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January 19, 2021

The Honorable Maggie McIntosh
Chair, House Appropriations Committee
Room 121
House Office Building
Annapolis, Maryland 21401

RE: House Bill 1: Historically Black Colleges and Universities – Funding

Dear Chair McIntosh:

I want to again commend Speaker Jones, the sponsors, and the Appropriations Committee for the introduction of House Bill 1 and for their continued 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 14 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.¹

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 were unsuccessful.

¹ The district court rejected all other claims raised by the plaintiffs, including allegations that current operational funding or mission related policies and practices are traceable to the *de jure* era and contribute to segregation in Maryland's institutions of higher education.

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

House Bill 1 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 for attorneys' fees for plaintiffs' counsel.

The amount of funding House Bill 1 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,



Brian E. Frosh
Attorney General of Maryland

cc: Members of the Appropriation Committee