

STATE OF MARYLAND
OFFICE OF THE GOVERNOR



LAWRENCE J. HOGAN, JR.
GOVERNOR

STATE HOUSE
100 STATE CIRCLE
ANNAPOLIS, MARYLAND 21401-1925
(410) 974-3901
(TOLL FREE) 1-800-811-8336

February 7, 2018

Delegate Cheryl D. Glenn, Chair
Legislative Black Caucus of Maryland, Inc.
6 Bladen Street, House Office Building
Annapolis, MD 21401

Re: Coalition for Equity and Excellence in Maryland Higher Education, et al. v.
Maryland Higher Education Commission, et al.

Dear Chair Glenn:

I am writing to give you information regarding the status of the Coalition for Equality and Excellence in Maryland Higher Education et al. v. Maryland Higher Education Commission et al., and the Hogan Administration's goals for this case.

Preliminarily, it might be useful to provide some background. This suit was filed in 2006 in the United States District Court for Maryland. While filed in the name of, among others, the Coalition for Equality and Excellence in Maryland Higher Education, the suit focuses on the history and impact of state actions on Maryland's four distinguished historically black institutions, Morgan State University, University of Maryland Eastern Shore, Coppin State University and Bowie State University ("HBIs"). In 2013, Judge Catherine Blake rejected the vast majority of the plaintiffs' claims but did find a constitutional violation due to unnecessary academic program duplication which she ruled continues to have segregative effects at the state's HBIs. Under the previous administration, the parties entered into unsuccessful mediation with Federal Judge Paul Grimm for more than a year beginning in 2014. The parties then submitted competing remedial proposals to the court. The state put forth a \$50 million proposal. The plaintiffs did not assign a cost in their written proposal but represented to the court that they believed it would cost between \$300 million and \$600 million. At that time, the State estimated that the plaintiffs' proposal would cost between one and two billion dollars.

In November of 2017, Judge Blake signed a ruling and order which described, on a broad basis, the range of remedies for the constitutional violation, prescribing some things, such as the addition of unique, high demand programs at the HBIs, proscribing institutional mergers and stating that certain other proposals, such as program transfers, need not be part of the remedy. Significantly, the court found that the current MHEC program approval process is adequate and functioning properly. Judge Blake ordered the appointment of a special master to make a study and to fashion a remedy to be recommended to the court for approval.

Page Two
Delegate Cheryl D. Glenn, Chair
February 7, 2018

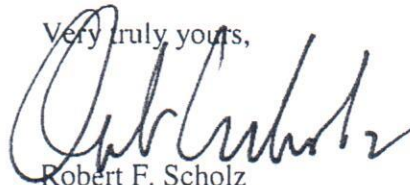
Because there are significant legal and policy questions which have ramifications for the state well beyond this case, the defendants have noted an appeal and requested a stay of the judge's order until these issues can be resolved by appellate courts. Yesterday, the court granted the defendant's stay request. All proceedings are now stayed until the Fourth Circuit rules on the state's appeal. MHEC and the other defendants have expressed a desire to participate in a mediation program under the auspices of the United States Court of Appeals for the Fourth Circuit in an attempt to resolve the case on terms both sides find agreeable. We hope to hear shortly as to whether the plaintiffs are willing to participate in an effort to resolve this now 12-year-old case.

At the specific direction of Governor Hogan, the State is willing to discuss a comprehensive settlement up to \$100,000,000 in funds over a ten year period which would supplement the state's support for the HBIs. This is more than double the amount contained in the state's proposal to the court in the remedial phase of the litigation. It represents a serious, multi-year commitment which we believe goes well beyond what the law requires. A settlement on this basis would remove the litigation risk for both the plaintiffs and defendants and enable all to move forward knowing that the litigation will have advanced higher education in Maryland. Any settlement would not include payment for the plaintiff's attorneys; all funds would benefit the HBIs and their students.

In addition to serious legal questions which would need to be resolved, there are, of course, questions as to how the money would be spent consistent with the Judge's order as well as how the funding would be divided among the HBIs. All of these matters would have to be negotiated between the parties, resolved with the courts, and included in a to be negotiated settlement agreement. Ultimately, I am writing to let you know that Governor Hogan wants to bring this litigation to an end in a manner satisfactory to all parties, and in the best interests of all Marylanders, especially current and future HBI students.

I hope this is helpful. Please contact me at (410) 974-3005 with any questions you may have.

Very truly yours,



Robert F. Scholz
Chief Legal Counsel