

## Chapter 277

(Senate Bill 695)

AN ACT concerning

### Higher Education – Regulation of Public, Private Nonprofit, and For-Profit Institutions of Higher Education

FOR the purpose of distinguishing between public, private nonprofit, and for-profit institutions of higher education; ~~prohibiting~~ clarifying that a person is prohibited from engaging in certain unfair or deceptive practices in the offer for sale of course credit or other educational services; authorizing the Maryland Higher Education Commission to create and provide for the operation of ~~a certain guaranty fund~~ certain guaranty funds to be used for certain purposes; providing that certain guaranty funds are continuing, nonlapsing funds not subject to certain provisions of law; prohibiting unspent portions of the funds from being transferred or reverted to the General Fund; prohibiting certain State money from being used to support the funds; requiring for-profit institutions of higher education to pay a certain fee into the a certain fund; authorizing the Commission to impose certain penalties on certain for-profit institutions of higher education; authorizing the Commission to revoke or suspend the certificate of approval of certain for-profit institutions of higher education under certain circumstances requiring certain institutions of higher education to notify certain students that certain programs have not been recommended for implementation by the Commission under certain circumstances; prohibiting certain institutions of higher education from paying certain financial or other incentives based on certain success to a person or entity engaged in student recruitment or admission activity; authorizing the Commission to require certain reports and data from certain institutions of higher education; prohibiting the Commission from requiring reports on certain matters that concern certain information, data, or documents; authorizing the board of trustees of a community college to submit a request for proposals for the offering of a certain degree program to certain institutions of higher education under certain circumstances; requiring a certain institution of higher education to seek the approval of the Commission before offering a certain degree program; specifying the institutions of higher education at which certain students may use certain financial assistance; requiring certain institutions of higher education to transfer certain information to the Maryland Longitudinal Data System in accordance with certain plans; altering the membership of the Governor's P-20 Leadership Council of Maryland; requiring the Commission to consider incorporating certain institutions of higher education into a certain goal; defining certain terms; making clarifying and stylistic changes; providing for the effective date of this Act; providing for the termination of certain

provisions of this Act; and generally relating to the regulation of public, private nonprofit, and for-profit institutions of higher education.

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

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

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

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

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

### **Article – Commercial Law**

13–303.

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

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

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

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

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

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

**Article – Education**

10–101.

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

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

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

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

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

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

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

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

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

~~[(e)]~~ (F) “Governing body” means:

(1) A governing board;

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

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

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

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

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

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

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

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

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

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

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

**[(h)] (J)** “Private career school” means a privately owned and privately operated institution of postsecondary education other than an institution of higher education that furnishes or offers to furnish programs, whether or not requiring a payment of tuition or fee, for the purpose of training, retraining, or upgrading individuals for gainful employment as skilled or semiskilled workers or technicians in recognized occupations or in new and emerging occupations.

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

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

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

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

- (1) The constituent institutions of the University System of Maryland;
- (2) Morgan State University; and
- (3) St. Mary’s College of Maryland.

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

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

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

(3) Offers multiple degree levels; and

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

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

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

10–211.

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

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

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

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

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

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

11–105.

(g) The Commission shall:

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

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

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

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

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

11–201.

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

11-202.1.

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

11-203.

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

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

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

**(II) PRIVATE** career schools.

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

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

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

**(II) THE FOR-PROFIT INSTITUTION OF HIGHER EDUCATION FUND SHALL BE USED TO REIMBURSE ANY STUDENT AT A FOR-PROFIT INSTITUTION OF HIGHER EDUCATION WHO IS ENTITLED TO A REFUND OF TUITION AND FEES BECAUSE THE INSTITUTION HAS FAILED TO PERFORM FAITHFULLY ANY AGREEMENT OR CONTRACT WITH THE STUDENT OR FAILED TO COMPLY WITH ANY PROVISION OF THIS ARTICLE.**

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

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

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

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

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

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

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

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

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

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

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

11-204.

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

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

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

~~11-205.~~

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

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

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

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

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

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

~~(b) The Commission may summarily order a revocation or suspension of a certificate of approval of a **FOR-PROFIT INSTITUTION OF HIGHER EDUCATION OR**~~

~~private career school under subsection (a) of this section only if it gives the school **OR INSTITUTION**:~~

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

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

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

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

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

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

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

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

11-206.

(a) This section does not apply to:

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

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

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

(i) A new program; or

(ii) A substantial modification of an existing program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11-206.1.

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

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

- (i) A public senior higher education institution; and
- (ii) A community college.

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

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

- (i) Is consistent with the institution's adopted mission statement under Subtitle 3 of this title; and
- (ii) Can be implemented within the existing program resources of the institution.

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

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

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

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

- (i) The institution's governing board; and
- (ii) The Maryland Higher Education Commission.

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

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

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

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

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

(i) The Commission shall:

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

~~11-402.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11-402.1.

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

11-407.

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

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

11-701.

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

11-902.

(b) The Committee consists of:

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

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

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

16-108.

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

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

(c) (1) The board of trustees may submit the request for proposals to out-of-state senior higher education institutions AND FOR-PROFIT INSTITUTIONS OF HIGHER EDUCATION if none of the senior higher education institutions in the State submit an acceptable response to the request for proposals submitted under subsection (a) of this section.

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

17-101.

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

17-105.

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

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

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

18-103.

A EXCEPT AS OTHERWISE PROVIDED IN SUBTITLES 4, 5, AND 12 OF THIS TITLE, A scholarship, grant, loan, or other student financial assistance awarded by the

Office may be used **ONLY** at ~~any~~ **A** public or private **NONPROFIT** institution of higher education in this State that possesses a certificate of approval from the Commission.

18-708.

(a) (3) “Eligible institution” means a public or private **NONPROFIT** institution of higher education in this State that possesses a certificate of approval from the Commission.

18-2201.

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

18-2301.

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

18-2502.

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

18-2503.

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

- (1) Be a resident of the State;
- (2) Be a student at a community college in the State;
- (3) Maintain a cumulative 3.0 grade point average on a 4.0 scale while a student at a community college in the State;
- (4) Have completed at least 60 credits at a community college in the State or have earned an associate’s degree by the end of the semester in which the applicant plans to transfer;
- (5) Be accepted for admission in a degree program at a 4-year [private or] public **OR PRIVATE NONPROFIT** institution of higher education in the State;

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

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

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

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

18-2504.

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

(i) Remain a resident of the State;

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

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

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

21-501.

(a) (3) "Student" means an individual who:

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

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

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

24-707.

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

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

24-801.

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

(11) The following members appointed by the Governor:

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

(ii) A representative of local superintendents of education;

(iii) A representative of local boards of education;

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

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

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

(vii) An expert in early childhood education;

(viii) An expert in career and technology education;

(ix) Two representatives of community colleges;

(x) Two representatives of independent colleges or universities;

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

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

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

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

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Education

11-203.

(d) (3) (ii) 1. [The] SUBJECT TO SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, THE Commission shall determine the amount of the fee based on the probable amount of money needed for the funds for each fiscal year. If the moneys in the guaranty funds are insufficient to satisfy duly authorized claims, the participating institutions may be reassessed and shall pay the additional amounts required.

2. THE AMOUNT OF THE ANNUAL FEE CHARGED TO A FOR-PROFIT INSTITUTION OF HIGHER EDUCATION MAY NOT EXCEED 0.0025 OF ALL GROSS TUITION, OR \$30,000, WHICHEVER IS LESS.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Education

18-103.

(A) IN THIS TITLE, “IN-STATE INSTITUTION OF HIGHER EDUCATION” MEANS A DEGREE-GRANTING INSTITUTION WHOSE PRIMARY CAMPUS IS LOCATED IN MARYLAND AND WHOSE AUTHORITY TO GRANT DEGREES IS CONFERRED BY MARYLAND.

(B) [Except as otherwise provided in Subtitles 4, 5, and 12 of this title, a] A scholarship, grant, loan, or other student financial assistance awarded by the Office may be used only at [a public or private nonprofit] AN IN-STATE institution of higher education [in this State] that possesses a certificate of approval from the Commission.

SECTION 4. AND BE IT FURTHER ENACTED, That, in order to assist the State in reaching the goal that 55% of adults in Maryland will have an associate's or bachelor's degree by 2025, the Maryland Higher Education Commission should consider incorporating for-profit and out-of-state institutions awarding degrees in Maryland into the goal.

SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect on July 1, 2011. It shall remain effective for a period of 2 years and, at the end of June 30, 2013, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

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

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

**Approved by the Governor, May 10, 2011.**