

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Maryland Higher Education Commission
(DLS Control No. 16-270)**

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 registered 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:

Fully Online Programs: Registration: COMAR 13B.05.01.05

Legal Analysis

Summary of Regulation

An out-of-state institution of higher education that offers a fully online distance education program to Maryland students is required to register with the Maryland Higher Education Commission. In order to obtain a registration from the commission, the institution must be accredited by an accrediting body recognized and approved by the USDOE. The regulation clarifies that if an institution's accreditation is terminated, the institution's registration 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 registered 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 registration 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 registration 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), 11-202(a), and 11-202.2 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 11-202 states that an institution that enrolls Maryland students in a fully online distance education program in the State is required to register with the commission. More specifically, §§ 11-202(a)(3) and 11-202.2 state that an institution must be accredited by an accrediting body that is recognized and approved by the USDOE in order to receive a registration from the commission.

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 section (B)(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 (B)(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

An out-of-state institution of higher education that offers a fully online distance education program to Maryland students is required to register with the Maryland Higher Education Commission. The regulation, among other things, establishes a procedure for an institution to be temporarily registered to operate in Maryland while seeking new accreditation, 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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