

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
 Enrolled - Revised

House Bill 1030
 Appropriations

(Delegate Smith)

Education, Health, and Environmental Affairs

Maryland Higher Education Commission - Procedures and Operations -
 Alterations

This bill (1) expedites award notification under the Delegate Howard P. Rawlings Educational Excellence Awards (EEA) Program; (2) requires the Maryland Higher Education Commission (MHEC) to use the funding provided in the fiscal 2023 operating budget to design and implement a unified scholarship application, as specified, to replace the current Maryland College Aid Processing System (MDCAPS) site on or before July 1, 2025; (3) requires each open meeting of MHEC to be publicly streamed and archived as specified; (4) authorizes tax information to be disclosed to MHEC; and (5) expresses the intent of the General Assembly that MHEC be reorganized to establish the Office of Student Financial Assistance (OSFA) as an independent agency in fiscal 2024. **The bill takes effect July 1, 2022.**

Fiscal Summary

State Effect: MHEC general fund expenditures increase by *at least* \$101,700 in FY 2023 for one-time programming costs (related to student notification and the unified scholarship application) and to retain part-time contractual support to expedite student notification; sufficient funding has been included in the FY 2023 operating budget to cover the one-time programming costs associated with the unified scholarship application, as discussed below. Future years reflect elimination of one-time costs, inflation, and ongoing costs. To the extent MHEC reorganizes and OSFA is established as an independent agency to align with the intent of the General Assembly, general fund expenditures increase by an indeterminate but significant amount, likely beginning in FY 2023 (not quantified below but discussed in the Analysis section). Revenues are not affected.

(in dollars)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	101,700	20,500	21,200	21,900	22,700
Net Effect	(\$101,700)	(\$20,500)	(\$21,200)	(\$21,900)	(\$22,700)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary:

Award Notification

The bill specifically requires that, by April 15 each year, OSFA send notification to each individual who applied for an EEA indicating whether or not the student is a recipient of an award and, if applicable, the amount awarded to the student. By August 1, 2022, MHEC must update the Maryland Community College Promise Scholarships Program regulations related to award deadlines and based on the newly established EEA award deadline.

Unified Scholarship Application

MHEC must design and implement an application that, on completion, will result in the applicant applying for all the centralized scholarship programs available under MHEC. The unified scholarship application must be available in multiple languages and mobile accessible, including the ability for a student to upload documents from the student's phone. The unified application must also include (1) an electronic inbox that allows a student to see all communications sent to the student in one place; (2) a display that shows in an accessible and clear manner all required documents and the student's progress in completing those documents; (3) the ability for a student to electronically sign all documents; (4) an integration of a student's tax information from the Comptroller as authorized by the bill; (5) a way to contact the commission with any questions for a timely answer; and (6) videos and guidance to explain the application process.

Open Meetings

Each open meeting of MHEC must be made available to the public through live video streaming. MHEC must make a complete, unedited, archived video recording of each open meeting publicly available on the Internet for a minimum of five years after the date of the meeting.

Technical Change

The bill also makes a technical conforming change to specify that the Maryland 9-1-1 Board, formerly named the Emergency Number System Board, is authorized to receive tax information disclosures.

Current Law:

Open Meetings Act, Generally

Under the Open Meetings Act, with limited exceptions, a public body must (1) meet in open session in places reasonably accessible to potential attendees and (2) provide reasonable advance notice of the time and location of meetings, including, when appropriate, whether any portion of a meeting will be in closed session. A “public body” is any entity that (1) consists of at least two individuals and (2) is created by the Maryland Constitution; a State statute; a county or municipal charter; a memorandum of understanding or a master agreement to which a majority of the local boards of education and the Maryland State Department of Education are signatories; an ordinance; a rule, resolution, or bylaw; or an executive order of the Governor or of the chief executive authority of a political subdivision. Exclusions from the definition of “public body” include juries, the Governor’s cabinet and Executive Council, judicial nominating commissions, and single-member entities, among others.

Maryland Higher Education Commission – Membership, Meetings, and Responsibilities

MHEC consists of 12 members appointed by the Governor with the advice and consent of the Senate. Each year, from among the members of MHEC, the Governor must designate a chairperson; MHEC must elect other officers as it requires. The Secretary of Higher Education is appointed by the Governor with the advice and consent of the Senate and is responsible for selecting, organizing, and directing the staff of MHEC and generally executing the policies and decisions of MHEC.

MHEC must meet regularly at such times and places as it determines. A majority of the members then serving on MHEC constitutes a quorum for the transaction of business. No formal action may be taken by MHEC without the approval of a majority of the members of MHEC then serving. MHEC must make all necessary and proper rules for the transaction of business and must keep an accurate and complete record of all meetings.

MHEC is the State of Maryland’s higher education coordinating board responsible for establishing statewide policies for Maryland public and private colleges and universities and for-profit career schools. MHEC also administers State financial aid programs that affect students on a statewide basis. Generally, MHEC is responsible for the overall growth and development of postsecondary education in the State. To that end, MHEC must

develop and implement an overall State Plan for Higher Education, support community colleges, coordinate regional higher education centers, act as the State Postsecondary Education Commission, be the approving agency for purposes of educational benefits programs, develop a program of desegregation and equal education opportunity including developing an enhancement for historically black colleges and universities (better known as HBCUs), and administer State funds for private institutions.

In addition, MHEC has responsibilities related to scholarships established in State law. Subject to specified provisions of State law, MHEC must administer the various scholarship, grant-in-aid, and tuition assistance programs established by law. Further, one of the councils that MHEC must establish is a Financial Assistance Advisory Council.

Office of Student Financial Assistance – Organization and Responsibilities

OSFA is established as a suboffice of MHEC and is headed by an Executive Director who must be appointed by the Secretary of Higher Education. The Executive Director exercises powers and duties subject to the general policies of MHEC and the general supervision of the Secretary of Higher Education. Generally, in conducting their operations, MHEC and OSFA must share resources and coordinate their activities in order to enhance the efficient utilization of resources.

Generally, OSFA is responsible for (1) administering student financial assistance programs; (2) issuing and disseminating public information about student financial assistance; (3) regulating the form and submission of applications for student financial assistance; and (4) conducting conferences and interviews with applicants to evaluate their eligibility. OSFA may adopt rules and regulations necessary to carry out its powers and duties, including those related to the performance of a service obligation as a condition of award, the repayment of student financial assistance funds should a recipient fail to perform a service obligation, and waiver and deferment of a service obligation in circumstances determined by MHEC. Generally, OFSA must administer any federal scholarships or grants to students or institutions, arrange for the competitive examination as required for certain scholarships, and analyze the financial need of each applicant for applicable scholarships on behalf of the person or institution who awards the scholarship.

Delegate Howard P. Rawlings Educational Excellence Awards Program – Generally

The EEA Program consists of two types of awards for full-time undergraduate students: (1) Guaranteed Access (GA) Grants that are awarded to the neediest students to ensure that 100% of educational costs are paid; and (2) EA Grants that are awarded to low- and moderate-income students to assist in paying educational costs.

An EEA award may be used at a degree-granting institution of higher education, an eligible institution with an associate's degree program that provides transfer credit for an accredited

baccalaureate program, or a hospital diploma school for training registered nurses if the curriculum is approved by MHEC. The award may be used for educational expenses as defined by MHEC, including tuition and fees and room and board.

An EEA award may be used at a school in another state if (1) there is a specified reciprocal agreement and (2) the school meets the same requirements that an in-state school must meet. OSFA may not award more than 10% of the funds available for either the GA Grant or the EA Grant for use by students attending schools in another state.

EEA award recipients are required to successfully complete 30 credits at the end of their sophomore year to receive their maximum renewal award. A student who fails to meet the 30-credit completion requirement but completes between 24 and 29 credits is eligible for a prorated renewal award.

Guaranteed Access Grant

The GA Grant is a component of the EEA Program that covers 100% of need when combined with a federal Pell Grant for the State's lowest income students. The maximum award is capped at the cost of education at the highest cost four-year University System of Maryland institution, excluding the University of Maryland, Baltimore Campus and the University of Maryland Global Campus. The maximum award for the 2022-2023 award cycle is \$19,300. Students that meet all program criteria, such as enrolling directly from high school and having certain family income limits, are guaranteed funding.

Among other requirements, statute requires that eligible GA Grant applicants must have an annual family income below a poverty index determined by MHEC. MHEC has set the income requirement using the federal poverty level, which accounts for family size, at 130% for first-time students and 150% for renewal awards. Students meeting all the requirements are guaranteed funding.

Educational Assistance Grant

The EA Grant is a need-based scholarship intended to meet 40% of financial need at four-year institutions and 60% at community colleges for full-time undergraduates from low- to moderate-income families. The maximum award amount authorized by statute is \$3,000, which has not changed since fiscal 1996. An EEA award may be used at a degree-granting institution of higher education, an eligible institution with an associate degree program that provides transfer credit for an accredited baccalaureate program, or a hospital diploma school for training registered nurses if the curriculum is approved by MHEC. The award may be used for educational expenses as defined by MHEC, including tuition and fees and room and board.

Awarding and Selection of Applicants – Details

The EEA award cycle is summarized in **Exhibit 1**. As explained in more detail below, the majority of the work is completed by OSFA in the six-week period between April 1 and May 15.

Exhibit 1 Delegate Howard P. Rawlings Educational Excellence Awards Timeline

<u>Date</u>	<u>Action</u>	<u>Source</u>
March 1	Applicant submits FAFSA or MSFAA	COMAR 13B.08.10.08
April 1	Renewal Applicant for GA submits supplemental information for first priority consideration	COMAR 13B.08.10.08
April 1	Initial Applicant for GA submits supplemental information for second priority consideration	COMAR 13B.08.10.08
April 2-May 15	Renewal and Initial GA Applicants submit supplemental information for third priority consideration	COMAR 13B.08.10.08
May 1	OSFA notifies each Senator and each Delegate with a list of individuals in each legislative district to whom EEA awards are awarded	Education Article § 18-307
May 15	Institutions must certify to OSFA all EEA recipients for spring semester	COMAR 13B.08.10.12
December 15	Institutions must certify to OSFA all EEA recipients for fall semester	COMAR 13B.08.10.12

EEA: Delegate Howard P. Rawlings Educational Excellence Awards Program
FAFSA: Free Application for Federal Student Aid
GA: Guaranteed Access Grant
MSFAA: Maryland State Financial Aid Application
OSFA: Office of Student Financial Assistance

Note: This timeline excludes the campus-based EEA awards, which are for students who apply for EEA awards after the March 1 deadline.

Source: Department of Legislative Services

MHEC identifies first-time applicants who are potentially eligible for the EEA grants based on the Free Application for Federal Student Aid (FAFSA) or the Maryland State Financial Aid Application (MSFAA) (for qualified children of undocumented immigrants who are eligible for in-state tuition) submitted by the March 1 deadline set by MHEC. Previously, students were required to determine themselves whether they might be eligible and submit a separate GA application to MHEC.

According to regulations, eligible applicants must complete the FAFSA or MSFAA by March 1. Regulations state that an applicant for the GA Grant who files the FAFSA or MSFAA after March 1 may not be considered for an award. GA Grant applicants who have completed the FAFSA or MSFAA by March 1 are awarded in the following priority: (1) renewal applicants who submit all supplemental information or documentation requested by OSFA or an institution by April 1; (2) initial applicants who submit all supplemental information requested by OSFA or an institution by April 1; and (3) renewal and initial applicants and who submit all supplemental information requested by OSFA or an institution after April 1 but no later than May 15.

All applicants for the EA Grant must be selected and awards made based upon statewide ranking of each student's expected family contribution (EFC) and need, with the lowest EFC and greatest need awarded first, in the following priority: (1) renewal applicants for EA Grants must be awarded first provided that the renewal requirements are met; and (2) remaining funds must be awarded to all other eligible applicants until all funds are depleted.

According to Education Article § 18-307, OSFA must compile and certify lists for the entire State that rank applicants by financial need. All funds for annual initial grants must be awarded from the statewide list on the basis of greatest financial need. By *May 1* of each year, OSFA must send each Senator and each Delegate a list of individuals in each legislative district to whom EEA awards are awarded. According to regulations, recipients must be notified by OSFA through MDCAPS of the awards. An initial EA or GA grant recipient must log on to MDCAPS to accept an award, except that, in extenuating circumstances as determined by the Executive Director of OSFA, a student may accept an award by providing written acceptance to OSFA.

If State funds are available for this purpose, institutions of higher education may provide EEA awards to students who otherwise meet the requirements for receiving EEA awards but who apply after the March 1 deadline or have other extenuating circumstances.

In addition, students may prequalify for the GA award through participating in the Maryland Next Generation Scholars Program.

Tax Disclosure

Tax information may be disclosed to the following persons: (1) an employee or officer of the State who, by reason of that employment or office, has the right to the tax information; (2) another tax collector; (3) the Maryland Tax Court; (4) a legal representative of the State, to review the tax information about a taxpayer who applies for review, who appeals from a determination, or against whom an action to recover tax or a penalty is pending or will be initiated; (5) any license issuing authority of the State required by State law to verify through the Comptroller that an applicant has paid all undisputed taxes and unemployment insurance contributions payable to the Comptroller or the Secretary of Labor or that the applicant has provided for payment in a manner satisfactory to the unit responsible for collection; (6) specified local officials; (7) specified federal officials; (8) the Maryland Department of Health in accordance with the federal Children's Health Insurance Program Reauthorization Act of 2009; (9) the State Board of Individual Tax Preparers; (10) the Alcohol and Tobacco Commission; and (11) the Emergency Number Systems Board.

Further, the Office of the Comptroller advises that federal law prohibits the disclosure of federal tax return information to nontax authorities, including MHEC, regardless of any State level exemptions.

State Expenditures: Overall, MHEC general fund expenditures increase by *at least* \$101,691 in fiscal 2023 for one-time programming costs to MDCAPS (to expedite student notification for EEA and for MDCAPS to accommodate a unified application process) and part-time contractual support to expedite student notification regarding EEA. The fiscal 2023 operating budget includes funding for not only a unified *application*, but a more unified financial aid *system*.

The bill's streaming and video requirements largely codify current practice and, therefore, can be implemented with existing resources, as discussed below. MHEC can update regulations as necessary with existing resources.

To the extent MHEC is reorganized to establish OSFA as an independent agency to align with the intent of the General Assembly, general fund expenditures increase by an indeterminate but significant amount, likely beginning in fiscal 2023, as discussed below.

The information and assumptions used in this estimate are explained below.

Streaming and Video

MHEC advises that, prior to the COVID-19 pandemic, it retained the services of a third-party contractor to provide live streaming and video recording of meetings. When MHEC began meeting virtually, MHEC switched to using Google Meet to live stream and

post recordings of MHEC meetings. As meetings shift back to in-person, MHEC will need to retain the services of a third-party contractor to stream and record meetings once again at an estimated cost of \$13,200 annually, but any costs associated with that transition would simply be a result of continuing MHEC’s pre-pandemic streaming and recording policy, not the result of any new requirements imposed by the bill. To the extent MHEC continues to meet virtually through fiscal 2023, contractual expenditures resume in fiscal 2024 or later.

Award Notification

General fund expenditures increase by \$48,691 in fiscal 2023. MHEC advises that OSFA cannot provide notice by the bill’s April 15 deadline while also maintaining the existing priority deadline of April 1 with existing resources. Therefore, MHEC advises that three regular full-time positions are needed to implement the bill at an estimated cost of approximately \$250,000 annually. However, the Department of Legislative Services (DLS) advises that the added responsibilities required by the bill are highly seasonal, routine, and largely processed through the automated MDCAPS. Further, OSFA already must provide notification of awards by May 1 each year. Although moving the deadline up by two weeks may generate additional workload, DLS advises it likely does *not* necessitate additional regular, full-time employees. Instead, DLS advises that contractual administrative and technical support is likely sufficient to implement the bill. This estimate reflects the cost of contracting with a third party to make technical changes to MDCAPS in fiscal 2023 and of hiring one administrative support contractor for three months each year beginning in fiscal 2023 to expedite the review of applications by two weeks.

Contractual Position	0.25
Salary and Fringe Benefits	\$21,878
MDCAPS Technical Expenses	20,000
Operating Expenses	<u>6,813</u>
Total FY 2023 State Expenditures	\$48,691

Future year expenditures reflect a contractual position for three months a year, inflation, and ongoing operating expenses.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State’s implementation of the federal Patient Protection and Affordable Care Act.

Unified Application

MHEC advises that it would cost *at least* \$53,000 to update the existing MDCAPS to accommodate a unified application as required by the bill. However, the bill requires

MHEC to use the funding available in the fiscal 2023 budget to generate a new unified application to replace MDCAPS. Further, the fiscal 2023 operating budget, as enacted, includes \$8.0 million in fiscal 2023 for a new unified financial aid system for higher education. The bill does not require the new unified application to be developed until July 1, 2025. Any expenses required to develop a unified application are, therefore, covered by the existing budgetary appropriation to develop a new unified financial aid system for higher education. Costs depend on implementation choices, including the development of a new unified system for financial aid.

Agency Reorganization

Although the bill does not *require* MHEC to create an independent OSFA, MHEC advises that if it were to reorganize to allow OSFA to become an independent agency, OSFA would require significant additional expenditures to replace resources currently shared with MHEC. DLS advises that additional legislation may be necessary to effectuate such a change.

Staffing: Expenses to establish an independent OSFA would include new staffing expenditures such as a budget director and associated staff, a personnel manager and benefits staff, information technology (IT) director and staff, and additional administrative staff for various scholarship programs. As part of the transition, the current staff of OSFA would also need to be transferred from MHEC to the new independent OSFA. MHEC has 69 regular and 9.85 contractual positions authorized in the fiscal 2023 operating budget, including 10 positions required by Chapters 41 and 42 of 2022 for the new program evaluation unit. OSFA positions are not budgeted separately. DLS also advises that the costs associated with the contractual support discussed above would shift to an independent OSFA rather than stay with MHEC.

Shared Services: Additionally, IT services shared by MHEC and OSFA, including MDCAPS, would need to either be separated from MHEC or rebuilt in OSFA, which could entail significant costs. As the bill specifically requires *MHEC* to design and implement a unified scholarship application by July 1, 2025, after the intended separation of OSFA from MHEC, it is likely that duplicate systems must be operational in both MHEC and OSFA. Those costs, however, have not been factored into this analysis.

Office Space: New office space would also likely be required for an independent OSFA with an expanded staff as there is not sufficient additional space in OSFA's current location. Accordingly, moving expenses would also be incurred.

Overall Illustrative Net New Expenditures: If MHEC were reorganized to create an independent OSFA, certain general fund expenditures incurred by MHEC would transfer to the independent OSFA and additional general fund expenditures would be incurred. Net

new general fund expenditures could be as much as \$0.7 million in fiscal 2023 (to prepare for the split – otherwise these costs would be incurred in fiscal 2024 in addition to the new costs discussed below) and likely at least \$0.6 million in fiscal 2024 and each year thereafter – reflecting the bill’s July 1, 2022 effective date and fiscal 2024 target date to splinter OSFA off as an independent agency. The illustrative estimate includes the cost of hiring, beginning in fiscal 2024, *at least* four new staff: one IT director, one fiscal services administrator, one accountant, and one administrative specialist. It reflects positions entirely dedicated to current OSFA operations, including the Executive Director, staying with the independent agency. The illustrative estimate also reflects the cost of leasing additional office space and purchasing additional equipment; certain IT costs (estimated at approximately \$200,000 annually) would simply transfer from MHEC to OSFA and, thus, are not reflected in the net new costs. However, to the extent additional licenses and equipment were required due to the split, additional IT costs would be incurred.

This analysis assumes that equipment and office space could be procured in preparation for a potential split in fiscal 2024, but that any new staff would not be hired until fiscal 2024; thus, their associated expenditures would not be incurred until then. To the extent that positions could continue to be shared between MHEC and OSFA or fewer positions were needed, costs would be less. This illustrative estimate does not reflect any additional costs for the information systems support required to run the scholarship programs OSFA administers (or the requirement in the bill to have *MHEC* design and implement a unified scholarship application, which appears to necessitate duplicate systems).

	<u>FY 2023</u>	<u>FY 2024</u>
Minimum New Positions	0	4.0
Salaries and Fringe Benefits	\$0	\$339,932
One-time Start-up Costs	0	26,192
Moving and Equipment Costs	675,000	0
Ongoing Operating Expenses	<u>0</u>	<u>205,261</u>
Minimum Net New OSFA Expenditures	\$675,000	\$571,385

Future year expenditures would include full salaries with annual increases, inflation, and ongoing operating expenses.

This illustrative estimate does not include the costs associated with any staff, equipment, or other resources transferred from MHEC; it only reflects the additional expenditures necessary to create an independent OSFA. It also assumes no additional costs for MHEC associated with OSFA becoming an independent agency.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 501 (Senator Elfreth, *et al.*) - Education, Health, and Environmental Affairs.

Information Source(s): Maryland Higher Education Commission; Department of Legislative Services

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