

CAMPAIGN FOR JUSTICE AND EQUITY FOR MARYLAND'S HISTORICALLY BLACK COLLEGES AND UNIVERSITIES



During the era of *de jure* segregation, when “separate but equal” was the law of the land, Maryland prepared a series of official reports documenting the conditions of its Historically Black Institutions and comparing them to its Traditionally White Institutions. These reports chronicled a vast disparity between the two sets of institutions that Maryland promised to remedy but failed to do so. In defense of the lawsuit brought by HBCU students and alumni, the Office of the Attorney General argued that students at the HBCUs are not “injured” by these disparities and were not forced to attend HBCUs, but “chose” to do so. The march for justice for students at Maryland's HBCUs, as told through Maryland's own official reports, has been a long and arduous road.

1937 MARYLAND REPORT OF THE COMMISSION ON HIGHER EDUCATION OF NEGROES --“ENORMOUS DIFFERENTIAL IN FAVOR OF THE WHITE RACE”

- “In the field of higher education, while the State has fostered white colleges for one hundred and fifty years it made its first grant to a Negro college in 1914 or twenty-two years ago...The contrast between the amounts of money received by the two racial groups would show, if possible of computation, an enormous differential in favor of the white race.”

1947 MARYLAND'S MARBURY COMMISSION REPORT

- “The state has consistently pursued a policy of providing higher education facilities for Negroes which are inferior to those provided for whites.”
- Recommends “that the state budget provide such annual appropriations for the higher education of Negroes that the activities being conducted at those institutions may be maintained on a basis equal in quality to those maintained in comparable state institutions for white students.”

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- But Maryland ignores the report.

1950 MARYLAND WEGLIN COMMISSION REPORT

- Describes "the continuous uphill struggle on the part of the Negro colleges to secure facilities on par with white institutions."
- "None of these schools is equal in quality to the corresponding institution maintained for the white population."

1954 BROWN V BOARD OF EDUCATION

- United States Supreme Court declares "separate but equal" illegal under the constitution.
- Maryland largely ignores the decision.

1969 US DEPARTMENT OF EDUCATION OFFICE OF CIVIL RIGHTS APPROACHES MARYLAND FOR FAILURE TO FOLLOW BROWN DECISION

- Concludes that Maryland continues to operate segregated system of higher education.
- Maryland fights with Office of Civil Rights for several years until OCR threatens to cut off federal funding over status of and policies with respect to HBCUs.

1974 MARYLAND COX COMMISSION

- Describes "inequities and disadvantages" faced by HBCUs.
- Calls upon state to enhance HBCUs to the level of Traditionally White Institutions.

1981 REPORT ON "ENHANCEMENT OF MARYLAND'S PREDOMINATELY BLACK COLLEGIATE INSTITUTIONS"

- Describes "deplorable condition of science laboratories, pronounced need for equipment maintenance and replacement, and generally poor condition of the residential space."
- Also notes that "the libraries of the four historically black institutions are in need of new, expanded financial support and consistent funding."
- As for all HBCUs, the report notes that "the inadequacies in life and physical science laboratories stand out as the greatest current need. These facilities, designed and constructed primarily for teacher education, are simply not adequate or appropriate for proper instruction and research in modern techniques."

1992 U.S. V. FORDICE

- United States Supreme Court holds that States with prior *de jure* systems of racial segregation must take affirmative steps to dismantle State policies and practices that are vestiges of the prior *de jure* era.

1992 MARYLAND DRAFT REPORT ACHIEVING EMINENCE: UNIVERSITY OF MARYLAND SYSTEM PLAN FOR ENHANCEMENT OF THE HISTORICALLY BLACK INSTITUTIONS"

- "In developing enhancement plans, it became clear that the achievement of eminence for the historically Black institutions must address . . . "catch-up," which includes funding of enrollment increases that over the years have had limited or

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no General Fund support, and areas of under-funding which include, for example, scholarships, student services, information technologies, libraries, and other institutional infrastructures.”

2000 MARYLAND ENTERS PARTNERSHIP AGREEMENT WITH OFFICE OF CIVIL RIGHTS TO MAKE HBCUS COMPARABLE AND COMPETITIVE WITH TWIS

- Maryland commits to “[a]voiding unnecessary program duplication and expansion of mission and program uniqueness and institutional identity at the HBCUs”, and bringing HBCUs up to a level to be “comparable and competitive” with Traditionally White Institutions in all aspects of their operation. The Agreement is listed on the web site of the Maryland Higher Education Commission. ¹

2005 HBCU PRESIDENTS WRITE LETTER TO MARYLAND BLACK CAUCUS

- Assert that Maryland has not complied with Agreement with Office of Civil Rights.
- Asks for appointment of independent panel of experts to study treatment of HBCUs, including funding, limited missions, and unnecessary program duplication.

2006 MARYLAND CHANCELLOR TESTIFIED BEFORE MARYLAND LEGISLATURE

- Admits that Maryland has “not done right over time by Historically Black Institutions and they deserve special scrutiny and attention in terms of adequacy of funding.” (Dr. William Kirwan, University System of Maryland Chancellor)

2006 GOVERNOR EHRlich VETOES LEGISLATION CALLING FOR JUDICIAL REVIEW OF UNNECESSARY PROGRAM DUPLICATION-- A BILL AIMED AT HELPING HBCUS

- SB 998, sponsored by Senator Conway, among others, would have made certain program duplication decisions “subject to judicial review in the Circuit Court...” Governor Ehrlich vetoed the legislation on policy grounds.

2006 HBCU STUDENTS, ALUMNI, AND THE COALITION FOR EQUITY AND EXCELLENCE IN HIGHER EDUCATION FILE SUIT

- Contend that Maryland did not comply with the agreement with OCR and was not in compliance with civil rights laws.

2008 MARYLAND BOHANAN COMMISSION STUDIES HIGHER EDUCATION

- Independent experts conclude that Maryland policies “marginalized” the HBCUs.
- Particularly noted lack of “state of the art science and technology labs,” “aging physical plants and lack of consistent funding for maintenance,” “lack of advanced libraries and information resources especially for doctoral programs,” and adequate funding to address “poor retention and graduation rates.”
- Calls upon Maryland to “restructure the process that has caused the inequities and lack of competitiveness “between the HBCUs and TWIs.”

¹ See <http://www.mhec.state.md.us/higherEd/ocrplan/index.asp>.

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2009 MARYLAND STATE PLAN FOR HIGHER EDUCATION

- Maryland officially adopted the conclusions of the Bohanan Commission experts and stated that the State was “committed to” closing the gap between the HBCUs and TWIs, including academic programs, teacher salaries, facilities, IT infrastructure.²

2009 MARYLAND STATE SENATORS JONES AND CONWAY INTRODUCE BLOUNT-RAWLINGS-BRITT HBI COMPARABILITY PROGRAM

- The Blount-Rawlings-Britt HBI Comparability Program, SB 544, was proposed to “provide supplemental funding to the state’s HBIs for the purpose of ensuring that the HBIs are comparable and competitive with other state 4-year public institutions of higher education in all facets of their operations and programs as measured by generally recognized indicators of disparity.” The House took no action on the bill.

2009 PRO BONO COUNSEL JOIN COALITION CASE ON BEHALF OF HBCUS

- After Maryland refuses to comply with OCR Agreement and commitments in 2009 State Plan for Higher Education, the Lawyers’ Committee for Civil Rights Under Law and Kirkland & Ellis LLP enter the case on behalf of HBCU students, alumni and Coalition for Equity and Excellence in Maryland Higher Education.
- Retain leading experts in higher education who conclude that Maryland maintains a dual and unequal system of higher education, maintains widespread unnecessary program duplication, and dramatically underfunds its HBCUs.
- An expert in higher education finance indicates that from 1984-2010 the HBIs experienced a cumulative deficiency of \$910,993,554, based on both the proportion of state appropriations, enhancements and tuition and fee revenue that one would expect them to receive as a function of their enrollments and the Bohanan Commission’s methodology for accounting for the costs associated with the remedial component of the HBIs’ access mission.

2011 OFFICE OF ATTORNEY GENERAL ARGUES AGAINST INCREASED FUNDING FOR HBCUS

- Assistant Attorney General argues: “The State is supposed to allocate its scarce resources on some sort of field of dream ideas, that if we build a ballpark in a cornfield, old baseball players will come back and life will be great? Come on. That’s ridiculous.”

2012 BALTIMORE SUN EDITORIAL BACKS GOALS OF COALITION LAWSUIT

- “Maryland's historically black colleges and universities were underfunded during the era of segregation now the state must find a way to empower them to compete effectively with their traditionally white peers.”

2012 MARYLAND OFFICIALS MAKE IMPORTANT ADMISSIONS AT TRIAL

- “[S]ubstantial additional resources must be invested in the HBIs to overcome the competitive disadvantages caused by prior discriminatory treatment.” (Geoffrey Newman, Maryland Higher Education Commission Director of Finance Policy)

² See http://www.mhec.state.md.us/highered/2004plan/JUNE_2009_FinalEdited.pdf.

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- HBCU facilities are “vestiges” of the *de jure* era. (Dr. James Lyons, Former Maryland Secretary of Higher Education)
- “[S]ubstantial additional resources are needed to ensure the state’s HBIs are comparable to the state’s TWIs on the point of recruitment, retention and graduation.” (Dr. George Reid, Former Maryland Higher Education Commission Assistant Secretary for Planning and Academic Affairs)

OFFICE OF THE ATTORNEY GENERAL ARGUED THAT STUDENTS ARE NOT INJURED BY LACK OF RESOURCES AT HBCUS

- “Like the other testifying plaintiffs, Ms. Thompson did not identify any discrete personal injury in fact.”
- “Her claimed injury is the alleged lack of equal resources at the HBI she chose to attend, not the lack of a fair opportunity to choose among schools or even the lack of a diverse, integrated student body at Morgan. “
- “Second, plaintiffs voice no more than a generalized concern about the perceived imbalance in the conditions at HBIs as contrasted with those found at non-HBIs.”

2013 FEDERAL JUDGE CATHERINE C. BLAKE RULES IN FAVOR OF COALITION ON LIABILITY

2017 JUDGE BLAKE RULES IN FAVOR OF COALITION ON REMEDIES

2019 MARYLAND APPEALS JUDGE BLAKE’S RULING