

SENATE BILL 695

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11r1755
CF HB 995

By: **Senators Pinsky, Conway, ~~and Dyson~~ Dyson, and Ferguson**

Introduced and read first time: February 4, 2011

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 18, 2011

CHAPTER _____

1 AN ACT concerning

2 **Higher Education – Regulation of Public, Private Nonprofit, and For-Profit**
3 **Institutions of Higher Education**

4 FOR the purpose of distinguishing between public, private nonprofit, and for-profit
5 institutions of higher education; ~~prohibiting~~ clarifying that a person is
6 prohibited from engaging in certain unfair or deceptive practices in the offer for
7 sale of course credit or other educational services; authorizing the Maryland
8 Higher Education Commission to create and provide for the operation of ~~a~~
9 ~~certain guaranty fund~~ certain guaranty funds to be used for certain purposes;
10 providing that certain guaranty funds are continuing, nonlapsing funds not
11 subject to certain provisions of law; prohibiting unspent portions of the funds
12 from being transferred or reverted to the General Fund; prohibiting certain
13 State money from being used to support the funds; requiring for-profit
14 institutions of higher education to pay a certain fee into ~~the~~ a certain fund;
15 authorizing the Commission to impose certain penalties on certain for-profit
16 institutions of higher education; ~~authorizing the Commission to revoke or~~
17 ~~suspend the certificate of approval of certain for-profit institutions of higher~~
18 ~~education under certain circumstances~~ requiring certain institutions of higher
19 education to notify certain students that certain programs have not been
20 recommended for implementation by the Commission under certain
21 circumstances; prohibiting certain institutions of higher education from paying
22 certain financial or other incentives based on certain success to a person or
23 entity engaged in student recruitment or admission activity; authorizing the
24 Commission to require certain reports and data from certain institutions of
25 higher education; prohibiting the Commission from requiring reports on certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 matters that concern certain information, data, or documents; authorizing the
 2 board of trustees of a community college to submit a request for proposals for
 3 the offering of a certain degree program to certain institutions of higher
 4 education under certain circumstances; requiring a certain institution of higher
 5 education to seek the approval of the Commission before offering a certain
 6 degree program; specifying the institutions of higher education at which certain
 7 students may use certain financial assistance; requiring certain institutions of
 8 higher education to transfer certain information to the Maryland Longitudinal
 9 Data System in accordance with certain plans; altering the membership of the
 10 Governor's P-20 Leadership Council of Maryland; requiring the Commission to
 11 consider incorporating certain institutions of higher education into a certain
 12 goal; defining certain terms; making clarifying and stylistic changes; providing
 13 for the effective date of this Act; providing for the termination of certain
 14 provisions of this Act; and generally relating to the regulation of public, private
 15 nonprofit, and for-profit institutions of higher education.

16 BY repealing and reenacting, with amendments,
 17 Article – Commercial Law
 18 Section 13-303
 19 Annotated Code of Maryland
 20 (2005 Replacement Volume and 2010 Supplement)

21 BY repealing and reenacting, with amendments,
 22 Article – Education
 23 Section 10-101, 10-211, 11-105(g) and (k), 11-201, 11-202.1(a),
 24 ~~11-203(d)~~ 11-203 (b) and (d), 11-204(c), ~~11-205~~, 11-206(a), (b), and (d),
 25 11-206.1(a), (b), (e)(1), (f)(5), and (i)(3), ~~11-402~~, 11-701,
 26 11-902(b)(4)(iii)3., ~~16-108(a)~~ 16-108(a) and (c), 17-101, 17-105(b) and
 27 (d), 18-103, 18-708(a)(3), 18-2201(b), 18-2301(b), 18-2502, 18-2503,
 28 18-2504(c)(1), 21-501(a)(3), ~~and~~ 24-707(b), and 24-801(c)(11)
 29 Annotated Code of Maryland
 30 (2008 Replacement Volume and 2010 Supplement)

31 BY adding to
 32 Article – Education
 33 Section 11-402.1, 11-407, and 24-707(c)
 34 Annotated Code of Maryland
 35 (2008 Replacement Volume and 2010 Supplement)

36 BY repealing and reenacting, with amendments,
 37 Article – Education
 38 Section 11-203(d)(3)(ii) and 18-103
 39 Annotated Code of Maryland
 40 (2008 Replacement Volume and 2010 Supplement)
 41 (As enacted by Section 1 of this Act)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Commercial Law**

4 13–303.

5 A person may not engage in any unfair or deceptive trade practice, as defined in
6 this subtitle or as further defined by the Division, in:

7 (1) The sale, lease, rental, loan, or bailment of any consumer goods,
8 consumer realty, or consumer services;

9 (2) The offer for sale, lease, rental, loan, or bailment of consumer
10 goods, consumer realty, or consumer services;

11 **(3) THE OFFER FOR SALE OF COURSE CREDIT OR OTHER**
12 **EDUCATIONAL SERVICES;**

13 ~~[(3)]~~ **(4)** The extension of consumer credit; or

14 ~~[(4)]~~ **(5)** The collection of consumer debts.

15 **Article – Education**

16 10–101.

17 (a) In this division the following words have the meanings indicated.

18 (b) “Charter” means the Maryland Charter for Higher Education.

19 (c) “Commission” means the Maryland Higher Education Commission.

20 **(D) “FOR-PROFIT INSTITUTION OF HIGHER EDUCATION” MEANS AN**
21 **INSTITUTION OF HIGHER EDUCATION THAT GENERALLY LIMITS ENROLLMENT**
22 **TO GRADUATES OF SECONDARY SCHOOLS, AWARDS DEGREES AT THE**
23 **ASSOCIATE, BACCALAUREATE, OR GRADUATE LEVEL, AND IS NOT A PUBLIC OR**
24 **PRIVATE NONPROFIT INSTITUTION OF HIGHER EDUCATION.**

25 ~~[(d)]~~ **(E)** “Governing board” means:

26 (1) The Board of Regents of the University System of Maryland;

27 (2) The Board of Regents of Morgan State University;

28 (3) The Board of Trustees of St. Mary’s College of Maryland; and

1 (4) The Board of Trustees of Baltimore City Community College.

2 **[(e)] (F)** “Governing body” means:

3 (1) A governing board;

4 (2) A board of trustees of a community college;

5 (3) The governing entity of **[nonpublic] PRIVATE NONPROFIT**
6 institutions of higher education; **[or]**

7 **(4) THE GOVERNING ENTITY OF A FOR-PROFIT INSTITUTION OF**
8 **HIGHER EDUCATION; OR**

9 **[(4)] (5)** The governing entity of a regional higher education center.

10 **(G) “INDEPENDENT INSTITUTION OF HIGHER EDUCATION” MEANS A**
11 **PRIVATE NONPROFIT INSTITUTION OF HIGHER EDUCATION THAT GENERALLY**
12 **LIMITS ENROLLMENT TO GRADUATES OF SECONDARY SCHOOLS, SERVES A**
13 **PUBLIC PURPOSE, AND AWARDS DEGREES AT THE ASSOCIATE, BACCALAUREATE,**
14 **OR GRADUATE LEVEL.**

15 **[(f)] (H) (1)** “Institution of higher education” means an institution of
16 postsecondary education that generally limits enrollment to graduates of secondary
17 schools, and awards degrees at either the associate, baccalaureate, or graduate level.

18 **(2) “INSTITUTION OF HIGHER EDUCATION” INCLUDES PUBLIC,**
19 **PRIVATE NONPROFIT, AND FOR-PROFIT INSTITUTIONS OF HIGHER EDUCATION.**

20 **[(g)] (I) (1)** “Institution of postsecondary education” means a school or
21 other institution that offers an educational program in the State for individuals who
22 are at least 16 years old and who have graduated from or left elementary or secondary
23 school.

24 (2) “Institution of postsecondary education” does not include:

25 (i) Any adult education, evening high school, or high school
26 equivalence program conducted by a public school system of the State; or

27 (ii) Any apprenticeship or on-the-job training program subject
28 to approval by the Apprenticeship and Training Council.

29 **[(h)] (J)** “Private career school” means a privately owned and privately
30 operated institution of postsecondary education other than an institution of higher
31 education that furnishes or offers to furnish programs, whether or not requiring a
32 payment of tuition or fee, for the purpose of training, retraining, or upgrading

1 individuals for gainful employment as skilled or semiskilled workers or technicians in
2 recognized occupations or in new and emerging occupations.

3 **(K) (1) “PRIVATE NONPROFIT INSTITUTION OF HIGHER EDUCATION”**
4 **MEANS A PRIVATE NONPROFIT INSTITUTION OF HIGHER EDUCATION THAT**
5 **GENERALLY LIMITS ENROLLMENT TO GRADUATES OF SECONDARY SCHOOLS**
6 **AND AWARDS DEGREES AT THE ASSOCIATE, BACCALAUREATE, OR GRADUATE**
7 **LEVEL.**

8 **(2) “PRIVATE NONPROFIT INSTITUTION OF HIGHER EDUCATION”**
9 **INCLUDES AN INDEPENDENT INSTITUTION OF HIGHER EDUCATION.**

10 **[(i)] (L) “Program” or “educational program” means an organized course of**
11 **study that leads to the award of a certificate, diploma, or degree.**

12 **[(j)] (M) “Public senior higher education institution” means:**

13 (1) The constituent institutions of the University System of Maryland;

14 (2) Morgan State University; and

15 (3) St. Mary’s College of Maryland.

16 **[(k)] (N) “Regional higher education center” means a higher education**
17 **facility in the State that:**

18 (1) Is operated by a public institution of higher education in the State
19 or a **[nonpublic] PRIVATE NONPROFIT** institution of higher education operating
20 under a charter granted by the General Assembly and includes participation by two or
21 more institutions of higher education in the State;

22 (2) Consists of an array of program offerings from institutions of
23 higher education approved to operate in the State by the Commission or by an act of
24 the General Assembly that specifically satisfies the criteria set forth in § 10–212(b) of
25 this title;

26 (3) Offers multiple degree levels; and

27 (4) Is either approved by the Commission to operate in the State or is
28 established by statute.

29 **[(l)] (O) “Secretary” means the Secretary of Higher Education.**

30 **[(m)] (P) “State Plan for Higher Education” means the plan for**
31 **postsecondary education and research required to be developed by the Maryland**
32 **Higher Education Commission under § 11–105(b) of this article.**

1 10–211.

2 (a) The [nonpublic] **PRIVATE NONPROFIT** institutions of higher education
3 in the State are an important educational resource and are vital to the provision of
4 postsecondary education in the State.

5 (b) The State shall continue to provide financial aid as provided by law to
6 [nonpublic] **PRIVATE NONPROFIT** institutions of higher education to foster this
7 important educational resource.

8 (c) (1) In this subsection, “cultural diversity” means the inclusion of those
9 racial and ethnic groups and individuals that are or have been underrepresented in
10 higher education.

11 (2) On or before May 1 of each year, each [nonpublic] **PRIVATE**
12 **NONPROFIT** institution of higher education eligible for State aid under § 17–103 of
13 this article shall submit a report on the institution’s programs to promote and enhance
14 cultural diversity on its campus to the Maryland Independent College and University
15 Association.

16 (3) (i) On or before August 1 of each year, the Maryland
17 Independent College and University Association shall submit a report on the status of
18 the programs reported to the Association under paragraph (2) of this subsection to the
19 Commission.

20 (ii) The report submitted to the Commission under
21 subparagraph (i) of this paragraph shall include an analysis of the best practices used
22 by [nonpublic] **PRIVATE NONPROFIT** institutions of higher education to promote and
23 enhance cultural diversity on their campuses.

24 11–105.

25 (g) The Commission shall:

26 (1) Administer State funds for [nonpublic] **PRIVATE NONPROFIT**
27 institutions of higher education in the State; and

28 (2) Assure that the purposes for which these funds were appropriated
29 are achieved.

30 (k) Subject to the provisions in Subtitle 2 of this title, the Commission may:

31 (1) Review any educational program offered at [a public or nonpublic]
32 **AN** institution of postsecondary education [in the State that receives State funds]; and

1 (2) Establish guidelines relating to matters of general educational
2 policy.

3 11-201.

4 The Commission shall establish minimum requirements for issuing certificates,
5 diplomas, and degrees by [public and nonpublic] institutions of postsecondary
6 education.

7 11-202.1.

8 (a) A [nonpublic] PRIVATE NONPROFIT institution of higher education
9 operating under a charter granted by the General Assembly may operate without a
10 certificate of approval from the Commission.

11 11-203.

12 (b) [Any] SUBJECT TO SUBSECTION (D)(3)(II)2 OF THIS SECTION, ANY
13 bond or guarantee required under this section shall be in the form and amount the
14 Secretary requires.

15 (d) (1) By rule and regulation, the Commission may create and provide for
16 the operation of TWO SEPARATE [a] guaranty [fund] FUNDS for [private]:

17 (I) FOR-PROFIT INSTITUTIONS OF HIGHER EDUCATION;
18 AND

19 (II) PRIVATE career schools.

20 (2) (i) The PRIVATE CAREER SCHOOL ~~[fund] FUNDS~~ shall be
21 used:

22 1. To reimburse any student at a ~~FOR-PROFIT~~
23 ~~INSTITUTION OF HIGHER EDUCATION OR~~ private career school who is entitled to a
24 refund of tuition and fees because the institution has failed to perform faithfully any
25 agreement or contract with the student or failed to comply with any provision of this
26 article; or

27 2. For any other function directly related to the original
28 purpose of the fund deemed appropriate by the Secretary.

29 (II) THE FOR-PROFIT INSTITUTION OF HIGHER EDUCATION
30 FUND SHALL BE USED TO REIMBURSE ANY STUDENT AT A FOR-PROFIT
31 INSTITUTION OF HIGHER EDUCATION WHO IS ENTITLED TO A REFUND OF
32 TUITION AND FEES BECAUSE THE INSTITUTION HAS FAILED TO PERFORM

1 FAITHFULLY ANY AGREEMENT OR CONTRACT WITH THE STUDENT OR FAILED TO
 2 COMPLY WITH ANY PROVISION OF THIS ARTICLE.

3 (III) 1. THE FUNDS SHALL BE CONTINUING, NONLAPSING
 4 FUNDS, NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT
 5 ARTICLE.

6 2. ANY UNSPENT PORTIONS OF THE FUNDS MAY NOT
 7 BE TRANSFERRED OR REVERT TO THE GENERAL FUND OF THE STATE, BUT
 8 SHALL REMAIN IN THE FUNDS TO BE USED FOR THE PURPOSES SPECIFIED IN
 9 THIS SUBSECTION.

10 3. NO OTHER STATE MONEY MAY BE USED TO
 11 SUPPORT THE FUNDS.

12 ~~(iii)~~ (IV) The Commission shall be subrogated to and may
 13 enforce the claim of any student to the extent of any actual or authorized
 14 reimbursement from the [fund] FUNDS.

15 (3) (i) Each FOR-PROFIT INSTITUTION OF HIGHER EDUCATION
 16 OR private career school that is required to obtain a certificate of approval shall pay
 17 an annual fee into the APPROPRIATE fund.

18 (ii) The Commission shall determine the amount of the fee
 19 based on the probable amount of money needed for the [fund] FUNDS for each fiscal
 20 year. If the moneys in the guaranty [fund] FUNDS are insufficient to satisfy duly
 21 authorized claims, the participating institutions may be reassessed and shall pay the
 22 additional amounts required.

23 (iii) The Commission may not issue a certificate of approval to,
 24 and shall revoke any certificate of approval previously issued to, an institution that
 25 fails to pay any annual fee or reassessment.

26 (iv) The Commission shall deposit into the APPROPRIATE
 27 ~~[fund] FUNDS~~ any penalty assessed against a FOR-PROFIT INSTITUTION OF
 28 HIGHER EDUCATION OR private career school, RESPECTIVELY, under the terms of §
 29 11-204 of this subtitle.

30 (4) (i) The [fund] FUNDS shall be maintained by the State
 31 Comptroller who may deposit the assets of the [fund] FUNDS in any manner that is
 32 consistent with the purposes of the [fund] FUNDS.

33 (ii) All interest or other return on fund [investment]
 34 INVESTMENTS shall be credited to the [fund] FUNDS.

1 (5) The Commission, through the Attorney General, may enforce any
2 claim to which the Commission has been subrogated under this subsection.

3 11-204.

4 (c) (1) If a hearing is not requested within the specified time period, or if
5 the notice of deficiencies is upheld in whole or in part after a hearing, the Commission
6 may reprimand the institution or suspend or revoke the institution's certificate of
7 approval or any other approval issued by the Commission or Secretary.

8 (2) (i) Instead of or in addition to reprimanding a **FOR-PROFIT**
9 **INSTITUTION OF HIGHER EDUCATION OR** private career school, or suspending or
10 revoking any approval issued to a **FOR-PROFIT INSTITUTION OF HIGHER**
11 **EDUCATION OR** private career school, the Commission may impose a penalty of up to
12 \$5,000 for each violation as specified in regulations adopted by the Commission.

13 (ii) In accordance with the provisions of this section, the
14 Commission shall deposit any penalty assessed against a **FOR-PROFIT INSTITUTION**
15 **OF HIGHER EDUCATION OR** private career school into the guaranty fund for
16 **FOR-PROFIT INSTITUTIONS OF HIGHER EDUCATION OR FOR** private career schools
17 if such [a fund exists] **FUNDS EXIST**. Otherwise, all penalties shall be deposited into
18 the [State General Fund] **GENERAL FUND OF THE STATE**.

19 ~~11-205.~~

20 ~~(a) The Commission may summarily order the revocation or suspension of a~~
21 ~~certificate of approval of a **FOR-PROFIT INSTITUTION OF HIGHER EDUCATION OR**~~
22 ~~private career school if:~~

23 ~~(1) [The school's] **AN** owner or director **OF THE SCHOOL OR**~~
24 ~~**INSTITUTION**, or any person in whose name the approval is issued, is convicted of a~~
25 ~~crime of moral turpitude or a crime relating to the operation of the school if:~~

26 ~~(i) The conviction is final; and~~

27 ~~(ii) The period for appeal has expired;~~

28 ~~(2) An agency that exercises concurrent authority over the [private~~
29 ~~career] school **OR INSTITUTION** has revoked any approval to operate required by law;~~
30 ~~or~~

31 ~~(3) Without prior approval of the Commission, the certificate of~~
32 ~~approval of a school **OR INSTITUTION** is sold, pledged, or transferred, or there is a~~
33 ~~change of ownership of a school **OR INSTITUTION**.~~

1 ~~(b) The Commission may summarily order a revocation or suspension of a~~
 2 ~~certificate of approval of a FOR-PROFIT INSTITUTION OF HIGHER EDUCATION OR~~
 3 ~~private career school under subsection (a) of this section only if it gives the school OR~~
 4 ~~INSTITUTION:~~

5 ~~(1) Prior oral or written notice of the proposed revocation or~~
 6 ~~suspension and a brief, informal opportunity for response;~~

7 ~~(2) Prior or prompt subsequent written notice of the revocation or~~
 8 ~~suspension and the findings on which the revocation or suspension is based; and~~

9 ~~(3) After the revocation or suspension is effective, an opportunity to be~~
 10 ~~heard promptly before the Commission.~~

11 ~~(e) (1) In any hearing held on the grounds for revocation under subsection~~
 12 ~~(a) of this section, the Commission may limit the issues to be determined to whether:~~

13 ~~(i) The alleged conviction in fact occurred;~~

14 ~~(ii) The alleged revocation under subsection (a)(2) of this section~~
 15 ~~in fact occurred; or~~

16 ~~(iii) The alleged sale, pledge, or transfer, or change of ownership~~
 17 ~~of the [private career] school OR INSTITUTION in fact occurred.~~

18 ~~(2) Notwithstanding paragraph (1) of this subsection, in any hearing~~
 19 ~~held on the grounds for revocation under subsection (a) of this section, a [private~~
 20 ~~career] school OR INSTITUTION may present matters in mitigation of the offense~~
 21 ~~alleged by the Commission.~~

22 11-206.

23 (a) This section does not apply to:

24 (1) New programs proposed to be implemented by public and
 25 [nonpublic] PRIVATE NONPROFIT institutions of higher education using existing
 26 program resources in accordance with § 11-206.1 of this subtitle; and

27 (2) Programs offered by institutions of higher education that operate
 28 in the State without a certificate of approval in accordance with § 11-202(c)(2) or (3) of
 29 this subtitle.

30 (b) (1) Prior to the proposed date of implementation, the governing body
 31 of an institution of postsecondary education shall submit to the Commission each
 32 proposal for:

33 (i) A new program; or

1 (ii) A substantial modification of an existing program.

2 (2) The Commission shall review each such proposal and:

3 (i) With respect to each public institution of postsecondary
4 education, either approve or disapprove the proposal;

5 (ii) ~~With~~ **EXCEPT AS PROVIDED IN § 16-108(C) OF THIS**
6 **ARTICLE, WITH** respect to each [nonpublic] **PRIVATE NONPROFIT OR FOR-PROFIT**
7 institution of higher education, either recommend that the proposal be implemented or
8 that the proposal not be implemented; and

9 (iii) With respect to a ~~FOR-PROFIT INSTITUTION OF HIGHER~~
10 ~~EDUCATION OR~~ private career school, either approve or disapprove the proposal.

11 (3) If the Commission fails to act within 60 days of the date of
12 submission of the completed proposal, the proposal shall be deemed approved.

13 (4) Except as provided in paragraph (3) of this subsection, a public
14 institution of postsecondary education, ~~FOR-PROFIT INSTITUTION OF HIGHER~~
15 ~~EDUCATION~~, and private career school may not implement a proposal without the
16 prior approval of the Commission.

17 (5) ~~Except as provided in paragraph (3) of this subsection, and subject~~
18 ~~to the provisions of § 17-105 of this article, a [nonpublic] PRIVATE NONPROFIT~~
19 ~~institution of higher education may implement a proposal that has not received a~~
20 ~~positive recommendation by the Commission.~~

21 **(5) (I) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS**
22 **SUBSECTION, AND SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A**
23 **PROGRAM THAT HAS NOT RECEIVED A POSITIVE RECOMMENDATION BY THE**
24 **COMMISSION MAY BE IMPLEMENTED BY:**

25 **1. SUBJECT TO THE PROVISIONS OF § 17-105 OF**
26 **THIS ARTICLE, A PRIVATE NONPROFIT INSTITUTION OF HIGHER EDUCATION; OR**

27 **2. A FOR-PROFIT INSTITUTION OF HIGHER**
28 **EDUCATION.**

29 **(II) IF A PRIVATE NONPROFIT OR FOR-PROFIT INSTITUTION**
30 **OF HIGHER EDUCATION IMPLEMENTS A PROPOSAL DESPITE THE**
31 **RECOMMENDATION FROM THE COMMISSION THAT A PROGRAM NOT BE**
32 **IMPLEMENTED, THE INSTITUTION SHALL NOTIFY BOTH PROSPECTIVE**
33 **STUDENTS OF THE PROGRAM AND ENROLLED STUDENTS IN THE PROGRAM THAT**

1 **THE PROGRAM HAS NOT BEEN RECOMMENDED FOR IMPLEMENTATION BY THE**
 2 **COMMISSION.**

3 (6) (i) If the Commission disapproves a proposal, the Commission
 4 shall provide to the governing body that submits the proposal a written explanation of
 5 the reasons for the disapproval.

6 (ii) After revising a proposal to address the Commission's
 7 reasons for disapproval, the governing body may submit the revised proposal to the
 8 Commission for approval.

9 (d) The Commission shall review and make recommendations on programs in
 10 **[nonpublic] PRIVATE NONPROFIT AND FOR-PROFIT** institutions of higher education
 11 ~~that receive State funds.~~

12 11-206.1.

13 (a) (1) In this section the following words have the meanings indicated.

14 (2) "Public institution of higher education" means:

15 (i) A public senior higher education institution; and

16 (ii) A community college.

17 (3) **[Nonpublic] "PRIVATE NONPROFIT** institution of higher
 18 ~~education" means a regionally accredited institution of higher education eligible for~~
 19 ~~aid under § 17-103 of this article~~ **HAS THE MEANING STATED IN § 10-101(K) OF**
 20 **THIS ARTICLE.**

21 (b) (1) A president of a public institution of higher education may propose
 22 to establish a new program or abolish an existing program if the action:

23 (i) Is consistent with the institution's adopted mission
 24 statement under Subtitle 3 of this title; and

25 (ii) Can be implemented within the existing program resources
 26 of the institution.

27 (2) A president of a **[nonpublic] PRIVATE NONPROFIT** institution of
 28 higher education may propose to establish a new program if the action:

29 (i) Is consistent with the mission statement published in the
 30 official catalog of the **[nonpublic] PRIVATE NONPROFIT** institution; and

31 (ii) Can be implemented within the existing resources of the
 32 institution.

1 (3) The president of a public institution of higher education shall
2 report any programs that are proposed to be established or abolished in accordance
3 with paragraph (1) of this subsection to:

4 (i) The institution's governing board; and

5 (ii) The Maryland Higher Education Commission.

6 (4) The president of a [nonpublic] **PRIVATE NONPROFIT** institution of
7 higher education shall report any programs that are proposed to be established in
8 accordance with paragraph (2) of this subsection to the Commission.

9 (5) Upon receipt of a proposed new program, the Commission shall
10 notify all other institutions of higher education in the State.

11 (e) Within 30 days of receipt of a notice of an institution's intent to establish
12 a new program in accordance with subsection (b) of this section, the Commission may
13 file, or the institutions of higher education in the State may file with the Commission,
14 an objection to implementation of a proposed program provided the objection is based
15 on:

16 (1) Inconsistency of the proposed program with the institution's
17 approved mission for a public institution of higher education and the mission
18 statement published in the official catalog of a [nonpublic] **PRIVATE NONPROFIT**
19 institution of higher education;

20 (f) (5) If the objection cannot be resolved within 30 days of receipt of an
21 objection, the Commission shall make a final determination on approval of the new
22 program for a public institution of higher education or a final recommendation on
23 implementation for a [nonpublic] **PRIVATE NONPROFIT** institution of higher
24 education.

25 (i) The Commission shall:

26 (3) Make available a copy of the report under item (2) of this
27 subsection to the public institutions of higher education and the [nonpublic] **PRIVATE**
28 **NONPROFIT** institutions of higher education.

29 ~~11-402.~~

30 ~~(a) (1) In this section the following words have the meanings indicated.~~

31 ~~(2) (i) "School" means a **FOR-PROFIT INSTITUTION OF HIGHER**~~
32 ~~**EDUCATION OR** private career school located outside the State.~~

1 (ii) ~~“School” does not include a FOR-PROFIT INSTITUTION OF~~
2 ~~HIGHER EDUCATION OR private career school that operates in the State pursuant to~~
3 ~~a certificate of approval issued under § 11-202(b) of this title.~~

4 (3) ~~“Solicitor” means a person engaged in the business, for~~
5 ~~compensation, of soliciting or offering to solicit students in this State to enroll in or~~
6 ~~apply for a program offered by a school.~~

7 (b) ~~A person may not act as a solicitor unless such person has a permit~~
8 ~~issued under this section.~~

9 (e) (1) ~~A person wishing to act as a solicitor shall apply to the Commission~~
10 ~~for a permit.~~

11 (2) ~~The application shall be made on the forms the Commission~~
12 ~~provides, shall contain the information the Commission requires, and shall be~~
13 ~~accompanied by:~~

14 (i) ~~A copy of each type of contract offered by the solicitor to~~
15 ~~prospective students; and~~

16 (ii) ~~Any advertising materials and other representations that~~
17 ~~are made by the school to its students or prospective students.~~

18 (d) ~~Each permit issued under this section expires on June 30 after its~~
19 ~~issuance and may be renewed annually on application and payment of the required~~
20 ~~fee.~~

21 (e) (1) ~~The Commission shall consider the application and accompanying~~
22 ~~material.~~

23 (2) ~~If the Commission approves the application, it shall issue a permit~~
24 ~~to the solicitor, on payment of an initial fee of \$25. The renewal fee is \$25.~~

25 (f) ~~After notice to the solicitor and an opportunity for a hearing, the~~
26 ~~Commission may revoke the solicitor’s permit for:~~

27 (1) ~~Violation of a contract with a student; or~~

28 (2) ~~Any other good cause.~~

29 **11-402.1.**

30 AN INSTITUTION OF HIGHER EDUCATION MAY NOT PAY A COMMISSION, A
31 BONUS, OR ANY OTHER INCENTIVE PAYMENT BASED ON SUCCESS IN SECURING
32 ENROLLMENTS OR THE AWARD OF FINANCIAL AID TO A PERSON OR ENTITY
33 ENGAGED IN STUDENT RECRUITMENT OR ADMISSION ACTIVITY.

1 11-407.

2 (A) THE COMMISSION MAY REQUIRE REASONABLE ANNUAL REPORTS
 3 AND DATA FROM A FOR-PROFIT INSTITUTION OF HIGHER EDUCATION AS THE
 4 COMMISSION GENERALLY REQUIRES OF OTHER INSTITUTIONS OF HIGHER
 5 EDUCATION.

6 (B) THE COMMISSION MAY NOT REQUIRE A FOR-PROFIT INSTITUTION
 7 OF HIGHER EDUCATION TO REPORT TO THE COMMISSION ON MATTERS THAT
 8 CONCERN INFORMATION, DATA, OR DOCUMENTS, HOWEVER STYLED, THAT ARE
 9 PROPRIETARY TO THE INSTITUTION OR THAT CONSTITUTE A TRADE SECRET.

10 11-701.

11 In cooperation with the State's public and [nonpublic] PRIVATE NONPROFIT
 12 institutions of postsecondary education, the ~~Council of Maryland's K-16 Partnership~~
 13 GOVERNOR'S P-20 LEADERSHIP COUNCIL OF MARYLAND, the Maryland State
 14 Department of Education, and the local school systems, the Commission shall
 15 establish and administer a College Preparation Intervention Program.

16 11-902.

17 (b) The Committee consists of:

18 (4) The following 14 members appointed by the Governor:

19 (iii) Three members, one representing each of the following
 20 institutions of higher education:

21 3. A [private,] 4-year PRIVATE NONPROFIT institution
 22 of higher education;

23 16-108.

24 (a) (1) A board of trustees may submit to the Commission a request for
 25 proposals for the offering of a baccalaureate degree program not currently offered in
 26 the region.

27 (2) The Commission shall distribute the request for proposals to public
 28 senior higher education institutions and [nonpublic] PRIVATE NONPROFIT
 29 institutions of higher education.

30 (c) (1) The board of trustees may submit the request for proposals to
 31 out-of-state senior higher education institutions AND FOR-PROFIT INSTITUTIONS
 32 OF HIGHER EDUCATION if none of the senior higher education institutions in the

1 State submit an acceptable response to the request for proposals submitted under
2 subsection (a) of this section.

3 (2) [Before] NOTWITHSTANDING § 11-206(B)(2)(II) OF THIS
4 ARTICLE, BEFORE offering a degree program that is the subject of the request for
5 proposals, an out-of-state senior higher education institution OR FOR-PROFIT
6 INSTITUTION OF HIGHER EDUCATION shall seek the approval of the Commission
7 under Title 11, Subtitle 2 of this article.

8 17-101.

9 There is a program of State aid to [nonpublic] PRIVATE NONPROFIT
10 institutions of higher education known as the Joseph A. Sellinger Program.

11 17-105.

12 (b) If a [nonpublic] PRIVATE NONPROFIT institution of higher education
13 has implemented a new or substantially modified program contrary to the
14 recommendation of the Maryland Higher Education Commission that was based on a
15 finding of unreasonable duplication, then the Maryland Higher Education Commission
16 may recommend that the General Assembly reduce the appropriation by the amount of
17 aid associated with the full-time equivalent enrollment in that program. This
18 provision does not preclude the [nonpublic] PRIVATE NONPROFIT institution from
19 going forward with implementation of the new or substantially modified program.

20 (d) (1) If the General Assembly reduces program funding under
21 subsection (b) of this section, the affected [nonpublic] PRIVATE NONPROFIT
22 institution annually may reapply to the Maryland Higher Education Commission for
23 reconsideration of the program recommendation.

24 (2) If the Commission determines that the unreasonable duplication
25 no longer exists, then the Commission may recommend that there be no reduction in
26 the institution's amount of aid.

27 18-103.

28 A EXCEPT AS OTHERWISE PROVIDED IN SUBTITLES 4, 5, AND 12 OF THIS
29 TITLE, A scholarship, grant, loan, or other student financial assistance awarded by the
30 Office may be used ONLY at ~~any~~ A public or private NONPROFIT institution of higher
31 education in this State that possesses a certificate of approval from the Commission.

32 18-708.

33 (a) (3) "Eligible institution" means a public or private NONPROFIT
34 institution of higher education in this State that possesses a certificate of approval
35 from the Commission.

1 18-2201.

2 (b) "Eligible institution" means a public or private **NONPROFIT** institution of
3 higher education in this State that possesses a certificate of approval from the
4 Maryland Higher Education Commission.

5 18-2301.

6 (b) "Eligible institution" means a public or private **NONPROFIT** institution of
7 higher education in this State that possesses a certificate of approval from the
8 Maryland Higher Education Commission.

9 18-2502.

10 A Community College Transfer Scholarship awarded under this subtitle may be
11 used only at a 4-year [private or] public **OR PRIVATE NONPROFIT** institution of
12 higher education in the State.

13 18-2503.

14 To qualify for a Community College Transfer Scholarship, an applicant shall:

15 (1) Be a resident of the State;

16 (2) Be a student at a community college in the State;

17 (3) Maintain a cumulative 3.0 grade point average on a 4.0 scale while
18 a student at a community college in the State;

19 (4) Have completed at least 60 credits at a community college in the
20 State or have earned an associate's degree by the end of the semester in which the
21 applicant plans to transfer;

22 (5) Be accepted for admission in a degree program at a 4-year [private
23 or] public **OR PRIVATE NONPROFIT** institution of higher education in the State;

24 (6) Intend to enroll in a 4-year [private or] public **OR PRIVATE**
25 **NONPROFIT** institution of higher education in the State in order to complete a
26 bachelor's degree program;

27 (7) Enroll as a full-time student in that 4-year institution;

28 (8) Have an annual total family income of not more than \$95,000; and

29 (9) Accept any other conditions or satisfy any additional criteria that
30 the Commission or the Office may establish.

1 18–2504.

2 (c) (1) Subject to paragraphs (2) and (3) of this subsection, to retain a
3 Community College Transfer Scholarship, the recipient shall:

4 (i) Remain a resident of the State;

5 (ii) Continue to be enrolled as an undergraduate student in a
6 degree program at a 4–year [private or] public **OR PRIVATE NONPROFIT** institution
7 of higher education in the State;

8 (iii) Maintain a 3.0 grade point average on a 4.0 scale each
9 academic year the individual is enrolled at a 4–year [private or] public **OR PRIVATE**
10 **NONPROFIT** institution of higher education in the State or provide evidence
11 satisfactory to the Office of extenuating circumstances; and

12 (iv) Maintain the standards of the eligible institution that the
13 individual attends.

14 21–501.

15 (a) (3) “Student” means an individual who:

16 (i) 1. Is at least 16 years old but younger than the age of 23
17 years; or

18 2. Reaches the age of 23 years while participating in an
19 approved paid work–based learning program under this section; and

20 (ii) Is enrolled in a public or private secondary **SCHOOL** or
21 **PUBLIC OR PRIVATE NONPROFIT** postsecondary [school] **INSTITUTION** in the State.

22 24–707.

23 (b) ~~[Private] FOR-PROFIT AND PRIVATE NONPROFIT~~ institutions of
24 ~~higher education and private~~ **PRIVATE** secondary schools may transfer student data
25 and workforce data to the Maryland Longitudinal Data System in accordance with the
26 data security and safeguarding plan developed under § 24–704(g)(6) of this subtitle.

27 **(C) FOR-PROFIT AND PRIVATE NONPROFIT INSTITUTIONS OF HIGHER**
28 **EDUCATION SHALL TRANSFER STUDENT-LEVEL ENROLLMENT DATA, DEGREE**
29 **DATA, AND FINANCIAL AID DATA FOR ALL MARYLAND RESIDENTS TO THE**
30 **MARYLAND LONGITUDINAL DATA SYSTEM IN ACCORDANCE WITH THE DATA**
31 **SECURITY AND SAFEGUARDING PLAN DEVELOPED UNDER § 24–704(G)(6) OF**
32 **THIS SUBTITLE.**

1 24-801.

2 (c) The Council shall consist of the following members:

3 (11) The following members appointed by the Governor:

4 (i) A member of the State Board of Education;

5 (ii) A representative of local superintendents of education;

6 (iii) A representative of local boards of education;

7 (iv) Two members of employee organizations that represent
8 elementary and secondary school personnel in the State;

9 (v) A representative of elementary and secondary school
10 principals;

11 (vi) Two representatives of nonpublic elementary and secondary
12 schools;

13 (vii) An expert in early childhood education;

14 (viii) An expert in career and technology education;

15 (ix) Two representatives of community colleges;

16 (x) Two representatives of independent colleges or universities;

17 (xi) A representative of public institutions of higher education
18 outside the University System of Maryland;

19 (xii) A representative of college or university deans who has
20 responsibility for a science, technology, engineering, and math (STEM) discipline;

21 (xiii) Four representatives of the University System of Maryland;

22 **(XIV) A REPRESENTATIVE OF A FOR-PROFIT INSTITUTION OF**
23 **HIGHER EDUCATION;**

24 ~~[(xiv)]~~ **(XV) Three representatives of the business community; and**

25 ~~[(xv)]~~ **(XVI) Six additional members with experience and**
26 **knowledge that will benefit the work of the Council.**

1 SECTION 6. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall
2 take effect on July 1, 2011. It shall remain effective for a period of 5 years and, at the
3 end of June 30, 2016, with no further action required by the General Assembly.
4 Section 3 of this Act shall be abrogated and of no further force and effect.

5 SECTION ~~2~~ 7. AND BE IT FURTHER ENACTED, That, except as provided in
6 Sections 5 and 6 of this Act, this Act shall take effect ~~October~~ June 1, 2011.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.