



Maryland Independent College and University Association

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## TESTIMONY

### Senate Education, Health, and Environmental Affairs Committee

#### *SB 543 – Higher Education - Admissions Process - Criminal History (Maryland Fair Access to Education Act of 2017)*

**Tina Bjarekull, President**

February 15, 2017

#### MEMBERS

Capitol Technology University

Goucher College

Hood College

Johns Hopkins University

Loyola University Maryland

Maryland Institute College of Art

McDaniel College

Mount St. Mary's University

Notre Dame of Maryland University

St. John's College

Stevenson University

Washington Adventist University

Washington College

#### AFFILIATE MEMBERS

Ner Israel Rabbinical College

St. Mary's Seminary & University

MICUA supports the values and aspirations of SB 543. An individual with a criminal history should have access to appropriate educational programs and a chance to pursue a broad range of career opportunities. The MICUA member institutions do not deny enrollment simply because an applicant indicates that he or she has a criminal history. However, there are circumstances that may prohibit an applicant from enrolling at a college or may limit the specific programs an applicant may pursue. In addition, MICUA has concerns with certain provisions of the legislation that are unclear or create liability concerns and security risks.

The legislation prohibits institutions from considering information about the criminal history of an applicant during the admissions process. This provision would adversely impact students who enroll in fields of study that lead to certain professional careers. For example, students could work for years – at great expense and effort – to achieve academic degrees in the health, education, and legal fields, only to discover they are not able to obtain their licensures due to prior convictions. This does not mean that applicants with certain criminal convictions cannot enroll in any academic program, but certain criminal convictions will limit an applicant's ability to enter certain professions.

The legislation prohibits an institution from rescinding an offer of admission or “unreasonably” restricting a student's activities or involvement in campus life. Federal and State laws require colleges and universities to maintain a safe learning environment free from sexual assault, harassment, or misconduct. Colleges and universities may have a legal obligation to restrict access to individuals convicted of certain sexual crimes. As drafted, SB 543 would make it difficult for institutions to comply with federal Title IX laws and could jeopardize an institution's ability to participate in Title IV aid.

The legislation allows an institution to consider information about a crime committed by an applicant if the institution “knows or should know that the crime is ongoing.” MICUA is not certain how to interpret this provision. What is an “ongoing crime,” and what expectations are there that the institution would know of such crimes? MICUA believes this language could create serious liability and safety risks.

In deciding to limit a student’s access to campus residency or activities, the institution must develop an individualized process for determining the relationship between the student’s criminal history and campus life. That process must be in writing and must take into consideration several factors. Students must have an opportunity to appeal the individualized plan developed by the institution and may challenge any limitations. Most MICUA member institutions provide additional support services to students who report past criminal convictions, including counseling and guidance. Therefore, we do not oppose an individualized process to support students. However, we are opposed to the appeal provisions, which could create additional expenses and liabilities.

Finally, eleven of the MICUA member institutions use the Common Application for college admissions. This is an application used by hundreds of institutions across the country. The Common Application creates efficiencies for students and allows students to apply to multiple institutions with minimal effort. The Common Application includes a question on prior criminal convictions. If SB 543 passes, Maryland’s colleges and universities would not be allowed to use the Common Application and could see a reduction in applications for enrollment.

Despite these concerns, MICUA remains committed to the concept of the legislation. We believe in access and opportunity and understand the importance of education in breaking the cycle of recidivism. The Goucher Prison Education Program is an example of this commitment. Goucher College has offered men and women incarcerated in the Maryland Correctional Institution for Women and the Maryland Correctional Institution at Jessup the opportunity to pursue a college education since 2012. Goucher has offered more than 75 classes at the prisons. College credits earned through these classes are highly transferrable, allowing men and women released before program completion to finish their education on either Goucher’s main campus or at another college or university.

MICUA has met with the bill sponsor and representatives of the Jobs Opportunities Task Force. We appreciate the goals of the legislation, but regret that we cannot support this bill as drafted.