

**STATEMENT OF  
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(NAFEO)  
BEFORE THE COMMISSION TO DEVELOP THE MARYLAND MODEL FOR  
FUNDING HIGHER EDUCATION  
Wednesday, November 12, 2008  
7:00 PM  
University of Maryland, College Park  
Stamp Student Union, Colony Ballroom**

Good evening Chairman Bohanan and members of this eminent Commission. My name is Lezli Baskerville. I am president and chief executive officer of the National Association for Equal Opportunity in Higher Education (NAFEO). NAFEO is the nation's only national membership and advocacy association representing all of the nation's Historically Black Colleges and Universities (HBCUs)<sup>1</sup> and the emerging Predominantly Black Institutions (PBIs) 2- and 4-year, private, public and land-grant. Our members are located in thirty-five states, the District of Columbia, and Virgin Islands. NAFEO member institutions enroll 500,000 students. They employ some 53,000 faculty and have roughly 5 million alumni.

The association was founded in 1969 by presidents and chancellors of HBIs. The presidents of the Maryland HBIs were among the founding members of NAFEO. We include among our founding fathers and mothers Dr. Samuel L. Myers, the then president of Bowie State University who also served as NAFEO's second president and to this day, the longest-serving president of the association. He is widely credited with having brought the association into eminence as the leading voice for blacks in higher education and for education excellence, equity, access and success. Chancellor James B. Lyons, Sr. was a member of the NAFEO board of directors and its executive team during his tenure as President of Bowie State University as was President Nathaniel Pollard. Upon his appointment as the third president of Coppin State University in 1970, Dr. Calvin W. Burnett became actively engaged in NAFEO and served on its initial board of directors and its executive team. Dr. William Percy Hytche Sr, former president of UMES is counted among the founding fathers of NAFEO as are Morgan State presidents Thomas P. Fraser, King Vergil Cheek, and Andrew Billingsley. To this day, the presidents of the Maryland HBIs remain actively engaged in key leadership positions in NAFEO.

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<sup>1</sup>“Historically Black Colleges and Universities” (HBCUs) are a the federally designated class of institutions founded before 1964 for the purpose of educating the progeny of the American slave system and that that meet other criteria. NAFEO members are HBCUs and PBIs. Maryland's historically black institutions are, in fact HBCUs. The State also has at least one PBI, Sojourner Douglass College, which is also a NAFEO member. Because the Commission refers to the class of Maryland public black institutions involved in its review as Historically Black Institutions (HBIs), NAFEO refers to Bowie State University, Morgan State University, Coppin State University, Morgan State University and the University of Maryland Eastern Shore collectively as the Maryland HBIs.

Morgan State University President Earl Richardson was the longest serving chairman of the NAFEO board of directors and chair of the NAFEO federal and state policy committees. His leadership is credited with securing passage of many of the federal programs to support HBIs and with incremental growth in federal funding for all HBIs. Bowie State University President Mickey Burnim is an active member of the NAFEO board of directors as he was in his former position as President of Elizabeth City State University. Dr. Thelma B. Thompson, President of the University of Maryland Eastern Shore is also an invaluable member of the NAFEO board of directors, and a leader on its legislative committee and its globalization and international education workgroup.

I am looking forward to the active engagement of Coppin State University's new president, President Reginald S. Avery in NAFEO. It is after all, the Maryland way. Indeed, the Maryland HBIs presidents have shaped NAFEO and shaped the national landscape for HBIs and equal educational opportunity. I am inestimably grateful to them. Another celebrated Maryland resident, Wilma Jean Roscoe, was the longest serving NAFEO employee and executive. Her tenure included having served twice as Interim President of NAFEO. Dr. Roscoe is credited with being the factotum of the association. She was able to organize and move the chancellors and presidents of America's HBIs in a magnificent manner.

As the non-profit membership association of the presidents and chancellors of the Nation's 103 public and private HBIs, and emerging predominantly black institutions, NAFEO has played a central role in moving this nation closer to realizing its stated goal of achieving a public higher education system that is devoid of the vestiges of *de jure* discrimination, and prodding the *Adams States* to realize the letter and spirit under the initial Consent Decree and its progeny. I have been privileged to work with NAFEO to advance its lofty mission for three decades: as its pro bono legal counsel for twenty (20) years, as a program officer and for the past four years as its president and CEO.

Mr. Chairman and members of the Commission to Develop the Maryland Model for Funding Higher Education, I appear before you this evening first to thank each one of you, as well as the office of the governor, the Maryland Senate and House of Delegates, Secretary of Higher Education Lyons, Chancellor Kirwan whom I have known and worked with in his capacity as a member of the White House initiatives on HBCUs and in leadership positions with the American Council on Education (ACE) and the National Association of State Universities and Land-Grant Colleges (NASULGC). I thank you for your genuine, determined effort to develop an effective framework for higher education funding that, among other things, acknowledges and attempts to remedy the disparities that remain manifest in funding for the state's HBIs and its public HWIs; and to directly recognize and remove the remaining barriers to ensuring that the state's public HBIs are comparable and competitive with its HWIs.

NAFEO has worked with the State for more than thirty years to shape policies, programs and practices, and to prod investments of public financial and other resources in a manner that does not perpetuate dual and unequal higher education or that wittingly or unwittingly perpetuates the vestiges of past discrimination and maintains the status quo

ante. For example, we were here when, at the time of NAFEO's founding, Maryland was operating a segregated system of higher education. With NAFEO's prodding and that of others, the State was forced by federal oversight to take action designed to erase vestiges of higher education segregation.

The state outlined steps it would take to erase past discrimination in the several Partnership Agreements it reached with the U.S. Department of Education's Office of Civil Rights (OCR), the most recent of which covered the period 2000-2005. That agreement required Maryland's full compliance with federal and state laws related to discriminatory practices, as well as the requirements under *U.S. v. Fordice*. When the agreement expired, Maryland's higher education commission reported to OCR in June of 2006 that the State "has satisfied its commitments and that there are no vestiges of a dual higher education system that once existed in the State," NAFEO disagreed based on information available to it from its members, public documents and reports. When the commission submitted its report of having satisfied its commitment under the consent decrees, NAFEO also disagreed based on the fact that Maryland had approved the duplication of at least one HBI program at a nearby TWI that same year, in violation of *U.S. v. Fordice*. Two bills were subsequently introduced in the state legislature, one to prohibit such duplication, and the second petitioning lawmakers for supplemental funding to HBIs to eliminate funding disparities with TWIs. Both measures failed.

The Maryland Coalition for Equity and Excellence in Maryland Higher Education, an advocacy group made up of alumni and friends of HBIs, filed a rejoinder to the state's report to OCR, which challenges the state's contention that it is in full compliance with state and federal statutes as they relate to Black schools. The group later filed a lawsuit against Maryland claiming the state has failed to live up to its Partnership Agreement with OCR. The case is currently in the discovery phase and is expected to be heard in September 2009. In July of this year, OCR made a return visit to Maryland in an effort to determine if, in its opinion, Maryland has successfully met its obligations under the law. I understand that this hearing and the report this Commission will release does not directly address these matters, nor will I, but I think it important to put your tremendous work into this historic context.

Having provided the context for what you are doing and NAFEO's interest in and experiences with Maryland along this long, rutted road to the attainment of a higher education system devoid of discrimination and its attendant effects, I note that NAFEO is excited about the new, affirmative actions underway. We believe that the State is on the right track. This brings me to my second reason for appearing tonight. I am here to note NAFEO's eagerness to work with the Commission and the State as you move to find a fair, equitable and efficient way of removing the vestiges of the discrimination in Maryland Higher Education and as you work to close the chapter on the ignominious dual and unequal higher education system in the State.

It is especially fitting that the State is working aggressively to advance to a new day in higher education funding at the dawning of this new day in America in which we as a Nation just moved one step close toward realizing our egalitarian ideal with the election

of the first African American President.

NAFEO offers itself as a partner to the State in this effort armed with tremendous expertise and experience in higher education equalization. On behalf of the nation's HBIs and with the National Medical Association, the National Bar Association, and later the National Black Caucus of State Legislators as partners; and under the leadership of NAFEO's then legal counsel, Herbert O. Reid, the Distinguished Professor of Constitutional Law at Howard University School of Law, with whom I was privileged to serve for fifteen (15) years, NAFEO has assumed a leadership role in advancing the survival, progress, comparability, and competitiveness of America's black colleges and universities nationwide, and reducing race-, ethnicity- and socio-economic status-based educational disparities since the early 1970s. Its work along with that of civil rights associations, civil rights law groups and alumni associations, led in the mid-1970s to the demand in *Adams v. Richardson cum Califano* that the then United States Department of Health, Education and Welfare (HEW), enforce Title VI of the 1964 Civil Rights Act which prohibits discrimination based upon race among covered categories for any recipient of federal funds. Enforcement of the *Adams* decree began aggressively in the 1970's aimed at increasing financial and other support for HBCUs and making comparable and competitive HBI laboratories, facilities, executive/ administrator/ faculty salaries, course offerings, physical plants, endowments, student/faculty/staff ratios among other things. The momentum ebbed and flowed and eventually stalled as did enforcement by the United States Department of Education and its Office of Civil Rights (OCR). As you are aware, the State of Maryland was among the original ten (10) states identified in *Adams v Richardson cum Califano* as maintaining a dual and unequal system of higher education by race.<sup>2</sup> Eight (8) additional states were subsequently added to those found to be operating dual and unequal higher education systems.<sup>3</sup>

Notwithstanding the efforts in this State to end racial discrimination in higher education and disparate treatment of HBIs; and despite efforts to implement a mandated federal desegregation plan intended to eliminate the impacts and effects of the prior dual and unequal system of higher education, the draft report of this Commission acknowledges that "the magnitude of the challenges faced by [the State's HBCUs] is particularly great and will require special consideration if they are to be satisfactorily overcome." Importantly, you also acknowledge that without a clear, consistent, common yardstick against which to inventory and strengthen the colleges and universities that takes into account (1) the State's higher education goal of enhancing accessibility and affordability while at the same time promoting policies to achieve national eminence at all of Maryland's public higher education institutions;" (2) the unique and varied missions of the public HBIs in the State; and (3) the lingering effect of the State's dual and unequal higher education system, the State will not realize the national eminence it seeks; nor will it meet the workforce, social, civic and political needs of the State and region.

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<sup>2</sup> Georgia, Florida, Louisiana, Mississippi, Arkansas, Pennsylvania, Maryland, Virginia, North Carolina, and Oklahoma.

<sup>3</sup> The eighteen included the original ten *Adams* states plus Alabama, Delaware, Texas, Tennessee, Kentucky, Ohio, West Virginia, and South Carolina.

By moving as Maryland is to establish an equitable funding plan for higher education and to define “comparability and competitiveness,” and thereby establish a common yardstick to inventory higher education institutions and measure their progress, the State has positioned itself as a trailblazer in the arena of parity measurement in postsecondary education. It has also paved the way for the State to establish a best practices measurement model of “comparability” and “competitiveness” not only for the State but also for similarly situated states across the nation. Once perfected and evaluated, this Maryland measure may prove useful to the other eighteen “Adams States.” NAFEO would welcome this measure and would be pleased to work with the State to determine its adaptability and viability in other similarly situated states.

It is fitting for Maryland to lead the nation in the above regard. It was, after all, in the State of Maryland, where much of the higher education equalization debate and actions began in an effort to tear down barriers to equal educational opportunity in public higher education. The case of Pearson v. Murray, 182 A. 590 (1936), started the State of Maryland and the nation on the journey that has led to this point. In that case, Donald Gain Murry was denied admission to the University of Maryland Law School because of his race, and the Maryland Court of Appeals held that Murray should have been admitted to the existing state law school.

### **Initial General Observations About Proposed Maryland Model for Funding Higher Education**

In the time allotted me to testify before this Commission and in the limited time I was able to focus on preparing for this initial statement to the Commission in the aftermath of NAFEO’s coordinating role of the largest non-partisan HBI student voter participation effort in the nation’s history, we have identified several points that we deem worthy of immediate consideration.

#### **Missions of HBIs**

From our review of the draft Commission reports available online, newspaper and other accounts of the work of the Panel on the Comparability and Competitiveness of Historically Black Institutions in Maryland, we recognize that there has not been an indication of when or how the State will propose to remedy the disparities in its funding of HBIs and TWIs, but it appears as though what may be proposed, namely, the awarding of HBIs “special funding to increase access and success for students at HBIs based on research-based best practices for academic intervention and services, utilizing retention and graduation rates as the primary measure of performance,” (Rough Draft Commission Working Paper, “Some Discussion Points,” page 5, October 13, 2008), might have the unintended effect of perpetuating the status quo ante or even aggravating the disparities in funding that remain manifest. What appears to be evolving is a plan to continue to award the HWIs the lions share of higher education funding while awarding HBIs additional dollars to meet what the Panel recognizes as “the dual mission of HBIs”: (1) the providing of a quality educational experience and guiding students to the attainment of an undergraduate degree (common among all higher education institutions); and (2) what the Panel believes is a unique role for HBIs, addressing the educational needs of

students of families who come from families traditionally underrepresented and underserved in the State's PK-12 and higher education systems.

Relative to the dual role of HBIs, while it is true that the HBIs in the State of Maryland, like those across the nation, are doing a tremendous job of educating disproportionate numbers of students of fewer means, those who are ill- or under-served by the PK-12 systems, first generation students and others who might not otherwise receive a higher education, and doing this job with disproportionately fewer resources, this has not been nor should it now or into the future be the sole province of HBIs. HBIs have traditionally and into the future must be positioned not simply to continue educating solely high need, low performing students and those who might not otherwise receive an education. They have historically and they must continue to play a vital role in educating high performing, high achieving students from diverse backgrounds. Indeed, it is the diversity of the students that HBIs have historically educated and the diversity of their faculty and staff that have been as much a cornerstone of these institutions as their acknowledgement of enrolling and graduating students across racial, ethnic, socio-economic, faith and geographic boundaries. Any funding plan that would officially designate or relegate HBIs to educating low-performing, educationally challenged students would perpetuate and perhaps aggravate the disparities in treatment at the hands of the state. This is especially true at this time when your data indicate that in Maryland today 51% of your graduates are white and that by 2018 this number will drop to 38%. In order for Maryland to maintain eminence in higher education amid this shift in demographics, HBIs must be strengthened to receive a greater number and a greater percentage of students of color and others who want to learn and thrive in a richly diverse environment, with administrators, faculty, staff, and other students who are mostly colored and culturally diverse. HBIs must be afforded the resources to enhance their laboratories, improve their facilities, reduce their faculty/student ratio, strengthen expand their course offerings and otherwise position them to compete on a level playing field for the best and the brightest and the last and the least of these. The goal must be to position HBIs so that all Maryland students and those from other states with interest in their offerings, expertise, culture and climate, will want to compete for a seat in one of Maryland's HBIs. To be sure this will require additional funding for student financial aid, for developmental education, extra learning opportunities to address the improvement of learning skills, but the funding must also include laboratories competitive with those at the HWIs to prepare students for cutting edge research in STEM, to prepare students for health professions, for teaching in traditionally underserved, low-performing schools and otherwise preparing for the high needs and growth industries of the State.

#### **Graduation Rates as Primary Criterion for Determining Competitiveness**

The second recommendation on which NAFEO wishes to immediately comment is the recommendation that graduation rates should be the primary criterion for determining the competitiveness of the four-year institutions in the State institution in the HBIs. This recommendation appears to run counter to the acknowledgement by the Commission and the Panel on Comparability and Competitiveness that the HBIs are playing a unique role in educating disproportionate percentages of traditionally underserved, lower performing students who must work and assume responsibilities for their families. This fact

necessarily means that disproportionate numbers of students attending an HBI will take longer to graduate. It cannot be expected that students requiring and being offered extra support will be brought to level and positioned to excel, while working and not require additional time to graduate. The recommendation also appears to ignore the fact of the increasing number of older students entering college, and the shift in student higher education aspirations. These factors, too, must be weighed in measuring institutional competitiveness. The recommendation also appears not to take into consideration the diverse institutional missions and the value of any year of higher education. All of which are acknowledged in the draft report. Most importantly, while NAFEO and all of the HBIs in the State of Maryland believe fully in accountability and education outcomes, including graduation rates, in order for the use graduation rates as the sole or primary criterion for the effectiveness and competitiveness of a higher education institution in Maryland to be an equitable measure, the state must first build the capacity of the institutions that it has admittedly underfunded over the years. The state must first make the institutions comparable and competitive with their HWI counterparts. Even then, inasmuch as the state values diversity in its institutions and in its labor force, and recognizes the financial, social, political cultural and civic benefits of educating more low-income, traditionally underserved students from diverse backgrounds, it would be expected that other criteria for gauging the effectiveness of all of the higher education institutions in the State would be the extent to which they are assisting the state to realize its workforce diversity goals; the extent to which it is graduating percentages of those traditionally left behind; the extent to which it is successfully moving from the margins to main street those if left out will cost the state immensely in the provision of human needs services, in prosecution and/or incarceration.

### **Institutional and Student Financial Aid**

The Commission also addresses student financial aid and institutional aid in its draft report. In 2003, The College Board and the Pathways to College Network held a National Dialogue on Student Financial Aid, Co-Chaired by The Honorable Gaston Caperton, President of The College Board, and Dr. Michael McPherson, former President of Macalester College, the current President of the Spencer Foundation. The National Dialogue was shaped by a Blue Ribbon Panel on Student Financial Aid that included Dr. William E. Kirwan, Chancellor of the University System of Maryland and a broad and diverse group of the nation's other leading experts on Student Financial Aid. The work of the Blue Ribbon Panel was supported by a team of the nation's leading researchers who are distinguished in the areas of economics, student financial aid, education excellence, equity, access and success. One of the distinguishing features about the Dialogue was that it engaged 700 stakeholders from across the country, and 170 associations in the deliberative process. The report from the Dialogue, "*Challenging Times, Clear Choices: An Action Agenda for College Access and Success*" includes a number of forward looking recommendations for higher education that I commend report to this Commission. Several themes emerged from the Dialogue. Among them was the notion that "(7) There is a need for the federal government, states, and the private sector to invest more financial resources in those institutions that educate disproportionate numbers of high needs students, including historically and predominately black colleges

and universities, Hispanic-serving institutions, community colleges, and institutions serving rural and remote areas. There is also a need for the federal government, states, and the private sector to provide greater incentives for other institutions to enroll and graduate larger numbers of high-need students.” The report recommends that disproportionate greater public dollars be invested in public institutions that educate disproportionately more students with greater financial need and those for whom the cost of education will be greater because of their learning needs.

The above is just one example of the recommendations in the National Dialogue report that I hope you will find to be thoughtful recommendations for funding higher education in the State of Maryland that departs with thinking of the past, and takes a novel approach. I hope the members of this Commission will review the report from the National Dialogue and integrate some of its recommendations into your thinking.

On behalf of the nation 103 HBIs and 75 plus PBIs, I thank you kindly for affording me the opportunity to testify this evening. NAFEO and I stand ready to assist you in any manner of means as you work to bring to closure your review process and to devise a higher education funding plan that will be fair and equitable, and will enable the state to offer a higher education that is aligned with student preparation and aspirations to more and more diverse students; will result in the state meeting its workforce needs and its workforce diversity goals, and attaining eminence in higher education to which it aspires.