

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Maryland Higher Education Commission
(DLS Control No. 15-258)**

Overview and Legal and Fiscal Impact

This regulation implements the tuition exemption for foster care recipients and unaccompanied homeless youth.

The regulation presents no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulation of COMAR Affected

Maryland Higher Education Commission:

Academic Regulations: Minimum Requirements for In-State Degree-Granting
Institutions: COMAR 13B.02.02.23

Legal Analysis

Summary of Regulation

The regulation implements the tuition exemption for foster care recipients and unaccompanied homeless youth and is almost identical to the provisions of § 15-106.1 of the Education Article that establish and govern the tuition exemption for these individuals. The only substantive difference between the regulation and the statute is that the regulation adds a definition of “vocational certificate” that is not found in the statute.

Under the regulation and the statute, foster care recipients and unaccompanied homeless youth are eligible for a tuition and mandatory fee exemption to attend a public institution of higher education in Maryland if they (1) are enrolled at the institution on or before the date they reach the age of 25 years; (2) are enrolled as a candidate for a vocational certificate, an associate’s degree, or a bachelor’s degree; and (3) file for federal and State financial aid by March 1 each year.

If an exemption-eligible foster care recipient or an unaccompanied homeless youth receives a scholarship or grant, the scholarship or grant may not be applied to tuition or mandatory fees. The tuition exemption continues until 5 years after initial enrollment as a candidate for an associate’s degree or a bachelor’s degree, or until the individual receives a bachelor’s degree, whichever occurs first.

A foster care recipient is defined as an individual who resided in an out-of-home placement when he or she graduated from high school or successfully completed a general equivalency development examination. Foster care recipients placed into guardianship or adopted from an out-of-home placement after their thirteenth birthday are also eligible for the exemption. Younger siblings are also eligible for the exemption if the sibling is also placed into guardianship or adopted at the same time by the same family from an out-of-home placement.

An unaccompanied homeless youth is defined as a child or youth who (1) has had a consistent presence in the State for at least one year before enrollment in a public institution of higher education that is documented by school, employment, or other records; (2) is not in the physical custody of a parent or guardian; and (3) is a homeless child or youth, as defined by the McKinney-Vento Homeless Assistance Act. The McKinney-Vento Act generally defines a homeless person as an individual who lacks a fixed, regular, and adequate nighttime residence.

Legal Issues

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The Maryland Higher Education Commission cites §§ 11-105(u) and 15-106.1 of the Education Article as statutory authority for the regulations. Section 11-105(u) authorizes the commission to adopt any rule or regulation necessary to carry out its powers and duties. The provisions of § 15-106.1 establish and govern the tuition exemption for foster care recipients and unaccompanied homeless youth.

This authority is correct and complete. The regulation complies with the legislative intent of the law.

Technical Corrections and Special Notes

In response to a suggestion from the Department of Legislative Services, the commission will contact the Division of State Documents to make a stylistic change to section A(1)(a) to reflect that an individual must meet the criteria under (i) and must meet the criteria under either (ii) or (iii).

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The commission advises that the regulation implements statute regarding tuition waivers for specified foster care recipients and unaccompanied homeless youth. The commission advises that the Department of Human Resources has 20 students currently eligible for a waiver on its caseloads and there will be a nominal savings on tuition expenditures and a nominal decrease in

tuition revenue for higher education institutions. The Department of Legislative Services advises that the regulation implements current statute and there is no fiscal impact beyond the impacts noted in the fiscal and policy notes for the related legislation, most recently Chapter 333 of 2015. In general, higher education institutions granting the waivers will receive less tuition revenue while still incurring the same costs for enrolling eligible students. These tuition waivers have been modified several times over the years; however, no regulations regarding the tuition waivers have been promulgated until now.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The commission advises that the regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

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