



January 8, 2024

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

Dear Co-chairs King and Smith,

On behalf of Johns Hopkins University (JHU), we write to provide our perspective on the Program Approval Process Workgroup draft recommendations. The commentary that follows is in addition to our letter of December 18 and specifically responds to each of the draft recommendations. We offer our thanks and appreciation for the workgroup's efforts, and your leadership in prosecuting its role and objectives.

As stated in our December 18 letter to the Workgroup, JHU believes that MHEC's current process does not adequately serve the interests of Maryland's students, its institutions of higher education, or its 21st century workforce needs. In fact, as discussed further below, Maryland – despite its world-class public and private institutions of higher education – faces significant out-of-state competition in higher education and workforce development, as evidenced by the fact that Maryland is a net exporter of students to other states.¹ If the State wishes to compete and win in today's higher education market, it is imperative for MHEC to make bold changes to its program review and approval process. Of particular concern, as we note in greater detail in our December 18 submission, we believe that the state would be better served to focus on those programs where the market is truly intrastate in nature. Accordingly, JHU offers the following feedback regarding the proposed 19 Workgroup recommendations.

The university would like to indicate its support and endorsement of many of the group's recommendations, specifically recommendations 1 through 4, 7, 8, 11, 12, 13, 14, 15, 17, and 18. Additionally, we note that 1-3 and 11 appear to apply only to public schools and thus we omit any commentary on these recommendations.

Moreover, we proffer thoughts and concerns regarding recommendations 5, 6, 9, 10, and 16, much of which other institutions share.

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

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Supported Recommendations

Recommendation 4: The Workgroup recommends that the State Plan should identify specific workforce needs, including regional needs, and the specific academic programs that institutions could develop to support these workforce needs.

JHU agrees with this recommendation and advocates that its implementation is buttressed by allowing programs meeting State identified workforce needs to receive expedited MHEC review that eschews an objection process. Supporting this, we recommend that the State Plan recognize the importance of national workforce trends and needs – given the interstate nature of higher education – when it develops present and future objectives, priorities, needs and capabilities for postsecondary education in Maryland.

Recommendation 7: The Workgroup recommends that MHEC, MDL, and Commerce should each have a specific PIN dedicated to defining and identifying State and regional workforce needs.

JHU strongly agrees with a uniform approach and that the State agencies should collaborate to identify State and regional workforce needs. Requiring the agencies to also consider national workforce needs would buttress this recommendation.

Recommendation 8: The Workgroup recommends that MHEC, MDL, and Commerce have common agreement on data sources and measurements and all institutions of higher education should have access to this data. MHEC and the Commission should use this data as a baseline during the program approval process.

JHU agrees with this recommendation. As discussed in our own recommendations, MHEC should advance the role of data, particularly workforce data. MHEC should rely on and consistently use a clear, well-defined evidentiary threshold directed by tangible metrics from known sources focusing on State, regional, and national workforce needs.

Recommendation 12: The Workgroup recommends that MHEC reexamine their statutory and regulatory deadlines for the program approval process to determine if those deadlines are meeting the needs of institutions and students in the State. The Workgroup recommends that the General Assembly consider holding MHEC accountable if the department does not make progress on adhering to stated timelines and deadlines in the program approval process.

JHU strongly endorses this recommendation. As discussed in detail in our recommendations, MHEC's processes and procedures should be transparent, predictable, timely, and evidence based.

Recommendation 13: The Workgroup recommends that MHEC conduct all discussions, deliberations, and votes of an appeal of a program approval decision in public session.

Recommendation 14: The Workgroup recommends that a vote of the majority of the Commissioners appointed to the Commission be required to approve or disapprove a program approval decision.

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Recommendation 15: The Workgroup recommends that MHEC develop and adopt an administrative procedures guide for the department's program approval process by XX and prominently post the administrative procedures guide on the department's website.

JHU agrees with these three mutually buttressing and concomitant recommendations. As discussed in our recommendations, MHEC's processes and procedures should be transparent, predictable, timely, and evidence based.

Commission discussion, debate, and vote should occur in accordance with the Maryland Open Meetings Act and be communicated clearly to the proposing institutions. This should include the evidence from data sources considered in decision-making.

JHU further notes that this recommendation aligns with the interpretation of applicable legal authority by the Office of the Attorney General to MHEC Chair Catherine J. Motz, dated August 17, 2023.² Any administrative procedures guide should reflect the agency's authority as outlined in COMAR, and hew to the authority that COMAR promulgates.

Recommendation 17: The Workgroup recommends that MHEC, in collaboration with all institutions, find a consensus as to whether 33% is the appropriate standard to trigger a full program review of a substantial modification to an existing program. If MHEC finds that a new standard is more appropriate, MHEC should update their regulations by XX with a detailed explanation of the new standard.

JHU agrees with this recommendation and suggests a threshold of 50%. This reflects practice more commonly found in other states. Crucially, efforts to better define what changes represent a "substantial modification" would benefit from consultation with and consideration from academic affairs staff in the State's universities and colleges.

Recommendation 18: The Workgroup recommends that the Maryland General Assembly determine an appropriate time to review the implementation of the Workgroup's recommendations.

JHU supports oversight and accountability and urges timely implementation.

Concerning Recommendations

What follows are concerns that the university has with the recommendation, or with elements of otherwise meritorious recommendations. We offer this commentary as an earnest appeal to reconsider these recommendations in whole or part.

Recommendation 5: The Workgroup recommends that MHEC should update the State Plan for Commission approval by August 2024. The Workgroup recommends that MHEC utilize representatives from all segments of higher education, students, and members of the public in developing the 2024 State Plan.

² See <https://mhec.maryland.gov/Documents/Motz%20-%20MHEC%20Letter%20%288.17.23%29%20%28FINAL%29.pdf>; see also Md. Code Ann., Educ. § 11-103(b)(3) ("[n]o formal action may be taken by the Commission without the approval of a majority of the members of the Commission then serving on the Commission")

It is unclear if the Workgroup is recommending that the General Assembly modify Section 11-105 of the Education Article of the Annotated Code of Maryland, which currently provides for a 4-year cycle for the development of the State Plan for Higher Education, or if the recommendation is simply for a new State Plan to be developed by August 2024. Clarification of the timing and intent here would be helpful. We also acknowledge the challenges incumbent on MHEC in attempting to compose a revised plan in less than a year that adequately responds to the reasons for its development and that includes meaningful contributions from appropriate participants.

Recommendation 6: The Workgroup recommends that the next State Plan should require review and comment by the Legislative Policy Committee prior to the adoption of the State Plan by the Commission.

This extra step prompts potential delays and exacerbates the timeliness challenge identified immediately above. Moreover, without a defined and statutorily authorized role, this represents troubling government overreach in the operational posture and objectives of all institutions, especially independent schools.

Recommendation 9: After the adoption of the 2024 State Plan, the Workgroup recommends that MHEC require all senior higher education institutions to submit a “Programmatic Plan” which would require senior higher education institutions to outline each graduate academic programs that the institution plans to submit by the end of the 2-year time period. MHEC should adopt a specific due date and review period of the Programmatic Plans.

This recommendation greatly troubles the university. It is unclear whether this recommendation is intended to apply to all institutions. Additionally, a requirement to develop and submit a ‘2-year Programmatic Plan’ would undermine institutions’ ability to respond to rapid changes in student needs and market demands. All schools will struggle to comply with this mandate.

For any institution, but especially one like JHU whose mission is focused on research and innovation, the need to develop a ‘2-year Programmatic Plan’ would debilitate its ability to innovate, respond to state, regional, and national workforce needs, and potentially undermine its relationships with government and private entities. Such restrictions would threaten our founding mission. The university will often develop, or begin developing, programs in response to the following scenarios that a 2-year timeline and an ill-defined MHEC oversight role cannot accommodate:

1. New institutional evaluation data that suggests a need for a program in response to societal or economic trends, or scientific research breakthroughs.
2. Creation of new programs in response to newly identified national threats or priorities.
3. New external funding to develop an academic program that may not be known or guaranteed at the time of MHEC plan submission, but funders require be developed expeditiously.
4. Proving ground development of programs to inform, shape, and engender new disciplines and lines of research enquiry that did not exist 2 years previously but in which JHU must be at the forefront on shaping and developing.

A perfect example of the need to be agile in meeting market demand is our recently-submitted Post-Master’s Certificate in Space Systems Engineering. Over the last 3 years, our Master’s in Space System Engineering program experienced extraordinary growth, with year-over-year increases in the student population of approximately 50 percent. There are now over 600 students in the program, and that

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number continues to rise; our applications nearly doubled from AY20 to AY21. Furthermore, as we continued to develop new electives, many students that had graduated or were nearing completion of their degree have inquired about a post-master's certificate, hoping to take advantage of the new offerings. We believe the strong interest in our program is not only founded on the quality of our faculty and our courses, but also on the growing number of engineers employed, or seeking employment, in the space industry as NASA, DoD, and commercial companies like SpaceX and Blue Origin continue to expand their investments in the development of space systems. Waiting two years would not be in the interest of meeting market demand.

Recommendation 10: The Workgroup recommends that MHEC develop an exception to the Programmatic Plan requirement for exigent circumstances. This process should only be used by institutions in rare circumstances that require quick adoption of a program and MHEC's process should encourage fairness and transparency.

While JHU appreciates an exception to Recommendation #9, it earnestly disagrees with the requirement established in that recommendation. JHU is also concerned an exception to the process can become subjective and inequitable in its application.

Recommendation 16: The Workgroup recommends that MHEC formally adopt the analysis for unreasonable program duplication in regulation including the specific criteria the department uses in the analyses. The Workgroup recommends that the analyses adopted by the Department make the distinction between unreasonable and unnecessary duplication. Additionally, the analysis should prioritize workforce needs, protection of existing programs if they are meeting workforce demand, and collaboration. For example, if there is a defined workforce need under the Department's baseline data and an institution currently with the program cannot or does not want to scale up to meet the need and cannot or does not want to collaborate with the proposing program, the proposed program should be approved.

JHU agrees with clarifying the analysis for unreasonable program duplication in regulation. As discussed in detail in our recommendations, MHEC's processes and procedures should be transparent, predictable, timely, and evidence based. However, JHU does not agree with distinguishing between unreasonable and unnecessary duplication in any regulatory changes. We are concerned that an attempt to do so may lead to greater confusion and uncertainty and undermine a uniform approach to program review. MHEC's duplication standard, as currently implemented, effectively ignores the fact that today's higher education marketplace is regional and national in character, with residential students frequently crossing state lines and the dramatic growth of online education and disruption of the market due to the COVID-19 pandemic. The program duplication standard, in particular, has demonstrably harmed program growth in Maryland while failing to achieve its stated goal to promote equitable outcomes for Maryland's Historically Black Institutions. To account for personal preference and choice—and depending on current state, regional, and national workforce needs and demands—program duplication is often desirable and necessary. Here again, we recommend that the focus of unreasonable duplication analysis should be on programs where the relevant market is intra-state.

Recommendation 19: The Workgroup recommends that the Maryland General Assembly add a Program Review Process Advisory Committee within MHEC to make recommendations to the Commission on matters of program review and approval.

While JHU supports the need for oversight and accountability, we are concerned that requiring this

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additional review step will engender delays. Additionally, it is unclear how the establishment of such a committee will appropriately complement MHEC's responsibilities and so in a way that seeks to achieve clearly defined public policy goals. If mismanaged or manipulated, this could easily exacerbate the issues that all institutions are currently experiencing.

We again want to place on record our sincere thanks for the workgroup's efforts in addressing a challenge that has proven enduring and contentious. We look forward to continuing the dialogue in service of higher education's mission and Maryland's future.

Sincerely,

A handwritten signature in black ink that reads "Stephen J. Gange". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Stephen J. Gange, PhD
Executive Vice Provost for Academic Affairs and Professor

A handwritten signature in black ink that reads "Maria H. Tildon". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Maria Tildon
Vice President of State and Local Affairs

cc: Maryland Higher Education Commission Program Approval Process Workgroup

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