



December 18, 2023

Maryland Higher Education Commission Program Approval Process Workgroup
Maryland General Assembly
90 State Circle
Annapolis, MD 21401

Dear Co-chairs King and Smith,

On behalf of Johns Hopkins University (“JHU”), we write to share our perspective on opportunities to enhance the program review and approval process administered by the Maryland Higher Education Commission (“MHEC”). We appreciate the efforts of the Maryland Higher Education Commission Program Approval Process Workgroup (“Workgroup”) and offer the observations and recommendations in this letter and its enclosures in support of your efforts to advance the best interests of the students, institutions of higher education, and economy of the State of Maryland.

JHU recognizes that Workgroup staff recently shared 19 proposed recommendations for your consideration. Upon initial review, it appears that a number of the JHU recommendations are aligned with the staff recommendations; others are additive. JHU looks forward to engaging in a dialogue with you around these options in the weeks ahead.

Executive Summary

In sum, JHU believes that MHEC’s current process does not adequately serve the interests of Maryland’s students, its institutions of higher education, or its 21st century workforce needs. In fact, as discussed further below, Maryland – despite its world-class public and private institutions of higher education – faces significant out-of-state competition in higher education and workforce development, as evidenced by the fact that Maryland is a net exporter of students to other states.¹

JHU is a strong champion of the overall growth of Maryland higher education and the protection and promotion of equitable outcomes for Maryland’s Historically Black Institutions (HBIs), a stated goal of MHEC processes. However, JHU also believes that MHEC’s current regime is fundamentally outdated and failing the state, by pitting Maryland’s higher education institutions against one another rather than focusing us collectively on serving the consumer interests of our students and overcoming the out-of-state and interstate competition that is our principal risk. MHEC’s duplication standard, as currently implemented, effectively ignores the fact that today’s higher education marketplace is regional and national in character, with residential students frequently crossing state lines and the dramatic growth of online education and disruption of the market due to the COVID-19 pandemic. For these reasons and others outlined below, if the State wishes to compete and win in today’s higher

¹ U.S. Department of Education, National Center for Education Statistics: Table 4. Number of first-time degree/certificate-seeking undergraduate students enrolled, residence, and migration at Title IV institutions, by state or jurisdiction: Fall 2020, <https://nces.ed.gov/ipeds/search/viewtable?tableId=29451&returnUrl=%2Fsearch>

education market, it is imperative for MHEC to make bold changes to its program review and approval process. Accordingly, JHU offers the following recommendations:

- **Recommendation 1:** The goals of program review should be aligned with students' and the State's interests.
- **Recommendation 2:** MHEC should adopt a streamlined program review process and eliminate barriers to innovation.
- **Recommendation 3:** MHEC should support growth for Maryland institutions of higher education by supporting programs that compete across state lines and draw students regionally, nationally, and globally.
- **Recommendation 4:** MHEC's processes and procedures should be transparent, predictable, timely, and evidence based.
- **Recommendation 5:** MHEC should elevate the role of data—particularly regarding the workforce—in its process.

We believe these changes are necessary to ensure that Maryland institutions can compete and succeed in the increasingly complex, national and global higher education environment. MHEC's current program approval process is well-intended but fundamentally flawed. Its intrastate focus and its negative presumptions about program competition among Maryland colleges and universities are out of step with modern higher education realities. As a result, the process has unintentionally created structural barriers to growth and innovation that are harming Maryland, its students, its institutions, and its workforce. The program duplication standard, in particular, has demonstrably harmed program growth in Maryland while failing to achieve its stated goal to promote equitable outcomes for Maryland's HBIs.

Our proposed changes will reposition MHEC as a catalyst of innovation, excellence, and impact in higher education and fuel the competitive strength of all Maryland higher education institutions. By streamlining its processes and sharpening the focus of its oversight, MHEC can more effectively deploy its resources in service of student protection, program quality, and competitiveness. By recognizing the benefits of program duplication that draws in out-of-state students or prevents the loss of Maryland students to out-of-state competitors, MHEC can facilitate much-needed innovation and collaboration and ensure our state is not left behind as others develop new educational programs and models to meet the evolving needs of the next generation of learners and fuel economic growth. By expanding the market for higher education in Maryland—as opposed to limiting it—MHEC can drive growth and sustainability for all Maryland institutions and our workforce.

Pages 3–5 of this letter summarize our concerns with MHEC's program approval process and why we believe it must change. Pages 6–9 provide further details on our recommendations for change. Pages 10–12 provide data and further rationale for the proposed changes. Beginning on page 14, you will find more detailed data and supporting documentation. However, before exploring our concerns and recommendations, it is important to consider the history of program review and approval in Maryland.

History and Background of the Maryland Higher Education Commission

The origins of the Maryland Higher Education Commission (MHEC) can be traced to 1963, when the Advisory Council on Higher Education was formed by the General Assembly. The Council was renamed the Maryland Council on Higher Education in 1968, and the State Board for Higher

Education replaced the Council in 1976. The Board was ultimately superseded by the establishment of MHEC as a result of a 1988 law. From the onset, MHEC was focused on public institutions of higher education in the State. In fact, the focus of the 1988 law was public higher education. The law also recognized that “nonpublic institutions of higher education in the State are an important educational resource and are vital to the provision of postsecondary education in the state.” MHEC was charged with coordinating “the overall growth of higher education in the State.”²

MHEC is charged with “establishing statewide policies for Maryland public and private colleges and universities and for-profit career schools.” As part of that charge, State law requires MHEC to review, evaluate, and approve institutions’ proposals for the creation of new programs or substantial modifications to existing programs.³ JHU recognizes that MHEC has recently come under new leadership and JHU looks forward to collaboration with this new leadership to position Maryland as a national leader in providing innovative higher education for people of all backgrounds.

Present Day MHEC

Currently, institutions of higher education seeking to offer a new program in the State must submit an application to MHEC for review and approval. Once an application is submitted, the MHEC Secretary may approve or disapprove the proposal of a public institution of higher education or recommend or not recommend the program request of a private nonprofit institution.⁴ The MHEC Secretary or an institution may file an objection to a proposed program based on one or more of the following four criteria: (i) inconsistency of the proposed program with the institution’s approved mission; (ii) not meeting a regional or statewide need consistent with the Maryland Higher Education State Plan; (iii) unreasonable program duplication that would cause demonstrable harm to another institution; or (iv) violation of the State’s equal educational opportunity obligations under State and federal law.⁵

Earlier this year, JHU’s proposal to offer a new Doctor of Physical Therapy Program in the School of Medicine was not recommended for implementation by MHEC via this objection process. In addition, over the past nine years, MHEC has missed several of its own deadlines in processing JHU program applications, resulting in significant delays in the endorsement of more than 75% of new program proposals, substantial modifications, title changes, and CIP code changes submitted by the university.⁶ Consequently, these delays have undermined our institution’s collective ability to provide innovative, advanced offerings to students, resulting in a significant, State-wide competitive disadvantage and the loss of prospective students to other states. We believe the history of delays, the recent non-recommendation, and other similar outcomes reflect the flawed process and lens through which the MHEC has historically evaluated higher education programs, markets, and competition.

² Section 11-105 of Chapter 246 of the Acts of 1988.

³ COMAR §§ 13b.02.03.03, 02.03.27.

⁴ Annotated Code of Maryland Education Article § 11-206.

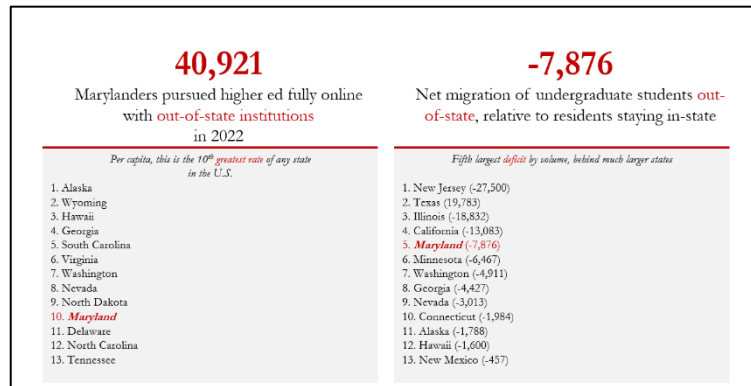
⁵ COMAR § 13b.02.03.27.

⁶ In 2018, an internal JHU audit of MHEC submissions revealed that 76% of 80 proposals submitted were endorsed beyond the 60-day COMAR decision deadline. Nearly a quarter of them were more than 120 days delinquent. While efficiency ebbed and flowed, the majority of MHEC endorsements remained markedly delinquent over the past 4 years.

Today’s Higher Education Landscape — and Why MHEC Must Evolve

Today’s higher education landscape—and competition amongst its institutions—is complex in character and national in scope. Following the pandemic, students and institutions are navigating a highly disrupted marketplace. More students are learning online than ever before, frequently with institutions based in states other than their own.⁷ Thousands of Marylanders “cross” state borders every day—from the comfort of their own homes—to pursue the promise of higher education.⁸

At the same time, fewer high school graduates are opting to pursue higher education⁹ and the total U.S. college-aged population is shrinking.¹⁰ Emerging online providers, regional public universities, and private research institutions alike are grappling with this demand cliff and its ramifications. In contrast to the slowing demand for undergraduate education, the need for upskilling and reskilling in today’s fast-paced world of work will continue to drive up the need for lifelong learning.¹¹ Our sector is undergoing a truly fundamental transformation.



To keep pace with declining higher education enrollments amid a strong economy—which traditionally does not favor increased higher education enrollments—it is imperative that we strive to adapt. Innovation, collaboration, and competition will be the forces that forge the future of U.S. higher education. Unfortunately, Maryland is at a great disadvantage: MHEC’s program review and approval process and its “program duplication” standard—while well-intentioned—are barriers to the change that higher education sorely needs. One of the hallmarks of the American higher education system is the wide array of choices provided to students as they evaluate the private, public, and specialized institutions and their varying missions and approaches to educational programming. To account for personal preference and choice—and depending on current state, regional, and national workforce needs and demands—program duplication is often desirable and necessary.

Rather than empowering Maryland’s institutions of higher education to realign their programs to the increasingly complex and geographically diverse national and global nature of our marketplace, the existing process hinders us collectively by taking the errant view that competition is an intrastate, zero-

⁷ U.S. Department of Education, National Center for Education Statistics, “Fast Facts – Distance Learning: How many students take distance learning courses at the postsecondary level?,” <https://nces.ed.gov/fastfacts/display.asp?id=80> (finding that, as of 2021, 28% of all undergraduate students in the United States were enrolled in exclusively online (“distance education”) courses—and the share rises to 40% among postbaccalaureate (graduate students)).

⁸ National Council for State Authorization Reciprocity Agreements (NC-SARA), Maryland Distance Education and Workforce Fact Sheet, https://nc-sara.org/sites/default/files/files/2023-08/Maryland_Distance_Education_and_Workforce_Fact_Sheet_2023-08.pdf (finding that in 2022 Maryland sent 40,921 students to attend out-of-state institutions through fully online study—an increase of 28% from just five years earlier).

⁹ U.S. Department of Education, National Center for Education Statistics. “Immediate College Enrollment Rate, May 2023.” High school graduates choosing to matriculate at an institution of higher learning has declined from 70% in 2016 to 62% in 2021.

¹⁰ Grawe, Nathan D. *Demographics and the Demand for Higher Education*. Johns Hopkins University Press, 2017. College student enrollments are predicted to decline by as much as 15% beginning in 2025, due to decades of declining birth rates in the United States. Maryland’s college-aged population is anticipated to drop by 2.5 to 7.5%.

¹¹ The Pew Research Center, “Lifelong Learning Will Be the New Normal—But Are We Ready?” Spring, 2020. 87% of adults acknowledge that it will be essential or important for them to pursue lifelong learning to keep up with the pace of change in the workplace.

sum game. By failing to recognize that similar programs can play complementary (if not reinforcing) roles in the market, MHEC has unintentionally created a structural disadvantage for all institutions in the State. And because MHEC's antiquated approach analyzes solely the *intrastate* competitive environment, other states are winning Maryland students to their programs, and Maryland institutions are failing to compete proactively for out-of-state student populations.¹²

MHEC and agencies like it have the opportunity to drive and empower the change that we need. Rather than stifling competition, MHEC could help position Maryland as a leading purveyor of innovative, high-impact education programs and a destination of choice for those seeking post-graduate training, especially in fast-growing occupational areas such as healthcare. By embracing the benefits of a vibrant, competitive higher education community, MHEC can better serve the students of Maryland while also achieving important equity-related and consumer protection policy objectives.

The Ineffectiveness of MHEC's Program Duplication Standard

The program duplication standard has failed to achieve its core objective which is to address harms to HBIs¹³ caused by a history of racially segregated public and private higher education in Maryland. As articulated in the 2022 Maryland State Plan for Higher Education, "all organizations [both public and private] are charged with making explicit efforts to recognize and leverage Maryland's historically black institutions as institutions that both provide high-quality higher education opportunities and as comprehensive universities with research facilities that support scholarship and innovation."¹⁴ In the MHEC process, this reasoning substantially informs objections to duplicative programs, ostensibly to ensure a balance of programs in the State that meets student demand while enhancing HBIs through mission expansion, program uniqueness, and institutional identity.¹⁵

However, it does not appear the program duplication standard has been effective in protecting or supporting HBIs. As is set forth below, the current program duplication standard appears to achieve its objective of protecting enrollments in the objectors' programs in only 30% of cases, leaving 70% of programs no better off than at the time of a protective decision, largely due to success of out-of-state competitors.¹⁶

There may have been a time when restricting intrastate program competition protected an existing program's enrollments and revenue streams; but in today's environment, when the higher education market is integrated across regional, national and even global markets, intrastate protections are no longer effective. In fact, there is no evidence that limiting intrastate competition protects existing programs, since students can attain their educational goals—via physical or online enrollment—from courses and programs of out-of-state competitors, which no state regulator can prevent them from doing.

MHEC's Program Approval Process is Redundant to the Existing Accreditation Process

MHEC's program approval process fails to recognize and leverage existing accreditation processes. Under the Higher Education Act, the Department of Education "recognizes" (approves) accrediting

¹² See Page 21, Table 2, for specific examples of program areas that have been stifled by MHEC in Maryland but that are growing in neighboring states and throughout the nation.

¹³ References to HBIs are specific to those included in Maryland's definition—specifically, "Maryland[s] **public** historically black institution[s], including Bowie State University, Coppin State University, Morgan State University, and University of Maryland Eastern Shore. COMAR § 13B.02.03.02 (emphasis added). Conversely, references to HBCUs include all historically black colleges and universities (HBCUs), both private and public, throughout the country.

¹⁴ 2022 Maryland State Plan for Higher Education. <https://mhcc.maryland.gov/Documents/2022-Maryland-State-Plan-for-Higher-Education.pdf>.

¹⁵ COMAR § 13B.02.03.05.

¹⁶ See page 13, [The Current Program Duplication Process is Ineffective](#).

agencies that the Secretary of Education determines to be reliable authorities as to the quality of education or training provided by institutions of higher education, and the Department publishes a list of nationally recognized accrediting agencies¹⁷. For example, the accreditation process utilized by the Middle States Commission on Higher Education ensures that Maryland institutions (including JHU) are delivering services and degrees to their students that are financially sound, academically rigorous, and fairly advertised. MHEC's process requires fully accredited institutions to undergo redundant layers of scrutiny on a per-program basis, creating administrative and financial burdens that are ultimately passed on to students.

Developing a More Effective Approach to Program Review

Because MHEC's program duplication standard fails to protect HBIs and instead harms other important State interests, it is imperative for MHEC to develop a new approach. JHU believes there are more effective instruments to further the important work of advancing equity and opportunity for HBIs and advance higher education in Maryland writ large. Directly supporting HBIs in their efforts to compete regionally and nationally and adopting policies that promote collaboration, creation, and co-investment with HBIs will allow Maryland to continue to work toward rectifying the harms of the past and ensure that Maryland's higher education ecosystem is holistically dynamic, innovative, adaptive, and competitive with the 49 other states.

To achieve the State's long-term higher education goals, we offer the following recommendations for MHEC to serve the interests of Maryland's citizens, students, employers, and institutions of higher education while continuing to advance equitable treatment for HBIs in today's higher education environment.

Recommendations for Improving MHEC's Program Approval Process

From its onset, MHEC has been charged with coordinating the overall growth and development of postsecondary education in the State. MHEC's existing program review process—and its attempts to support the State's HBIs and ensure compliance with federal civil rights laws—have not yielded a system that has adequately supported *any* institution of higher education in Maryland. In fact, as articulated in the section following these recommendations, we believe data demonstrates that the current program review process has hindered the growth and development of higher education in Maryland and disadvantaged in-state institutions relative to regional and national peers.¹⁸

As such, it is vital for the Workgroup to identify how the State can adopt an effective and successful program review process that prioritizes student and State needs, while also supporting HBIs. JHU recognizes the importance of an effective and thoughtful program review process and looks forward to a partnership with you and the State to identify a successful path forward. Therefore, JHU respectfully submits the following four recommendations for improving MHEC's current program review process.

- ***Recommendation 1: The goals of program review should be aligned with students' and the State's interests.***

¹⁷ <https://www2.ed.gov/admins/finaid/accred/accreditation.html>.

¹⁸ See pages 20, 21. [Maryland's Competitive Disadvantage](#). In 75% of the areas in which programs have been denied and analogous programs exist at the objecting institution, Maryland's rate of degree conferral growth lags that of analogous programs in surrounding jurisdictions (i.e., D.C., Virginia, and Delaware)—and this pattern of lower-than-benchmark growth rates holds true nationally according to U.S. Department of Education data.

In keeping with MHEC's charter and the Maryland State Plan for Postsecondary Education, any modifications to the existing program review process should treat the public interest as paramount. Accordingly, the needs of students, in conjunction with the State's workforce and economic development interests, should be at the center of the process. Rather than playing the role of de facto referee of the competing interests of the State's institutions of higher education, MHEC's program review process should be designed to focus on advancing the goals articulated in the State's most recent plan: increasing equitable access, promoting practices and policies that ensure student success, and fostering innovation. The current program review process fails to support these goals, advance prospective students' interest in Maryland's outstanding colleges, or further State interests and needs.

In fact, the State Plan for Postsecondary Education addresses the issue of statewide workforce needs and identifies the goals and strategies for meeting those needs. The State Plan guides all Commission planning and decisions regarding budget recommendations and academic programs. As a result, "the array of academic programs offered throughout the State should reflect that priority; and institutions should not get exclusive license to operate programs in the face of clear evidence that such a license serves as a barrier to satisfying the needs of students and the State."¹⁹

- ***Recommendation 2: MHEC should adopt a streamlined program review process that eliminates barriers to innovation.***

MHEC should administer a streamlined program review process, similar to the current program notification process utilized by the University System of Maryland (prior to MHEC submission) and various states regulating independent institutions. A streamlined process would allow a narrow opportunity for institutions to submit information via comments—not objections—that MHEC will use in making its decision. In a streamlined process, institutions will continue to submit a program for approval or recommendation by MHEC and other institutions will be notified as is currently done under the existing process. However, rather than institutions submitting objections to program proposals, they will have the ability to submit comments to MHEC. The proposing institution will also have an opportunity to respond to any comments submitted and any such response will be submitted directly to MHEC. MHEC will subsequently consider the information received from the proposing institution as well as the any comments received from commenting institutions when deliberating its decision.

The appeals process should also be amended to make it less adversarial between the institutions. In a streamlined process, if a decision of the Secretary is appealed by a commenting institution, the MHEC commissioners will review and consider the same information the MHEC Secretary relied upon in the initial review. The commissioners will also have the opportunity to rely on the Secretary and MHEC to answer questions and provide any additional information requested.

By streamlining the process in the above referenced manner, the Secretary and the Commissioners can focus their attention on program review and approval and eliminate distractions created by hearings.

¹⁹ NCHEMS Report to the Maryland Department of Legislative Services, page 33, August 1, 2022; Revised September 15, 2022.

This proposed course, involving a comment period rather than a formal objection process, follows the established paths of states such as Massachusetts, New Jersey, and Virginia, which embrace comment periods rather than objection processes. For example, New Jersey allows a 30-day comment period following the announcement of a new degree program. Likewise, Virginia permits institutions a chance to comment on, but not object to, announced new programs. Similarly, Massachusetts provides a 21-day comment period in advance of providing a recommendation on program approval.

In 2016, the Massachusetts Board of Higher Education (BHE), following a 2014 Program Review Policy²⁰ review, revised its process and developed an approach in which independent institutions could pursue a streamlined program review process, subject to conditions, and did not include any subsequent program evaluation. Massachusetts-based independent institutions that for the six consecutive years prior to their program application have: (1) been accredited without sanction by their institutional accreditor, (2) maintained a physical presence in Massachusetts, and (3) been operated continuously by the same governing entity, can seek approval for new degree programs through either Notice of Intent²¹ for closely related programs or expedited external reviews²² for others. While there is a public notice and comment period of 21 days, BHE does not accommodate objections.

JHU advocates that Maryland embrace a similar approach to Massachusetts in its program review process—thereby eliminating objections and embracing comment periods that allow institutions to collaborate and resolve concerns about potential program duplication. This recommendation is aligned with the goal articulated in Maryland’s State Plan for Postsecondary Education, that MHEC’s program review process should eliminate barriers and promote innovation by Maryland institutions of higher education.

As the global economy becomes increasingly interconnected and dependent on knowledge and skills acquisition, the evolution of industries and occupations has accelerated. Educational providers responding to changing demands must be nimble and agile—particularly as artificial intelligence accelerates the pace of change throughout healthcare, business, and other fields. Failure to create these conditions will mean that neither the State of Maryland nor its public and private institutions can thrive. Program review and approval processes and procedures must evolve alongside these demands to avoid becoming barriers to the necessary innovation.

- ***Recommendation 3: MHEC should support growth for Maryland institutions of higher education by supporting programs that compete across state lines and draw students regionally, nationally, and globally.***

In order to support the growth, rather than hindering, of higher education in the State, and to better recruit out-of-state students, the program duplication rules should be structured in a way that favors the expansion of the Maryland market. In short, only where an existing program’s scope is truly local or intrastate does it make sense to enact a protective regime – and in addition, where the proposed scope or market of a new program is primarily inter-state,

²⁰ <https://www.mass.edu/bhe/lib/documents/AAC/AAC14-352014BHEProgramReviewPolicy.pdf>

²¹ <https://www.mass.edu/foradmin/academic/documents/Notice%20of%20Intent%20Template.docx>

²² <https://www.mass.edu/foradmin/academic/documents/Expedited%20External%20Review%20Template.docx>

regional, national or global in nature, the focus should be on permitting the program to grow Maryland's share of the overall market.

To accomplish this objective, we propose the following: once an accredited institution of higher education has proposed a new program, to establish the existence of unreasonable duplication the commenting institution should be required to show that: 1) the market for the proposed program is primarily local and/or intra-state; 2) the market for the proposed program area is saturated; and 3) the proposed program is likely to harm the established program of the commenting institution. And to make such a finding, MHEC should rely on a clearly defined and data-driven evidentiary threshold grounded in measurable metrics such as known data sources focusing on state, regional, and national workforce. See recommendation 5.

- ***Recommendation 4: MHEC's processes and procedures should be transparent, predictable, timely, and evidence based.***

The processes and procedures that MHEC utilizes for program review should be uniform, grounded in measurable metrics, and based on clear evidentiary thresholds. Discussion, debate, and the vote by the Commission members should occur in the public in accordance with the Maryland Open Meetings Act and be clearly communicated to the proposing institutions—along with all evidence from all data sources considered in the decision-making process.

Strict adherence by MHEC to not only State laws and regulations but also uniform processes and procedures applied consistently to all institutions of higher education within its purview will provide predictability of process. This will allow MHEC to provide institutions with a reasonable expectation of the likely outcome early in their internal program design and development stages.

- ***Recommendation 5: MHEC should elevate the role of data—particularly regarding the workforce—in its process.***

As mentioned above, we submit that MHEC's standard for "unreasonable duplication" should rely on a clear, well-defined evidentiary threshold grounded in measurable metrics from known and credible data sources focusing on State, regional, and national market demand and in particular workforce needs. For example, MHEC could provide a clear, predictable framework to understand whether a program may be unreasonably duplicative by requiring that program applications demonstrate workforce needs based on a mapping of degree production to workforce needs through use of reliable data sources—such as the U.S. Department of Education and its National Center for Education Statistics, the Maryland Department of Labor's Maryland Occupational Projections, the Bureau of Labor Statistics' *Occupational Outlook Handbook*²³, and the Integrated Postsecondary Education Data System (IPEDS).

By requiring that every application meet a workforce need threshold based on reliable, established and State-endorsed data sources, MHEC could dispense with the current objection

²³ <https://www.bls.gov/ooh/healthcare/home.htm>.

process. If the threshold is not met, the program could then be scrutinized further for potential unreasonable duplication.

Data and Rationale for Recommendations

MHEC Must Acknowledge the Interconnected Nature of the Higher Education Marketplace

The key operating assumption behind MHEC’s current program review process and its existing program duplication standard, while well-intended, is flawed. It assumes that the market for higher education is limited by state borders and that, through management by the State, programs should not (and will not) be duplicated. This approach fails to account for the significant regional, national, and global activity in today’s higher education marketplace.

Pursuit of higher education is not constrained by local options and State boundaries. Tens of thousands of students cross state borders to attend colleges and universities in Maryland each year. However, despite world-class institutions, Maryland is one of the largest net exporters of college students: nearly 8,000 first-time undergraduate students leave the State to enroll elsewhere in higher education, which represents a student exodus that is greater than the state imports.²⁴

The expansion of online modalities has substantially added to increased competition. According to data from the National Center for Education Statistics, there were over 11 million online students in 2021.²⁵ Thirty-five percent of all college students in Maryland are enrolled in higher education exclusively online, representing a doubling from 17% nearly a decade ago. As of 2021, 28% of all undergraduate students in the United States were enrolled in exclusively online courses—and the share rises to 40% among graduate students.²⁶ The State’s support for, and Maryland schools’ participation in, the National Consortium of State Authorization Reciprocity Agreements (NC-SARA) means that all out-of-state schools can avail of field experience sites in Maryland without restriction. In 2022, Maryland sent 40,921 students to attend out-of-state institutions through fully online study—an increase of 28% from just five years earlier. Online education will likely continue to expand, given evolving positive perceptions as illustrated in a recent survey demonstrating growing acceptance and efficacy of online education among adults.²⁷

Due to the prevalence of distance education, it is unsurprising that a regulation focused solely on intrastate competition are not achieving their purpose. The true market for Maryland students seeking a degree is *every* institution offering the degree program they seek. Failure to acknowledge this reality has resulted in the stifling of innovation—and other important benefits of competition—in the State.

For example, JHU’s recent DPT proposal was purposely designed with multi-modal methods with an expectation that we would attract more students from across the country. There are at least 37 DPT programs in neighboring states that can recruit and enroll Marylanders and place individuals in clinical field experiences in Maryland. This denial does not protect any institution in Maryland; it only allows out-of-state institutions to access Maryland’s market while simultaneously preventing Maryland institutions from offering a program that addresses Maryland and national workforce needs.

²⁴ U.S. Department of Education, National Center for Education Statistics: Table 4. Number of first-time degree/certificate-seeking undergraduate students enrolled, residence, and migration at Title IV institutions, by state or jurisdiction: Fall 2020, <https://nces.ed.gov/ipeds/search/viewtable?tableId=29451&returnUrl=%2Fsearch>.

²⁵ https://nces.ed.gov/programs/digest/d22/tables/dt22_311.15.asp.

²⁶ U.S. Department of Education, National Center for Education Statistics, “Fast Facts – Distance Learning: How many students take distance learning courses at the postsecondary level?,” <https://nces.ed.gov/fastfacts/display.asp?id=80>.

²⁷ <https://online.champlain.edu/blog/data-reveals-new-insights-online-higher-education-post-pandemic>.

Please see pages 17-19 in the attached report for further detail and additional specific examples on the regional/national nature of the higher education marketplace.

The Current Program Duplication Standard Is Ineffective

The current program duplication standard appears to achieve its objective of protecting enrollments in the objectors' programs in only 30% of cases. Between 2014 and 2019, MHEC denied 25 programs: of those 25 denials, 16 were based on objections from institutions with analogous existing programs (based on CIP code and degree level). In 10 of 16 such cases, enrollments in analogous programs at objecting institutions were already in decline from three years prior to the objection. In 12 of the 16 cases, the analogous programs at objecting institutions either continued enrollment declines or realized slower growth than at the time of the objection.

These results suggest that—at best—MHEC's program duplication standard more often than not fails to achieve its objective and—at worst—deprives students and institutions of the many benefits of competition and growth that new programs can drive. This is perhaps not surprising, given the prevalence of out-of-state enrollments and online providers offering distance-only programs in the State. A process focused on *intrastate* commerce amongst institutions operating in distinct student markets is likely prone to misdiagnosing competitive realities in a geographically dispersed, highly segmented market.

Please see pages 19-21 in the attached report for further detail and additional specific examples of the standard's failure to achieve its stated objective.

The Existing Program Approval Process Causes Harms and Yields Unintended Consequences

As further proof of its overly broad construction resulting in wide-ranging harms that are insufficiently tailored to its purpose, it appears that rather than clearly protecting programs within the State, it is possible that the limitation of educational options and stifling of healthy competition and collaboration between in-state programs actually harms Maryland. In 75% of the areas in which programs have been denied, Maryland's rate of degree conferral growth lags that of analogous programs in surrounding states (i.e., D.C., Virginia, and Delaware) – and this pattern of lower-than-benchmark growth rates holds true nationally. While other states and their institutions are growing programs that serve student interest and employer needs, Maryland is limiting options in a manner that undercuts both educational and broader strategic and economic objectives.

Moreover, and particularly relevant to Hopkins and other health systems in Maryland, by denying programs in high need areas such as healthcare, Maryland risks potentially creating workforce shortages in the future. The unemployment rate in Maryland is now the lowest in the country (1.7% in October 2023), challenging the region's potential for growth. Of the top 10 occupations with the greatest projected growth in Maryland from 2023-2033, three—Nurse Practitioners (40% growth), Software Developers (28%), and Medical and Health Service Managers (25%)—represent high demand fields in which MHEC has denied programs. A total of 16 occupations related to the denied programs have projected growth of over 10% by 2033, including Web Designers, Database Architects, and Physical Therapists.

While MHEC's review process stifles intrastate competition, neighboring states are outperforming Maryland in program areas MHEC has denied Maryland institutions on the basis of unnecessary duplication. Similarly, program denials in key professional fields may be harming the State's healthcare and workforce development goals. In JHU's proposed DPT program, for example, we cited Maryland Department of Labor Data that, accounting for attrition, indicates that Maryland institutions are currently producing less than 1/3 of the State's estimated annual need for physical therapists. Surely these extensive and wide-ranging negative outcomes indicate a regulation that has become too unwieldy to be effective.

Please see pages 17-22 in the attached report for further detail and additional specific examples regarding harms and unintended consequences caused by the standard.

Other Approaches to Regulating Higher Education Competition May Be More Effective

Throughout the United States, regulators deploy a range of means to manage competition involving their states' institutions. In almost every state, regulators acknowledge that degree programs should—or must—address a market need. Frequently, higher education regulators do not directly oversee program approval at private, independent institutions; instead, they rely on the oversight provided by regional accreditors to ensure quality control and market alignment, particularly for institutions with a proven track record of positive outcomes in the state. In other cases, regulators provide an expedited process for private, independent, accredited institutions. These approaches reflect the varied nature and diverse missions of private institutions, that often operate in distinct markets from public entities.

Other state regulators also commonly assess a range of important competitive factors that are clearly defined, identified, or measurable through standardized data sourcing, consistent data sets, key performance indicators, key risk indicators, metrics of success, or other calculable measurements that are not clearly present in MHEC's unnecessary duplication criterion. These include program price, target audience, market segment (e.g., traditional student or continuing professional; in-state, out-of-state, or international), admissions requirements, location, and modality (e.g., online / hybrid). While the program duplication standard mentions many of these factors, it fails to define them or provide a framework for measurable results and reliable interpretation. This lack of structure has created a series of unpredictable results, making it particularly challenging for Maryland institutions to innovate—or even plan—future program investments.

The array of regulatory schemes throughout the U.S. presents MHEC with a spectrum of options to reconsider how it can more meaningfully support a well-balanced higher education ecosystem in Maryland. Please see the attached report for further detail and specific examples of common approaches to regulating competition in higher education.

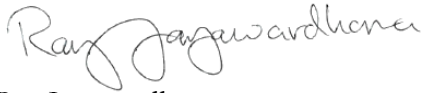
I sincerely hope that sharing JHU's perspective has provided some value to the Workgroup's important task. We believe it will be critical for Maryland's institutions to be nimble and creative as we confront a transforming higher education landscape. The current process has a deleterious and chilling effect on the types of activities that we need to make our ecosystem of institutions stronger and more resilient. But there are alternative pathways to addressing the objectives that originally motivated the program duplication standard, focused on fostering collaboration at the intersection of mutual interest. We hope the Workgroup is successful in formulating and advancing a new path forward for MHEC that advances the spirit of collaboration that has long distinguished U.S. higher education.

To further assist with formulation of the Workgroup's recommendations, JHU respectfully encloses a comprehensive report further describing data collection efforts, data interpretation, and recommendations for enhancing Maryland's program review and approval process. I greatly appreciate your time and consideration, and I look forward to continued collaboration on higher education matters.

Sincerely,



Ronald J. Daniels
President



Ray Jayawardhana
Provost



Maria Harris Tildon
Vice President, Government, Community & Economic Partnerships

Enclosures

cc: Maryland Higher Education Commission Program Approval Process Workgroup

THE JOHNS HOPKINS UNIVERSITY'S PERSPECTIVE ON THE MARYLAND HIGHER
EDUCATION COMMISSION'S EXISTING PROGRAM APPROVAL PROCESS

Table of Contents

Relevant Background	177
Data Collection	177
Trends, Data Analysis, and Benchmarking Metrics	177
The higher education market is complex and transcends state borders. MHEC’s program review process fails to account for these fundamental, important nuances.....	177
Modern Higher Education Transcends Borders. <i>The reality of today’s online learning environment and programs like the Southern Regional Education Board’s (SREB) tuition reciprocity program undermine the concept that MHEC is accurately regulating only intrastate competition through its current review process.</i>	188
Online Providers are Serving Maryland’s Students. <i>Maryland students pursue online programs with out-of-state students at notably higher rates than other states.</i>	188
MHEC’s program review process does not appear to help the institutions it intended to protect.....	19
HBI Protections. <i>COMAR’s review criteria as it relates to Maryland’s HBIs.</i>	19
The Ineffectiveness of MHEC’s Program Duplication Standard. <i>Because the market for higher education transcends state boundaries, it is no surprise that MHEC’s unnecessary program duplication standard—which focuses solely on managing intrastate competition—does not appear to achieve its stated objectives.</i>	19
Maryland’s Competitive Disadvantage. <i>While MHEC’s review process stifles intrastate competition, neighboring states are outperforming Maryland in program areas MHEC has denied Maryland institutions on the basis of unnecessary duplication.</i>	20
Implications of the Competitive Disadvantage. <i>Given the rates at which Maryland students opt for out-of-state collegiate education and the apparent ineffectiveness of the current regulation, MHEC’s current process may be harming Maryland students and institutions.</i>	222
The existing program approval process causes harms and yields unintended consequences.....	222
Workforce Harms. <i>Program denials in key professional fields may be harming the State’s healthcare and workforce development goals.</i>	222
Healthcare Harms. <i>MHEC’s denial of programs such as a proposed doctorate in public health immediately prior to the COVID-19 crisis undoubtedly caused greater harm than good.</i>	233
Other approaches to regulating higher education competition may be more effective.....	233
“Proven” Institution Exemptions. <i>Several states have exemption criteria for institutions—like JHU—with longstanding histories of providing accredited programs that deliver high-quality results.</i>	233
Older Institution Exemptions. <i>Other states exempt non-profit colleges and universities before state regulation.</i>	233
Vague, Unmeasurable Factors. <i>MHEC fails to properly define, identify, and measure criteria in its review process that are essential to an appropriately comprehensive analysis of program demand. This prohibits institutions from fulfilling their mission, developing innovative program offerings, and increasing access to the benefit of constituents in Maryland and beyond.</i>	244
Comment Periods.....	244
Appendix	255
Appendix A. <i>Enrollment Data for Objecting Institutions’ Analogous Programs to Denied Program Areas, 2011–2021.</i>	255

Appendix B. *Full conferral data for objecting institutions' analogous programs to denied program areas, at objecting institution, and in Maryland, region (D.C., Delaware, and Virginia), and nation in year of objection and 2022. Data acquired from IPEDS in November 2023. Objecting institutions combined into single line in cases of multiple objectors to a single program.....277*

Relevant Background

There are several relevant points to consider regarding MHEC's charge:

- Annually MHEC bestows institutional approval to participate in the National Council for State Authorization Reciprocity Agreements. This national reciprocity agreement allows the university to offer distance education programs to students regardless of their residency.
- MHEC acts as the State Approving Agency that approves institutions to participate in programs that enable certain veteran enrollees to request financial benefits from the Veterans' Administration under Title 38 of the United States Code (VA funds). A program's MHEC approved name forms the basis for validating students' ability to use their financial benefits.
- MHEC assigns to programs their Classification of Instructional Program (CIP) code, used for reporting and code dependent, to validate certain graduates' ability to avail of certain immigrant visas.

Data Collection

A review of a breadth of leading data sources, benchmarking metrics, and controlling regulatory language compiled the data sources used in this analysis. This includes:

- Education Article of the Annotated Code of Maryland, § 11–101 et seq.
- Code of Maryland Regulations (“COMAR”), § 13b.02.03 et seq.
- United States Bureau of Labor Statistics
- United States Department of Education (e.g., IPEDS/NCES)
- Maryland Higher Education Commission Office of Research and Policy Analysis
- Federal and state administrative agency data, statistics, and guidance
- National Council for State Authorization Reciprocity Agreements (NC-SARA) website, research, and data
- National Center for Higher Education Management System (NCHEMS) Report to the Maryland Department of Legislative Services (dated August 1, 2022)
- Federal and state administrative agency data, statistics, and guidance
- Similar regulatory review of other states

Trends, Data Analysis, and Benchmarking Metrics

The higher education market is complex and transcends state borders. MHEC's program review process fails to account for these fundamental, important nuances.

The key operating assumption behind MHEC's current program review process and its unnecessary duplication criterion²⁸, while well-intended, is flawed. It assumes that the market for higher education is limited by State borders and that, through management by the State, programs should not (and will not) be duplicated. This fundamental flaw is further exacerbated by a review process and analysis that

²⁸ Unreasonable and unnecessary are used synonymously by MHEC to describe the program duplication standard.

is ill-defined in its requirements for an institution to demonstrate harm, including what constitutes harm, and the data that is required to substantiate a showing of harm.

Modern Higher Education Transcends Borders. The reality of today’s online learning environment and programs like the Southern Regional Education Board’s (SREB) tuition reciprocity program undermine the concept that MHEC is accurately regulating only intrastate competition through its current review process.

Tens of thousands of students cross state borders to attend colleges and universities in Maryland each year, and likewise, tens of thousands of Maryland residents have long pursued college-level study in neighboring states. In fact, Maryland is one of the largest net exporters of college students: nearly 8,000 first-time undergraduate students leave the State to enroll elsewhere in higher education—a number of students that is greater than the State imports.²⁹ This is the fifth largest deficit (compared to the number of inbound college students) in the nation, putting Maryland squarely behind the much larger states of California, Texas, Illinois, and New Jersey. While state geography and individual preferences play a role in college choice, this data strongly signals that Maryland’s higher education options are comparatively limited.

The interstate nature of higher education is further acknowledged by Maryland’s participation in the SREB’s academic common market, which enables students to qualify for in-state tuition rates if a program is not offered in their state.³⁰ It is further underscored by MHEC’s authority to regulate and approve out-of-state institutions offering programs in the State. Additionally, MHEC’s program duplication standard, as applied to Maryland institutions, does not reflect the reality that online degree programs cross state boundaries. As of 2021, 28% of all undergraduate students in the United States were enrolled in exclusively online (“distance education”) courses—and the share rises to 40% among postbaccalaureate (graduate) students.³¹ Pursuit of higher education is no longer constrained by regional or local options and state boundaries.

Online Providers are Serving Maryland’s Students. Maryland students pursue online programs with out-of-state students at notably higher rates than other states.

The growth of online learning has been a prominent trend in higher education for two decades, with institutional offerings and student preference for this delivery mode increasing even more following the pandemic. In fact, today 35% of all college students in Maryland are enrolled in higher education exclusively online, representing a doubling from 17% nearly a decade ago in 2014—which ranks the State among the top 10 highest of all states in the country where students choose solely online degrees.³²

Even more telling, large numbers of students from Maryland are pursuing online study with out-of-state institutions according to authoritative data managed by the National Council for State

²⁹ U.S. Department of Education, National Center for Education Statistics: Table 4. Number of first-time degree/certificate-seeking undergraduate students enrolled, residence, and migration at Title IV institutions, by state or jurisdiction: Fall 2020, <https://nces.ed.gov/ipeds/search/viewtable?tableId=29451&returnUrl=%2Fsearch>.

³⁰ “Academic Common Market,” Southern Regional Education Board, <https://www.sreb.org/academic-common-market>.

³¹ U.S. Department of Education, National Center for Education Statistics, “Fast Facts – Distance Learning: How many students take distance learning courses at the postsecondary level?,” <https://nces.ed.gov/fastfacts/display.asp?id=80>.

³² U.S. Department of Education, National Center for Education Statistics, “Student Enrollment – What is the percent of all students enrolled in distance education courses in postsecondary institutions in the fall?,” <https://nces.ed.gov/ipeds/TrendGenerator/app/trend-table/2/42>.

Authorization Reciprocity Agreements (NC-SARA). The share of Maryland students studying online with out-of-state institutions has increased significantly over time: in 2022, Maryland sent 40,921 students to attend out-of-state institutions through fully online study³³—an increase of 28% from just five years earlier.³⁴ Relative to state population, Maryland now ranks 10th in its share of residents pursuing out-of-state online college-level study—alongside several geographically isolated or rural states with lower access to higher education, such as Alaska, North Dakota, and Nevada.³⁵

MHEC’s program review process does not appear to help the institutions it intended to protect.

HBI Protections. *COMAR’s review criteria as it relates to Maryland’s HBIs.*

COMAR sets forth four long-term goals to guide MHEC’s program review and approval responsibilities, one of which is the enhancement of HBIs³⁶ through programs advancing their missions, program uniqueness, or institutional identity. § 13B.02.03.06. One avenue through which COMAR attempts to achieve this goal is the elimination of unreasonable program duplication by requiring the Secretary of Education to examine the educational justification for the dual operation of programs broadly similar to unique or high-demand programs at HBIs. § 13B.02.03.09 (emphasis added).

The Ineffectiveness of MHEC’s Program Duplication Standard. Because the market for higher education transcends state boundaries, it is no surprise that MHEC’s unnecessary program duplication standard—which focuses solely on managing intrastate competition—does not appear to achieve its stated objectives.

A review of all program objections with subsequent denials made between 2014 and 2019 reveals that over half of the institutions making objections that had an analogous program to that of the proposed program were at the time experiencing declining admissions in their own program for the three years preceding the objection (Maryland Higher Education Commission Office of Research and Policy Analysis). In the three years following the denial of the programs in question, only half of the objecting programs increased enrollments. These results suggest that—at best—MHEC’s program duplication standard more often than not fails to achieve its objective and—at worst—deprives students and institutions of the many benefits of competition and growth that new programs can drive (See Section 3 for the harms and opportunity costs associated with the program duplication standard.)

³³ National Council for State Authorization Reciprocity Agreements (NC-SARA), “States Sending Students,”

https://public.tableau.com/app/profile/nc.sara/viz/StatesSendingStudents/6_1Incomingbystate.

³⁴ National Council for State Authorization Reciprocity Agreements (NC-SARA), Maryland Distance Education and Workforce Fact Sheet, https://nc-sara.org/sites/default/files/files/2023-08/Maryland_Distance_Education_and_Workforce_Fact_Sheet_2023-08.pdf.

³⁵ National Council for State Authorization Reciprocity Agreements (NC-SARA), “States Sending Students,”

https://public.tableau.com/app/profile/nc.sara/viz/StatesSendingStudents/6_1Incomingbystate.

³⁶ Defined as “a Maryland public historically black institution, including Bowie State University, Coppin State University, Morgan State University, and University of Maryland Eastern Shore. COMAR § 13B.02.03.02.

Table 1. Enrollments at Objecting Institutions in Analogous Programs to Denied Program Areas for Objections Made from 2014 – 2019.

See Appendix A for full detail.

Objection Year	Degree Level	Program Name	Enrollment Change, 3 Years Prior – Objection Year	Enrollment Change, Objection Year – 3 Years After
2014	BACHELORS	ELEM. EDU.	-33%	-9%
2014	DOCTORATE	PHARMACY	45%	-1%
2014	ASSOCIATE	NURSING	-6%	127%
2016	DOCTORATE	PHARMACY	-1%	-17%
2016	BACHELORS	ACCOUNTING	-25%	5%
2016	BACHELORS	BUSINESS ADMIN.	9%	7%
2016	BACHELORS	INFO. SYSTEMS	46%	13%
2016	BACHELORS	NURSING	-52%	91%
2016	MASTERS	BUSINESS ADMIN.	-10%	-48%
2017	MASTERS	BUSINESS ADMIN.	-42%	-1%
2018	ASSOCIATE	NURSING	-8%	-7%
2018	BACHELORS	ACCOUNTING	-18%	-16%
2018	BACHELORS	CONSTR. MGMT.	48%	-25%
2019	MASTERS	BUSINESS ADMIN.	-48%	88%
2019	ASSOCIATE	ALLIED HEALTH	2500%	12%
2019	ASSOCIATE	BUSINESS MGMT.	46%	31%

Key	
Declining Enrollment	Slower Enrollment Growth Than Prior to Objection

Note: All data collected from the Maryland Higher Education Commission Office of Research and Policy Analysis in November, 2023. Years used in the analysis were limited to objections in 2019 and prior to assess longitudinal enrollment trends over the three years following the denial (i.e., 2023 enrollment data is not yet available.) If an objecting institution did not have an analogous program area as determined by this metric, if proposed degree level was not specified, or if the denial was subsequently overturned by the Commission, it was excluded from the analysis (i.e., 9 of the 25 total programs denials between 2014 and 2019 did not meet the necessary criteria for analysis, resulting in a total of 16 denied program areas for analysis in Table 1.) For program areas where proposed programs had multiple objecting institutions in the same instance, enrollments were combined (i.e., the 12 institutions that objected in 2018 to a proposed Associate Degree in Nursing program had enrollments combined into a single total.)

Maryland’s Competitive Disadvantage. While MHEC’s review process stifles intrastate competition, neighboring states are outperforming Maryland in program areas MHEC has denied Maryland institutions on the basis of unnecessary duplication.

Furthermore, neighboring states are outperforming Maryland in many fields where new Maryland programs have been denied by MHEC based on unnecessary duplication. In 75% of the areas in which programs have been denied and analogous programs exist at the objecting institution, Maryland’s rate of degree conferral growth lags that of analogous programs in surrounding jurisdictions (i.e., D.C., Virginia, and Delaware)—and this pattern of lower-than-benchmark growth rates holds true nationally according to U.S. Department of Education data. For example, an objection in 2018 led to the denial of a proposed Bachelor’s in Construction Science and Management program at Capitol Technology University. Between the year of the objection and 2022, Bachelor’s in Construction Management degree conferrals grew 29% nationally and 33% in surrounding states, while they declined 33% in

Maryland and 37% at the objecting institution, respectively (IPEDS). Similarly, after a 2017 objection and subsequent denial of a proposed Master’s in Management and Leadership Studies at Towson University, degree conferrals in this area grew 1% nationally and 8% in surrounding states—while falling 11% in Maryland and stagnating at a 0% change in the objecting institution’s program (IPEDS). This suggests that students are not opting to attend the objecting institution within Maryland but are instead looking at options outside the State altogether.

Table 2. Degree Conferrals Across Denied Program Areas, Objection Year – 2022.

See Appendix B for full detail.

Objection Year	Degree Level	Program Name	National Growth	Regional Growth*	Maryland Growth	Objector Growth
2014	BACHELORS	ELEM. EDU.	-6%	50%	-37%	-46%
2014	DOCTORATE	PHARMACY	1%	-14%	-22%	-20%
2014	ASSOCIATE	NURSING	-5%	19%	-11%	24%
2016	DOCTORATE	PHARMACY	-4%	-23%	-21%	-21%
2016	BACHELORS	ACCOUNTING	-16%	-27%	-34%	-31%
2016	BACHELORS	BUS.ADMIN.	-1%	-3%	1%	5%
2016	BACHELORS	INFO. SYSTEMS	37%	-9%	154%	13%
2016	BACHELORS	NURSING	18%	10%	-10%	11%
2016	MASTERS	BUS. ADMIN.	0%	8%	-9%	-39%
2017	MASTERS	BUS. ADMIN.	1%	8%	-11%	0%
2018	ASSOCIATE	NURSING	5%	32%	7%	14%
2018	BACHELORS	ACCOUNTING	-15%	-26%	-29%	-31%
2018	BACHELORS	CONSTR. MGMT.	29%	33%	-33%	-37%
2019	MASTERS	BUS. ADMIN.	-4%	-2%	-19%	10%
2019	ASSOCIATE	ALLIED HEALTH	117%	3260%	17%	100%**
2019	ASSOCIATE	BUS.MGMT.	4%	-4%	-6%	118%
2020	DOCTORATE	PUBLIC HEALTH	8%	-25%	-29%	-58%
2020	BACHELORS	ACTUARIAL SCI.	-1%	-17%	-57%	-71%
2021	DOCTORATE	HIGHER EDU.	29%	71%	33%	33%
2021	BACHELORS	CLOUD COMP.	-9%	0%	0%	0%**
2021	DOCTORATE	PHYSICAL THER	1%	-5%	4%	4%
		AVERAGE	1%	4%	-4%	1%

Key	
Slower Growth Than Regional OR National	Slower Growth Than Regional AND National

Note: All data collected from IPEDS database in November 2023, utilizing the most recent program conferral data, 2022. “Program areas” were determined using CIP code and degree level. If an objecting institution lacked an analogous program area as determined by this metric, if its proposed degree level was not specified, or if the program denial was subsequently overturned by the Commission, it was not included in this analysis (i.e., 9 of the programs denials between 2014 and 2019 did not meet the necessary criteria for analysis, resulting in a total of 16 denied program areas in Table 2.) For program areas where proposed programs had multiple objecting institutions in the same instance, conferrals were combined (i.e., the 12 institutions that objected in 2018 to a proposed Associate Degree in Nursing program had enrollments combined into a single total).

**Regional growth in this analysis includes D.C., Virginia, and Delaware.*

***Programs that had 0 enrollments in the Year of Objection have been given an enrollment of 1 at Year of Objection for the purposes of this analysis.*

Implications of the Competitive Disadvantage. Given the rates at which Maryland students opt for out-of-state collegiate education and the apparent ineffectiveness of the current regulation, MHEC's current process may be harming Maryland students and institutions.

Rather than clearly protecting programs within the state, it is possible that the limitation of educational options and stifling of healthy competition and collaboration among in-state programs arguably harms Maryland students, its institutions, and the State overall. Programs already in decline are leveraging objections that prevent new, potentially innovative and impactful programs from entering the market; more often than not the objection does not ultimately help the objecting programs to grow. This data suggests that at best, this standard is failing to achieve its objective, while at worst, it is harming the overall higher education ecosystem in Maryland.

The existing program approval process causes harms and yields unintended consequences.

Workforce Harms. Program denials in key professional fields may be harming the State's healthcare and workforce development goals.

The modern higher education landscape—and competition amongst its institutions—is complex in character and national in scope. One of the hallmarks of the American higher education system is the wide array of choices provided to students as they evaluate the private, public, and specialized institutions and their varying missions and approaches to educational programming. To account for personal preference and choice—and depending on current state, regional, and national workforce needs and demands—program duplication is often desirable and necessary. As such, a process that purports to focus its analysis on *intrastate* commerce amongst institutions operating in distinct student markets is likely prone to misdiagnose competitive realities in what is actually a geographically dispersed, highly segmented market. Rather than empowering institutions to realign their programs to the increasingly complex and geographically diverse nature of our marketplace, it hinders us by taking the errant view that competition is an intrastate, zero-sum game. By failing to recognize that similar programs can play complementary (if not reinforcing) roles in the market, MHEC has created a potential structural disadvantage for all institutions in the State.

Moreover, by denying programs in high need areas such as healthcare, Maryland risks potentially creating workforce shortages in the future. More broadly, an analysis of workforce demand in fields where MHEC has denied programs demonstrates the potentially negative impacts of MHEC's focus on "duplication" over other critical factors. According to U.S. Department of Labor data, of the top ten occupations with the greatest projected growth in Maryland from 2023-2033, three—Nurse Practitioners (40% growth), Software Developers (28%), and Medical and Health Service Managers (25%)—represent high demand fields that these denied programs could have produced graduates for. In the occupational areas associated with programs that have been denied, 16 have projected growth rates above the national average, including Web Designers, Database Architects, Physical Therapists, and more.

Healthcare Harms. *MHEC's denial of programs such as a proposed doctorate in public health immediately prior to the COVID-19 crisis undoubtedly caused greater harm than good.*

Consider the example of the University of Maryland, College Park's proposed doctorate in public health that was denied just months before the start of the COVID-19 pandemic. While no one could have foreseen the surge in demand for, and interest in, public health programs to follow, applications to graduate-level programs in public health increased more than 40% between 2020 and 2021 (2021 Annual Report - Association of Schools and Programs of Public Health.³⁷ Instead of conducting a robust analysis and review of workforce and market demands beyond Maryland's borders, MHEC's program review limited its analysis to "duplication" of preexisting programs, which in turn deprived the State of a critically important educational offering that was highly responsive to broader market conditions. In a better scenario, colleges and universities might respond to this need by launching new programs that benefit the public good—instead, the artificial limitation on supply via the focus on "duplication" resulted in a freeze on innovation and lack of adaptability to the market during a time of great need for both in the healthcare industry.

Other approaches to regulating higher education competition may be more effective.

"Proven" Institution Exemptions. *Several states have exemption criteria for institutions—like JHU—with longstanding histories of providing accredited programs that deliver high-quality results.*

Exemptions³⁸ based on charter date are leveraged by several states that oversee program review for both public and private institutions. Specifically, Connecticut has always provided the following four of its fifteen CCIC member institutions exemption from state oversight and academic program approval because of their charter: Yale, Wesleyan, Connecticut College, and Trinity. It further provides temporary exemption from academic program approval for nonprofit independent colleges that meet the following criteria: 1) be regionally accredited and in good standing for at least 10 years; 2) be eligible to participate in federal student aid programs administered by the U.S. Department of Education, which monitors student loan default rates, among other things; and 3) be in good financial health, maintaining a financial responsibility composite score greater than 1.5 as determined by the U.S. Department of Education.³⁹

Older Institution Exemptions. *Other states exempt non-profit colleges and universities before state regulation.*

Likewise, New Jersey exempts non-profit colleges and universities chartered before April 1, 1887, from oversight on new program approval, and Massachusetts exempts 24 out of 60 private non-profit institutions based on charter dates preceding 1943. Going further, Massachusetts's Board of Higher Education ("BHE") utilizes an expedited process for review and approval of new academic programs offered by Massachusetts independent institutions that meet certain criteria. This policy, enacted in 2014, significantly reduces the time and cost of program approval for eligible institutions, while still meeting the BHE's legislative mandate to ensure minimal quality standards. Specifically, the expedited process leverages a review team of two external evaluators, who have credentials and extensive

³⁷ <https://aspgh.org/about/annual-report-pages/annual-report-2021/>.

³⁸ This section and those to follow set forth illustrative examples and are not intended to represent exhaustive lists for all types of program review regulations, policies, and processes.

³⁹ C.G.S. 10a-34(l).

professional experience at a similar institution to the one whose program is being reviewed. These external evaluators conduct a robust review based in transparent metrics⁴⁰ and program quality. In lieu of the external evaluator team, BHE will accept program-specific accreditation by a professional accrediting agency approved by the U.S. Department of Education or as a Substantive Change by the applicable regional accreditor (in this case, the New England Commission of Higher Education) if it determines the institutions has the appropriate status to begin advertising and building the program. Upon receiving the complete program application (inclusive of the evaluators' report), the BHE will provide its response within 30 business days.

A final exemption standard to consider is that set forth in state statute by Virginia—which exempts institutions formed, chartered, or established in the Commonwealth that have maintained a main campus under the same ownership for 20 years and have remained fully accredited by an accrediting body recognized by the U.S. Department of Education from the requirements of certification by the State Council of Higher Education for Virginia.

Vague, Unmeasurable Factors. MHEC fails to properly define, identify, and measure criteria in its review process that are essential to an appropriately comprehensive analysis of program demand. This prohibits institutions from fulfilling their mission, developing innovative program offerings, and increasing access to the benefit of constituents in Maryland and beyond.

Many factors influence a student's choice to attend an institution or to pursue a certain degree path, but in MHEC's current review process, these factors are not clearly defined, identified, or measurable through standardized data sourcing, consistent data sets, key performance indicators, key risk indicators, metrics of success, or other calculable measurements.

MHEC's failure to properly define, identify, measure, and collect these data sets limits MHEC's ability to appreciate the nuances of higher education, the realities that drive student choice, and the potential benefits that new programs can have on infrastructure development and leadership training. This lack of structure has created a series of unpredictable results, making it particularly challenging for Maryland institutions to innovate—or even plan—future program investments.

Comment Periods.

As an alternative basis for new program approval, some states (including Massachusetts, New Jersey, and Virginia) embrace comment periods, not objection processes. For example, New Jersey allows a 30-day comment period following the announcement of a new degree program. Likewise, Virginia permits institutions a chance to comment on, but not object to, announced new programs. Similarly, Massachusetts provides a 21-day comment period in advance of BHE providing its recommendation.

⁴⁰ Existing Massachusetts-based institutions accredited without sanction by the New England Association of Schools and Colleges begin reviewed by BHE use the criteria and standards set forth by the New England Association of Schools and Colleges supplemented by clearly defined metrics related to false advertising, specificity, faculty, leadership, and financial stability. 610 CMR § 2.08.

Appendix

Appendix A. *Enrollment Data for Objecting Institutions' Analogous Programs to Denied Program Areas, 2011–2021.* Data acquired from Maryland Higher Education Commission Office of Research and Policy Analysis in November, 2023. Years 2011-2015 on Page 23; years 2016 – 2021 on page 24.

Objecting institution	Degree Level	Program Name	CIP	Obj. Year	2011	2012	2013	2014	2015
Coppin State University	BACHELORS	ELEM. ED.	13.1202	2014	72	63	56	43	52
U of MD, College Park	BACHELORS	ELEM. ED.	13.1202	2014	362	302	259	248	230
U of MD Eastern Shore	DOCTORATE	PHARMACY	51.2001	2014	121	176	166	175	188
Anne Arundel C.C.	ASSOCIATE	NURSING	51.3801	2014	286	294	263	314	238
Montgomery College	ASSOCIATE	NURSING	51.3801	2014	421	378	409	351	391
U of MD, Baltimore	DOCTORATE	PHARMACY	51.2001	2016	643	644	638	638	629
U of MD Eastern Shore	DOCTORATE	PHARMACY	51.2001	2016	121	176	166	175	188
Notre Dame of MD U	DOCTORATE	PHARMACY	51.2001	2016	198	254	254	254	249
Morgan State University	BACHELORS	ACCNT'NG.	52.0301	2016	249	233	208	193	187
Morgan State University	BACHELORS	BUS. ADM.	52.0201	2016	495	489	428	444	439
Morgan State University	BACHELORS	INFO. SYS.	11.0401	2016	94	99	101	114	136
Morgan State University	BACHELORS	NURSING	51.3801	2016	624	574	427	322	256
Morgan State University	MASTERS	BUS. ADM.	52.0201	2016	77	94	110	116	128
Notre Dame of MaD U	MASTERS	BUS. ADM.	52.0201	2017	77	94	110	116	128
Allegany College of MD	ASSOCIATE	NURSING	51.3801	2018	322	705	647	588	541
Anne Arundel C.C.	ASSOCIATE	NURSING	51.3801	2018	286	294	263	314	238
Baltimore City C.C.	ASSOCIATE	NURSING	51.3801	2018	239	242	221	159	122
Carroll C.C.	ASSOCIATE	NURSING	51.3801	2018	203	226	206	221	205
Cecil College	ASSOCIATE	NURSING	51.3801	2018	523	486	499	488	480
College of Southern MD	ASSOCIATE	NURSING	51.3801	2018	829	387	310	317	280
C.C. of Balt. County	ASSOCIATE	NURSING	51.3801	2018	4,126	3,759	3,502	3,216	3,059
Frederick C.C.	ASSOCIATE	NURSING	51.3801	2018	660	614	588	604	493
Hagerstown C.C.	ASSOCIATE	NURSING	51.3801	2018	147	168	163	169	204
Harford C.C.	ASSOCIATE	NURSING	51.3801	2018	1126	1090	1005	984	909
Howard C.C.	ASSOCIATE	NURSING	51.3801	2018	1,313	1,362	1,318	1,394	1,260
Montgomery College	ASSOCIATE	NURSING	51.3801	2018	421	378	409	351	391
Wor-Wic C.C.	ASSOCIATE	NURSING	51.3801	2018	63	64	64	64	58
Morgan State University	BACHELORS	ACCNT'NG.	52.0301	2018	249	233	208	193	187
Morgan State University	BACHELORS	CONST. MGMT	52.2001	2018	20	27	29	57	63
Morgan State University	MASTERS	BUS. ADMIN.	52.0201	2019	77	94	110	116	128
C.C. of Balt. County	ASSOCIATE	ALL. HEALTH	51.0000	2019	0	0	0	0	0
College of Southern MD	ASSOCIATE	BUS. MGMT	52.0201	2019	131	122	100	92	91
Morgan State University	DOCTORATE	PUB. HEALTH	51.2201	2020	57	66	70	73	69
Morgan State University	BACHELORS	ACTUAR. SCI.	52.1304	2021	21	21	24	20	22
Morgan State University	DOCTORATE	HIGHER ED.	13.0406	2021	36	41	46	50	51
Morgan State University	BACHELORS	CLOUD COMP.	11.0902	2021	0	0	0	0	0
U of MD, Baltimore	DOCTORATE	PHY. THER.	51.2308	2021	161	180	173	171	175
U of MD Eastern Shore	DOCTORATE	PHY. THER.	51.2308	2021	89	89	91	88	88
Morgan State University	BACHELORS	MECHA. ENG.	14.4201	2021	0	0	0	0	0
U of MD, Baltimore	MASTERS	NURSING	51.3808	2021	850	834	853	716	540

Objecting institution	Degree Level	Program Name	CIP	Obj. Year	2016	2017	2018	2019	2020	2021
Coppin State University	BACHELORS	ELEM. ED.	13.1202	2014	47	57	67	51	45	31
U of MD, College Park	BACHELORS	ELEM. ED.	13.1202	2014	194	207	195	190	170	179
U of MD Eastern Shore	DOCTORATE	PHARMACY	51.2001	2014	189	174	140	131	129	124
Anne Arundel C.C.	ASSOCIATE	NURSING	51.3801	2014	1109	1110	1071	1083	1122	1020
Montgomery College	ASSOCIATE	NURSING	51.3801	2014	392	400	428	500	463	391
U of MD, Baltimore	DOCTORATE	PHARMACY	51.2001	2016	637	626	596	534	479	442
U of MD Eastern Shore	DOCTORATE	PHARMACY	51.2001	2016	189	174	140	131	129	124
Notre Dame of MD U	DOCTORATE	PHARMACY	51.2001	2016	225	221	210	208	202	185
Morgan State University	BACHELORS	ACCNTNG.	52.0301	2016	157	171	154	165	143	130
Morgan State University	BACHELORS	BUS. ADM.	52.0201	2016	465	493	488	496	491	679
Morgan State University	BACHELORS	INFO. SYS.	11.0401	2016	147	163	175	166	158	160
Morgan State University	BACHELORS	NURSING	51.3801	2016	203	237	285	387	454	666
Morgan State University	MASTERS	BUS. ADM.	52.0201	2016	99	67	58	51	66	101
Notre Dame of MaD U	MASTERS	BUS. ADM.	52.0201	2017	99	67	58	51	66	101
Allegany College of MD	ASSOCIATE	NURSING	51.3801	2018	548	386	271	276	285	385
Anne Arundel C.C.	ASSOCIATE	NURSING	51.3801	2018	1,109	1,110	1,071	1,083	1,122	1,020
Baltimore City C.C.	ASSOCIATE	NURSING	51.3801	2018	135	130	163	170	173	215
Carroll C.C.	ASSOCIATE	NURSING	51.3801	2018	165	140	154	152	157	150
Cecil College	ASSOCIATE	NURSING	51.3801	2018	468	438	438	421	335	267
College of Southern MD	ASSOCIATE	NURSING	51.3801	2018	272	235	213	205	228	282
C.C. of Balt. County	ASSOCIATE	NURSING	51.3801	2018	2,987	2,707	2,666	2,514	2,470	2,213
Frederick C.C.	ASSOCIATE	NURSING	51.3801	2018	482	361	243	182	189	179
Hagerstown C.C.	ASSOCIATE	NURSING	51.3801	2018	196	208	232	210	223	154
Harford C.C.	ASSOCIATE	NURSING	51.3801	2018	910	949	911	944	835	759
Howard C.C.	ASSOCIATE	NURSING	51.3801	2018	1084	834	712	784	879	942
Montgomery College	ASSOCIATE	NURSING	51.3801	2018	392	400	428	500	463	391
Wor-Wic C.C.	ASSOCIATE	NURSING	51.3801	2018	48	50	49	46	46	43
Morgan State University	BACHELORS	ACCNTNG.	52.0301	2018	157	171	154	165	143	130
Morgan State University	BACHELORS	CONST. MGMT	52.2001	2018	72	88	93	91	89	70
Morgan State University	MASTERS	BUS. ADMIN.	52.0201	2019	99	67	58	51	66	101
C.C. of Balt. County	ASSOCIATE	ALL. HEALTH	51.0000	2019	0	0	5	26	30	30
College of Southern MD	ASSOCIATE	BUS. MGMT	52.0201	2019	108	116	124	158	219	210
Morgan State University	DOCTORATE	PUB. HEALTH	51.2201	2020	77	62	56	61	63	84
Morgan State University	BACHELORS	ACTUAR. SCI.	52.1304	2021	27	30	29	26	23	12
Morgan State University	DOCTORAT)	HIGHER ED.	13.0406	2021	51	61	65	68	68	69
Morgan State University	BACHELORS	CLOUD COMP.	11.0902	2021	0	0	0	0	3	16
U of MD, Baltimore	DOCTORATE	PHY. THER.	51.2308	2021	180	185	186	192	200	202
U of MD Eastern Shore	DOCTORATE	PHY. THER.	51.2308	2021	94	91	91	88	94	93
Morgan State University	BACHELORS	MECHA. ENG.	14.4201	2021	0	0	0	0	0	3
U of MD, Baltimore	MASTERS	NURSING	51.3808	2021	496	512	511	520	534	554

Appendix B. Full conferral data for objecting institutions' analogous programs to denied program areas, at objecting institution, and in Maryland, region (D.C., Delaware, and Virginia), and nation in year of objection and 2022. Data acquired from IPEDS in November 2023. Objecting institutions combined into single line in cases of multiple objectors to a single program.

Objecting institutions	Degree Level	Program Name	CIP	Obj. Year	Nat. in Obj. Year	Nat. In 2022	Nat. Grow.	Reg. In Obj. Year	Reg. Count in 2022	Reg. Grow.
Coppin State University, Univ. MD College Park	BACHELORS	ELEM. ED.	13.1202	2014	32,568	30,529	-6%	507	760	50%
Univ. of MD Eastern Shore	DOCTO-RATE	PHARMACY	51.2001	2014	13,920	14,081	1%	467	402	-14%
Anne Arundel C.C., Montgomery College	ASSOCIATE	NURSING	51.3801	2014	85,771	81,362	-5%	2,540	3,029	19%
Univ. of MD, Baltimore, UMES, Notre Dame of MD	DOCTO-RATE	PHARMACY	51.2001	2016	14,728	14,081	-4%	525	402	-23%
Morgan State University	BACHELORS	ACCNTNG	52.0301	2016	52,897	44,291	-16%	1,811	1,328	-27%
Morgan State University	BACHELORS	BUS. ADMIN.	52.0201	2016	140,418	139,196	-1%	5,298	5,152	-3%
Morgan State University	BACHELORS	INFO. SYS.	11.0401	2016	6,962	9,569	37%	477	436	-9%
Morgan State University	BACHELORS	NURSING	51.3801	2016	128,872	152,105	18%	3,540	3,882	10%
Morgan State University	MASTERS	BUS. ADMIN.	52.0201	2016	106,675	106,249	0%	5,634	6,103	8%
Notre Dame of Maryland University	MASTERS	BUS. ADMIN.	52.0201	2017	105,406	106,249	1%	5,656	6,103	8%
13 Community Colleges	ASSOCIATE	NURSING	51.3801	2018	77,371	81,362	5%	2,300	3,029	32%
Morgan State University	BACHELORS	ACCNTNG	52.0301	2018	51,935	44,291	-15%	1,788	1,328	-26%
Morgan State University	BACHELORS	CONS. MGMT.	52.2001	2018	2,279	2,938	29%	76	101	33%
Morgan State University	MASTERS	BUS. ADMIN.	52.0201	2019	110,506	106,249	-4%	6,224	6,103	-2%
C.C. of Balt. County	ASSOCIATE	ALLIED HEALTH	51.0000	2019	4,454	9,670	117%	5	168	3260%
College of Southern Maryland	ASSOCIATE	BUS. ADMIN.	52.0201	2019	56,418	58,485	4%	1,739	1,676	-4%
Morgan State University	DOCTO-RATE	PUB. HEALTH	51.2201	2019	563	608	8%	8	6	-25%
Morgan State University	BACHELORS	ACTUAR. SCI.	52.1304	2020	1,585	1,565	-1%	29	24	-17%
Morgan State University	DOCTO-RATE	HIGHER ED.	13.0406	2021	674	871	29%	63	108	71%
Morgan State University	BACHELORS	CLOUD COMP.	11.0902	2021	254	232	-9%	0	0	0%
Univ. of MD, Baltimore, UMES	DOCTO-RATE	PHY. THER.	51.2308	2021	13,136	13,268	1%	519	492	-5%
Morgan State University	BACHELORS	MECHA. ENG.	14.4201	2021	479	475	-1%	0	0	0%

Objecting institutions	Degree Level	Program Name	CIP	Obj. Year	MD in Obj. Year	MD in 2022	MD Grow.	Obj. in Obj. Year	Obj.'s in 2022	Obj.'s Grow.
Coppin State University, Univ. MD College Park	BACHELORS	ELEM. ED.	13.1202	2014	554	348	-37%	74	40	-46%
Univ. of MD Eastern Shore	DOCTO-RATE	PHARMACY	51.2001	2014	269	211	-22%	55	44	-20%
Anne Arundel C.C., Montgomery College	ASSOCIATE	NURSING	51.3801	2014	1,635	1,451	-11%	250	309	24%
Univ. of MD, Baltimore, UMES, Notre Dame of MD	DOCTO-RATE	PHARMACY	51.2001	2016	267	211	-21%	267	211	-21%
Morgan State University	BACHELORS	ACCNTNG	52.0301	2016	1,044	687	-34%	35	24	-31%
Morgan State University	BACHELORS	BUS. ADMIN.	52.0201	2016	2,964	2,985	1%	66	69	5%
Morgan State University	BACHELORS	INFO. SYS.	11.0401	2016	1,193	3,027	154%	30	34	13%
Morgan State University	BACHELORS	NURSING	51.3801	2016	1,818	1,640	-10%	18	20	11%
Morgan State University	MASTERS	BUS. ADMIN.	52.0201	2016	3,063	2,792	-9%	54	33	-39%
Notre Dame of Maryland University	MASTERS	BUS. ADMIN.	52.0201	2017	3,151	2,792	-11%	12	12	0%
13 Community Colleges	ASSOCIATE	NURSING	51.3801	2018	1,358	1,451	7%	1172	1341	14%
Morgan State University	BACHELORS	ACCNTNG	52.0301	2018	963	687	-29%	35	24	-31%
Morgan State University	BACHELORS	CONS. MGMT.	52.2001	2018	27	18	-33%	27	17	-37%
Morgan State University	MASTERS	BUS. ADMIN.	52.0201	2019	3,456	2,792	-19%	30	33	10%
C.C. of Balt. County	ASSOCIATE	ALLIED HEALTH	51.0000	2019	6	7	17%	1	2	100%
College of Southern Maryland	ASSOCIATE	BUS. ADMIN.	52.0201	2019	302	283	-6%	17	37	118%
Morgan State University	DOCTO-RATE	PUB. HEALTH	51.2201	2019	21	15	-29%	12	5	-58%
Morgan State University	BACHELORS	ACTUAR. SCI.	52.1304	2020	7	3	-57%	7	2	-71%
Morgan State University	DOCTO-RATE	HIGHER ED.	13.0406	2021	3	4	33%	3	4	33%
Morgan State University	BACHELORS	CLOUD COMP.	11.0902	2021	1	1	0%	1	1	0%
Univ. of MD, Baltimore, UMES	DOCTO-RATE	PHY. THER.	51.2308	2021	91	95	4%	91	95	4%
Morgan State University	BACHELORS	MECHA. ENG.	14.4201	2021	72	62	-14%	0	0	0%



**Program Approval Process Workgroup
USM Written Testimony
Wednesday, December 20, 2023**

Thank you for the opportunity to provide comments on the recommendations of the Program Approval Process Workgroup. While we support their overall direction, we have a few suggestions that we request be considered to advance the goals of collaboration and transparency. Having a predictable, transparent, and collegial process for review of program proposals is important to the students who wish to study in our diverse institutions. The state needs graduates of programs that drive economic growth, foster innovation, and strengthen our communities. There is an opportunity for all Maryland institutions to thrive, and we hope these recommendations will help build the trust needed for optimizing our resources.

With respect to missions (Recommendations 1-3), the Workgroup discussions noted that adherence to mission must be assessed as part of the Middle States Commission on Higher Education (MSCHE) accreditation process. MSCHE is the institutional accreditor for all Maryland nonprofit higher education institutions, so there is consistency in what is expected of that process. State review of missions could take place when institutions are undergoing their regularly scheduled accreditation review. We also urge that MHEC develop its criteria for mission statement review to align with the new Carnegie Classifications for Institutions of Higher Education (2021 and 2025 revisions). With the revised Carnegie classifications, virtually all four-year institutions in Maryland would be eligible as a research institution: R1, R2, or Research Colleges and Universities.

Whether MHEC mission review takes place with accreditation cycles or the State Plan cycle, it is labor-intensive, which leads to the suggestion that institutions *not* be asked to provide two-year program plans. The Workgroup noted in its discussions that significant time and effort is already dedicated to State and institutional strategic planning and mission review (Recommendations 9-10). The Workgroup also noted there are moments when two years can be too long to respond to a rapidly changing market; for example, the current exponential growth of artificial intelligence was offered as an example of market demand based on rapidly emerging technologies that could not have been predicted two years in advance.

Rather than calling for a public two-year academic plan, we suggest a statewide letter of intent (LOI) process for each new program to be developed. Such a process already exists among the University System of Maryland (USM) schools and closely resembles the Notice of Intent (NOI) process used in Minnesota (outlined in the appendix to the recommendations). An LOI of a few pages that requires the proposing institution to describe the curriculum to be offered, the students to be served, the market for the program, and the mode and/or location of delivery offers enough information that other institutions can be assured the proposing institution is prepared to implement it. The LOI has more detail than a two-year plan but is less labor-intensive than developing a full program proposal.

The LOI could be posted for comment for three to four weeks, which would provide time for questions and concerns to be addressed. If, after requests for clarification, an institution was still opposed, an objection could be raised. At this relatively early stage of program development, MHEC would be better positioned to respond to an objection and to encourage collaboration or to request refinements so unreasonable duplication concerns can be addressed. At this point in the process, it will be easier to reimagine the program with either a slightly different focus or with collaboration across institutions if that opportunity arises. MHEC would be able to (and should) use consultants from out of state who have academic disciplinary expertise to help understand the differences possible between programs and to help resolve disagreements. MHEC has authority now to use consultants in program review but has not. Such expertise could help clarify issues related to objections, resolve concerns, and point a way forward. Such consultants could also help address issues related to clinical rotations and other discipline-specific issues around need, supply, demand, and capacity.

Capturing proposal intent early can help save resources if a proposal is ultimately denied. For example, if describing a program in an LOI does not have to include all course descriptions, then faculty may not need to be hired in advance of a proposal to develop the courses. Early notification also provides space to clarify market demand. With the Departments of Labor and Commerce and MHEC equipped to assist in providing or interpreting market data at the LOI stage as needed, there could be greater transparency around need. And as noted above, outside consultants can help assess discipline-specific issues of supply and demand.

With a strong LOI process in place, including an opportunity to raise objections, there should be no reason to object to proposals once an LOI has been greenlighted to proceed to development. MHEC is positioned to ensure the full program proposed aligns with an approved LOI and any further arrangements that may have been developed as part of the comment process.

We heartily endorse the call to review the substantive change definition (Recommendation 17). A statewide workgroup was to be formed earlier in 2023, and it would be helpful to launch it in the coming year to address the nuances of program changes.

Apart from the process suggestions made here, we support the portfolio of recommendations and look forward to a more predictable, transparent, and collegial program approval process.