

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

THE COALITION FOR EQUITY AND
EXCELLENCE IN MARYLAND
HIGHER EDUCATION, *et al.*

v.

MARYLAND HIGHER EDUCATION
COMMISSION, *et al.*

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Civil No. CCB-06-2773

ORDER

It is hereby ORDERED, ADJUDGED and DECREED, that the defendants are hereby permanently enjoined and restrained from maintaining vestiges of the prior *de jure* system of segregation in the form of unnecessary program duplication in the public higher education system in the State of Maryland. To implement this injunction the appropriate parties identified shall take the following Remedial action:

1. A Special Master shall be appointed to develop a Remedial Plan and to monitor the implementation of the terms and obligations imposed by this Remedial Order, subject to the supervision and orders of the court. The Special Master shall consist of a person with appropriate experience in the field of public higher education, to be appointed by the court. The parties shall submit to the court within 60 days, the name, resume, and cost proposal of their suggested Special Master, agreed upon if possible. If agreement is not possible, each side may submit one or two names for the court's consideration. The court will appoint one of the persons suggested, or another person if no suitable candidate is suggested. The court also has the discretion to remove and

replace the Special Master as the court deems necessary during the continuation of this Remedial Order.

2. The Special Master will be authorized and expected to consult with the Presidents, or their delegates, of both the TWIs and HBIs, the Maryland Secretary of Education, the leadership of MHEC, the parties' experts, and anyone else he or she deems appropriate to craft a Remedial Plan designed to eliminate vestiges of the prior *de jure* system in the area of unnecessary program duplication as outlined below:
 - a. The Remedial Plan shall propose a set of new unique and/or high demand programs at each HBI.
 - b. The proposed set of new unique and/or high demand programs shall build on the areas of strength at individual HBIs and take into account where physical building capacity is already in place.
 - c. The Special Master shall use the plaintiffs' experts' suggested programmatic niches as a starting point in determining new unique and/or high demand programs to establish at each HBI, particularly where the programmatic niches overlap with suggestions made by the HBIs in their remedial proposals.
 - d. The Special Master shall take into account any potential effect on accreditation in proposing new programs at the HBIs.
 - e. The Special Master shall not propose program transfers or closings unless agreed to by the affected institutions.
 - f. The Remedial Plan shall include UMES as necessary to preserve and reinforce the existing unique and high demand programs at the university, recognizing that this decree imposes a state-wide remedy.

- g. The Remedial Plan shall include annual funding in an amount to be recommended by the Special Master for marketing, student recruitment, financial aid, marketing, and related initiatives over the next five and ten years. The allocation to each individual HBI shall be used within their discretion for these purposes.
- h. The Remedial Plan shall include cost estimates for each individual section of the Plan and priorities for implementation of the Plan over the Plan's life.
- i. The Remedial Plan shall include a process by which parties may request amendments to the Remedial Plan during its implementation.
 - i. Each party will have the opportunity to respond, oppose, and/or propose alternatives to requested amendments.
 - ii. Any amendments to the Remedial Plan will require court approval.
- j. The Special Master shall work promptly and diligently to create the Remedial Plan consistent with this Order.
 - i. The parties shall respond promptly to the Special Master's inquiries and requests and shall, in good faith, cooperate with the Special Master to create and implement the Remedial Plan.
 - ii. The parties shall, to the best of their ability, seek consensus when assisting the Special Master.
- k. While drafting the Remedial Plan the Special Master shall select, from possible alternatives consistent with this Order, the remedy best-suited for eliminating the vestiges of *de jure* segregation, considering the educational soundness and practicability of possible alternatives.

1. A final draft of the Remedial Plan shall be submitted to the court for approval within one year from the date the Special Master is appointed.
3. The Special Master shall be authorized to appoint a Committee to assist him or her in drafting and implementing the Remedial Plan.
4. The Special Master is an agent of the court, and accordingly any records maintained by the Special Master, including draft reports of any kind, will not be deemed public records until and unless filed as a public record on the court's docket.
5. The Special Master's work will be funded by the State at a reasonable rate to be agreed upon, if possible, and submitted to the court for approval. Periodic requests for reimbursement will be submitted to the parties for review. Any disagreement will be resolved by the court.
6. As long as the Special Master is drafting and overseeing the execution of the Remedial Plan, the Special Master shall be given the opportunity to provide input during any MHEC program approval processes that occur to ensure they do not interfere with the Remedial Plan.
7. Although the Special Master shall consult with the parties, he or she has final authority over the Remedial Plan subject to the court's approval.
8. Within 90 days of assuming duties as Special Master, the Special Master, in conjunction with the parties, will develop a Reporting Plan for the first year of implementation of this Remedial Order. The Reporting Plan will:
 - a. Provide an overview for creation and implementation of the Remedial Plan for the next five and ten years. This overview will include a specific schedule and deadlines for the upcoming year of the Remedial Order and a general schedule

for successive years that will extend beyond the first year of the Remedial Order. The schedule will include dates for submitting draft Remedial Plans and periodic updates on the Special Master's progress to the parties and the court.

- b. The Reporting Plan also may propose amendment to, or clarification of, the procedures, dates, and methods of implementation set forth in this Order, without altering its substance.
- c. The Special Master will submit the Reporting Plan to the parties for review and approval. The parties will have 30 days to either approve or propose changes to the Reporting Plan. Prior to approval, the parties agree to hold at least one in-person meeting with the Special Master to discuss the Reporting Plan. If either party proposes changes, the Special Master will have 15 days to accept or reject those changes. If the Special Master objects to any of the proposed changes and/or the parties suggest changes that are in conflict, either party or the Special Master will provide the rationale for its proposal or objection, in writing, and the parties and the Special Master will have 15 days to confer to resolve the disagreement.
- d. The Special Master will submit the Reporting Plan to the Court for approval after it is approved by the parties. If, after good faith attempts, disagreement remains unresolved between the parties and/or the Special Master so that the Reporting Plan is not approved by the parties in accordance with the preceding paragraph, the Special Master will submit the Reporting Plan to the Court, noting the areas of disagreement, which will be resolved by the court.

- e. For each subsequent year, the Special Master shall revise and update the Reporting Plan pursuant to the process described above. The Special Master will initiate the development of the Reporting Plan for the upcoming year at least 90 days before the previous year's Reporting Plan will conclude.
- f. Subsequent years' Reporting Plans also will include:
 - i. A description of the work conducted by the Special Master during the previous year;
 - ii. A projection of the work to be completed during the upcoming reporting period;
 - iii. Any anticipated challenges or concerns related to the creation and implementation of the Remedial Plan; and
 - iv. Admissions, enrollment, and graduation and completion data for each institution implicated in the plan. This data shall be disaggregated by racial or ethnic identity and shall be provided for each institution's entire student body, for each level within each institution (undergraduate, Master's, and Doctoral), and for all programs within each institution. This data shall be provided in compliance with all relevant federal law.

9. This Order will expire in ten years from the date of its entry, unless shortened or extended by further Order at the request of the parties or on the court's own motion.

This Order constitutes a final judgment. The court will retain jurisdiction to enforce compliance with this Order.

Nov. 8, 2017
Date

/s/
Catherine C. Blake
United States District Judge