February 28, 2020

Ian MacFarlane, Chair
Maryland Higher Education Commission
c/o Geoff Newman
Assistant Secretary
Via email to Geoff.newman@maryland.gov

COMMENTS IN OPPOSITION TO
PROPOSED CHANGE TO COMAR 13B.08.10.02
“COLLEGE PREPARATORY PROGRAM” TO “MARYLAND HIGH SCHOOL DIPLOMA.”

Dear Commissioner MacFarlane:

I write on behalf of the members of our organization to oppose the proposed change in regulation 13B.08.10.02 which would change the educational prerequisite for the Rawlings Scholarship from “college preparatory program” to “Maryland high school diploma.”

First, there has been no change in the statutes which establish the Rawlings scholarship, so there is no compelling need to make any change at all.

Second, although the phrase “Maryland high school diploma” appears several times in statutes and regulations, it is nowhere defined. Placing an undefined phrase into any regulation can result in unexpected and improvident consequences. Placing an undefined phrase into a definition is profoundly self-defeating. One cannot define an undefined phrase by using another undefined phrase!

Apropos this point, note that some regulations capitalize thus: “Maryland high school diploma” (COMAR 13A.03.02.09) but others capitalize thus: “Maryland High School Diploma” (COMAR 13A.08.01.07.B(2)) Do these phrases mean different things when capitalized differently? It’s an open question.

Third, while the phrase is not defined, COMAR 13A.03.02.09.B and. D imply that—whatever it is—it can be issued only by a public school, or by passing a GED test. The result is that students...
who have had a solid college prep program but earned their diploma in a private school or home school context are either possibly or definitely excluded.

Fourth, the legislature was wise to provide that a “college preparatory program” is the educational prerequisite. That should be respected. There are many ways a student can receive a robust college prep program. There are many strong college prep programs that do not result in a “Maryland high school diploma.” On the other hand, there may be students who receive such a diploma who did not, in fact, receive a college prep program. Changing the regulation to “Maryland high school diploma” will exclude some students who should be included, and it will include some students who should be excluded. This manifestly violates the will of the legislature.

Fifth, while the Maryland State Department of Education has power to “approve” non-public high schools, a regulation states that “The diploma of a secondary school may not imply that the requirements for graduation from a Maryland public secondary school have been met.” COMAR 13A.09.09.09. The status of diplomas issued even by “approved” private schools is therefore somewhat ill-defined.

Furthermore, private schools operated by churches are not required to obtain approval at all. COMAR 13A.09.09.01.B. The status of the diploma of such a school is ill-defined. Furthermore, there are many excellent accredited high schools that operate by way of online programs but have no physical presence in Maryland and therefore are not required to obtain state approval. The status of those diplomas is also ill-defined.

Finally, homeschooling is allowed in Maryland under the supervision of a county board of education, or under another educational authority that follows state regulations. The status of those diplomas is ill-defined, as well.

By “ill-defined,” I do not, of course, mean to question their validity. I am merely saying, in effect, that limiting the Rawlings scholarship to recipients of “Maryland High School Diplomas” will automatically and unnecessarily exclude many students who have received a robust college prep program.

It would be far wiser to not connect Rawlings eligibility to a diploma of any sort, but simply adhere to the language the legislature has established. If there is truly a need to define “college preparatory program”, it should be done in a nuanced, meaningful way so it is clear that students who have graduated from every form of lawful education in Maryland can qualify if their program prepared them for college.

Another way to approach it would be to adopt this regulation in lieu of the one proposed:

(3) “College preparatory program” includes, but is not limited to, a program of study leading to the award of a Maryland high school diploma.
This would make it clear that recipients of Maryland High School Diploma would qualify (and this would be somewhat overbroad, as I have already explained), but it would have the benefit of not peremptorily excluding many students who have received a solid college prep program via a lawful program of secondary education.

Respectfully submitted,

[Signature]

Scott A. Woodruff