

# HOUSE BILL 1223

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CF SB 843

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By: **Delegate Guzzone**

Introduced and read first time: February 10, 2012

Assigned to: Appropriations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Institutions of Postsecondary Education – Fully Online Distance Education**  
3 **Programs – Registration**

4 FOR the purpose of requiring certain institutions of postsecondary education that  
5 enroll certain students in certain online distance education programs to register  
6 with the Maryland Higher Education Commission before commencing or  
7 continuing to operate, do business, or function in the State within a certain  
8 period of time; prohibiting certain institutions from commencing or continuing  
9 to operate, doing business, or functioning in the State; requiring the  
10 Commission to give certain institutions certain notice under certain  
11 circumstances; authorizing certain institutions to request a certain hearing  
12 under certain circumstances; providing certain institutions a certain right to  
13 judicial review; providing for a certain exception from the requirement for  
14 registration; requiring certain institutions to be accredited, submit certain  
15 information to the Commission, notify the Commission of certain changes,  
16 comply with certain principles of good practice, make public and publish certain  
17 information on the institution's Web site, comply with a certain refund policy  
18 and procedures, and be subject to certain complaint investigation; requiring the  
19 Commission to establish certain refund policies and procedures; requiring the  
20 payment of certain fees to be used for certain purposes; requiring the  
21 Commission to make public and post on its Web site the names of certain  
22 institutions under certain circumstances; authorizing the Commission to  
23 require certain institutions to furnish certain bonds or other financial  
24 guarantees under certain circumstances; authorizing the Commission to create  
25 a certain guaranty fund; providing for the use of a certain fund; authorizing  
26 certain students to make certain claims against a certain fund under certain  
27 circumstances; requiring certain institutions to pay a certain fee into a certain  
28 fund subject to certain exceptions; prohibiting the Commission from issuing a  
29 certain registration and requiring the Commission to revoke a certain  
30 registration under certain circumstances; authorizing the Commission to  
31 impose a certain penalty on certain institutions under certain circumstances;

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 requiring the Commission to deposit certain monetary penalties into a certain  
2 fund; subjecting certain institutions to revocation of registration under certain  
3 circumstances; prohibiting certain institutions from enrolling certain students  
4 under certain circumstances; authorizing certain students to complete certain  
5 online distance education programs under certain circumstances; providing that  
6 certain persons are guilty of a misdemeanor and subject to certain fines and  
7 imprisonment for a certain period of time under certain circumstances;  
8 requiring certain institutions to submit certain data to the Maryland  
9 Longitudinal Data System; defining certain terms; and generally relating to  
10 institutions of postsecondary education that offer fully online distance education  
11 programs in the State.

12 BY repealing and reenacting, with amendments,  
13 Article – Education  
14 Section 11–202, 11–203, 11–204, and 24–707  
15 Annotated Code of Maryland  
16 (2008 Replacement Volume and 2011 Supplement)

17 BY adding to  
18 Article – Education  
19 Section 11–202.2  
20 Annotated Code of Maryland  
21 (2008 Replacement Volume and 2011 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article – Education**

25 11–202.

26 (a) (1) Except as provided in § 11–202.1 of this subtitle, an institution of  
27 postsecondary education may not commence or continue to operate, do business, or  
28 function without a certificate of approval from the Commission.

29 (2) EXCEPT AS PROVIDED IN § 11–202.2 OF THIS SUBTITLE, AN  
30 INSTITUTION OF POSTSECONDARY EDUCATION THAT ENROLLS MARYLAND  
31 STUDENTS IN A FULLY ONLINE DISTANCE EDUCATION PROGRAM IN THE STATE  
32 MAY NOT COMMENCE OR CONTINUE TO OPERATE, DO BUSINESS, OR FUNCTION  
33 WITHOUT REGISTERING WITH THE COMMISSION WITHIN 6 MONTHS OF  
34 ENROLLING THE FIRST MARYLAND STUDENT.

35 (3) EXCEPT AS PROVIDED IN § 11–202.1 OF THIS SUBTITLE, BUT  
36 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN INSTITUTION THAT IS  
37 NOT ACCREDITED BY AN ACCREDITING BODY RECOGNIZED AND APPROVED BY

1 **THE UNITED STATES DEPARTMENT OF EDUCATION MAY NOT COMMENCE OR**  
2 **CONTINUE TO OPERATE, DO BUSINESS, OR FUNCTION IN THE STATE.**

3 (b) The Commission shall issue a certificate of approval to an institution of  
4 postsecondary education if it finds that:

5 (1) The facilities, conditions of entrance and scholarship, and  
6 educational qualifications and standards are adequate and appropriate for:

7 (i) The purposes of the institution; and

8 (ii) The programs, training, and courses to be offered by the  
9 institution; and

10 (2) The proposed programs to be offered by the institution meet the  
11 educational needs of the State.

12 (c) (1) If the Commission believes that an institution of postsecondary  
13 education that applies for a certificate of approval **OR REGISTRATION** does not meet  
14 the conditions or standards necessary for the issuance of the certificate **OR**  
15 **REGISTRATION**, the Commission shall give the institution written notice of the  
16 specific deficiencies.

17 (2) Within 20 days of receipt of a notice of deficiencies, the institution  
18 may request a hearing before the Commission, and within 60 days of receipt of the  
19 request the Commission shall hold a hearing to determine if the certificate of approval  
20 **OR REGISTRATION** should be issued.

21 (3) If, within 6 months from the date on which the application for  
22 certification **OR REGISTRATION** was submitted to the Commission, the institution has  
23 **NOT** received [neither] a certificate of approval under subsection (b) of this section **OR**  
24 **A REGISTRATION UNDER § 11-202.2 OF THIS SUBTITLE** [nor] **AND HAS NOT**  
25 **RECEIVED** written notice of deficiencies under this subsection, the institution may  
26 request within 20 days a hearing before the Commission to determine if the certificate  
27 of approval **OR REGISTRATION** should be issued.

28 (d) (1) Any institution of postsecondary education that is denied a  
29 certificate of approval **OR REGISTRATION** by the Commission after a hearing granted  
30 under subsection (c) of this section has the right to judicial review provided by Title  
31 10, Subtitle 2 of the State Government Article.

32 (2) The decision of the Commission shall be presumed correct, and the  
33 institution has the burden of proving otherwise.

34 (3) The Commission shall be a party to the proceeding.

1 **11-202.2.**

2 (A) (1) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE  
3 MEANINGS INDICATED.

4 (2) “DISTANCE EDUCATION” MEANS COURSE WORK TAUGHT BY  
5 AN INSTITUTION OF POSTSECONDARY EDUCATION THROUGH ELECTRONIC  
6 DISTRIBUTION OF INSTRUCTION TO A SITE OTHER THAN THE PRINCIPAL  
7 LOCATION OF THE INSTITUTION AND ADVERTISED OR DESCRIBED AS LEADING  
8 TO THE FORMAL AWARD OF A CERTIFICATE OR DEGREE.

9 (3) “FULLY ONLINE DISTANCE EDUCATION PROGRAM IN THE  
10 STATE” MEANS A PROGRAM IN WHICH:

11 (I) 100% OF THE PROGRAM IS OFFERED THROUGH  
12 ELECTRONIC DISTRIBUTION OF INSTRUCTION TO ONE OR MORE SITES OTHER  
13 THAN THE PRINCIPAL LOCATION OF AN INSTITUTION; OR

14 (II) 51% OR MORE OF THE PROGRAM IS OFFERED THROUGH  
15 ELECTRONIC DISTRIBUTION OF INSTRUCTION TO ONE OR MORE SITES OTHER  
16 THAN THE PRINCIPAL LOCATION OF AN INSTITUTION AND NO PORTION OF THE  
17 PROGRAM IS OFFERED AT A LOCATION IN THE STATE.

18 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
19 SUBSECTION, AN INSTITUTION OF POSTSECONDARY EDUCATION THAT ENROLLS  
20 MARYLAND STUDENTS IN A FULLY ONLINE DISTANCE EDUCATION PROGRAM IN  
21 THE STATE SHALL REGISTER WITH THE COMMISSION WITHIN 6 MONTHS OF  
22 ENROLLMENT.

23 (2) THIS SECTION DOES NOT APPLY TO AN INSTITUTION OF  
24 POSTSECONDARY EDUCATION THAT ENROLLS MARYLAND STUDENTS IN A  
25 FULLY ONLINE DISTANCE EDUCATION PROGRAM IN THE STATE THAT HAS BEEN  
26 APPROVED OR RECEIVED A FAVORABLE RECOMMENDATION BY THE  
27 COMMISSION UNDER § 11-206 OR § 11-206.1 OF THIS SUBTITLE.

28 (C) EACH INSTITUTION REQUIRED TO REGISTER UNDER SUBSECTION  
29 (B) OF THIS SECTION SHALL:

30 (1) BE ACCREDITED BY AN ACCREDITING BODY RECOGNIZED AND  
31 APPROVED BY THE UNITED STATES DEPARTMENT OF EDUCATION;

32 (2) SUBMIT TO THE COMMISSION:

1                   **(I) EVERY 2 YEARS, A FINANCIAL STATEMENT REVIEWED**  
2 **BY AN INDEPENDENT ACCOUNTANT RETAINED BY THE INSTITUTION;**

3                   **(II) AN AFFIDAVIT FROM THE PRESIDENT OR CHIEF**  
4 **EXECUTIVE OFFICER OF THE INSTITUTION AFFIRMING:**

5                   1. **THAT THE INSTITUTION HAS NOT FILED FOR**  
6 **BANKRUPTCY PROTECTION UNDER TITLE 11 OF THE UNITED STATES CODE**  
7 **DURING ITS EXISTENCE; AND**

8                   2. **THE WILLINGNESS OF THE PRESIDENT OR THE**  
9 **CHIEF EXECUTIVE OFFICER TO ABIDE BY THE PROVISIONS OF THIS SECTION;**

10                   **(III) PROOF OF GOOD BUSINESS STANDING IN THE STATE IN**  
11 **WHICH THE CENTRAL ADMINISTRATION OF THE INSTITUTION IS**  
12 **INCORPORATED; AND**

13                   **(IV) PROOF OF GOOD ACADEMIC STANDING SUBMITTED BY:**

14                   1. **THE REGULATORY HIGHER EDUCATION ENTITY IN**  
15 **THE STATE IN WHICH THE CENTRAL ADMINISTRATION OF THE INSTITUTION IS**  
16 **LOCATED; OR**

17                   2. **IF THE STATE IN WHICH THE INSTITUTION IS**  
18 **LOCATED DOES NOT HAVE A REGULATORY HIGHER EDUCATION ENTITY, THE**  
19 **ACCREDITING BODY THAT ACCREDITED THE INSTITUTION;**

20                   **(3) PROMPTLY NOTIFY THE COMMISSION OF A CHANGE IN**  
21 **OWNERSHIP OR A CHANGE IN MAJORITY CONTROL;**

22                   **(4) COMPLY WITH THE PRINCIPLES OF GOOD PRACTICE FOR**  
23 **DISTANCE EDUCATION ESTABLISHED BY THE COMMISSION THROUGH**  
24 **REGULATION;**

25                   **(5) MAKE PUBLIC AND POST ON THE INSTITUTION’S WEB SITE:**

26                   **(I) WHETHER THE INSTITUTION IS REGISTERED IN**  
27 **MARYLAND; AND**

28                   **(II) THE PROCESS BY WHICH TO MAKE COMPLAINTS**  
29 **AGAINST THE INSTITUTION;**

1           **(6) COMPLY WITH THE REFUND POLICY AND PROCEDURES**  
2 **ESTABLISHED BY THE COMMISSION; AND**

3           **(7) BE SUBJECT TO COMPLAINT INVESTIGATION BY THE OFFICE**  
4 **OF THE ATTORNEY GENERAL OR THE COMMISSION OR BOTH.**

5           **(D) THE REFUND POLICY AND PROCEDURES ESTABLISHED BY THE**  
6 **COMMISSION SHALL ALLOW FOR:**

7           **(1) AT LEAST 2 WEEKS OF REQUIRED ORIENTATION OR**  
8 **PREENROLLMENT INSTRUCTION IN A FULLY ONLINE DISTANCE EDUCATION**  
9 **PROGRAM IN THE STATE AT NO CHARGE; OR**

10           **(2) A PRORATED REFUND METHODOLOGY THAT ACCOUNTS FOR**  
11 **THE PORTION OF THE COURSE NOT COMPLETED.**

12           **(E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**  
13 **COMMISSION SHALL REQUIRE THE PAYMENT OF A FEE SET BY REGULATION, AS**  
14 **A CONDITION OF REGISTRATION.**

15           **(2) THE FEES CHARGED SHALL BE SET TO COVER THE**  
16 **APPROXIMATE COST OF IMPLEMENTING A SYSTEM OF REGISTRATION.**

17           **(F) THE COMMISSION SHALL MAKE PUBLIC AND POST ON ITS WEB SITE:**

18           **(1) A LIST OF REGISTERED INSTITUTIONS OF POSTSECONDARY**  
19 **EDUCATION THAT OFFER FULLY ONLINE DISTANCE EDUCATION PROGRAMS IN**  
20 **THE STATE; AND**

21           **(2) IF THE COMMISSION DENIES OR REVOKES THE REGISTRATION**  
22 **OF AN INSTITUTION, THE NAME OF THE DENIED OR REVOKED INSTITUTION.**

23 11-203.

24           (a) The Commission may require any institution of postsecondary education  
25 that is required to obtain a certificate of approval **OR REQUIRED TO REGISTER**  
26 **UNDER § 11-202.2 OF THIS SUBTITLE** to furnish a performance bond or other form  
27 of financial guarantee to the State conditioned that the institution will:

28           (1) Perform faithfully all agreements or contracts it makes with its  
29 students; and

30           (2) Comply with this article.

1 (b) Subject to subsection (d)(3)(ii)2 of this section, any bond or guarantee  
2 required under this section shall be in the form and amount the Secretary requires.

3 (c) (1) The total liability of a surety on a bond or guarantee under this  
4 section may not exceed the amount of the bond or guarantee.

5 (2) If the total amount of claims filed against a bond or guarantee  
6 exceeds the amount of the bond or guarantee, the surety shall pay the amount of the  
7 bond or guarantee to the Secretary for distribution to the claimants.

8 (d) (1) By rule and regulation, the Commission may create and provide for  
9 the operation of [two] **THREE** separate guaranty funds for:

10 (i) For-profit institutions of higher education; [and]

11 (ii) Private career schools; **AND**

12 **(III) INSTITUTIONS OF POSTSECONDARY EDUCATION THAT**  
13 **ARE REQUIRED TO REGISTER UNDER § 11-202.2 OF THIS SUBTITLE.**

14 (2) (i) The private career school fund shall be used:

15 1. To reimburse any student at a private career school  
16 who is entitled to a refund of tuition and fees because the institution has failed to  
17 perform faithfully any agreement or contract with the student or failed to comply with  
18 any provision of this article; or

19 2. For any other function directly related to the original  
20 purpose of the fund deemed appropriate by the Secretary.

21 (ii) The for-profit institution of higher education fund shall be  
22 used to reimburse any student at a for-profit institution of higher education who is  
23 entitled to a refund of tuition and fees because the institution has failed to perform  
24 faithfully any agreement or contract with the student or failed to comply with any  
25 provision of this article.

26 **(III) 1. THE FUND FOR INSTITUTIONS OF**  
27 **POSTSECONDARY EDUCATION THAT ARE REQUIRED TO REGISTER UNDER §**  
28 **11-202.2 OF THIS SUBTITLE SHALL BE USED TO REIMBURSE ANY STUDENT AT**  
29 **ANY OF THESE INSTITUTIONS WHO IS ENTITLED TO A REFUND OF TUITION AND**  
30 **FEES BECAUSE THE INSTITUTION HAS FAILED TO PERFORM FAITHFULLY ANY**  
31 **AGREEMENT OR CONTRACT WITH THE STUDENT OR FAILED TO COMPLY WITH**  
32 **ANY PROVISION OF THIS ARTICLE.**

33 **2. THE COMMISSION MAY REDUCE THE**  
34 **CONTRIBUTION OF OR EXEMPT AN INSTITUTION FROM THE REQUIREMENT TO**

1 CONTRIBUTE TO THE FUND AFTER A PERIOD OF TIME SET BY REGULATION  
2 DURING WHICH NO CLAIM AGAINST THE FUND HAS BEEN SUSTAINED ON BEHALF  
3 OF A STUDENT PARTICIPATING IN A FULLY ONLINE DISTANCE EDUCATION  
4 PROGRAM OFFERED IN THE STATE BY THE INSTITUTION.

5 3. NOTWITHSTANDING SUBSUBPARAGRAPH 2 OF  
6 THIS SUBPARAGRAPH, A STUDENT WHO TAKES COURSES FROM AN INSTITUTION  
7 EXEMPTED FROM CONTRIBUTION TO THE FUND UNDER SUBSUBPARAGRAPH 2  
8 OF THIS SUBPARAGRAPH MAY MAKE A CLAIM AGAINST THE FUND IN  
9 ACCORDANCE WITH SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH.

10 [(iii)] (IV) 1. The funds shall be continuing, nonlapsing  
11 funds, not subject to § 7-302 of the State Finance and Procurement Article.

12 2. Any unspent portions of the funds may not be  
13 transferred or revert to the General Fund of the State, but shall remain in the funds to  
14 be used for the purposes specified in this subsection.

15 3. No other State money may be used to support the  
16 funds.

17 [(iv)] (V) The Commission shall be subrogated to and may  
18 enforce the claim of any student to the extent of any actual or authorized  
19 reimbursement from the funds.

20 (3) (i) Each for-profit institution of higher education or private  
21 career school that is required to obtain a certificate of approval **AND, SUBJECT TO**  
22 **PARAGRAPH (2)(III)2 OF THIS SUBSECTION, EACH INSTITUTION OF**  
23 **POSTSECONDARY EDUCATION REQUIRED TO REGISTER UNDER § 11-202.2 OF**  
24 **THIS SUBTITLE** shall pay an annual fee into the appropriate fund.

25 (ii) 1. Subject to subparagraph 2 of this subparagraph,  
26 the Commission shall determine the amount of the fee based on the probable amount  
27 of money needed for the funds for each fiscal year. If the moneys in the guaranty funds  
28 are insufficient to satisfy duly authorized claims, the participating institutions may be  
29 reassessed and shall pay the additional amounts required.

30 2. The amount of the annual fee charged to a for-profit  
31 institution of higher education may not exceed 0.0025 of all gross tuition, or \$30,000,  
32 whichever is less.

33 (iii) The Commission may not issue a certificate of approval **OR**  
34 **REGISTRATION** to, and shall revoke any certificate of approval **OR REGISTRATION**  
35 previously issued to, an institution that fails to pay any annual fee or reassessment.



1 (iv) The Commission shall deposit into the appropriate fund any  
2 penalty assessed against a for-profit institution of higher education, **INSTITUTION OF**  
3 **POSTSECONDARY EDUCATION REQUIRED TO REGISTER UNDER § 11-202.2 OF**  
4 **THIS SUBTITLE**, or private career school, respectively, under the terms of § 11-204 of  
5 this subtitle.

6 (4) (i) The funds shall be maintained by the State Comptroller who  
7 may deposit the assets of the funds in any manner that is consistent with the purposes  
8 of the funds.

9 (ii) All interest or other return on fund investments shall be  
10 credited to the funds.

11 (5) The Commission, through the Attorney General, may enforce any  
12 claim to which the Commission has been subrogated under this subsection.

13 11-204.

14 (a) If the Commission believes that an institution of postsecondary education  
15 does not meet the conditions or standards on which its certificate of approval,  
16 **REGISTRATION**, or any other approval issued by the Commission or Secretary, was  
17 based, the Commission shall give the institution written notice specifying the  
18 deficiencies believed to exist.

19 (b) (1) The notice shall specify the alleged deficiencies, and direct the  
20 institution to correct them within a period of not less than 30 days.

21 (2) If the institution requests a hearing, the Commission shall hold a  
22 hearing on the matter within 60 days of receipt of the request, subject to the  
23 requirement that any request for a hearing must be received by the Commission  
24 within 20 days of the institution's receipt of the notice of deficiencies.

25 (3) Subject to subsection (f) of this section, action on the notice of  
26 deficiencies shall be stayed until a determination is made after the hearing.

27 (4) Notwithstanding § 11-206(b)(3) of this subtitle, at the discretion of  
28 the Secretary, action on any approval request by an institution issued a notice of  
29 deficiencies may be stayed until a determination is made after the hearing.

30 (c) (1) If a hearing is not requested within the specified time period, or if  
31 the notice of deficiencies is upheld in whole or in part after a hearing, the Commission  
32 may reprimand the institution or suspend or revoke the institution's certificate of  
33 approval or any other approval issued by the Commission or Secretary.

34 (2) (i) Instead of or in addition to reprimanding a for-profit  
35 institution of higher education, **INSTITUTION OF POSTSECONDARY EDUCATION**

1 **REQUIRED TO REGISTER UNDER § 11-202.2 OF THIS SUBTITLE**, or private career  
2 school, or suspending or revoking any approval issued to a for-profit institution of  
3 higher education or private career school **OR REGISTRATION ISSUED TO AN**  
4 **INSTITUTION OF POSTSECONDARY EDUCATION UNDER § 11-202.2 OF THIS**  
5 **SUBTITLE**, the Commission may impose a penalty of up to \$5,000 for each violation as  
6 specified in regulations adopted by the Commission.

7 (ii) In accordance with the provisions of this section, the  
8 Commission shall deposit any penalty assessed against a for-profit institution of  
9 higher education, **INSTITUTION OF POSTSECONDARY EDUCATION REQUIRED TO**  
10 **REGISTER UNDER § 11-202.2 OF THIS SUBTITLE**, or private career school into the  
11 **RESPECTIVE** guaranty fund [for for-profit institutions of higher education or for  
12 private career schools] if such funds exist. Otherwise, all penalties shall be deposited  
13 into the General Fund of the State.

14 **(D) (1) IN ADDITION TO ANY OTHER SANCTION IMPOSED UNDER THIS**  
15 **SECTION, AN INSTITUTION OF POSTSECONDARY EDUCATION THAT IS REQUIRED**  
16 **TO REGISTER UNDER § 11-202.2 OF THIS SUBTITLE THAT WILLFULLY AND**  
17 **KNOWINGLY VIOLATES THE PROVISIONS OF THIS SUBTITLE SHALL BE:**

18 **(I) SUBJECT TO REVOCATION OF REGISTRATION; AND**

19 **(II) PROHIBITED FROM ENROLLING MARYLAND STUDENTS**  
20 **IN FULLY ONLINE DISTANCE EDUCATION PROGRAMS IN THE STATE.**

21 **(2) MARYLAND STUDENTS WHO ATTEND AN INSTITUTION**  
22 **PROHIBITED FROM ENROLLING MARYLAND STUDENTS UNDER PARAGRAPH**  
23 **(1)(II) OF THIS SUBSECTION SHALL BE ALLOWED TO COMPLETE A FULLY ONLINE**  
24 **DISTANCE EDUCATION PROGRAM IN THE STATE THAT IS IN PROGRESS.**

25 **(3) IF AN INSTITUTION IS REQUIRED TO REGISTER UNDER §**  
26 **11-202.2 OF THIS SUBTITLE AND THE INSTITUTION DOES NOT REGISTER WITH**  
27 **THE COMMISSION WITHIN 6 MONTHS OF ENROLLING ITS FIRST MARYLAND**  
28 **STUDENT OR THE INSTITUTION ENROLLS ADDITIONAL MARYLAND STUDENTS IN**  
29 **VIOLATION OF THIS SECTION, THE PERSON WHO SUBMITS THE AFFIDAVIT**  
30 **REQUIRED UNDER § 11-202.2(C)(2)(II) OF THIS SUBTITLE IS GUILTY OF A**  
31 **MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING**  
32 **\$10,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.**

33 **[(d)] (E)** In imposing any sanctions under this section, the Commission  
34 shall consider:

35 (1) The seriousness of the deficiency;

- 1 (2) The harm caused by the deficiency;
- 2 (3) The good faith of the institution and any corrective actions taken;
- 3 (4) Any history of previous deficiencies; and
- 4 (5) Other pertinent circumstances.

5 **[(e)] (F)** (1) An institution that is aggrieved by an order of the  
6 Commission has the right to judicial review provided by Title 10, Subtitle 2 of the  
7 State Government Article.

8 (2) The decision of the Commission shall be presumed correct and the  
9 institution has the burden of proving otherwise.

10 (3) The Commission shall be a party to the proceeding.

11 **[(f)] (G)** (1) The Secretary may at any time following written notice of  
12 the deficiencies and prior to the Commission's final decision seek an injunction or  
13 other judicial remedy in accordance with § 11-107 of this title, if the Secretary  
14 determines that the public interest requires enforcement of the provisions of this  
15 article or any applicable regulations.

16 (2) If a court grants relief prior to a hearing that was requested on a  
17 timely basis, the Commission shall schedule a hearing in regard to the notice of  
18 deficiencies within 2 weeks of the issuance of the court's order, unless the institution  
19 requests a delay.

20 24-707.

21 (a) Local education agencies, community colleges, public senior higher  
22 education institutions, and State agencies shall:

23 (1) Make every effort to comply with the data requirements and  
24 implementation schedule for the Maryland Longitudinal Data System as set forth by  
25 the Governing Board; and

26 (2) Transfer **[student] STUDENT-LEVEL AND TRANSCRIPT-LEVEL**  
27 data and workforce data to the Maryland Longitudinal Data System in accordance  
28 with the data security and safeguarding plan developed under § 24-704(g)(6) of this  
29 subtitle.

30 (b) Private secondary schools may transfer student data and workforce data  
31 to the Maryland Longitudinal Data System in accordance with the data security and  
32 safeguarding plan developed under § 24-704(g)(6) of this subtitle.

1           (c) For-profit and private nonprofit institutions of higher education, AND  
2 **INSTITUTIONS OF POSTSECONDARY EDUCATION THAT ARE REQUIRED TO**  
3 **REGISTER UNDER § 11-202.2 OF THIS ARTICLE** shall transfer student-level AND  
4 **TRANSCRIPT-LEVEL** enrollment data, degree data, and financial aid data for all  
5 Maryland residents to the Maryland Longitudinal Data System in accordance with the  
6 data security and safeguarding plan developed under § 24-704(g)(6) of this subtitle.

7           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 July 1, 2012.