

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Maryland Higher Education Commission
(DLS Control No. 16-268)**

Overview and Legal and Fiscal Impact

For an institution of higher education that loses its accreditation due to the United States Department of Education (USDOE) terminating its recognition of the institution's accrediting agency, the regulation establishes a process for the institution to be temporarily approved to operate in Maryland while seeking new accreditation from a recognized accrediting agency.

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.02.02.08

Legal Analysis

Summary of Regulation

Within four years of an in-State institution of higher education receiving approval from the Maryland Higher Education Commission to operate within the State, the institution is required to apply for accreditation with an organization recognized as an accrediting agency by the USDOE to grant institutional accreditation. The regulation revises existing language to authorize the Secretary of Higher Education to extend the four year time period in which an institution is required to obtain accreditation. If the accreditation of an institution of higher education is terminated, the regulation clarifies that the institution's authority to operate in Maryland ends on the date the accreditation is terminated unless the institution continues to be accredited by an organization that is recognized as an accrediting agency by the USDOE to grant institutional accreditation.

Additionally, for an institution of higher education that loses its accreditation due to the USDOE terminating its recognition of the institution's accrediting agency, the regulation establishes a process for the institution to be temporarily approved to operate in Maryland while

seeking new accreditation from a recognized accrediting agency. If an institution of higher education loses its accreditation due to the accrediting agency's recognition being terminated by the USDOE on or after July 1, 2016, the institution must inform the commission within seven calendar days of the accrediting agency's loss of recognition and must work to find another organization recognized as an accrediting agency by the USDOE to grant the institution accreditation; otherwise, the institution's authority to operate in Maryland ends on the date the USDOE terminates its recognition of the accrediting agency. The Secretary of Higher Education may grant the institution a temporary approval to operate in Maryland if:

- the institution applies for accreditation with another accrediting agency within 60 days of the original accrediting agency's loss of recognition by the USDOE; and
- the institution is accredited by another agency within four years of the original accrediting agency's loss of recognition. The regulation authorizes the secretary to extend this time period on conditions the secretary deems appropriate.

Legal Issues

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The commission cites §§ 11-105(u), 11-201 and 11-202 of the Education Article as statutory authority for the regulation. Section 11-105(u) gives the commission authority to adopt any rule or regulation necessary to carry out its powers and duties. Section 11-201 requires the commission to establish minimum requirements for issuing certificates, diplomas, and degrees by institutions of postsecondary education. Section 11-202 states that an institution must have a certificate of approval from the commission in order to operate in Maryland, unless the institution meets certain exceptions.

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

Technical Corrections and Special Notes

In response to suggestions from the Department of Legislative Services, staff for the commission agreed to make the following changes to the regulation:

- amending the existing language in section (L)(5) rather than adding all new language;
- amending section (M)(3)(a) to include the following language in italics to avoid creating a situation in which an institution is past the 60 day window before the regulation is effective: "Within 60 days of the accreditation agency's loss of recognition *or the effective date of*

this regulation, whichever occurs later, the institution shall apply for accreditation from an organization recognized as an accrediting agency by the USDOE.”; and

- making several technical corrections to section (M)(2), (3)(b), and (4)(a) and (b).

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The regulation, among other things, establishes a process for an in-State institution to be temporarily approved to operate in Maryland while seeking new accreditation from a recognized accrediting agency if the institution loses its accreditation due to the USDOE terminating its recognition of the institution’s accrediting agency. The commission advises that the regulation has no fiscal impact on the State or local governments. The Department of Legislative Services concurs.

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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