

Article - Education

§11–105.

(a) In addition to any other powers granted and duties imposed by this title and subject to any restrictions imposed by law, the Commission has the powers and duties set forth in this section.

(b) (1) The Commission shall coordinate the overall growth and development of postsecondary education in the State.

(2) (i) In consultation with the governing boards and agencies concerned with postsecondary education in the State, the Commission shall develop and periodically update an overall plan consistent with the Charter, known as the State Plan for Higher Education, that shall identify:

1. The present and future needs for postsecondary education and research throughout the State;

2. The present and future capabilities of the different institutions and segments of postsecondary education in the State; and

3. The long-range and short-range objectives and priorities for postsecondary education and methods and guidelines for achieving and maintaining them.

(ii) The Commission shall ensure that the State Plan for Higher Education complies with the State's equal educational opportunity obligations under State and federal law, including Title VI of the Civil Rights Act.

(iii) In developing the State Plan for Higher Education, the Commission shall incorporate the goals and priorities for higher education identified in this Division III and, for the University System of Maryland, including those identified in §§ 10–209 and 12–106 of this article.

(3) (i) The Commission shall submit to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly a quadrennial review of the plan by July 1, 2009, and by July 1 of each fourth year thereafter.

(ii) The quadrennial review shall include a report on the status and needs of postsecondary education in the State.

(4) In the year immediately following the quadrennial review of the State Plan for Higher Education and in accordance with Subtitle 3 of this title, the

Commission shall review, negotiate as necessary, and approve the appropriate role, function, and mission of each public institution of postsecondary education in the State.

(5) (i) With respect to the College Park Campus of the University of Maryland, the Commission shall direct the Board of Regents of the University System of Maryland to develop and implement a plan for the enhancement of that campus as the State's flagship campus with programs and faculty nationally and internationally recognized for excellence in research and the advancement of knowledge.

(ii) With respect to the constituent institutions of the University System of Maryland in the Baltimore region, the Commission shall direct the Board of Regents of the University System of Maryland to maintain and enhance a coordinated Higher Education Center for Research and Graduate and Professional Study in the Baltimore area.

(iii) With respect to Morgan State University, the Commission shall direct the Board of Regents of Morgan State University to develop and implement a plan for the enhancement of that institution and designation as the State's preeminent public urban research university with the appropriate programs, faculty, and facilities.

(6) The Commission has statewide coordinating responsibility for the community colleges and shall establish general policies for their operation.

(7) The Commission has authority to approve regional higher education centers to operate in the State and has statewide coordinating responsibility for regional higher education centers.

(8) The Commission may distribute strategic incentive funds to an institution of higher education or a regional higher education center to encourage attainment of the goals and priorities set forth in the State Plan for Higher Education.

(9) The Commission has statewide coordinating responsibilities for institutions of higher education to ensure the State achieves the goals established under § 10-205 of this article.

(c) With respect to the community colleges, the Commission:

(1) May provide grants-in-aid for the planning of new community colleges and new programs in existing community colleges;

(2) Shall administer programs of State support and financial assistance for the community colleges;

(3) Shall assist and represent the community colleges in seeking and administering federal money available to them;

(4) May designate any community college instructional program as a statewide or regional program;

(5) Shall assure that courses and programs offered are within the scope of the mission of the community colleges;

(6) Shall assure that State funds for community colleges are spent prudently and in accordance with State guidelines;

(7) Shall provide centralized data processing assistance; and

(8) Shall coordinate relationships between the community colleges, the State and county public school systems, and the private high schools to:

(i) Facilitate cooperation among them in the guidance and admission of students to the community colleges; and

(ii) Arrange for the most advantageous use of facilities.

(d) (1) A regional higher education center must be approved by the Commission before the center is authorized to operate in the State.

(2) With respect to the regional higher education centers, the Commission:

(i) May require submission of strategic plans in accordance with guidelines adopted by the Commission;

(ii) May provide grants to regional higher education centers for ongoing operating expenses and lease payments in accordance with the funding formula in paragraph (4) of this subsection;

(iii) Shall administer programs of State support and financial assistance for the regional higher education centers;

(iv) Shall assure that courses and programs offered are within the scope of the approved missions of the regional higher education centers and specifically satisfy the criteria set forth in § 10-212(b) of this article; and

(v) Except as provided in paragraph (3) of this subsection, shall assure that State funds for the regional higher education centers are:

1. Spent prudently and in accordance with State guidelines; and

2. Consistent with the State Plan for Higher Education and the approved mission statements of the regional higher education centers.

(3) With respect to the regional higher education centers administered by the University System of Maryland, the University System of Maryland shall assure that State funds for the regional higher education centers are spent prudently and in accordance with State guidelines.

(4) (i) 1. In this paragraph the following words have the meanings indicated.

2. “Degree-seeking student” means a student enrolled in a 2+2, baccalaureate, master’s, or doctoral degree program at a regional higher education center.

3. “2+2 program” means a collaborative program between a community college and a 4-year university that leads to a bachelor’s degree.

(ii) As funding is provided in the annual State budget, the Commission shall calculate the amount of the annual apportionment for each regional higher education center administered by the Commission using the following funding formula:

1. A base allocation for each center of \$200,000;

2. Incentive funding for degree-seeking, full-time equivalent students that is tied to the inflation-adjusted fiscal year 2005 General Fund appropriations per full-time equivalent student at the Universities at Shady Grove;

3. Lease funding for centers with leased space that have not received State capital funding support; and

4. Special funding for one-time projects or start-up costs.

(iii) The Commission shall adopt regulations to implement the funding formula in this paragraph.

(e) (1) The Commission is the State Postsecondary Education Commission under Title XII of the Higher Education Act of 1965.

(2) The Commission is the State approving agency for purposes of implementing educational benefit programs administered by the Veterans Administration.

(3) The Commission is responsible for receiving and allocating federal funds that, under federal law or regulation, must be allocated among segments by a statewide authority.

(f) (1) The Commission is responsible for:

(i) Developing a program of desegregation and equal educational opportunity, including developing an enhancement plan, for historically African American colleges and universities;

(ii) Monitoring the progress made under, and assuring compliance with, the goals, measures, and commitments contained in the desegregation and equal education opportunity plan;

(iii) Making recommendations concerning needed resources for achieving the goals and objectives under this subsection;

(iv) Requiring reports from each governing board concerning progress toward equal opportunity in all activities and programs under its jurisdiction; and

(v) Reporting to the Governor and, subject to § 2-1246 of the State Government Article, the General Assembly regarding the progress of compliance with desegregation and equal education opportunity plans.

(2) In carrying out its responsibilities under this subsection, the Commission may:

(i) Designate a division or office to coordinate and monitor the equal opportunity activities of public institutions of higher education in the State;

(ii) Require the governing boards of public institutions of higher education to submit plans, reports, and data, in the format and using such forms as the Commission prescribes; and

(iii) Evaluate the effectiveness of institutional efforts and methods.

(g) The Commission shall:

(1) Administer State funds for private nonprofit institutions of higher education in the State; and

(2) Assure that the purposes for which these funds were appropriated are achieved.

(h) The Commission:

(1) May secure, compile, and evaluate information on any matter within its authority, in the format it requires, from any person, agency, regional higher education center, or institution subject to its authority;

(2) May engage in research, data compilation, and publication of reports concerning postsecondary education in the State;

(3) Through its representatives, may visit at any reasonable times and make reasonable inspections of any institution of postsecondary education or regional higher education center subject to its authority;

(4) In consultation with the segments of higher education, shall develop guidelines to assess the adequacy of operating and capital funding based on comparisons with institutions designated as peer institutions and other appropriate factors; and

(5) In consultation with the Department of Budget and Management, annually shall make recommendations consistent with the Charter and the plan under subsection (b) of this section on the appropriate level of funding for higher education.

(i) (1) On or before a date set by the Commission, each of the following governing boards and agencies shall submit to the Commission its annual operating budget requests and proposals for capital projects, by constituent institutions and affiliated regional higher education centers for the next fiscal year:

(i) The Board of Regents of the University System of Maryland;

(ii) The Board of Regents of Morgan State University;

- (iii) The Board of Trustees of St. Mary's College of Maryland;
- (iv) The State Advisory Council for Title I of the Higher Education Act of 1965;
- (v) The Board of Trustees of Baltimore City Community College;
- (vi) The Board of the Maryland Higher Education Investment Program; and
- (vii) The governing body of each regional higher education center.

(2) In consultation with the Department of Budget and Management, the Commission shall present to the Governor, on or before a date set by the Governor, and simultaneously submit a copy to the General Assembly, a consolidated operating and capital budget for higher education that includes the operating and capital budget requests of the governing boards and institutions listed in paragraph (1) of this subsection, the operating budget request of the Commission, a report on the current funding of the adopted sets of peer institutions, and recommendations regarding the funding of higher education.

(3) In cooperation with the Department of Budget and Management, and without affecting the authority or responsibility of the Department under the State Finance and Procurement Article, the Commission shall:

(i) Review proposals for capital projects and improvements proposed by the public institutions of higher education in this State, by the Maryland Independent College and University Association, and by the regional higher education centers; and

(ii) Develop and submit to the Governor and the General Assembly recommendations as to these projects, which shall be consistent with the State Plan for Higher Education provided for in this section.

(4) In submitting recommendations pursuant to paragraph (2) of this subsection, the Commission shall comment on the overall level of funding for higher education in order to achieve the goals established in the State Plan for Higher Education, and may comment regarding funding priorities among segments of higher education and, within public senior higher education, among institutions. In reviewing the various budgets and submitting recommendations thereon, the Commission:

(i) May not require, of any segment or institution, a detailed budget presentation that tends to duplicate other presentations required in the budget process;

(ii) As to the funding priority of any institution, may comment only on the entity as a whole and not on any separate unit of the institution; and

(iii) As to the operating and capital budgets of the Board of Regents of the University System of Maryland and the Board of Regents of Morgan State University:

1. May review and comment only within the broad context of the State Plan for Higher Education; and

2. May not recommend against a budget item approved by the Board of Regents unless the item is clearly inconsistent with the State Plan for Higher Education.

(5) (i) In this paragraph, “higher education” means:

1. The University System of Maryland;

2. Morgan State University;

3. St. Mary’s College of Maryland;

4. All funding for the Maryland Higher Education Commission, including the funding of:

A. The Joseph A. Sellinger Program;

B. The Senator John A. Cade Funding Formula;

C. Fringe benefits provided under aid to community colleges; and

D. All scholarship and grant programs administered by the Commission; and

5. Baltimore City Community College.

(ii) It is the intent of the General Assembly that, barring unforeseen economic conditions, the Governor shall include in the annual budget

submission for fiscal year 2000 and each year thereafter, an amount of General Fund State support for higher education equal to or greater than the amount appropriated in the prior year.

(iii) It is the goal of the State that General Fund and capital State support for higher education be funded annually in amounts that are no less than the following percentages of total General Fund State revenues:

1. 12.5 percent in fiscal year 2000;
2. 13.5 percent in fiscal year 2001;
3. 14.5 percent in fiscal year 2002;
4. 15 percent in fiscal year 2003; and
5. 15.5 percent in fiscal year 2004.

(j) (1) In this subsection, “community college” includes the Carroll County Community College and the Calvert County and St. Mary’s County branch campuses of the College of Southern Maryland established under the authority granted by § 16–103(l) of this article, and does not include the Baltimore City Community College.

(2) The Commission shall administer the general public junior or community college and regional community college construction program in accordance with this section and regulations approved by the Board of Public Works.

(3) (i) Whenever a county desires, or whenever the counties that support a regional community college desire, to participate in the financial assistance provided by the State for the general public junior or community college and regional community college construction program, the jurisdiction or jurisdictions shall file with the Commission a petition and such information as the Commission requires, together with a complete proposal for each project for which financial assistance is desired.

(ii) The Commission shall submit to the Department of Budget and Management a copy of each petition and project proposal.

(4) On receipt of the recommendations of the Department of Budget and Management on each petition and project proposal, the Commission shall make a written report to the Board of Public Works describing the request or requests for financial assistance received and recommending a disposition for each request.

(5) The Board of Public Works shall approve each grant and shall certify the amount of the grant to the Treasurer and the Comptroller. The Comptroller shall issue a warrant to the Treasurer to pay the grant to or on behalf of the petitioning jurisdiction or jurisdictions, when needed, for design and construction or the acquisition of real property or interests in land. The decision of the Board of Public Works shall be in such form as the Board deems advisable and shall be final and conclusive.

(6) The amount of the grant shall be a percentage of total design and construction costs, including site acquisition and development costs, as follows:

(i) For a regional community college established under § 16–202 of this article, 75 percent; or

(ii) For a public junior or community college that is not a regional community college, the greater of:

1. A percentage equal to that percentage of the foundation program that the State pays to the petitioning jurisdiction under § 5–202(b) of this article up to a maximum of 70 percent; or

2. 50 percent.

(7) The Commission shall adopt regulations in accordance with Title 10, Subtitle 1 of the State Government Article concerning the administration of the general public junior or community college and regional community college construction program.

(k) Subject to the provisions in Subtitle 2 of this title, the Commission may:

(1) Review any educational program offered at an institution of postsecondary education; and

(2) Establish guidelines relating to matters of general educational policy.

(l) Subject to the provisions of Title 18 of this article, the Commission shall administer the various scholarship, grant-in-aid, and tuition assistance programs established by law.

(m) (1) Subject to paragraph (2) of this subsection, the Commission shall administer existing programs for interstate and regional cooperation, including reciprocity agreements on matters that affect postsecondary education, and may

propose such new programs as it deems appropriate to the educational needs of the State.

(2) (i) This paragraph shall apply only to a public institution of higher education.

(ii) In order to provide higher educational opportunities at minimum cost to students and the State, the Commission is authorized to participate in the Southern Regional Education Board Interstate Agreement, also known as the Academic Common Market, to provide an opportunity for qualified nonresident students to enroll in selected programs and curricula on a resident tuition and fee charge basis.

(iii) Notwithstanding any other provision of this article, the Commission is specifically authorized to create guidelines for the waiver of the collection of nonresident tuition and fee charges for students from other states that are enrolled in programs and curricula approved by the Commission as part of a regional or interstate agreement.

(iv) Before participating in any interstate agreement under this subsection, the Commission shall consult with:

1. The Board of Regents of the University System of Maryland;
2. The Board of Regents of Morgan State University;
3. The Board of Trustees of St. Mary's College of Maryland; and
4. The affected community colleges.

(v) Any interstate reciprocal agreement entered into by the Commission involving the states of Pennsylvania and West Virginia shall supersede the provisions of § 16–310 of this article to the extent that the provisions of § 16–310 of this article are inconsistent with the reciprocal interstate agreement.

(3) The Commission is authorized to participate in the State Authorization Reciprocity Agreement (SARA).

(n) Subject to the provisions of § 11–401 of this title, the Commission shall serve as the repository for records of defunct institutions of postsecondary education.

(o) (1) The Commission may require an application or renewal fee from an institution of postsecondary education seeking:

(i) Certification to operate in the State;

(ii) An exemption from certification to operate in the State under § 11–202.1(b) of this title; or

(iii) Except for actions relating to programs offered at a regional higher education center, approval of any academic program action taken under Subtitle 2 of this title.

(2) (i) The revenues from application and renewal fees shall be distributed to a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(ii) Subject to subparagraph (iii) of this paragraph, the special fund may be used only to carry out the provisions of Subtitle 2 of this title.

(iii) At the end of each fiscal year, any amount in excess of \$100,000 shall revert to the General Fund.

(iv) Any investment earnings of the fund shall be credited to the General Fund.

(3) Subject to the provisions of § 11–203 of this title, the Commission may require bonds or other financial guaranties from institutions of postsecondary education seeking certification or recertification to operate in the State.

(p) Subject to the provisions of § 11–402 of this title, the Commission shall regulate the solicitation of students by institutions of postsecondary education.

(q) The Commission shall recommend to the Governor and General Assembly appropriate revisions to the Charter.

(r) The Commission shall arbitrate to resolve differences among the segments of higher education in the State.

(s) The Commission shall establish and maintain a higher education information system for planning, coordination, and evaluation purposes.

(t) The Commission shall assist the Maryland Department of Health in implementing the vaccination requirements adopted under § 18–102(c) of the Health – General Article.

(u) The Commission may adopt any rule or regulation necessary to carry out its powers and duties.

(v) The Commission shall perform any other duty delegated to it in accordance with law.