



LEGISLATIVE NEWSLETTER

March 1, 2019

PARENTAL NOTIFICATION AND CAMPUS EMPLOYEE INTERVENTION

On Wednesday February 20th, members of the Senate Education, Health, and Environmental Affairs Committee heard testimony regarding Senate Bill 714. The bill authorizes an institution of higher education to notify the parent or legal guardian of a student who is addicted to drugs, at risk of a drug overdose, or at risk of death from drug use.

To the extent that the bill provides a basis for holding an institution responsible if it does not act, the breadth of the bill is challenging for the campuses that comprise the University System of Maryland (USM) and we shared amendments to attempt to address these concerns. USM institutions take the health and welfare of their students seriously, and in cases where the protection of the health or safety of the student or another individual is required in an emergency, professional personnel would, indeed, contact the appropriate persons (parent or guardian for minors and dependent students). Therefore, our campuses are already acting the way the bill would expect.

Our policies and procedures align with the federal regulations on management of information on students, especially under the Family Educational Rights and Privacy Act of 1974 (FERPA). FERPA is a federal law that protects the privacy of student education records. In addition, there are other regulations we must follow. There would be numerous language changes or clarifications required to align this bill with the language of all required laws and regulations. From our perspective the bill is unnecessary, as our institutions already would notify in the limited circumstances defined around health, safety, and serious threat, but if moved forward, we would ask to work on clarifications and revisions of some language in the bill.

For example, our campus personnel cannot know the drug use or addiction status of all our 176,000 students, so some implied preventative actions cannot be accomplished. However, those institutions that have an incident that threatens the health and safety of students take all necessary steps, including notification of parents. It should also be

recognized that many of our students are not minors, so different criteria would apply to the notification of appropriate people if an emergency exists.

COLLECTIVE BARGAINING – TENURED FACULTY, ADJUNCT FACULTY, AND GRADUATE STUDENT EMPLOYEES

Today, in the House Appropriations Committee, members will hear testimony on House Bill 1143. The bill would remove tenured faculty, adjunct faculty, and graduate student employees at the University System of Maryland (USM), Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College from the list of employees who are ineligible to engage in collective bargaining.

An essential process within the USM is referred to “shared governance.” This is a very important process that has served the USM higher education community well for many years. At the System level, USM employs a University System of Maryland Student Council, a Council of University System Faculty, and a Council of University System Staff. Each council is empowered to continually raise issues of concern to the Chancellor and the USM Board of Regents. Shared governance is a collaborative working relationship which provides the necessary follow through to address issues and concerns, and continually assures that administrators are aware of issues arising from the faculty and student stakeholders on the campuses.

Since 2009 the USM has worked to improve the status of the USM's graduate assistants which numbered 5,937 in 2018, and 12,451 adjunct faculty (plus 4,713 at UMUC), through the formalization of a “Meet and Confer” process that gives these students and adjunct faculty several opportunities to engage the administration, including the right to engage a labor representative in discussions with campus administrators.

The USM adopted a Policy on Graduate Assistantships, which addressed the following issues:

- Due process protection and grievance rights;
- Participation in the shared governance process;
- Stipends comparable to those at peer institutions; and
- Clarification of the university's expectations re duties and time commitments; for example, a full-time assistantship requires the student to work an average of 20 hours per week.

Current Maryland collective bargaining law includes USM employees generally. The statute expressly excludes from collective bargaining ***“a student employee, including a teaching assistant or a comparable position, fellow, or post-doctoral intern.”***

The University System of Maryland remains comfortable with the existing law because:

- Currently, in addition to a monetary stipend, most USM graduate assistants receive a tuition-free education, fully subsidized state health care, and stipend increases in each year of a contract.
- The “Meet and Confer” process provides graduate assistants with many of the perceived benefits that collective bargaining offers.
- The cost of negotiation, and potential for productivity slowdowns for both faculty and students, outweighs any perceived benefit.

HOUSE BILL WOULD PLACE CHANCELLOR IN LEAD BARGAINING ROLE

Last week, the House Appropriations Committee discussed House Bill 767. House Bill 767 requires the Chancellor of the University System of Maryland (USM) to act on behalf of USM and its constituent institutions, rather than the institutions’ presidents under current law, for the purposes of collective bargaining. The bill would also revoke the authority of the twelve USM institution presidents to designate a representative to negotiate on behalf of their institution; instead, it would assign that authority to the USM Chancellor or designee. The cross file, Senate Bill 696, will be heard on March 7th in the Senate Finance Committee at 1pm.

House Bill 767 essentially weakens a president’s authority as chief executive officer to manage the institution’s workforce. The USM respectfully urged an unfavorable report.

The authority of institution presidents is set forth in Title 12 of the Education Article. That law states that the president of each institution “**shall serve as the chief executive officer of the institution.**” The USM believes that for institution presidents to carry out these responsibilities, it is important that they retain the authority to designate an appropriate collective bargaining representative for collective bargaining. This bill would also require institutions to engage in consolidated bargaining on behalf of up to three separate bargaining units at the institution – exempt employees, nonexempt employees, and sworn police officers. These bargaining units have diverse interests and, in many cases, are subject to different personnel policies and legal rights and obligations. For example, nonexempt employees are paid hourly; they are legally entitled to overtime payments under the federal Fair Labor Standards Act (FLSA) and, following probation, may only be terminated for cause.

Nonexempt employees are paid on a salary basis and are exempt from the FLSA’s overtime requirements. They may be terminated for cause or separated from employment following a prescribed period of notice ranging from one month to one year.

There are separate pay programs and rules regarding retirement eligibility for each group, and each group accrues annual leave at different rates. Although police officers are technically nonexempt employees, their terms and conditions of employment are different from both groups, stemming in part from the nature of their duties and the university's need to provide 24 hour/day police coverage.

USM GRIEVANCE PROCEDURES UNDER SCRUTINY

Last week in House Appropriations House Bill 822 would fundamentally change the nature of the USM institutions' employment relationship with their exempt employees that has been analyzed and updated for 20 years. The USM urged an unfavorable report for House Bill 822. The Senate cross file (Senate Bill 711) will be heard at 1pm in Senate Finance Committee.

In 1999, the Board of Regents conducted a comprehensive review of its personnel policies and pay program. Following that review, new policies were implemented, including a policy that specifies that exempt employees hired after January 2, 2000 are "at will" employees. Exempt employees who were already in USM service as of that date retained their "for cause" termination status. Nonexempt, or "classified," employees were not transitioned to an at-will status. A new pay program also was implemented that upgraded the position and salaries of many employees.

As at-will employees, USM exempt employees may be separated either (1) for cause or (2) following a period of prescribed notice, without cause, so long as the separation is not discriminatory. The period of notice is based on the employee's length of service, and ranges from one month to one year. Both exempt and nonexempt employees have the right to appeal their separation under the USM's current grievance policy.

The USM explained to the House committee that the policies the Board of Regents, as amended periodically to keep up with an ever-changing workforce, continue to serve the institutions well. Most importantly, they provide institutions with the flexibility necessary to address academic and other program changes, while also providing exempt employees with a reasonable period of notice to allow them time to search for alternative employment.

STUDENT DEBT RELIEF ACT IN SENATE AND HOUSE COMMITTEES

On February 20th in the Senate Education, Health and Environmental Affairs Committee the USM testified in favor of Senate Bill 88. The Student Debt Relief Act of 2019 would expand the Maryland Promise Scholarship Program, which assists students in financial need to attend community college, to a Promise Plus Program that would support students who are successfully moving from a community college degree on to a four-year institution. The bill's cross file (House Bill 41) was heard in House Appropriations yesterday.

USM campuses have worked hard to shift as much support as possible to “need-based” financial aid programs, but serious need continues to exist. With support from lawmakers, USM has been aggressive in efforts to make tuition and fees more affordable. Not too long ago, the USM had the 6th highest tuition and fees in the nation. Today we are much closer to the middle of the pack, having dropped down to 21st. In further support of affordability, overall undergraduate institutional financial aid—both merit-based and need-based—has increased almost 150 percent in recent years, with the need-based portion up about 200 percent.

The overall effect of our efforts to keep tuition increases modest while ramping up financial aid has been significant, especially in terms of USM student debt. In fact, nearly 50 percent of USM bachelor’s degree recipients graduate without debt. And of the 50 percent of students with debt, the median total loan debt of the most recent graduates is approximately \$25,000.

Upcoming Bill Hearings

HB 548

Collective Bargaining - Student Athletes

Delegate Lierman

Hearing 3/01 at 1:00 p.m.

Appropriations

HB 658

(SB 755)

Interagency Agreements - Historically Black Colleges and Universities – Goals

Delegate Valentino-Smith

Hearing 3/01 at 1:00 p.m.

Appropriations

HB 1143

Higher Education - Collective Bargaining - Tenured Faculty, Adjunct Faculty, and Graduate Student Employees

Delegate Acevero

Hearing 3/01 at 1:00 p.m.

Appropriations

HB 1244

(SB 330)

Public Buildings and Places of Public Accommodation - Diaper-Changing Facilities

Delegate Acevero

Hearing 3/05 at 1:00 p.m.

Health and Government Operations

HB 1271

Maryland Wine and Grape Promotion Fund - Grants to Public Institutions of Higher Education – Authorization

Delegate Lisanti

Hearing 3/07 at 1:00 p.m.

Economic Matters

HB 1273

(SB0599)

Immigration Enforcement - County Boards of Education, Public Institutions of Higher Education, and Hospitals – Policies

Delegate Wilkins

Hearing 3/05 at 1:00 p.m.

Judiciary

SB 696

(HB 767)

Collective Bargaining - Chancellor of the University System of Maryland – Negotiations

Senator Kramer

Hearing 3/07 at 1:00 p.m.

Finance

SB 711

(HB 822)

University System of Maryland - Regular Employees - Grievance Procedures and Disciplinary Actions

Senator Beidle

Hearing 3/07 at 1:00 p.m.

Finance

SB 755

(HB 658)

Interagency Agreements - Historically Black Colleges and Universities - Goals

Senator Peters

Hearing 3/05 at 1:00 p.m.

Education, Health, and Environmental Affairs

SB 795

(HB 1163)

Income and Property Taxes - Qualified Maryland Opportunity Zone Investments

Senator Hayes

Hearing 3/08 at 1:00 p.m.

Budget and Taxation

SB 839

(HB 994)

Labor and Employment - Criminal Record Screening Practices (Ban the Box)

Senator Carter

Hearing 3/15 at 1:00 p.m.

Finance