified as a private nonprofit institution of higher education under § 10-101 of the Education Article, an institution of higher education must provide to the Secretary by March 1 of each year, a report, in a form prescribed by the Secretary.

B. In the report, the institution shall include the following:

- (1) A certification that the institution:
  - (a) Benefits no person or entity through any part of its net earnings;
  - (b) Is legally authorized to operate as a nonprofit organization by each state in which it is physically located; and
  - (c) Is currently classified by the IRS to be an organization to which contributions are tax deductible in accordance with 26 U.S.C. 501(c)(3);
- (2) A description of any reportable incidents in the previous calendar year and, for each reportable incident:
  - (a) An explanation of the basis for the institution's belief that the reportable incident does not constitute private inurement; and
  - (b) What, if any, corrective actions have been taken to date; and
- (3) A declaration signed and dated by the chief executive officer of the school, under penalty of perjury, that the information in the report and any attachments to the report are true and correct.

**.06 Initial Review.**

A. The Secretary may request additional information from an institution to determine its classification.

B. The Secretary shall consult with the Consumer Protection Division of the Office of the Attorney General before determining that any reportable incident does not constitute private inurement.

C. If the Secretary finds, based on all the information available to the Secretary, that the requirements of § A of Regulation .04 of this chapter are met by an institution, the Secretary shall classify the institution as a private nonprofit institution of higher education under § 10-101 of the Education Article and send written notice of the determination to the institution no later than 45 days after submission of the report in Regulation .05 of this chapter.

D. If the Secretary finds that an institution should be classified as a for-profit institution of higher education under § 10-101 of the Education Article, the Secretary shall provide a written statement of findings, including the basis of the findings, to the institution no later than 45 days after submission of the report in Regulation .05 of this chapter.

**.07 Determination after Statement of Findings.**

A. An institution may, within 20 days of receipt of a statement of findings under Regulation .06 of this chapter, submit to the Secretary a response and proposed corrective action plan.

B. If the Secretary does not receive a response to the statement of findings within the specified time period, the Secretary shall issue a determination affirming the statement of findings and classifying the institution as a for-profit institution of higher education.

C. Within 20 days of receipt of a response to the statement of findings, the Secretary shall:

(1) Issue a revised statement of findings and a determination classifying the institution as a private nonprofit institution of higher education;

(2) Issue a determination affirming the statement of findings and classifying the institution as a for-profit institution of higher education; or

(3) Notify the institution, in writing, that a determination is being deferred for the purposes of entering into a corrective action plan.

D. The criteria used to determine the action the Secretary shall take under § C of this regulation shall include the egregiousness of the private inurement and the feasibility of satisfactory corrective action.

E. Corrective Action Plans.

(1) A corrective action plan proposal shall include, at a minimum:

(a) A description of the measures necessary to remedy the private inurement;

(b) A description of the measures necessary to prevent recurrence of the private inurement; and

(c) A timeline for the completion of the corrective action.

(2) The Secretary may recommend modifications to the proposed plan, including periodic monitoring or progress reports.

(3) If the Secretary and the institution are unable to agree on a final corrective action plan within 10 days of the Secretary's deferment notification, the Secretary shall issue a determination classifying the institution as a for-profit institution of higher education.

(4) Upon agreement of the Secretary and the institution, a final corrective action plan may be modified due to a change in circumstances.

(5) If at any time the Secretary finds that an institution is not in compliance with the corrective action plan, the Secretary shall issue a notice to the institution stating the amount of time in which the institution must remedy the noncompliance.

(6) If the institution remains in noncompliance after the expiration of the time period in the notice of noncompliance, the Secretary shall issue a determination classifying the institution as a for-profit institution of higher education.

(7) If the Secretary finds that a corrective action plan has been satisfactorily completed, the Secretary shall issue a revised statement of findings and a determination classifying the institution as a private nonprofit institution of higher education.

F. Any determination classifying an institution as a for-profit institution of higher education must state the basis of the determination.

**.08 Hearings.**

A. Requests.

(1) If, within 45 days after timely submission of a report under Regulation .05 of this chapter, an institution has not received a determination or a statement of findings, the institution may request a hearing before the Commission to determine its classification.

(2) If, within 20 days after timely submission of a response to a statement of findings, an institution has not received a determination or a notice of deferral, the institution may request a hearing before the Commission to determine its classification.

(3) If the Secretary issues a determination that an institution will be classified as a for-profit institution of higher education, the institution may, within 20 days of receiving notice of the determination, request a hearing before the Commission to determine if the classification was made in an arbitrary or capricious manner.

B. A hearing requested under this regulation shall be conducted in accordance with the Administrative Procedure Act, State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland, and COMAR 13B.04.01.

C. If, after a hearing, the Secretary's determination is upheld or the institution is determined by the Commission to be a for-profit institution of higher education under § 10-101 of the Education Article, the institution has the right to judicial review as provided by State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

**.09 Effect of Classification.**

A. The Secretary may take any action regarding the institution that is permissible under the Education Article and COMAR Title 13B for the Commission to take regarding a for-profit institution of higher education after:

(1) The Secretary issues a determination of classification as a for-profit institution of higher education and no request for hearing is received within 20 days;

(2) An institution has been determined to be a for-profit institution of higher education after a hearing arising from §A(1) or A(2) of Regulation .08 of this chapter; or

(3) The Secretary's determination of for-profit classification is upheld after a hearing arising from §A(3) of Regulation .08 of this chapter.

B. An institution's nonprofit status shall be retained until the occurrence of one of the provisions of § A of this regulation.

C. Notwithstanding any corrective action, an institution's for-profit status shall be retained until the Secretary issues a determination classifying the institution as a nonprofit institution of higher education.



**Larry Hogan**  
Governor

**Boyd K. Rutherford**  
Lt. Governor

**Anwer Hasan**  
Chairperson

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

## Maryland Higher Education Commission 2020 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 22, 2020	July 22, 2020 (if needed)
February 26, 2020	August 26, 2020 (if needed)
March 25, 2020	September 23, 2020 9:30am to 3:30pm
April 22, 2020	October 28, 2020
May 20, 2020 *Please note date change.*	November 18, 2020 *Please note date change.*
June 24, 2020	December 16, 2020 *Please note date change.*

**All Commission meetings will be held on the 4<sup>th</sup> Wednesday of each month from 1:00pm to 4:00pm at the Maryland Higher Education Commission in the 7<sup>th</sup> Floor Board Room located at 6 N. Liberty Street, Baltimore, MD 21201, unless otherwise noted.**

**Dates and times are subject to change.**

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