

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

COALITION FOR EQUITY AND
EXCELLENCE IN MARYLAND
HIGHER EDUCATION, *et al.*,

Plaintiffs

v.

MARYLAND HIGHER EDUCATION
COMMISSION, *et al.*,

Defendants.

Civil Action No.: 1:06-cv-02773-CCB

DEFENDANTS' REPORT AND REMEDIAL PROPOSALS

This document provides a report on the joint UB/Towson MBA program, and outlines Defendants' remedial proposals in response to this Court's request and its October 7, 2013 ruling with respect to liability, Doc. No. 382.¹ The proposals build on the requirement that "the federal courts in devising a remedy [with respect to racial desegregation] must take into account the interests of state and local authorities in managing their own affairs, consistent with the Constitution." *Missouri v. Jenkins*, 515 U.S. 70, 88 (1995) (quoting *Milliken v. Bradley*, 433 U.S. 267, 280-81 (1977)).

¹ By submitting this proposal, Defendants neither admit liability as found by the Court in the October 7, 2013 order, nor waive any arguments they may wish to raise here or on appeal with respect to liability or any other subject. Similarly, this proposal's inclusion of support for programs on the Eastern Shore does not waive Defendants' argument, *see* Defendants' Response to Plaintiffs' Motion for an Order Granting Plaintiffs' Remedial Proposal ("Defendants' Response") at 28-30, that no remedy is appropriate for institutions on the Eastern Shore because the Court found no violation there.

Defendants' submission also heeds the teaching of the district court in *Knight v. Alabama*, 900 F. Supp. 272, 284 (N.D. Ala. 1995), that an "educationally sound" remedy is one which "provide[s] incentives to 'do right' with minimal intrusive Court oversight," and "as far as possible, take[s] into account, and work[s] within, the normal political, educational and administrative processes." Accordingly, Plaintiffs propose bottom-up, not top-down, remedies which seek to capitalize on the energies and interests of faculty and administrators at the State's higher education institutions, and to improve the conditions for HBI recruitment.²

I. Report on the UB/Towson University MBA Program

This Court singled out the joint UB-Towson MBA program for criticism in its liability ruling. *See, e.g.*, Doc. 382 at 51. Although Defendants respectfully disagree with that criticism, they wish to inform the Court that earlier today, the University of Baltimore and Towson University advised their students that their agreement to offer that joint MBA has expired and will not be renewed. The joint program will be phased out, and UB's MBA program, established in 1972, will continue. Students currently enrolled in the joint program will have the opportunity to complete the UB/Towson MBA. For all newly-admitted students, degree-granting authority will reside solely with the University of Baltimore as authorized in 1972. Thus, the joint MBA program, which was a major focus of this Court's ruling, is no longer at issue. This important fact must be considered in the crafting of any remedial order.

² This remedial proposal, like the Court's Order of October 7, 2013, *see* Doc. 382 at 5, is limited to the State's public senior higher education institutions as defined in Md. Code Ann., Educ. §§ 10-101(m), 12-101(b)(6).

II. Proposal #1: The Fund for Collaborative Academic Programs

The creation of new, collaborative academic programs between HBIs and non-HBIs is the most educationally sound and practicable way to expand the white student presence at Maryland HBIs while increasing, rather than restricting, academic opportunities for Maryland students. As this Court noted in its 2013 decision,

UMES and Salisbury have developed a unique, collaborative partnership, that has both virtually eliminated unnecessary program duplication on their campuses and resulted in UMES having “more white students on its campus than any other HBI in the state[.]” It was evident from the testimony of the presidents of both UMES and Salisbury that their collaborative efforts are a source of pride for both institutions and contribute to the overall quality of higher education program offerings on the Eastern Shore.

Doc. 382 at 59-60 (citations omitted). This Court concluded: “Similarly, the creation of collaborative programs through the wide use of resources to enhance the quality of current and newly developed programs at the HBIs may be an additional effective and creative method of enhancing the HBIs’ programs. *Id.* at 60.

Defendants’ collaborative proposal is justified for an additional, independent reason. To succeed in practice, and not just on paper, a remedial plan must work within the shared governance model which is “a hallmark of American higher education.” Davis Report (Ex. F to Defendants’ Response) at 4. Under the shared governance model, “the responsibility for programs of study and curricular matters largely rests with the faculty of the institution.” *Id.* Accordingly, academic programs are difficult to sustain unless there is “collective buy-in from the faculty upon whose expertise those academic programs will have to be built.” *Id.*; *see also* Lichtman Report (Ex. D. to Defendants’

Response) at 3 (“Joint programs are also far less costly and disruptive than mergers, new programs, or program transfers.”).

The State’s proposal recognizes these fundamental facts of academic life because it does not establish or mandate specific programs, nor does it close programs at one location and attempt to rebuild them at another. Instead, it offers substantial financial support for the creation of programs that originate with the faculty at Maryland’s HBIs and non-HBIs.

A. How the Fund Will Work

The State proposes to create the Fund for Collaborative Academic Programs (“FCAP”), a six-year initiative to support the development of new collaborative programs between HBIs and non-HBIs. Although the exact number of programs and mix of program types to be proposed and funded cannot be predicted in advance, the State estimates that FCAP could have the capacity to distribute as much as \$10,000,000 in grants over the six-year life of the initiative. Campuses will jointly submit proposals to FCAP for funding to cover the costs of starting a new collaborative program. Planning costs might include, for example, support of faculty and administrator time during planning, and initial costs in hiring new personnel. Other program costs would also be supported, such as marketing and promotion or new transportation (e.g., shuttle-bus) service for students travelling between institutions. To qualify, programs must be a collaborative effort between an HBI and one or more non-HBIs and must not duplicate a currently existing program at an HBI, although they may enhance or build upon a currently existing program at an HBI. The expectation – as is typical with most new

programs at Maryland higher education institutions – is that after an initial period of two years, the participating institutions will receive appropriate revenues through regular channels to sustain the program for the long term. *See* Davis Report at 7 (“From reallocated start-up funds for the first and second years of a program, it is generally expected that regular revenue mechanisms take hold as programs progress to their third and fourth years of existence.”).

B. A Broad Array of Programs Will Be Eligible for Collaboration

The following categories of programs will be eligible for funding:

- *New Joint Degree*: A single degree offered by two or more institutions in which all cooperating institutions are substantively involved in required course work, faculty exchange, and shared use of facilities. Maximum award: \$75,000/institution each year for two years, total maximum award varying with number of participating institutions. Example: The M.S. in Human Services Administration currently offered by Coppin and UB, in which each institution contributes three courses to the 18-credit core requirement, students select elective content area offered at one or the other institution, and both institutions’ names appear on the degree.
- *Enhanced Joint Degree*: Enhancement of existing joint degree program that will lead to increased enrollments at both institutions. Maximum award: \$25,000/institution for two years, totaling \$100,000 per program.
- *Cooperative Degree*: Degree awarded at any one of the participating institutions – dependent upon area of specialization and advisor, selected courses may be taken at any of the institutions involved in the program. Maximum award: \$30,000/institution for two years, total maximum award varying with number of participating institutions. Example: The Marine Estuarine Environmental Sciences M.S. and Ph.D. now offered through the cooperation of UMB, UMBC, UMES, and UMCP, in which the degree may be awarded at any one of the institutions, depending upon area of specialization, and selected courses may be taken at any of the institutions.
- *Cooperative Certificate, Concentration/Specialization*: Degree offered at one institution with a certificate, concentration, track or specializations offered at a second institution. Maximum award: \$25,000/institution for two years, total maximum award varying with number of participating institutions. Example: The

MLAW collaboration between UMCP and Maryland Carey Law at UMB,³ a minor in Law and Society and the College Park Scholars Justice and Legal Thought Living-Learning Program. MLAW students participate in events at Maryland Carey Law. Faculty from Maryland Carey Law will begin instructing MLAW students in the spring of 2015.

- *Dual Degree*: Concurrent enrollment at both institutions to complete two degrees. Maximum award: \$25,000/institution for two years, \$100,000 per program. Example: UMES and Salisbury offer two dual degree programs: (i) a B.S. in Biology from Salisbury with a B.S. in Environmental Science from UMES, and (ii) a B.A. in Social Work from Salisbury and a B.A. in Sociology from UMES. The programs provide for concurrent enrollment at both institutions to complete two degrees.
- *Combined Degree*: First degree awarded after successful completion of the requisite courses in the second degree, e.g., BS/MS, BS/MD, BA/JD, MS/DNP, etc. Maximum award: \$15,000/institution for two years, \$60,000 per program. Example: Collaboration between the schools of medicine, law and dentistry at UMB with UMBC. Students who satisfactorily complete 90 credit hours at UMBC, including all general education and major requirements, may then complete their first year in professional school, after which they may be awarded the baccalaureate degree from UMBC.
- *Primary Degree*: A single degree offered by one institution having responsibility for at least two-thirds of the course requirements in which cooperating institutions participate by the appropriate and complementary addition of courses, faculty, and facilities intended to complete the degree requirements of the primary institution. Maximum award: \$10,000/institution for two years, total maximum award varying with number of participating institutions. Example: Towson University's Arts Integration Institute offers an Arts Integration Post-Baccalaureate Certificate in partnership with UMCP, UMBC and Johns Hopkins University.
- *Dual Admission/Dual Enrollment*: MOU for pre-professional students (Nursing, Medical and Research Technology, Physical Therapy, etc.). Maximum award: \$10,000/institution one-time award, total maximum award \$20,000 per program. Example: UMCP and the School of Nursing at UMB collaborate to allow students to complete the Bachelor's of Science in Nursing (BSN) in as few as four years, streamlining progression from UMCP to UMB.

³ MLAW is offered to undergraduate students at UMCP with an interest in law.

C. How FCAP Will Be Administered

FCAP will be staffed by the Maryland Higher Education Commission's Office of Outreach and Grants Management, which has experience in grant award and administration. The State will fund the creation of a new staff position at MHEC to manage the FCAP program. Proposals will be reviewed by a committee composed of members appointed by each of the Presidents of the institutions to which this remedial proposal applies. *See* note 2, *supra*. For any given decision, appointees from the schools submitting the proposal will recuse themselves. (For example, if Towson and Coppin submit a joint proposal, their appointees will be recused from the selection committee for that particular proposal.) MHEC will explain in writing the basis for decision on each application, and provide constructive feedback to unsuccessful proposing institutions.

III. Proposal #2: The Governor's Early College Summer Academies

To attract diverse student cohorts from across the State to the HBIs, Defendants propose the establishment of a Governor's Early College Summer Academy at each of the HBIs. Specifically, the State proposes to support the establishment of four Summer Academies for rising 11th and 12th grade students, modeled in some respects on the Johns Hopkins Center for Talented Youth Summer Programs and the prestigious Governor's School of North Carolina. Participants would be nominated by their school or school system, with a competitive admissions process. Students completing a four- to six-week residential Summer Academy would receive three to six academic credits transferrable to any Maryland public institution. These Summer Academies would target Maryland students on the cusp of the college admissions process and expose them to the

strengths of the HBIs' programs and state-of-the-art facilities. The Academies would be tuition-free and supported by State expenditures estimated at between \$500,000 and \$1,000,000 per institution per year, during a proposed four-year period.

Although each HBI would be free to develop the curriculum of its own Summer Academy, Defendants suggest the following as potential academic areas of focus, to clarify to the Court the types of programs that could be created:

Bowie State University

Building upon the University's participation in the National Science Foundation and NASA partnership program, *Model Institutions for Excellence*, students selected for the Governor's Academy at Bowie would have the opportunity to explore STEM areas of study, and to learn about the Satellite Operations & Control Center which is a training facility and mission control center for NASA spacecraft on the Bowie campus. If students matriculate at Bowie after high school, they may have the opportunity to participate in satellite operations and earn mission controller certification.

Coppin State University

"Signature" programs such as Health Information Management and the newly opened Science and Technology Center, and distinguished Elkins Professors among the faculty in the sciences, would support a Health Professions Academy that could spark students' interest in attending Coppin State University to pursue studies in the health professions, research, and pre-professional preparation for graduate and professional school.

Morgan State University

The *Project Lead the Way* programs at high schools throughout Maryland would be natural pipelines for a Governor's Academy in Engineering. Already experienced in conducting the *Summer Academy of Mathematics and Science*,⁴ the University is well-poised to successfully launch an Academy in Engineering.

University of Maryland Eastern Shore

Two areas for consideration are Renewable Energy and PGA Golf Management/Hospitality and Tourism Management.

Renewable Energy is a topic of intense interest across the nation. UMES has presented a successful seminar series underwritten by a grant from the U.S. Department of Energy, the Maryland Energy Administration and Princeton Energy Resource International. The seminar series addressed engineering principles, economics, and policies behind energy design. In addition, the University invested in a 17-acre solar-energy collection system on campus in 2011 to reduce its electricity bills, and students would be able to observe first-hand a model of efficiency and sustainability.

The PGA Golf Management program is a comprehensive degree program that integrates all the curriculum requirements of a Hospitality and Tourism Management major with the knowledge base of the PGA Golf Management Program, including sixteen months of structured internship experience and a Playing Ability Test (PAT). One of only 19 PGA-accredited programs, this signature program could form the basis for an

⁴ See http://www.morgan.edu/school_of_computer_mathematical_and_natural_sciences/high_school_outreach/sams_program.html.

Academy in Hospitality and Tourism that provides a unique focus in PGA Golf Management.

Conclusion

Remedies which emphasize the normal processes of educational institutions, and increase choices for their current and prospective students, hold great promise. They also avoid the extraordinary costs imposed by Plaintiffs' far-reaching, risky scheme. Defendants' proposals are serious and represent a substantial commitment of State resources. Combined with the dissolution of the UB/Towson MBA program, these initiatives are markedly superior to Plaintiffs' remedial proposal.

Respectfully submitted,

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