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April 27, 2009

The Honorable Martin J. O'Malley  
Governor of Maryland  
State House  
Annapolis, Maryland 21401-1991

**RE: House Bill 1396**

Dear Governor O'Malley:

We have reviewed and hereby approve for constitutionality and legal sufficiency House Bill 1396, "Higher Education - Student Financial Assistance - Dually Enrolled Students." We write to discuss the effect of Section 2 of the bill.

House Bill 1396 relates to two scholarship programs: the Part-Time Grant Program and the Dual Enrollment Grant Program, which is renamed the Early College Access Grant Program. The Part-Time Grant Program was created by Chapter 462 of 1991, and expanded to cover dually enrolled students by Chapter 302 of 2001. The Dual Enrollment Grant Program was created by Chapters 296 and 297 of 2007. The 2007 Acts also amended the provisions of the Part-Time Grant Program to eliminate the coverage of dually enrolled students. The 2007 Acts had a sunset of June 30, 2009.

House Bill 1396 eliminates the sunset on Chapters 296 and 297 of 2007 and renames the Dual Enrollment Grant Program to be the Early College Access Grant Program. The elimination of the sunset on Chapters 296 and 297 would also eliminate the reinstatement of eligibility for dually enrolled students for the Part-Time Grant Program. House Bill 1396 avoids this result, however, by expressly amending dually enrolled students back in to the provisions relating to the Part-Time Grant Program. The Fiscal and Policy Note makes clear that the intent is to return the Part-Time Grant provision to the way it appeared prior to the enactment of Chapters 296 and 297 of 2007 despite the continuation of the provisions of that bill. It says:

This departmental bill expands eligibility for the Part-Time Grant Program to include students who are dually enrolled in Maryland high schools and an institution of higher education. It clarifies that a dually enrolled student does not need to receive both high school and college credit from a course to

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be eligible for a Part-Time Grant. The bill permanently reauthorizes the Dual Enrollment Grant Program and renames it the Early College Access Grant Program. In addition to any funds allocated under the Early College Access Grant Program, institutions may use up to 10% of the Part-Time Grant allocation to provide grants to students who are dually enrolled.

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Chapter 297 of 2007 created the Dual Enrollment Grant to provide financial assistance to students taking courses in both high school and college. Since a program was being created specifically for dually enrolled students, the Part-Time Grant Program, which allowed institutions to use funds for dually enrolled students, was amended to remove all references to dually enrolled students. With this change, the Part-Time Grant Program is now solely for students taking between 6 and 11 credits at an institution of higher education enrolled in a degree-seeking program, while the Dual Enrollment Grant Program is specifically for dually enrolled students. The Dual Enrollment Grant has not been fully funded leaving most institutions, especially community colleges, without funds to assist dually enrolled students. The Dual Enrollment Grant Program is scheduled to expire after June 30, 2009.

For the above reasons, it is our view that House Bill 1396 is constitutional and legally sufficient and may be signed into law.

Very truly yours,



Douglas F. Gansler  
Attorney General

DFG/KMR/kk

cc: The Honorable Sheila E. Hixson  
The Honorable John P. McDonough  
Joseph Bryce  
Karl Aro