

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Maryland Higher Education Commission**
(DLS Control No. 19-187)

Overview and Legal and Fiscal Impact

These regulations implement Chapter 515 of 2019 by establishing criteria for determining whether a private institution of higher education is nonprofit or for-profit and a process by which this determination is made by the Maryland Higher Education Commission.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Maryland Higher Education Commission:

Nonpublic Schools: Classification of Nonpublic Institutions of Higher Education:
COMAR 13B.01.03.01 through .09

Legal Analysis

Summary of Regulations

These regulations provide a procedure for the commission to determine if a nonpublic institution of higher education is a private nonprofit institution of higher education or a for-profit institution of higher education. Specifically, the regulations define relevant terms, delegate certain responsibilities to the Secretary of Higher Education, establish criteria to determine the status of a nonpublic institution of higher education, establish reporting requirements for the institutions as well as the process for the commission to make the determination, including the timing, hearings, and appeals.

Legal Issues

These regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The commission cites Chapter 515 and §§ 11-105(u) and 11-407.1 of the Education Article as statutory authority for these regulations. Section 11-105(u) authorizes the commission to adopt

any regulation necessary to carry out its powers and duties. Chapter 515 created § 11-407.1, which requires the commission to determine whether a reportable incident constitutes private inurement. Additionally, Chapter 515 modified the definition of a “private nonprofit institution of higher education” and added the defined term “reportable incident” in § 10-101.

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

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The regulations implement Chapter 515 of 2019 (House Bill 461), which alters the definition of “private nonprofit institution of higher education” and requires the commission to determine whether an incident constitutes private inurement if a private nonprofit institution of higher education engages in a reportable incident. The commission advises that the regulations have no fiscal impact. The Department of Legislative Services concurs as any such impact was already accounted for in the fiscal and policy note for House Bill 461, which assumed that the commission would require an additional half-time staff specialist to implement the requirements of the bill.

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

Contact Information

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