

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Maryland Higher Education Commission**
(DLS Control No. 16-312)

Overview and Legal and Fiscal Impact

This regulation repeals the condition that a religious educational institution must not “offer instruction in nonsectarian or general education” to operate without a certificate of approval from the Maryland Higher Education Commission in order to conform to recent legislation. The regulation also clarifies that religious educational institutions accredited by accrediting bodies recognized by the United States Department of Education (USDE) must seek a certificate of approval from the commission.

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: Exemption Procedures for Religious Educational Institutions and

Religious Institutions: COMAR 13B.02.04.02

Legal Analysis

Background

Chapters 161 and 162 of the Acts of 2016 amended § 11-202.1(b)(1) of the Education Article, which concerns an exception for religious educational institutions to the general rule that institutions of higher education must have a certificate of approval from the commission in order to operate in the State. The law previously required religious educational institutions to refrain from offering instruction in nonsectarian or general education if they were to qualify for the exception to the certificate requirement. Chapters 161 and 162, however, removed this condition. This regulation makes a corresponding change to COMAR 13B.02.04.02, which implements the law.

Summary of Regulation

The regulation repeals the condition that religious educational institution not offer instruction in nonsectarian or general education in order to operate without a certificate of approval from the commission; in doing so, the regulations reflects Chapters 161 and 162. The regulation

also clarifies that religious educational institutions that are accredited by an accrediting body recognized by USDE must seek a certificate of approval from the commission.

Legal Issues

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The commission cites §§ 11-105(u) and 11-202.1(b) of the Education Article as statutory authority for the regulation. Section 11-105(u) authorizes the commission to adopt rules and regulations to carry out its powers and duties. Section 11-202.1(b) concerns the conditions under which a religious educational institution may operate without a certificate of approval from the commission.

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

Technical Corrections and Special Notes

As submitted, the notice of purpose failed to reflect the clarification that religious educational institutions that are accredited by accrediting bodies recognized by USDE must obtain a certificate of approval from the commission (see § C of the regulation). The commission has indicated that it will correct this omission.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The commission advises that the regulation has no impact on State or local governments and merely implements Chapters 161 and 162 of 2016 (Senate Bill 128 and House Bill 878). The Department of Legislative Services concurs and notes that any fiscal impact is due to that legislation. The fiscal and policy note for Senate Bill 128 and House Bill 878 assumed that the commission's special fund revenues would increase minimally beginning in fiscal 2017 due to additional religious institutions applying for an exemption and that the commission could process the minimal number of new applications and renewal applications using existing resources.

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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