

**UMES \_ SB1043-3-11-20**

Uploaded by: Anderson, Dr. Heidi

Position: FAV

**UNIVERSITY OF MARYLAND EASTERN SHORE (UMES)**

**Testimony on Senate Bill 1043  
(cross-filed with HB 1260)**



**March 11, 2020**

**Testimony by**

**Dr. Heidi M. Anderson,**

**President UMES**

**Given to: Senate Budget and Taxation and Education, Health and Environmental  
Affairs Committees**

Chair Guzzone and Chair Pinsky and Members of the Budget and Taxation and Senate Education, Health and Environmental Affairs Committees.

As the 16<sup>th</sup> President of the University of Maryland Eastern Shore (UMES), on behalf of our UMES alumni, students, faculty and staff, I thank you for the opportunity to opportunity to appear before you today and respectfully ask for your support to pass Senate Bill 1043 (cross-filed with HB1260), Historically Black Colleges and Universities-Funding.

Further, I also wish to take a moment on behalf of the UMES family, to extend our heartfelt gratitude to both the House and Senate for your ongoing support of our university in previous years.

Chairmen and distinguished members of these Senate committees – thank you for this opportunity to - briefly explain - how your actions to pass SB 1043 will positively impact the lives of our students at the University of Maryland Eastern Shore.

On the bill, Senator Sydnor – thank you for your leadership in sponsoring Senate Bill 1043 and cross-filing it with HB1260, to a CALL TO ACTION NOW, which when passes will settle a malingering and debilitating issue adversely affecting UMES, its students, and our fellow Maryland HBCUs for decades.

I cannot tell you how much it means to me personally and would mean for our institution. A favorable vote of this committee will bring much overdue remedy to years of inadequate funding, capital improvements, renovations, and program development thus providing opportunities and a brighter future to our HBCU students now!

An influx of funding will fundamentally change the university in meaningful ways for years to come.

One, our students desperately need scholarship dollars to help them afford their educational journey. My first three priorities when I arrived at UMES 18 months ago, were – and still are – scholarships, scholarships and scholarships! As a first-generation college student myself, I know first-hand that not having scholarship money can quickly END an academic career.

Two, significant academic enhancements WILL be made to our array of programs so that UMES can become more competitive. We are the only 1890-Land Grant Doctoral Research institution in the State. We have strong programs in agriculture and health

care and STEM areas. We have a working farm on our campus where researchers are investigating all manners of animal health in feeding and growing. We are perfectly positioned to launch Maryland's first Veterinary School, which is a game changer for UMES and for the state of Maryland.

Three, Philanthropy. Unfortunately, UMES's fundraising department, whose mission is to maintain and grow our donors to raise scholarships for our students, is sadly a department of only 1 person.

This department is grossly understaffed and disadvantaged when competing on the State, National and International stage to recruit much needed donors to supplement our much appreciated state funding.

Fourth, our campus has endured years of deferred maintenance in order to make ends-meet. When I arrived, the library was closed because of a roof gone bad and a storm. Our campus experiences floods almost annually leaving damage in its wake. We have several dormitories not in use because they are gravely in need of repairs.

To underscore the legacy of UMES and HBCUs, we are proud of our Frederick Douglass Library, Ella Fitzgerald Performing Arts Center, and other African American leaders whose namesakes title our buildings. Funding from this bill will allow us to renovate these aging buildings, that have deteriorated into dire conditions. These much needed funds will allow UMES to modernize its aging infrastructure.

I encourage my team to be fiscally responsible. In our current state of reduced enrollment at UMES, we are committed daily to efficiency, and managing our financial affairs while adopting best practices to increase enrollment. The good news, resulting from UMES's team efforts across campus, provides a bright outlook for Fall 2020. And we **need** to be ready. Our facilities **need** to be competitive, we **need** to pursue donor support to realize our vision and offer scholarships to promising students to help close the economic gap for them.

And can you imagine, a Veterinary science school on Maryland's Eastern Shore?

***Observations and Amendments for Committee's Consideration.***

Recognizing that SB1043 is cross-filed with HB1260, I express gratitude to all whose leadership and efforts produced both bills, providing this timely and much needed solutions. Respectfully, I have some observations as noted below.

As written HB1260 proposed the following, my thoughts are included in bold print for your consideration. In addition, please consider modifying the bill regarding the following points:

1. A specific distribution or allocation of the funding.

**Since it is unclear as to the criteria that was used to determine the allocations, therefore, I suggest using a standard, objective classification that is used in higher education to differentiate institutions. The Carnegie Classification® is the framework for recognizing and describing institutional diversity in U.S. higher education. It is a framework used to represent and control for institutional differences and in the design of research studies to ensure adequate representations institutions, students or faculty. Hence, using a well-established objective framework would allow for more straight-forward representation based on an existing standard.**

2. Funding should be included in the base budget annually not in operating budget based on enrollment size.

**The bill indicates that funding will be included in the operating budget for which the institution can count on it and work from and it is based on enrollment size. I suggest that funding is not based on enrollment size, instead using the Carnegie Classification® allows for an equitable distribution in the base annually. We will remain accountable and fiscally responsible with the way the funding is utilized.**

3. Ensure Continuous funding.

**Ensure that the funding cannot be pulled at any time in the future. To move forward with soft or questionable funds leaves us even more vulnerable than we are currently with little funding. We need to be able to count on the funds from year to year in whatever equitable distribution the state deems appropriate.**

4. Hire a consultant to represent EACH institution – not one for all four.

**The bill indicated that a consultant will be hired to help ‘the institutions.’ I am likely not alone in suggesting that a model having all four institutions rely on only one consultant would be inefficient and ineffective. Just as the bill adds five staff members to MHEC to handle the workload that will be produced by all of the new/existing academic program changes from our four HBCUs; only having one consultant for the four institutions will be a set up for failure. Further, each of**

**our four HBCUs in Maryland are very different. Especially since geographically UMES is so far away with a much different economy in the surrounding area, it is fiscally irresponsible to place all of the programmatic development under the oversight of one consultant. Please reconsider.**

I appreciate your consideration and I would be available at your request to discuss these items and any ideas and possible amendments that may arise.

*HBCUs are vitally important institutions.*

Finally, HBCUs are vitally important institutions. While, HBCUs represent only 3% of colleges and universities in the U.S., we enroll 12% of all African American students. HBCUs produce 23% of all African American graduates, confer 40% of STEM degrees and 60% of all engineering degrees for African American students. According to the same data source, HBCUs educate 50% of African American teachers and 40% of African American health professionals. Seventy percent of African American dentists and physicians earned degrees at HBCUs. (Historically Black Colleges and Universities October 2015 data)

HBCUs disproportionately enroll low-income, first-generation and academically underprepared college students. These are the students who are the most at-risk for economic hardships, but also, with the achievement of a bachelor's degree are the most upwardly mobile, becoming productive contributors to society. More than 75% of HBCU students rely on Pell Grants. (Thurgood Marshall College Fund)

According to the Thurgood Marshall College Fund (TMCf), HBCUs institutions, have 1/8 of the average size of endowments than predominately white institutions (PWI's), however they continue to provide an affordable education to millions of students of color graduating the majority of America's African American teachers, judges, engineers, and other STEM professionals.

In closing, I invite both of you, Chair Guzzone and Chair Pinsky, and the fellow members of your Senate Committee to visit with us anytime at UMES, meet our students and realize our potential. I respectfully request your vote and a "favorable report" for SB1043 HBCU Funding bill. Please, help us educate the next generation of Marylanders to be ready for our collective bright, and promising future, with the passage of SB1043.

Thank you!

Dr. Heidi M. Anderson, President UMES

# TierraBradford\_Fav\_SB 1043

Uploaded by: Bradford, Tierra

Position: FAV

**March 11, 2020****Testimony on SB 1043  
Historically Black Colleges and Universities – Funding  
Budget and Taxation****Position: Favorable**

Common Cause Maryland supports SB 1043 which would require the Governor to include in the annual State operating budget \$57,700,000 to be allocated to certain historically black colleges and universities; establishing the Historically Black Colleges and Universities (HBCU) Reserve Fund.

We believe Maryland should be doing all that it can to give students the tools to become the next generation of leaders in our state and nation. This includes providing students with equal access to higher education at excellent and affordable colleges and universities, including Maryland's HBCUs: Bowie State University (BSU), Coppin State University (CSU), Morgan State University (MSU), and the University of Maryland Eastern Shore (UMES).

To support these efforts, we ourselves made a decision to invest in our state HBCUs, launching the HBCU Student Action Alliance at Coppin State University with a goal of expanding to the other campuses. Our student leaders focus on helping to boost civic engagement and promoting the value of becoming lifelong participants in democracy on their campus and in the Coppin community. This program is modeled after our North Carolina office where they have been working with HBCU students for over a decade. They have also prioritized supporting efforts to ensure their campus receives the funding it deserves.

**Quote from one of our HBCU Democracy Fellows Autumn Wardlaw,**

"HBCU's were founded out of a commitment to service, community, and opportunity for African Americans. Without adequate and fair funding, they are unable to continue to live out their mission and goal. The lack of funding has caused HBCU's to decrease the services they provide to students that help us to serve our community and be engaged community members."

As an organization that is working to strengthen our democracy, securing adequate funding for our state HBCU's is important to us because it helps ensure we are investing in students like Autumn. Students who are civically engaged on their campus and community, who are interested in policy issues, and who want to encourage those around them to make their voices heard.



Students at Coppin State University and other historically Black colleges and universities throughout the state should be adequately funded as this is an investment our future leaders, ensuring that their campuses can afford to maintain an environment that will allow students to hone their civic obligations and political awareness.

We urge a favorable report.



# **SB 1043 Bowie State Testimony FAV Mar 11 2020**

Uploaded by: Breaux, Aminta

Position: FAV



**SENATE BUDGET AND TAXATION COMMITTEE**  
**Senate Bill 1043**  
**Historically Black Colleges and Universities – Funding**  
**March 11, 2020**  
**Favorable**  
**Aminta H. Breaux, Ph.D., President**

Chair Guzzone, Vice Chair Rosapepe, committee members, thank you for the opportunity to comment on Senate Bill 1043. As the President of Bowie State University -- Maryland's oldest historically black university -- I support Senate Bill 1043, which would resolve longstanding litigation over the issues of program duplication and *de jure* segregation in Maryland's public higher education system. I applaud Senator Sydnor and members of the legislature for taking this bold step forward in support of our Historically Black Colleges and Universities (HBCUs).

Our Strategic Plan, entitled *Racing to Excellence*, is grounded in three main priorities: achieving academic excellence; promoting student success; and ensuring the long-term viability of Bowie State University. The university has been working hard to move this shared agenda and we have seen significant progress. At a time when institutions across the country - especially HBCUs - are seeing declining enrollment or worst - having to close their doors – Bowie State University is growing. Applications are up by four percent, and we have already admitted 52% more students for fall 2020 over last fall. Our fall 2019 enrollment was 6,171 with students who hail from 33 states and 29 foreign countries.

Bowie State currently offers 23 undergraduate majors, 19 master's degrees, 2 doctoral degrees and 14 post-baccalaureate certificates. We continue to exceed MHEC's projections for degree production, and we are doing our part to produce workforce-ready graduates. More students are pursuing degrees in high-demand STEM fields at Bowie State than ever before.

Building on our strengths in cyber security, computing and technology; business and professional studies; as well as education, our faculty are working to enhance existing programs and develop new, innovative programs to meet Maryland's workforce needs. Therefore, we are

in need of the necessary funding to develop and market these programs, recruit and retain outstanding faculty, and offer competitiveness scholarship/financial aid packages to attract and retain a diverse population of students.

Senate Bill 1043 would provide the funding we need in areas that are critical to Bowie State University's continued growth and competitiveness: new/expanded academic programs; scholarships/financial aid; academic support; faculty development; and marketing. This funding is important to our long-term viability and the economic prosperity of the region. The funds will also help Bowie State University diversify our enrollment by making us a campus of choice for more students seeking an affordable, high-quality education. Diversity is important to the educational experience for all of our students. Indeed, one of the five goals in our Strategic Plan is to enhance our campus culture of diversity and inclusion. Inclusivity is also one of our core values.

As one of the nation's top HBCUs according to *U.S. News & World Report*, and one of the fastest growing institutions in the state of Maryland, Bowie State University is poised for even greater contributions to the state. Now is the time to invest in our thriving institution. The investment contemplated in Senate Bill 1043 would position Bowie State to fulfill its mission as a public institution for generations to come and to serve the public good.

On behalf of Bowie State University, our students, faculty, staff and alumni, I thank the members of the General Assembly for their support and I urge a favorable report for SB 1043.

## **SB 1043\_Written**

Uploaded by: dove, tina

Position: FAV

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**Testimony in Support of Senate Bill 1043  
Historically Black Colleges and Universities—Funding**

**Budget and Taxation Committee  
March 11, 2020  
1:00 PM**

**Tina N. Dove, M.Ed.  
Government Relations**

The Maryland State Education Association supports Senate Bill 1043, legislation that would require the Governor to fund the \$577 million settlement stemming from *The Coalition for Equity and Excellence in Maryland Higher Education, et. al. v. Maryland Higher Education Commission, et. al.*—the federal lawsuit involving the state’s four Historically Black Colleges and Universities (HBCUs). It is rare that MSEA involves itself in matters pertaining to higher education-related issues, aside from those that specifically address teacher preparation or college access for our state’s students. It is these two issues exactly that compel MSEA members to support this legislation.

MSEA represents 75,000 educators and school employees who work in Maryland’s public schools, teaching and preparing our 896,837 students for career and jobs of the future. MSEA also represents 39 local affiliates in every county across the state of Maryland, and our parent affiliate is the 3 million-member National Education Association (NEA).

HBCUs are a highly-regarded, academically-exceptional educational option for college-bound students, especially those who are part of the African diaspora. Historically, these institutions were *the only* option for African-American students who wished to attain a postsecondary degree due to the discriminatory practices and segregation policies of the Jim Crow era. As efforts to integrate public accommodations and institutions commenced after the landmark Supreme Court ruling in *Brown v. Board of Education*, many students—including those here in Maryland—who were previously limited to attending HBCUs exclusively found themselves with the option to attend other state colleges and universities. Maryland’s flagship university system—the University of Maryland—became a direct beneficiary of integration, opening its doors to students who might have previously pursued their postsecondary educations at one of the state’s four HBCUs: Morgan State University, Coppin State University, Bowie State University, and the University of Maryland, Eastern Shore.

We find it neither necessary nor helpful to rehash the events leading to the HBCU lawsuit against the state or to relitigate the merits of the cases brought by the two parties. Instead, we remain focused on the possibilities made available thanks to the District Court of Maryland’s rulings and see this legislation as a means by which to strengthen these four postsecondary options for all of Maryland’s students. Additionally, given that all four of our state’s HBCU have educator preparation programs, we see an extraordinary means by which to widen the ever-shrinking pipeline of candidates seeking to enter the education profession in our state, particularly



candidates of color. There are numerous MSEA members who are themselves graduates of these very programs. They have gone on to do amazing work across the state, preparing our students for the robust futures to which they are entitled. As such, we encourage and support the expansion of the educator preparation programs at our HBCUs as a means of not only expanding our pipeline of diverse educators but also a component of the overall settlement.

Throughout the three years of its work, the Kirwan Commission addressed the compelling need to ensure that all of Maryland's students be college- and career-ready when they exit high school. They also addressed the serious and persistent drought in the educator pipeline, seeing it as an existential threat to the state's future economic strength and growth. If we are successful in providing every child in the state with a world class education, particularly those from historically underserved communities of color, we must also provide them with higher education options that are culturally relevant, historically and communally anchored, well-rounded in their course and degree offerings, and financially stable now and into the future. And if we are to seriously take on the crisis related to our educator workforce and its need to be more reflective of the children in our state, we must intentionally invest money and effort into strengthening the programs offered at our HBCUs who have been responsible for producing some of our best and brightest education professionals.

We recognize that this legislation carries a tremendous cost, especially as we undertake funding the Blueprint for Maryland's Future. However, we are abundantly clear that choosing not to do this comes with its own cost. We will need all of our state's higher education pillars if we are to truly launch into a bright and prosperous future. **MSEA strongly and unequivocally urges a favorable report on Senate Bill 1043.**

# **Frosh\_FAV\_SB1043**

Uploaded by: Frosh, Brian

Position: FAV



**BRIAN E. FROSH**  
*Attorney General*



**ELIZABETH F. HARRIS**  
*Chief Deputy Attorney General*

**CAROLYN QUATTROCKI**  
*Deputy Attorney General*

**STATE OF MARYLAND**  
**OFFICE OF THE ATTORNEY GENERAL**

FACSIMILE NO.

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WRITER'S DIRECT DIAL NO.

410-576-6300

March 11, 2020

The Honorable Guy Guzzone  
Chair, Senate Budget and Taxation Committee  
3 West Senate Office Building  
Annapolis, Maryland 21401

RE: Senate Bill 1043: Historically Black Colleges and Universities – Funding

Dear Chair Guzzone:

I want to commend Senator Charles Sydnor, the sponsors, and the Budget and Taxation Committee for the introduction of Senate Bill 1043 and for their efforts to resolve *The Coalition for Excellence and Equity in Maryland Higher Education, et al., v. Maryland Higher Education Commission, et al.*, a longstanding and difficult controversy that has been pending for more than 13 years.

The *Coalition* lawsuit was brought by alumni of Maryland's historically black colleges and universities (HBCUs) in 2006. One of the issues in the case is whether unnecessary program duplication continues to foster segregation in the State's institutions of higher education. In October 2013, U.S. District Court Judge Catherine Blake ruled in favor of plaintiffs on that claim and recommended that the parties engage in mediation to determine a remedial plan for integrating the State's HBCUs.

After mediation efforts failed, the court held a lengthy remedies hearing and ultimately ruled that a Special Master would develop practicable and educationally sound remedies. The State appealed to the United States Court of Appeals for the Fourth Circuit. In January 2019, the Court urged the parties to re-engage in mediation efforts, declaring that "this case can and should be settled." Regrettably, additional attempts to settle the case over the past year were unsuccessful.

As the State's lawyer, I do not have authority to appropriate money to fund a settlement. Still, I have worked tirelessly in pursuit of a settlement. I believe that resolving this matter is in

The Honorable Guy Guzzone  
March 11, 2020  
Page 2

the best interest of the parties, Maryland's higher education system in general, and the HBCUs in particular.

Senate Bill 1043 mandates funding for the State's four HBCUs to be used for scholarships, faculty recruitment, program development and expansion, and academic support and marketing – strategies to assist HBCUs in attracting a more diverse student body. The bill also expands the Maryland Higher Education Commission's staffing capacity to review program proposals and directs the University of Maryland Global Campus to assist the HBCUs in developing their online offerings. Implementation of the bill is conditioned on the execution of a final settlement agreement incorporating the bill's provisions and providing attorneys' fees for plaintiffs' counsel.

The amount of funding Senate Bill 1043 directs to Maryland HBCUs is a policy decision appropriately within the discretion of the General Assembly. I take no position on that issue. I do, however, support the General Assembly's efforts to do what courts for years have urged: resolve the *Coalition* case.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian E. Frosh". The signature is fluid and cursive, with a prominent initial "B" and a long, sweeping tail.

Brian E. Frosh  
Attorney General of Maryland

cc: Members of the Senate Budget and Taxation Committee

# **SB 1043\_HBCU Funding\_Support\_Gardiner (3)**

Uploaded by: Gardiner, Shamoyia

Position: FAV

# EQUITY FOR ALL KIDS



To: Chair Guzzone and members of the Budget and Taxation Committee  
From: Shamoyia Gardiner, Education Policy Director  
Re: Senate Bill 1043: Historically Black Colleges and Universities - Funding  
Date: March 11, 2020  
Position: Support

Nationally, a disheartening trend has emerged: Historically Black Colleges and Universities (HBCUs) are being forced to end operations and shutter their doors. Maryland is currently jeopardizing the existence and operations of its HBCUs—which is tantamount to jeopardizing its own educational and economic future.

HBCUs:

- Rely on federal, state, and local funding more heavily if public (54% of total revenue as compared to 38% for non-HBCU public institutions)
- Receive less revenue in the form of private gifts, grants, and contract (17% of total revenue versus 25% for non-HBCUs)
- Experienced the sharpest decline in federal funding between 2003 and 2015 (as high as a 42% reduction)
- Have significantly smaller endowments than non-HBCUs (at least 70% less)
- Serve a student population that is about 60% low-income, first-generation<sup>1</sup>

## The Blueprint for Maryland's Future Connection

Any attempt to diversify the racial composition of Maryland's educator and school-based workforce that does not explicitly invest in the teacher colleges at the state's HBCUs will not achieve its aims sustainably. HBCUs, while only about 3% of the national share of colleges and universities, prepare 50% of the Black teachers in the country. The data renders HBCU funding and Maryland's teacher diversity (thus, the success of students of color in the state) absolutely inextricable.<sup>2</sup>

Senate Bill 1043 should not be necessary. That the legislative branch of government must step in to assume responsibility that belongs to the executive branch and was determined by the judicial branch signifies that Maryland's democracy is in danger and with it, the rights and liberties of its citizens. **ACY strongly urges a favorable vote on Senate Bill 1043 because if this body does not take corrective action, Maryland's HBCUs and the communities they serve may never see justice done.**

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<sup>1</sup> American Council on Education. *Public and Private Investments and Divestments in Historically Black Colleges and Universities*. January 2019.

<sup>2</sup> Dr. Leslie Fenwick. *Teacher Preparation Innovation and Historically Black Colleges and Universities (HBCUs)*. January 2016.

**SB1043\_HAYMAN\_FAV**

Uploaded by: Hayman, Deborah

Position: FAV

## **LEGISLATIVE TESTIMONY**

### **Senate Bill 1043: Historically Black Institutions -State Funding**

**Presented by**

**Deborah Hayman**

**President, University of Maryland Eastern Shore National Alumni Association**

**March 11, 2020**

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Madame Chair, members of the Committee, I am Deborah Hayman, President of the University of Maryland Eastern Shore, National Alumni Association. I, along with my colleagues from the other three Historically Black Universities, are here representing Maryland's HBCU, alumni. As you heard earlier, those national alumni presidents are: Dr. Mary Owens-Southall of Coppin State University; Ms. Anita Ford for Mr. Ricardo Mitchell of Bowie University and Ms. Phyllis Davis of Morgan State University.

We are appearing in support of Senate Bill: 1043 with the amendments proposed by the Coalition for Equity and Excellence for Higher Education. Those amendments provide for a more equitable distribution of the settlement fund among the HBCU's with a minimum allotment per campus of no less than \$10,000.000.00 and once established, the per minimum allotment would remain the same for the 10-year period from 2022 to 2031.

When properly amended, Senate Bill 1043 could be among the most consequential and far-reaching legislation enacted in the history of Maryland higher education. It would provide sustained funding for expanding HBCU inventories of unique and high demand programs and improving existing offerings; addressing sagging enrollments, increase retention and graduation and increasing the overall attractiveness of the campus to students and faculty.

These enhancements will unmistakably aid in our efforts to promote our alma mater to school principals and counselors, high school students, potential employers and corporate partners as well as would-be donors. Too often we have pursued student only to lose him or her because our campus did not offer the desired program and/or financial aid package to compete with more attractive offers. That has been frustrating, but we know from experience the value of these universities and the difference they make in the lives of so many young. We know the contributions they make in our communities, the state and the nation.

We wish to thank Speaker Adrienne Jones and her colleagues for their supporting sponsorship of Senate Bill 1043 and ask the committee to give it your approval.

# **MikkyoMcDaniel\_Fav\_SB1043**

Uploaded by: McDaniel, Mikkyo

Position: FAV



MIKKYO McDANIEL  
HBCU STUDENT

2613 Moore Avenue  
Baltimore, Maryland 21234

**SB 1043**

March 11, 2020

**TO:** Budget and Taxation Committee  
**FROM:** Mikkyo McDaniel, HBCU Student  
**RE:** SENATE BILL 1043 – Historically Black Colleges and Universities – Funding

**POSITION: SUPPORT**

Chair Guzzone, Vice Chair Rosapepe, and Members of the Committee, please be advised that I Mikkyo McDaniel supports Senate Bill (SB) 1043.

Historically Black Colleges and Universities (HBCU) have been around for over 150 years and counting. These institutions allowed black individuals like myself obtain an education beyond elementary and secondary school during a time when already established higher educational institutions were not accepting of non-whites enrolling in their college.

I have attended Bowie State University and currently attend Morgan State University, both of which were part of the Maryland District Court case and are currently demanding funding from the state. Attending these two exceptional institutions further taught me the importance of higher education. With the help of Historically Black Colleges/Universities, black people have become doctors, lawyers, surgeons, professors, politicians, engineers, and most of all, whatever we dreamed of becoming.

I have personally experienced the difference in funding and resources between Predominantly White Institutions (PWI's) and HBCUs in Maryland, I was allowed to complete some classes at one of the top Predominantly White Institutions (PWI) in Maryland. The HBCUs I have attended deserve funding the same way the PWI I attended has and will continue to have adequate funding. All students have the right to choose what institution they would like to attend, whether it is an HBCU or PWI. Not because of lack of finances but by choice.

*Phone: 443-415-0985  
mikyomcdaniell@gmail.com*

Personally speaking, I have noticed the differences between an HBCU and PWI here in Maryland. PWI's tend to have smaller class sizes, state of the art technology, accessibility to personal laptops, one-on-one tutoring by instructors, and in some cases pipelines to other top PWI's. I can remember different reactions from others when I express attending an HBCU. Unknowingly, realizing they are presenting indirect assumptions of my capability to complete a job simply because of where my education is being completed.

Therefore, SB 1043 is recognizing that Historically Black College and Universities deserve the funding afforded to them. We can not risk any of our HBCUs being unfunded or treated unfairly because that will move us backward then forward.

I respectfully request a **favorable** report on Senate Bill 1043.

# **SB 1043\_Education Trust\_Favorable -3\_10\_2020**

Uploaded by: Ruffins, Robert

Position: FAV



## The Education Trust

Closing the gaps in opportunity and achievement, pre-k through college.

The Budget and Taxation Committee of the Maryland State Senate  
3 West, Miller Senate Office Building  
Annapolis, Maryland 21401

March 11, 2020

### **Senate Bill 1043 Favorable**

Chair Guzzone; Vice Chair Rosapepe; Education, Business, and Administration Subcommittee  
Chair Zucker; and members of the Senate Budget and Taxation Committee,

Thank you for the opportunity to submit testimony in support of Senate Bill 1043: *Historically Black Colleges and Universities – Funding*. The Education Trust is a policy and advocacy organization that works to advance educational opportunity and outcomes for students of color and students from low-income backgrounds. We do this by providing data and information to advocates and policymakers about the condition of access and opportunity for these students and how existing and future policies can be designed to remove barriers.

Last March, The Education Trust released a report, [Broken Mirrors: Black Student Representation at Public State Colleges and Universities](#), which examined Black representation among undergraduates and degree earners in 41 states to see which states have public colleges and universities (both two-year and four-year) that reflect the demographic of the state. The report found that in [Maryland, only 36.9% of Black adults between the ages 25-64 currently have a college degree](#), and there's a 16.7% gap between the shares of bachelor's degrees awarded to White residents and those going to Black residents.<sup>1</sup> While all of Maryland's institutions of higher education bear responsibility for addressing these disconcerting inequities, Maryland HBCUs play a critically important and outsize role in creating equitable education opportunities for Maryland residents. It is a moral imperative and it is in the state's economic self-interest to invest in Maryland's HBCUs. For this reason, **The Education Trust urges the committee to give SB1043 a favorable report.**

<sup>1</sup> <https://edtrust.org/resource/broken-mirrors-black-representation/>

## **Maryland HBCUs Promote Equity for Students of Color and Students from Low-Income Backgrounds, and are Critical if Maryland is to Reach its 2025 Degree Attainment Goal**

**Despite their small size, budget, and enrollment, Maryland’s four HBCUs collectively enroll more than half of the Black students seeking bachelor’s degrees at public institutions in the state, and graduate 35.8% of all Black public undergraduate degree earners in the state.<sup>2</sup>**

Maryland’s HBCUs serve more than just Black students. HBCUs also educate the lion’s share of the state’s students from low-income backgrounds. On average, 66% of Maryland’s HBCU students are Pell eligible, with Coppin State peaking at 77%.<sup>3</sup> In contrast, only 27% of students at other institutions are Pell recipients.<sup>4</sup> According to the [Brookings Institute](#), HBCUs, in general, do better at getting Black students from low-income backgrounds into the top earnings quintile.<sup>5</sup> In Maryland, students of color are more likely to attend four-year colleges than their counterparts in other states, in part because they have so many HBCU options.

Maryland’s HBCUs have recently received media coverage for their increasing enrollment of Latino students. **As such, this bill is an opportunity to boost degree attainment among Maryland’s Latino residents.** A recent [Washington Post article](#) chronicled growing racial and ethnic diversity at Maryland’s HBCUs, particularly at Morgan State University, the largest of the four institutions, noting that, “[s]ince 2006, Hispanic student enrollment at Morgan has more than quadrupled, jumping from 60 students to more than 260.”<sup>6</sup> According to our research in [Broken Mirrors II](#) and Maryland’s [State Equity Report Card](#), Latino residents make up 10.2% of residents in the state, while only 8.7% of current Maryland college students are Latino, so there’s room for improvement.<sup>7</sup> HBCUs can play a key part in decreasing the 27% gap between the shares of bachelor’s degrees awarded to White and Latino residents, which is one of the biggest gaps in the nation. Thus, an investment in HBCUs is an important part of making education equity real. Moreover, as the percentage of Maryland’s residents of color continues to increase, Maryland’s HBCUs will need to play an essential role in educating students if Maryland is to reach the [55% postsecondary degree attainment goal by 2025 and ensure that the state’s workforce is truly competitive.](#)

### **An Investment in HBCUs is an Investment in Maryland’s Economy**

Investing in HBCUs is not a charity — their students, alumni, faculty, staff, and administrators are taxpayers. Maryland’s HBCUs more than hold their weight in the state economy. According to [research by UNCF](#), a Maryland HBCU graduate working full time throughout their working life can expect to earn \$985,000 more than they would have earned without a college credential.<sup>8</sup>

<sup>2</sup> National Center for Education Statistics

<sup>3</sup> National Center for Education Statistics

<sup>4</sup> National Center for Education Statistics

<sup>5</sup> <https://www.brookings.edu/blog/social-mobility-memos/2017/01/19/the-contribution-of-historically-black-colleges-and-universities-to-upward-mobility/>

<sup>6</sup> [https://www.washingtonpost.com/local/education/a-historically-black-college-in-maryland-is-growing--by-enrolling-hispanic-white-and-international-students/2019/10/09/64185318-def3-11e9-be96-6adb81821e90\\_story.html](https://www.washingtonpost.com/local/education/a-historically-black-college-in-maryland-is-growing--by-enrolling-hispanic-white-and-international-students/2019/10/09/64185318-def3-11e9-be96-6adb81821e90_story.html)

<sup>7</sup> <https://s3-us-east-2.amazonaws.com/edtrustmain/wp-content/uploads/2014/09/10123122/Broken-Mirrors-Latino-Student-Representation-at-State-Public-Colleges-and-Universities-September-2019.pdf>

<sup>8</sup> [https://www.uncf.org/wp-content/uploads/PDFs/fy\\_2018\\_budget\\_fact\\_sheets/HBCU\\_FactSht\\_Maryland\\_5-17D.pdf](https://www.uncf.org/wp-content/uploads/PDFs/fy_2018_budget_fact_sheets/HBCU_FactSht_Maryland_5-17D.pdf)

[Maryland's HBCUs collectively generate \\$1 billion in total economic impact](#) for the state every year, via direct spending by HBCUs on faculty, employees, academic programs, operations, and spending by HBCU students, not to mention the subsequent effects of that spending. In fact, every \$1 million initially spent creates 14 jobs annually.<sup>9</sup> All told, the researchers estimated that Maryland's HBCUs had generated over 9,000 jobs for their local and regional economies in 2014.<sup>10</sup> **An investment in HBCUs is an investment in the Maryland economy.**

### **Maryland's Opportunity to Lead**

For more than 13 years, Maryland has been embroiled in the lawsuit, *The Coalition for Equity and Excellence in Maryland Higher Education v. Maryland Higher Education Commission* without resolution. Other states have also grappled with similar lawsuits over the years, and the results of these lawsuits show why meaningful collaboration is essential. Mississippi agreed to pay up to \$503 million over 17 years to its three HBCUs when the [Ayers case](#) was finally settled in 2002. Unfortunately, Mississippi made [unrealistic enrollment stipulations, and as a result, has failed to fully fund the settlement which has harmed Black students in the state and represents another missed opportunity on the path toward true integration](#).<sup>11</sup>

However, Maryland does not have to go down the path of Mississippi; and it is the sincere belief of The Education Trust that Maryland can come to resolution that is in the best interest of Maryland's students. SB 1043 could be a crucial step toward resolving the suit, but, more importantly, could help Maryland achieve its goal of being the nation's most equitable and most excellent education system. In recent years, the Maryland General Assembly has made bold, unprecedented, and wholistic commitments to raise academic achievement and ensure equity such as the passage of The Maryland Dream Act, the creation of the Maryland College Promise scholarships, historic investments in rebuilding Maryland's school facilities, and the creation of The Kirwan Commission on Innovation and Excellence in Education. SB 1043 complements this work by investing in the institutions that are on the frontlines of providing Maryland's Black, Latino, and low-income students access to a higher education. We hope that the Senate Budget and Taxation Committee takes this testimony under consideration and gives SB 1043 a favorable report.

<sup>9</sup>[https://www.uncf.org/wp-content/uploads/PDFs/fy\\_2018\\_budget\\_fact\\_sheets/HBCU\\_FactSht\\_Maryland\\_5-17D.pdf](https://www.uncf.org/wp-content/uploads/PDFs/fy_2018_budget_fact_sheets/HBCU_FactSht_Maryland_5-17D.pdf)

<sup>10</sup>[https://www.uncf.org/wp-content/uploads/PDFs/fy\\_2018\\_budget\\_fact\\_sheets/HBCU\\_FactSht\\_Maryland\\_5-17D.pdf](https://www.uncf.org/wp-content/uploads/PDFs/fy_2018_budget_fact_sheets/HBCU_FactSht_Maryland_5-17D.pdf)

<sup>11</sup> <https://www.chronicle.com/article/They-Wanted-Desegregation/242930>

# **SB-1043 Michael Steele HBCU Article**

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## MICHAEL STEELE ON WHY HBCUS ARE HANGING BY A THREAD

By Michael Steele - October 25, 2013

*(reprinted with permission and originally appears at TheGrio.com)*

With so many of the civil rights battles behind us, and the satisfaction that comes from the success of African-Americans in business, politics, sports and entertainment, it is no surprise that the assault upon the integrity and historic purpose of our nation's Historically Black Colleges and Universities (HBCU) has been little noticed by mainstream media and, more sadly, the Black community itself.

Not only do our HBCUs stand as a testament to the challenges that lie in the future but they are an important reminder of the proud history of African-American education in America and its unlimited potential.

Across America, HBCUs are giving African-Americans the tools and the knowledge they need to fully participate in our society, to build a solid economic foundation on which to raise their families and their businesses, and to become leaders of the future.

However, many of those tools had begun to be stripped away and much of that foundation began to crumble under the weight of neglect and institutional bias.

Maryland HBCUs (Bowie State University, Coppin State University, Morgan State University and University of Maryland Eastern Shore) were treated no differently.

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In October 1999, the State of Maryland and the United States Department of Education, Office for Civil Rights (OCR), entered into a partnership for the purposes of improving the educational opportunities for African Americans in Maryland's public institutions of higher education and of ensuring compliance with the state's obligations under federal law. The partnership agreement set forth the commitments that the state and OCR anticipated would bring Maryland into full compliance with its obligation under Title VI of the Civil Rights Act of 1964.

But as the partnership agreement expired in December 2005, it was very clear that while the state had met the letter of the law under Title VI (and its agreement with OCR); embracing the spirit of such agreements would be another matter. In practice, Maryland's HBCUs had to deal with the growing reality of "duplication of specialized programs" whereby certain resources (e.g. laboratories and libraries) or academic programs (e.g. MBA) were duplicated at predominantly white institutions, resulting in HBCU students having to go to those institutions to access them.

As Lt. Governor of Maryland, I became acutely aware of the failure of so many to do just a little to help our state's HBCUs. But the supposed innocuousness of program duplication only masked the knife cutting away the ability to improve access to these fine institutions and to create opportunities for them to compete with the state's majority white institutions.

For example, the idea that Coppin State University's academic offerings, physical plant or department chairs should be comparable to and competitive with Towson State University was not a far-fetched proposition for me. After all, a quality education begins with equality of education. But the buzz saw of resistance and excuse-making by institutional forces was nothing short of stunning. Our administration

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was successful in getting new buildings and other physical plant investments for the HBCUs, but when we tried to set up research positions and endowed chairs, not to mention increased funding for scholarships, student services, information technologies, libraries, and other institutional infrastructures at those schools, the backlash was enormous.

The in-your-face moment for me came when two traditionally white institutions decided to create a joint MBA program between their two institutions which could well have meant the end of Morgan State University's vaunted MBA program (established by and named after Earl G. Graves, Sr.) just six miles away. Morgan State University's pleas to the Maryland Higher Education Commission for the integrity of its own MBA program fell largely on deaf ears as the program duplication was approved and Morgan had little recourse to stop it.

I was stunned to have certain academic and legislative "leaders" ask me directly why our administration would want to invest dollars in "those schools". They argued that we should put such program dollars in the predominantly white schools and allow the students from the HBCUs to visit those campuses to take a course or to use laboratories. Understand that this occurred not in 1955 but in 2005.

So, in 2006, with the support of Governor Bob Ehrlich, I spearheaded a proactive assessment of each HBCU and the steps that would be necessary to address, in a real way, the inadequate funding of these historically black academic institutions. In our State's final report to the OCR, we detailed our 2007 budget increases for specific programs and capital improvements that would begin the process toward parity. From significant increases in capital budgets to acquisition of property for campus-wide expansion to implementing initiatives arising out of each HBCU's strategic plans, the goal was to establish ongoing efforts to bring equality in funding and treatment to Maryland's HBCUs.

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However, by 2008, the problem of duplication had become so problematic for HBCUs that the Bohanan Commission was established to "develop a statewide framework for higher education funding, and among its recommendations stated specifically that HBCUs become comparable and competitive with other public institutions."

But once again, the progress would be slow and the concerns of HBCU students and alumni would fall on deaf ears until finally the Coalition for Equity and Excellence in Maryland Higher Education was formed and brought a lawsuit in 2011.

Needless to say, I was heartened by District Court Judge Catherine C. Blake's October 7th ruling that "The State has failed to meet its burden of demonstrating there are no ongoing segregative effects that are a result of the traceable unnecessary program duplication proven by the Coalition." And while Judge Blake deferred a final ruling in order to allow the State to mediate a remedy consistent with her findings, her ruling nonetheless exposes the lie that program duplication does not harm our HBCUs and that its ultimate affect is not discriminatory.

If you value the ruling of the District Court, then it is time for those who value the education at our nation's HBCUs to join with those who have silently and bravely pushed back against the idea that the days of receiving a quality education at such institutions are numbered. Instead, I believe, and have argued in the halls of Annapolis, that our HBCUs nurture the talent of our young people and remain dedicated, despite the obstacles put before them, to ensuring that the next generation of African-American scientists, scholars and business leaders has a greater opportunity to reach the pinnacle of American society than the generation before them.

The students who enter those lecture halls and laboratories or cull the shelves of the library are well on their way to maximizing their

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opportunity in this society and to realizing the full potential of their talents. But none of that happens if they are forced to leave campus because of program duplication.

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**THE SENATE OF MARYLAND**  
**ANNAPOLIS, MARYLAND 21401**

**Senator Charles E. Sydnor III**  
**Testimony Regarding SB 1043 – Historical Black Colleges and Universities -**  
**Funding**  
**Before the Senate Budget and Taxation Committee**  
**On March 11, 2020**

Good afternoon Mr. Chairman, members of the Committee.

The purpose of Senate Bill 1043 is to right a long, historical wrong, to get on the right side of history, and to create the kinds of colleges and universities that all Marylanders can be proud of. It is an attempt to bring into existence the vision of lots of blue ribbon commissions that various Maryland Governors and Legislators have been calling for since the 1930's.

Starting in the 1930's, the era of de jure segregation, when "separate but equal" was the law of the land, Maryland prepared a series of official reports documenting the conditions of its Historically Black Institutions and comparing them to its Traditionally White Institutions. These reports chronicled a vast disparity between the two sets of institutions that Maryland repeatedly promised to remedy but failed to do so. Many of the early reports focused in the disparity in academic programs.

Federal Judge Catherine Blake cited to this history as well as more recent history when she found the State liable for a constitutional violation that she described as worse than Mississippi of decades ago. There is more than a 10-1 disparity in unique, high demand programs due to what the court called systematic unnecessary duplication of HBCU programs. Worse than Mississippi is bad. Fixing this 10: 1 disparity, according to Judge Blake, will require the State to fund a number of new academic programs at the HBCUs, and to supplement this funding with funding for scholarships, financial aid, marketing, and perhaps summer academies.

This unnecessary duplication, according to the court, was not consistent with best practices in higher education. The key word is unnecessary duplication. It hurt the HBCUs by hurting their enrollment. It is a waste of State resources to have the exact same programs at the HBCUs as at the other schools. That is why it is called unnecessary duplication. This would be like having two federal agencies for every department -- one for the black community and one for other communities.

That was the whole illogic of separate but equal. The State was willing to have two sets of schools with duplicative programs to avoid having black students attend Traditionally White Schools. That was a waste of tax payer money. Now, we are being just as inefficient to keep the Historically Black Schools from having programs that can make them competitive, and make them able to attract more students, business partnerships, and research funding.

I want to talk about some of the history that the judge referred to. Let's begin in the 1930's, and I will end with a statement from the Court of Appeals in 2019, where the judges encouraged the legislature to get involved.

- **1937 Maryland Report of the Commission on Higher Education of Negroes discussed -- “Enormous differential in favor of the white race”**
  - “In the field of higher education, while the State has fostered white colleges for one hundred and fifty years it made its first grant to a Negro college in 1914 or twenty-two years ago. The contrast between the amounts of money received by the two racial groups would show, if possible of computation, an enormous differential in favor of the white race.”
- **1947 Maryland's Marbury Commission Report**
  - “The state has consistently pursued a policy of providing higher education facilities for Negroes which are inferior to those provided for whites.”
  - Marbury Commission Recommends “that the state budget provide such annual appropriations for the higher education of Negroes that the activities being conducted at those institutions may be maintained on a basis equal in quality to those maintained in comparable state institutions for white students.”
  - But Maryland ignores the report.
- **1950 Maryland Weglin Commission Report**

- Describes "the continuous uphill struggle on the part of the Negro colleges to secure facilities on par with white institutions."
- "None of these schools is equal in quality to the corresponding institution maintained for the white population."
- **1954 Brown v Board of Education**
  - United States Supreme Court declares "separate but equal" illegal under the constitution.
  - Maryland largely ignores the decision.
- **1969 US Department of Education Office of Civil Rights Approaches Maryland for Failure to Follow Brown Decision**
  - The Department concludes that Maryland continues to operate segregated system of higher education.
  - Maryland fights with Office of Civil Rights for several years until OCR threatens to cut off federal funding over status of and policies with respect to HBCUs.
- **1974 Maryland Cox Commission**
  - The Commission describes "inequities and disadvantages" faced by HBCUs.
  - The Commission calls upon state to enhance HBCUs to the level of Traditionally White Institutions.
- **1981 Report on "Enhancement of Maryland's Predominately Black Collegiate Institutions"**
  - The Report describes "deplorable condition of science laboratories, pronounced need for equipment maintenance and replacement, and generally poor condition of the residential space."
  - The Report also notes that "the libraries of the four historically black institutions are in need of new, expanded financial support and consistent funding."
  - As for all HBCUs, the report notes that "the inadequacies in life and physical science laboratories stand out as the greatest current need. These facilities, designed and constructed primarily for teacher education, are simply not adequate or appropriate for proper instruction and research in modern techniques."
- **1992 Maryland Draft Report Achieving Eminence: University of Maryland System Plan for Enhancement of the Historically Black Institutions"**



- In developing enhancement plans, it became clear that the achievement of eminence for the historically Black institutions must address . . . “catch-up,” which includes funding of enrollment increases that over the years have had limited or no General Fund support, and areas of under-funding which include, for example, scholarships, student services, information technologies, libraries, and other institutional infrastructures.
- **2000 Maryland Enters Partnership Agreement with Office of Civil Rights To Make HBCUs Comparable and Competitive With TWIs**
  - Maryland commits to “[a]voiding unnecessary program duplication and expansion of mission and program uniqueness and institutional identity at the HBCUs”, and bringing HBCUs up to a level to be “comparable and competitive” with Traditionally White Institutions in all aspects of their operation. The Agreement is listed on the web site of the Maryland Higher Education Commission.
- **2005 HBCU Presidents Write Letter to Maryland Black Caucus**
  - Asserting that Maryland has not complied with Agreement with Office of Civil Rights.
  - Asking for the appointment of independent panel of experts to study treatment of HBCUs, including funding, limited missions, and unnecessary program duplication.
- **2006 Maryland Chancellor Brit Kirwan testified before Maryland Legislature**
  - Admits that Maryland has “not done right over time by Historically Black Institutions and they deserve special scrutiny and attention in terms of adequacy of funding.”
- **2006 Governor Ehrlich Vetoes Legislation Calling For Judicial Review Of Unnecessary Program Duplication-- A Bill Aimed At Helping HBCUs**
  - SB 998, sponsored by Senator Conway, among others, would have made certain program duplication decisions “subject to judicial review in the Circuit Court...” Governor Ehrlich vetoed the legislation on policy grounds.
- **2006 Attorney General’s Office Warns the State that it is “vulnerable legally” because of its treatment of HBCUs.**
  - 2006 HBCU students, alumni, and the Coalition for Equity and Excellence in Higher Education filed suit.
- **2008 Maryland Bohanan Commission Studies Higher Education**
  - Independent experts conclude that Maryland policies “marginalized” the HBCUs.

- Calls upon Maryland to “restructure the process that has caused the inequities and lack of competitiveness “between the HBCUs and TWIs.”
- **2009 Maryland State Plan for Higher Education**
  - Maryland officially adopted the conclusions of the Bohanan Commission experts and stated that the State was “committed to” closing the gap between the HBCUs and TWIs, including academic programs, teacher salaries, facilities, IT infrastructure.
- **2009 Maryland State Senators Jones and Conway Introduce Blount-Rawlings-Britt HBI Comparability Program**
  - The Blount-Rawlings-Britt HBI Comparability Program, SB 544, was proposed to “provide supplemental funding to the state’s HBIs for the purpose of ensuring that the HBIs are comparable and competitive with other state 4-year public institutions of higher education in all facets of their operations and programs as measured by generally recognized indicators of disparity.” This bill was reintroduced in subsequent sessions. The General Assembly took no action on the bill.
- **2012 Maryland Officials Make Important Admissions at Trial**
  - Geoffrey Newman, Maryland Higher Education Commission Director of Finance Policy said “[S]ubstantial additional resources must be invested in the HBIs to overcome the competitive disadvantages caused by prior discriminatory treatment.”
  - Dr. James Lyons, Former Maryland Secretary of Higher Education said HBCU facilities are “vestiges” of the de jure era.
  - (Dr. George Reid, Former Maryland Higher Education Commission Assistant Secretary for Planning and Academic Affairs) said: “[S]ubstantial additional resources are needed to ensure the state’s HBIs are comparable to the state’s TWIs on the point of recruitment, retention and graduation.”
- **2013 Federal Judge Catherine C. Blake rules Against Maryland Coalition on Liability**
  - Judge Blake said program disparity was worse than Mississippi of the decades ago.
  - The court saw a systematic attempt to undermine the HBCUs enrollment.
    - “During the 1960’s and 1970’s, in the wake of Brown, Maryland’s HBIs began offering unique, high-demand programs and began attracting significant numbers of white graduates. Rather than building on that progress, however, Maryland made very large investments in TWIs, particularly newly created Towson and UMBC

that hurt preliminary gains in desegregation. These investments included further duplication of programs at already existing TWIs and creating new public institutions in geographic proximity to existing HBIs, including UB, Towson, and UMBC. (In the 1980's, white enrollment began to decline very markedly," and that trend continues today. The early gains that had been made in integration at Maryland's HBIs halted almost as soon as they began, and the State has continued to duplicate HBI programs at TWIs, failing to address the dual system it created in the de jure era.")

- Maryland violated the 2000 Agreement with the Office of Civil Rights To Provide and Pay for Unique, High Demand Programs at the HBCUs.
- Judge Blake blamed State for disparity in growth of graduate programs between HBIs and TWIs.
- The court ruled that the remedy must include "expansions of mission and program uniqueness and institutional identify at HBIs" "each HBI should develop programmatic niches of areas of excellence in at least two high demand clusters as a starting point." Sent parties to mediation to develop a remedial plan.
- **2016 Judge Blake Rejected the State's Remedial Plan as "inadequate".**
- **2017 Judge Blake Criticized Maryland as "not serious" about solving the problem.**
  - Judge Blake issued a Remedial Order what would Provide Federal Oversight of Maryland Higher Education for 10 years. Ordered Maryland to pay for academic programs, scholarships, financial aid, and marketing at the HBCUs. She rejected State's argument that the Remedy was too expensive, and ordered each of the 4 HBCUs to provide a plan of academic programs, scholarships, marketing, and financial aid. The State put the cost at between \$1-2 billion dollars.
- **2019 Maryland Appeals Judge Blake's Ruling**
  - *4<sup>th</sup> Circuit Urges Legislators to Appropriate Funds to Settle the Case*

This is what the 4<sup>th</sup> Circuit said in January of 2019: "The Court is of the firm conviction that this case can and should be settled. Otherwise, the parties will likely condemn themselves to endless years of acrimonious, divisive and expensive litigation that will only work to the detriment of higher education in Maryland."

Judge Wilkinson, a conservative judge appointed by President Reagan, said during the hearing:

“Isn’t the answer here to make sure that the HBIs are adequately funded?”

“Why doesn’t the answer lie in appropriations? Why didn’t this case settle in appropriation?”

▪ **We Are in the Wrong: It is Time to Make It Right**

The issues in the Coalition lawsuit have been a priority for the Legislative Black Caucus for a long time, and it has been studied by a lot of commissions. A conservative federal judge has now found the State guilty and a conservative appeals court has said that the legislature should get involved and pay to bring the case to an end. If Mississippi could do it for \$791 million for 3 schools, surely we can pay \$577 million for 4 schools. That is better than the \$1-2 billion remedy that the court ordered. In fact, the State of Maryland has already spent millions of dollars on a large private law firms, , in addition to the thousands of hours from attorneys on the Attorney General’s office, but we lost at trial in 2013.

The judge gave the State a chance to come up with a remedy. But it did not. Here is what the court said: “unfortunately the State did not engage in a serious effort to propose a remedy.” That is what the Judge said in 2017, that Maryland was not serious.

**Not A Partisan Issue**

The courts don’t care if a Republican Governor offers more than his predecessor, a Democratic governor, they care about whether the offer is enough to fix the problems. I find it kind of interesting that former Lt. Governor Michael Steele said after Judge Blake found the State liable in 2013. He wrote in the Afro Newspaper: “I was heartened by District Court Judge Catherine C. Blake’s October 7th ruling”. He wrote: “I was stunned to have certain academic and legislative “leaders” ask me directly why our administration would want to invest dollars in “those schools”. They argued that we should put such program dollars in the predominantly white schools and allow the students from the HBCUs to visit those campuses to take a course or to use laboratories. Understand that this occurred not in 1955 but in 2005.”

So we should not look at this as a partisan issue, of how a Republican Governor compares to a Democrat Governor. This is enough blame to go around. If Governor Ehrlich had not vetoed the bill in 2006, we would not be here. If the legislature had passed Blount-Rawlings-Britt HBI Comparability Program, we would not be here. If we had lived up to our Agreement with the office of Civil Rights in 2000, or our commitment in the 2009 State Plan for Higher Education, we would not have a federal judgment hanging over our head.

### **5 Key Things This Bill Will Accomplish**

- Avoid having to pay \$1-2 Billion dollars
  - Avoid federal oversight for next 10 years
  - Settle case for less than the \$791 million that Mississippi paid for 3 schools
  - Remove the stain of the judgment for a Constitutional Violation
  - Help to create better schools that are open to all Maryland Citizens. Judge Blake said that her order was intended to “strengthen and enhance Maryland’s HBIs for the benefit of all Maryland students, present and future.” That is what we have to keep in mind as well.
- **Why We Can’t Wait: And Why Other Legislators Have Stepped in to Solve Similar Problems**

I know that some have suggested that the legislature should not be involved but should just let the litigation play itself out, and that the Legislature to get involved. It reminds me of the sentiment when Dr. King wrote to some fellow clergy in his Letter from the Birmingham Jail: He wrote:

“While confined here in the Birmingham city jail, I came across your recent statement calling my present activities "unwise and untimely". For years now I have heard the word "Wait!" It rings in the ear of every Negro with piercing familiarity. This "Wait" has almost always meant "Never." We must come to see, with one of our distinguished jurists, that "justice too long delayed is justice denied."

This case has been going on over 10 years, but as Judge Blake noted the issues affecting the black schools go back 100 years, and cover lots of commissions appointed by Governors and legislators. Colleagues, we can no longer wait. Our acting in this fashion is not without precedent.

Legislatures in other states have gotten involved to settle litigation that affected constitutional rights of their citizens as this case does. This includes New Mexico in 2019,<sup>1</sup> Texas in 2013 and 1982<sup>2</sup>, the state of Washington in 2012<sup>3</sup> and Missouri in 1998<sup>4</sup>

We have also acted to provide appropriations to settle a case involving school funding. The K-12 school adequacy litigation, *Bradford v. Maryland*, that case was first resolved in 1996 as a result of the Assembly's commitment to put more money into Baltimore City schools. In 2000, when the plaintiffs sought to enforce the Consent Order, we responded by adopting the recommendations of the Thornton Commission in 2001 and promised to put \$1.1 billion into education. Even today, after the case was reopened again in 2019, the Assembly is considering the recommendations of the Kirwan Commission, which include putting \$4 billion in state funding.

## Summary

This bill would be good for the HBCUs and good for the State by removing a cloud and the possibility of a 1-2 billion judgement and 10 years of federal oversight. Just imagine how that would look, and how much Trump would tweet about it at the same time our Attorney General is suing him on a variety of issues.

In conclusion, this doesn't have to be business as usual in the Free State. We do not need legal intervention to do what we all know is right, we all know is decent, and what we all know is

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<sup>1</sup> In 2019, New Mexico Governor Michelle Lujan signed several bills aimed at resolving the deficiencies found by a state district court in the educational opportunity case, *Martinez v. New Mexico*, No. D-1-1-CV-2014-00793 (NM Dist. Santa Fe Cty.).

<sup>2</sup> In 2013, following a state district court's ruling holding the Texas school finance system unconstitutional but prior to an appeal in *Texas Taxpayer & Student Fairness Coalition v. Williams*, the legislature passed school finance and accountability legislation. The actions led the court to reopening the case. No. D-1-GN-11-003130, 2013 WL 3199634, at \*1 (Tex. Dist. Travis Cty. June 19, 2013). In 1982, in an appeal by Texas of a court order directing the state to revamp its education system for English Learners to comply with the Equal Educational Opportunities Act, the Fifth Circuit held the order moot after noting that—during the litigation—the Texas Legislature enacted the 1981 Bilingual and Special Language Programs Act. *United States v. State of Tex.*, 680 F.2d 356, 372 (5th Cir. 1982).

<sup>3</sup> In 2012, following a trial court victory for the plaintiffs and while the appeal was pending before the Washington Supreme Court in *McCleary v. State*, the legislature passed an appropriations bill attempting to resolve the litigation. 173 Wash. 2d 477, 540 (Wash. 2012).

<sup>4</sup> In 1998, the Eighth Circuit dismissed an appeal in light of a Missouri constitutional amendment passing that authorized additional tax levy and other legislation authorizing additional funding pending settlement of the desegregation case, *Missouri v. Jenkins*, 158 F.3d 984 (8th Cir. 1998).

necessary to keep Maryland as a national standard-bearer for civic sustainability. The previous commentary from judges, in this case, have classified Maryland, at least in the context of support for a more diverse system of higher education, as a worse offender than the State of Mississippi in the height of its Jim Crow years. This simply cannot stand, and it is too simple to resolve.

Language in this bill reflects appropriate advocacy on behalf of the HBIs but also acknowledges the continuing value of the state's higher education commission. Its details clearly point out the roles and responsibilities of the commission and the four HBCUs in working in one accord to right the wrongs of the past while deliberately delivering a new future of program autonomy and industrial necessity.

There is a bright future for a state of Maryland that embraces stronger institutions of higher education. There is no lost cause in more universities inspiring and equipping minds to solve the most intractable problems of our day while keeping their talent and resources here in our state upon graduation. We do not have to lose talented minds and skills to neighboring states who want an experience like the ones offered here, but made to be more attractive in states like North Carolina and Delaware, which have worked to make their historically black schools more comprehensive and attractive in recent years.

I implore my colleagues to consider the advancement of this legislation and all of the promise it can deliver for generations to come. Please vote favorably for Senate Bill 1043.

**AFSCME-FAV-SB 1043**

Uploaded by: smalls, cindy

Position: FAV





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Patrick Moran - President

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**Testimony**  
**SB1043 – Historically Black Colleges and Universities - Funding**  
**Budget & Taxation Committee**  
**March 11th, 2020**  
**Support**

AFSCME Council 3 supports SB1043. This bill establishes the Historically Black College and Universities Reserve Fund and requires the Governor, in fiscal years 2022 through 2031, to include additional annual State operating funds. The bill also requires that the Maryland Higher Education Commission to establish new units to assist in evaluating and reviewing proposal for new programs and substantial modifications of existing programs.

For the past 13 years, the State of Maryland has been a defendant in a lawsuit brought by a coalition representing former, current, and prospective students at Maryland’s HBCUs alleging that policies of the State’s higher education system are in violation of federal law. After a federal District Court found in part for the coalition, there has been no final resolution of the case. If the parties do not reach an agreement, the case will move back to the federal appeals court for further litigation.

We believe properly resourcing the HCBUs can work in coordination with Maryland’s efforts at improving and enhancing the state’s overall education offerings. For example, a core component of the Kirwan Commission’s recommendations includes recruiting, supporting and retaining high quality teachers, and paying them accordingly. Furthermore, the state faces a teacher shortage, particularly among minority teacher applicants. Both Coppin State University and Bowie State University have schools of education that, with an infusion of resources, could serve as a pipeline to address these teacher shortages while enhancing their own institutional standing. Other programmatic offerings at HBCUs in criminal justice, gerontology, urban environment, cybersecurity and avionics – to name a few – would not only address identified challenges the state faces in the 21st century but would also serve as institutional enhancements and attractions that apply for potential students of all races.

Every AFSCME Maryland State and University contract guarantees a right to union representation.  
An employee has the right to a union representative if requested by the employee.  
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Providing for the HBCUs remediation can and should be done in cooperation and coordination with already-existing programs at Maryland's Institutions. There is significant opportunity to expand and enhance programs at the HCBUs while legitimately analyzing and negotiating solutions to any mutually identified program duplication. It should be noted that Salisbury University and the University of Maryland-Eastern Shore have worked diligently to address duplicative efforts in order to enhance each institution's offerings.

Significantly investing in Maryland's HBCUs should not be looked at as only addressing past wrongs to be righted. Investing \$1 billion over ten years should be viewed as a wise and strategic resource deployment that will bring positive returns for all Marylanders, because we are investing in our greatest resource: our people. To meet the challenges of the 21st century, it is investments such as these that will allow Maryland to once again claim the mantle of "#1" in education nation-wide and serve as a beacon for all to follow.

For these reasons, we urge a favorably report on SB 1043.

# **MSU Testimony on SB 1043**

Uploaded by: Wilson, David

Position: FAV



## **Morgan State University Testimony**

*in support of*

### **Senate Bill 1043**

*Submitted by Dr. David Wilson, President of Morgan State University*

## **Historically Black Colleges and Universities – Funding**

Morgan State University supports the passage of Senate Bill 1043 requiring, among a number of other provisions, that the Governor of the State of Maryland, in certain fiscal years, include in the annual State operating budget certain funds for certain historically black colleges and universities in the State; establishing the Historically Black Colleges and Universities Reserve Fund as a special, non-lapsing fund; and requiring the Maryland Higher Education Commission (Commission) to administer the Fund.

In this testimony, I have highlighted the salient points, which would bring to an end the 16 yearlong lawsuit in the state of Maryland. Morgan State University is an institution on the rise with a great deal of momentum. Our student population has increased by eight percent since 2009, to nearly 8,000 students. In 2016, the Maryland State Legislature designated Morgan as its “preeminent public urban research university.” In that same year, the National Trust for Historic Preservation listed Morgan as a national treasure, the only campus in higher education in the United States to be so named. Finally, in 2018, the Carnegie Classification of Institutions of Higher Education elevated Morgan’s research mission from R3 (moderate research) to R2 (high research activity). With this elevation of Morgan’s research mission, only one public university in Maryland, the University of Maryland College Park, has a higher research classification.

Should a settlement materialize, Morgan will use those investments to further position the University toward achieving R1 status focusing on the intractable challenges facing urban areas like Baltimore City. This would position us as the lone public research university in the state with this mission. We will put in place unique high demand programs that are in alignment with the work of the future, and provide much needed financial support to our students. We will also enhance Morgan’s branding and marketing efforts so that students all over this state, regardless of race or ethnicity, would come to understand the jewel the state has in Morgan State University.

### **Historical Context for Morgan’s Support of Senate Bill 1043**

The underfunding of Morgan State University, and the State’s other Historically Black Colleges, goes back eighty (80) years or more. As early as 1937, Baltimore native and federal judge, Morris A. Soper, headed a commission examining higher education in Maryland. Among the findings made by Judge Soper’s Commission was the observation that: “It is thus clear that the white population in Maryland has had the advantage of generous state support for its higher education many years in advance of the Negro population. The contrast between the amounts of money

received by the two racial groups would show, if possible of computation, an enormous differential in favor of the white race.”

Almost a decade later, in 1945, the Maryland Legislature created the Marbury Commission to conduct a comprehensive review of higher education in Maryland. The Marbury Commission noted that none of the State’s four historically black institutions (HBIs) were equal in quality to the corresponding institution maintained for the white population and that while Maryland maintained extensive facilities for the graduate and professional education of white persons, there was no provision for the equivalent training of Blacks in the state.

In the 2000 Partnership Agreement between the State of Maryland and the U.S. Department of Education Office of Civil Rights (OCR), the State promised, among other commitments, to provide funding to enhance Maryland’s historically black colleges and universities (HBCUs). Specifically, the State committed to provide: 1. enhanced operational funding to Bowie, Coppin, Morgan, and UMES consistent with the mix and degree level of their respective academic programs; 2. support for the development of the institutions’ research infrastructure; 3. support consistent with the academic profile of students; 4. lower student-faculty ratios appropriate to support their missions; and 5. funding to support students’ quality of campus life. But none of that happened.

A decade later, the Coalition for Equity and Excellence in Maryland Higher Education, Inc., (the “Coalition”) alleged that the State had failed to keep the promise(s) it made in the 2000 Partnership Agreement, and The Coalition accused MHEC of maintaining vestiges of the prior de jure system of segregation by allowing traditionally white schools to duplicate programs that were unique to the HBCUs. The Coalition then filed suit against the State in Coalition for Equity and Excellence in Maryland Higher Education, Inc., et al. v. Maryland Higher Education Commission, et al, Civ.No.06-2773-CCB (U.S. District, District of Maryland) to, in large measure, enforce the financial terms of the 2000 OCR Partnership Agreement.

In 2013, U.S. District Judge Catherine C. Blake made findings of fact and conclusions of law including that unnecessary program duplication is traceable to the de jure era, and she called for the appointment of special master to oversee the creation of a remedial plan to address past unequal treatment of Morgan, Bowie, Coppin and UMES by the State. Several attempts at mediation by the parties, including mediation ordered by the United States Court of Appeals for the Fourth (4<sup>th</sup>) Circuit, have been unsuccessful.

### **Key Equity Provisions of Senate Bill 1043**

Given this historical inequity outlined above, Morgan supports passage of Senate Bill 1043, including the bill’s following key provisions:

#### **§10–214.**

(5) THAT ADDITIONAL SUPPORT SHALL BE PROVIDED IN THE FORM OF ADDITIONAL FUNDING IN THE AMOUNT OF \$577,000,000, WHICH SHALL BE PROVIDED IN EQUAL AMOUNTS IN EACH OF FISCAL YEARS 2022 THROUGH 2031, AND SHALL BE ALLOCATED AMONG THE INSTITUTIONS; AND,

(6) THE PROVISIONS OF §§ 15–126 AND 15–127 OF THIS ARTICLE SHALL ENSURE THAT MARYLAND’S HISTORICALLY BLACK COLLEGES AND UNIVERSITIES SHALL RECEIVE THIS SUPPORT.

**§15–126.**

(B) (3) AT THE END OF EACH FISCAL YEAR, ANY UNUSED FUNDS PROVIDED UNDER THIS SECTION SHALL BE DISTRIBUTED TO THE HISTORICALLY BLACK COLLEGES AND UNIVERSITIES RESERVE FUND ESTABLISHED UNDER §15–127 OF THIS SUBTITLE.

- Further, Morgan requests that the funding for each University set forth in section 15-126 consider each institution's Carnegie classification and enrollment in determining the amount of allocation per institution.
- Also, in order to provide institutional flexibility, Morgan requests that each university should have the ability to decide whether it wants to work with the University of Maryland Global Campus for developing and offering online academic programs. The current language in the bill appears to remove the university's autonomy to make that choice, and thus, would not allow each institution to choose its own infrastructure.
- Further, in lieu of one consultant who would assist all of the institutions, Morgan respectfully requests that each institution should have its own consultant to ensure the programmatic development is beneficial to the respective individual institution.

**§11–206.3.**

Morgan also supports the Senate Bill 1043 provision requiring additional funds in an amount sufficient to employ the additional Maryland Higher Education Commission personnel needed to do the work of the Commission under this section.

In closing, Morgan strongly encourages support for Senate Bill 1043 and urges the General Assembly and the Commission to continue Maryland’s march towards equitable treatment of Bowie, Coppin, Morgan and UMES, by moving with dispatch to eliminate academic program duplication, and to provide the requisite supplemental funding to the State’s public 4–year HBCUs to remedy the findings of the US District Court of the State’s history of de facto and traceable de jure discrimination. Morgan also supports a continuation of this enhanced funding beyond 2031. Finally, Morgan unequivocally supports the Bill’s requirement that the additional enhancement funds should not supplant any in the University’s ongoing operating budget.

With these suggestions and modifications, Morgan State University strongly encourages the passage of Senate Bill 1043.

# **MarylandHBCUtestimonyforsenate**

Uploaded by: Burton, David

Position: FWA

TESTIMONY OF DAVID BURTON, JON GREENBAUM, AND MICHAEL JONES  
IN SUPPORT OF SB 1043  
MARYLAND SENATE  
BUDGET AND TAXATION COMMITTEE  
MARCH 11, 2020

Dear Chair Guzzone, Vice Chair Rosapepe, and Committee Members:

As the President of the lead Plaintiff (David Burton of the Coalition of Equity and Excellence in Maryland Higher Education) and co-lead counsel for Plaintiffs (Jon Greenbaum of the Lawyers' Committee for Civil Rights Under Law<sup>1</sup> and Michael Jones of Kirkland & Ellis LLP) in *Coalition of Equity and Excellence in Maryland Higher Education v. Maryland Higher Education Commission* (Maryland HBCU litigation), we are writing in support of SB 1043. This legislation would provide approximately \$577 million of supplemental funding over the next ten years to Maryland's four Historically Black Colleges and Universities (HBIs or HBCUs), Bowie State University, Coppin State University, Morgan State University, and University of Maryland Eastern Shore contingent on a settlement in the Maryland HBCU litigation. We are hopeful that if SB 1043 is enacted into law, Plaintiffs and the Attorney General will be able to resolve the Maryland HBCU litigation, remedy the violation of the Equal Protection Clause of the United States Constitution found by Judge Blake, and enable the HBCUs to be comparable and competitive with Maryland Traditionally White Institutions (TWIs). As discussed more fully below, we suggest some amendments to the legislation that we believe will improve the legislation and increase the likelihood of resolving the Maryland HBCU litigation.

BACKGROUND OF THE MARYLAND HBCU LITIGATION

Plaintiffs welcome the Maryland General Assembly's efforts to bring this protracted federal case to settlement. There have been four unsuccessful court-supervised mediation efforts in this case: in 2011, before the trial on liability; in 2013-2016, after Plaintiffs prevailed on liability and before the remedial trial; in 2018, before the appellate argument before the Fourth Circuit Court of Appeals; and in 2019, after the Fourth Circuit Court of Appeals ordered the parties to mediation after argument, which is highly unusual. Plaintiffs have found mediation futile. Though the parties cannot discuss the substance of mediation, it is worth noting that the Governor's last public statement regarding settlement was for \$200 million, a grossly inadequate amount. While the Governor's spokesman claims that "[n]o one is more committed to resolving this issue than Governor Hogan,"<sup>2</sup> the General Assembly can put that statement to the test by putting SB 1043 on his desk.

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<sup>1</sup> The Lawyers' Committee for Civil Rights Under Law engages the resources of the private bar to provide pro bono representation in a wide range of civil rights cases, such as discrimination in education, housing, and voting. It celebrated its 50th Anniversary in 2013, when President Obama and Attorney General Eric Holder welcomed the group at the White House to reiterate President John F. Kennedy's call to the private bar in 1963 to help in the fight for civil rights.

<sup>2</sup> Pamela Wood, Maryland Speaker's Legislation would force settlement of long-running HBCU lawsuit," Baltimore Sun (February 7, 2020), <https://www.baltimoresun.com/politics/bs-md-pol-ga-jones-hbcu-20200207-w3texslranentifvicp4f4esne-story.html>.



The Maryland HBCU litigation was initially filed in 2006. In 2013, after a six-week liability trial, United States District Court Judge Catherine C. Blake ruled in favor of the Coalition and HBCU students and alums and against the State, noting that “[a]s the parties involved in this long-running litigation agree, Maryland had a shameful history of *de jure* segregation throughout much of the past century. Public higher education opportunities for African Americans were either non-existent or decidedly inferior to the opportunities afforded to white citizens. Most of that history . . . is neither disputed nor excused by the State in this case.”<sup>3</sup> Indeed, the State’s own documents show that it deliberately set up its four black schools to be “inferior in every aspect of their operation.” And as the court noted, Maryland’s own reports show that “the contrast between the amounts of money received by the two racial groups would show, if possible, of computation, an enormous differential in favor of the white race.”<sup>4</sup> In particular, Judge Blake found the State liable for the 10:1 disparity in unique, high demand programs between the State’s HBCUs and its TWIs, and the unnecessary duplication of HBCU programs.<sup>5</sup> She found that the State’s failure to dismantle the programmatic disparity between HBCUs and TWIs – which was traceable to the era of *de jure* segregation – violated the Equal Protection Clause of the United States Constitution.

In 2017, after a seven-week remedial trial, Judge Blake created a framework for remedying the Constitutional violation.<sup>6</sup> “The court conclude[d] that creating new unique, high-demand programs at the HBIs will achieve the greatest possible reduction in the segregative effects of unnecessary program duplication in Maryland’s institutions of higher education.”<sup>7</sup> In addition to the cost of creating of new programs and enhancing existing programs, the court also “require[d] the State to provide funding to the HBIs for student recruitment, financial aid, and marketing.”<sup>8</sup>

With respect to the cost of remedy, Judge Blake did not provide a specific amount but left that for a special master who would recommend an amount. The special master has not been appointed because the case is on appeal. Plaintiffs did not provide a specific total dollar to Judge Blake. The State has been all over the place regarding the cost of a remedy. During the remedial trial, the State argued that Plaintiffs’ proposed remedy, which to a significant degree was the remedy ordered by Judge Blake, would cost \$1.9 billion in operating costs over ten years.<sup>9</sup> At other times, the State has stated that a remedy would cost more than a billion dollars. This is in contrast to the Governor’s “last and final” settlement offer of \$200 million.

We think an appropriate remedial amount is in between the high and low numbers offered previously by the State. Last fall, when we wrote the Legislative Black Caucus, we suggested a settlement amount, of \$577 million in today’s dollars, spread over a reasonable time period. In doing so, we looked to the settlement of the Mississippi HBCU litigation. Notably, Judge Blake concluded that Maryland was as bad as, if not worse than Mississippi of the 1970’s and 1980s in

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<sup>3</sup> *Coalition of Equity and Excellence in Maryland Higher Education v. Maryland Higher Education Commission* (Liability Decision), 977 F. Supp. 2d 507, 511-12 (D. Md. 2013).

<sup>4</sup> *Id.* at 514.

<sup>5</sup> *Id.* at 536-37.

<sup>6</sup> *Coalition of Equity and Excellence in Maryland Higher Education v. Maryland Higher Education Commission*, 295 F. Supp. 3d 540 (D. Md. 2017) (Remedial Decision).

<sup>7</sup> *Id.* at 582.

<sup>8</sup> *Id.* at 585.

<sup>9</sup> *Id.* at 570.

terms of its programmatic disparity.<sup>10</sup> Almost twenty years ago, Mississippi, a much poorer state than Maryland, settled its HBCU case for \$516.98 million dollars for 3 HBCUs. Adjusting for inflation, the Mississippi settlement is approximately \$791 million in today's dollars. Further adjusting for four schools rather than three, the figure would be \$1.05 billion dollars.

As discussed by our expert Walter Allen, a settlement fund of \$577 million would allow the HBCUs to develop and launch a number of new, independent academic programs of the kind the State promised to provide in its 2000 Agreement with the Office of Civil Rights and which Judge Blake ordered, as well as to enhance existing programs. This would allow the schools to hire quality faculty to run the programs. In addition, these funds would be used to provide scholarships that would enable the HBCUs to better compete for students and provide for substantial rebranding to offset the State's decades of stigmatization of the HBCUs.

### PLAINTIFFS' SUPPORT OF SB 1043 WITH SUGGESTED AMENDMENTS

SB 1043 provides the funding and the framework for settlement. To begin with, SB 1043 includes a settlement fund of \$577 million over ten years. We note that SB 1043 includes attorneys' fees in the \$577 million settlement fund, as opposed to the attorneys' fees being in addition to the \$577 million,<sup>11</sup> and the fund does not account for inflation. As a result, the settlement is valued at around \$500 million in today's dollars. Though Plaintiffs believe that \$577 million in current dollars would better enable the HBCUs to be comparable and competitive with the TWIs, this difference is not a deal breaker.

Furthermore, we agree with the designation of settlement funds Not just for the creation, implementation, expansion, and improvement of academic programs but for scholarships and student financial aid, faculty recruitment and development, academic support, and marketing. This is consistent with Plaintiffs' remedial proposal and Judge Blake's Remedial Decision.

We have some suggested amendments. The first two relate to the allocation of the funds among the four schools. The current allocation in SB 1043 is based solely on annual enrollment and it adjusts every year based on enrollment. We believe the allocation set forth in Senate Bill 856 is preferred because it guarantees each HBCU at least \$10 million per year; Senate Bill 856 takes into account not only enrollment but research classification of each school; and Senate Bill 856 gives each HBCU a set distribution that enables for better planning and does not fluctuate with enrollment. We believe a year to year allocation based on enrollment makes planning for the development of academic programs very difficult, without knowing the amount of funding and

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<sup>10</sup> Liability Decision, 977 F. Supp, 3d at 536-37.

<sup>11</sup> Under the Civil Rights Attorneys Fees Award Act of 1976, 42 U.S.C. §1988, Plaintiffs are entitled to their attorneys' fees and costs as the prevailing party in the district court. As a nonprofit civil rights organization, the Lawyers' Committee does not charge our clients for its time and expenses and requires its firm co-counsel to do the same. Instead, the Lawyers' Committee seeks to recoup its time and expenses through attorneys' fees awards and requests that its pro bono counsel donate its attorneys' fees to the Lawyers' Committee. This enables the Lawyers' Committee to fund future civil rights work. The Maryland HBCU case has been the most resource intensive case this century for the Lawyers' Committee and the attorneys' fees provision of SB 1043 reflects the amount of the fees and expenses accrued in this case so far. The State has driven up the costs of litigation by sparing no expense, including utilizing two outside law firms in addition to employing numerous attorneys from the Attorney General's Office.

creates an incentive to focus on short term enrollment rather than long-term sustainability of programs that are the centerpiece of Judge Blake’s order. The following table compares the levels of funding in SB 1043 and SB 856.

Comparison between SB 1043 and SB 856

School	SB 1043*	SB 856**
Bowie	16,790,700	\$12,200,000
Coppin	7,212,500	\$10,000,000
Morgan	24,003,200	\$23,100,000
UMES	9,693,600	\$12,400,000

\*Amount fluctuates each year based on each HBCUs percentage of overall HBCU enrollment

\*\* Amount is constant

In addition, we suggest that SB 1043 be amended in regard to its provisions on online programming. Under SB 1043 the proposed legislation the University of Maryland Global Campus is mandated to work with HBIs with the goal of developing and offering online academic programs. Plaintiffs propose that SB 1043 be amended to stipulate that the UMGC mandate is not intended to restrict or restrain, in any way, the ability of HBIs to offer online programs using campus-based delivery platforms.

Our other suggested amendment relates to the use of consultants. SB 1043 encourages the HBCUs to retain a single consultant to advise the HBCUs as a collective. Because the expertise needed will vary from campus to campus and because of the necessity for expediting the activities outlined in this legislation, Plaintiffs propose SB 1043 be amended to indicate that each campus is encouraged to retain consultants as necessary to assist in the planning, development and implementation of the programs and other initiatives contained in said legislation.

Finally, we recommend that SB 1043 specifically give the Attorney General final authority to settle the case.

### CONCLUSION

We applaud the leadership shown by the Senate, the bill sponsors, the Black Legislative Caucus, and this Committee in introducing SB 1043. Congressman Benny Thompson played a central role in settling the Mississippi HBCU litigation, and if SB 1043 is enacted, you can take similar credit for the Maryland HBCU case.

The enactment of SB 1043 is in the public interest. Investing in Maryland’s HBCUs to make them comparable and competitive universities benefits the present and future students of the schools, the alums, and the community as a whole.

We are happy to answer any questions you have and to provide information you require.