

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Maryland Higher Education Commission**
(DLS Control No. 14-148)

Overview and Legal and Fiscal Impact

These regulations require an institution of higher education that enrolls Maryland students in fully online distance education programs to pay a fee of \$500 to the Maryland Higher Education Commission if the institution enrolls no more than 20 Maryland students, and a fee of \$1,000 if the institution enrolls more than 20 Maryland students. The regulations also establish a reporting requirement for these institutions relating to the placement of five or fewer students in internships, practice, and field experience locations in the State.

The regulations present no legal issues of concern.

Fee revenues for the commission may decrease or remain stable. If fee revenues decrease, a fiscal 2015 deficiency appropriation may be needed. Local finances are not affected.

Regulations of COMAR Affected

Maryland Higher Education Commission:

Fully Online Programs: Registration: COMAR 13B.05.01.06, and .11

Legal Analysis

Summary of Regulations

The regulations reduce, from \$1,000 to \$500, the registration fee for an institution of higher education that enrolls up to 20 Maryland students in fully online distance education programs; the fee remains \$1,000 for such institutions that enroll more than 20 students. The regulations also require these institutions to submit an annual report to the Secretary of Higher Education regarding the details of the placement of no more than five students in an internship, practicum, or field experience location in the State as part of a degree or certificate program.

It should be noted that, under a separate proposed regulation, an institution that places more than five students in an internship, practicum, or field experience location in the State as part of a degree or certificate program is subject to the full authorization/certificate of approval process in order to operate in Maryland, rather than the more lenient registration process typically reserved for these types of institutions. (*See* proposed COMAR 13B.02.01.03B.(12)(c) published on 6/13/2014 in the Maryland Register.)

Legal Issue

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The commission cites §§ 11-105(u), 11-202, and 11-202.2 (as amended by Chapter 132 (Senate Bill 110) of 2014) of the Education Article as statutory authority for the regulations. Section 11-105(u) authorizes the commission to adopt regulations to coordinate the growth and development of postsecondary education in the State. Section 11-202 requires an institution of postsecondary education to obtain a certificate of approval from the commission before doing business in the State, except for specified religious educational institutions and online institutions that are required to register with the commission. Section 11-202.2 requires institutions of higher education that enroll Maryland students in fully online distance education programs to register with the commission and remit a registration fee within three months of enrolling the first Maryland student. The fee may be less than the amount charged to other institutions for institutions that enroll no more than 20 Maryland students.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

Technical Corrections and Special Notes

The commission reports that a correction will be included in the publication of final adoption to clarify that the \$1,000 fee in COMAR 13B.05.01.06A.(2)(b) is triggered if an institution enrolls more than 20 Maryland students.

Fiscal Analysis

Fee revenues for the commission may decrease or remain stable. If fee revenues decrease, a fiscal 2015 deficiency appropriation may be needed. Local finances are not affected.

Agency Estimate of Projected Fiscal Impact

The commission advises that the regulations will result in a revenue loss of an estimated \$12,000 due to reducing the application fee from \$1,000 annually per program to \$500 for 24 fully online institutions of higher education with no more than 20 Maryland students enrolled, which may be partly mitigated if additional institutions choose to register. The commission advises it is aware of out-of-state online institutions that have avoided or declined to register in Maryland in prior years, but the commission is uncertain how many will register given the opportunity to pay a reduced fee. It is also unknown if institutional enrollment will remain steady so that the institutions will continue to qualify for payment of the lower fee. The Department of Legislative Services concurs with this analysis and advises that Chapter 132 of 2014 authorized, but did not require, the fee reduction. The reporting requirement for specified programs with five or fewer students is anticipated to have no fiscal impact.

Impact on Budget

If fee revenues for the commission decrease, rather than remain stable (revenue neutral), the commission may need a deficiency appropriation for fiscal 2015. A total of \$540,915 in special funds from academic program approval fees and certificate-of-approval and registration fees are appropriated to support the commission's administrative costs in fiscal 2015. The exact budgetary impact cannot be determined, since it is unknown how many institutions not currently registered in the State will decide to become registered due to this regulation. However, it is estimated that the maximum deficiency appropriation needed will be \$12,000.

Agency Estimate of Projected Small Business Impact

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

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