



Larry Hogan
Governor

Boyd K. Rutherford
Lt. Governor

Ian D. MacFarlane
Chair

James D. Fielder, Jr., Ph. D.
Secretary

October 1, 2020

Dear President:

On September 4, 2020, we circulated the guidance information provided below. This guidance document will take effect on October 1, 2020 and will be used as the standard for which we will evaluate objections. Please note that we have included two additional, clarifying items regarding (1) experiential learning placement sites and (2) geographic proximity as it pertains to evidence regarding unreasonable program duplication that would cause demonstrable harm. The guidance provided below is grounded in Maryland regulations.

Guidance Regarding Objections for In-State Academic Program Review

Process

COMAR 13B.02.03.27 provides the steps in the academic program review process conducted by the Maryland Higher Education Commission (MHEC). As part of the academic program proposal review process, there is a 30-day period in which the proposed new academic program or substantial modification to an existing program is circulated to all institutions and segments for comments and objections. The Secretary or an institution may file an objection to implement a proposed program based on at least one of four criteria:

1. Inconsistency of the proposed program with the institution's approved mission
2. Not meeting a regional or Statewide need consistent with the State Plan
3. Unreasonable¹ program duplication which would cause demonstrable harm to another institution
4. Violation of the State's equal educational opportunity obligations under State and federal law

The proposing institution's governing board and president is notified immediately if an objection is submitted. The proposing institution has the opportunity to respond.

The Secretary will review the objection and determine if an institutional objection is justified. A justified objection must be based on one of the four criteria. Additionally, a justified objection must be accompanied by detailed data and information supporting the reasons for the objection. Guidance regarding what must be included in an objection to be considered "justified" is provided below.

¹ For the purposes of a duplication analysis, the terms "unreasonable" and "unnecessary" are used interchangeably.

The Secretary may request additional information from the proposing or objecting institutions. If the Secretary determines that an objection is justified, the Secretary shall negotiate with the proposing institution's governing board and president, or designees, to modify the proposed program in order to resolve the objection. The Secretary may invite representatives of the objecting institution to any negotiations.

I strongly encourage an objecting institution to contact the proposing institution prior to submitting an objection to the MHEC to discuss the objection and concerns. If possible, the institutions should discuss any opportunity for collaboration.

Institutions are also welcome to submit comments or a commentary regarding a proposed program. However, a comment letter will not be considered an objection. An objection letter must clearly state that the institution is objecting to the proposed program and which of the four criteria applies.

What should be included in an objection letter

A justified objection must be based on one of the four criteria stated above. Additionally, a justified objection must be accompanied by detailed data and information supporting the objection. For each criteria, guidance regarding what must be included in an objection for it to be considered "justified" is provided below. It is highly beneficial to include as much information as possible in an objection letter.

1. Inconsistency of the proposed program with the institution's approved mission

COMAR 13B.02.03.07 requires that a proposed program be central to the institution's mission. Additionally, the proposed program must be related to the program emphasis as outlined in the mission statement, be an institutional priority for program development consistent with the institution's strategic planning process, and be adequately funded for at least the first 5 years of program implementation.

For an objection that is based on an inconsistency of the proposed program with the institution's approved mission, an objection with detailed data and information must include:

- Evidence that the proposed program is not central to the proposing institution's mission, including specific information regarding existing and current institutional strategic planning related to academic program development and expansion

2. Not meeting a regional or Statewide need consistent with the State Plan

COMAR 13B.02.03.08 provides the criteria for a program proposal to demonstrate need. Four kinds of needs may be considered:

1. The need for the advancement and evolution of knowledge
2. Societal needs, including expanding educational opportunities and choices for minority and educationally disadvantaged students at institutions of higher education

3. Occupational and professional needs relative to upgrading vocational/technical skills or meeting job market requirements
4. The need to strengthen and expand the capacity of historically black institutions to provide high quality and unique educational programs

Additionally, market demand is an indicator of regional or Statewide need. Market demand can be evaluated using a variety of data sources, including:

- Employment projections prepared by the Maryland Department of Labor, Bureau of Labor Statistics, Census Data, and the Maryland Department of Commerce, as well as professional and trade associations and other regulatory agencies or entities (e.g., Maryland Department of Health, program accreditors)
- Market surveys that clearly provide quantifiable and reliable data from prospective employers on the educational and training needs and the anticipated number of vacancies expected over the next 5 years
- Data showing the current and projected supply of prospective graduates

For an objection that is based on a program proposal not meeting a regional or Statewide need consistent with the State Plan, an objection with detailed data and information must include:

- Evidence that existing programs meet the regional or Statewide need. Title, degree level, and HEGIS and CIP codes for existing programs must be included.
- Evidence that there is no need for the advancement and evolution of knowledge in the domain or field of study related to the proposed program
- Evidence that there is no societal need for the proposed program
- Evidence that the proposed program does not expand educational opportunities and choices for minority and educationally disadvantaged students at institutions of higher education
- Evidence that the proposed program does not meet occupational and professional needs relative to upgrading vocational/technical skills or meeting job market requirements
- Evidence that the proposed program does not strengthen and expand the capacity of historically black institutions to provide high quality and unique educational programs
- Evidence that there is stable or declining employment growth for graduates for the proposed program
- Evidence that there is no supply of prospective graduates for the proposed program

3. Unreasonable program duplication which would cause demonstrable harm to another institution

COMAR 13B.02.03.09 provides the requirements for determining program duplication. Ordinarily, proposed programs in undergraduate core programs consisting of basic liberal arts and sciences disciplines are not considered unnecessarily duplicative. Unreasonable duplication is a more specific concern in vocational/technical, occupational, graduate, and professional programs which meet special manpower needs.

For an objection that is based on unreasonable program duplication which would cause demonstrable harm to another institution, an objection with detailed data and information must include:

- Evidence that there is an existing program with similar curriculum and program objectives. The title of the program, degree level, area of specialization (if applicable), and HEGIS and CIP code must be provided in the objection.
- Evidence of current student enrollment in an existing program.
- Evidence that the purpose or objective of the proposed program is duplicative of an existing program.
- Evidence and thorough analysis that an existing program has similar curriculum and course offerings. A side-by-side comparison of courses and course objectives must be included in the objection.
- Evidence and analysis that existing program(s) currently meet market demand.
- Evidence that tuition costs (including fees), admission requirements, and graduation requirements of the proposed program is duplicative of an existing program.
- Evidence that the implementation of the proposed program would cause demonstrable harm to another institution. Demonstrable harm may include the transition of enrollment from one institution to another such that enrollment in an existing program would decline in light of the addition of a similar or duplicative program. Demonstrable harm may also include the saturation of experiential learning placement sites required by formal entities (e.g., accreditors, licensing boards) should a duplicative program be authorized.

This evidence shall be substantiated on the basis that the proposed program to be offered is not unreasonably duplicative of existing programs in a specific geographically proximate location in the State.

4. Violation of the State's equal educational opportunity obligations under State and federal law

For an objection that is based on a violation of the State's equal educational opportunity obligations under State and federal law, an objection with detailed data and information will include:

- Evidence that the proposed program excludes from participation in, denies the benefits of, or otherwise subjects to discrimination any of the State's citizens on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, gender identity, disability, or genetic information.
- Evidence that the proposed program unnecessarily duplicates programs being offered at the State's Historically Black Colleges and Universities (HBCUs) absent a sound educational justification for the dual operation of broadly similar programs, or otherwise impacts the competitiveness of the State's HBCUs.

In addition to the detailed data and information highlighted above, it is greatly beneficial when an objection letter includes potential resolutions (other than a denial of the program) for the proposing institution and the Secretary to consider. While this is not an explicit requirement of COMAR for an objection letter, a proposed solution provided in the objection letter significantly helps during our review and subsequent negotiation meetings.

If you have any questions regarding the academic program review process or the information provided in this letter, please contact Trish Gordon McCown, Director for Academic Affairs (trish.mccown@maryland.gov).

Thank you,

A handwritten signature in blue ink that reads "James D. Fielder". The signature is fluid and cursive, written in a professional style.

Dr. James D. Fielder
Secretary

CC: MHEC Segmental Advisory Council
Chief Academic Officers (via acadprop.mhec@maryland.gov listserv)