ISSUE: Status of Maryland HBCUs' Law Suit[1] To Finally End Remaining Vestiges of Racial Discrimination at Maryland's Public Institutions of Higher Learning

Maryland HBCU Advocates **INFORMATION SHEET** (In support of *Plaintiffs*[2])

• **Cautionary Note**. First and foremost, the public must not be misled by false claims from State representatives (or others who oppose or question this law suit) suggesting that it lacks legal, factual, or historical merit, or should be dismissed.

• **Key Findings by the Court**. To the contrary, U.S. District Court Judge Blake's words confirm, *unambiguously*, why the plaintiffs' claims of on-going, unlawful discrimination that have hindered Maryland's historically black institutions (HBIs) of higher learning have considerable merit and why that discrimination *must be ended and remedied* by Maryland State authorities.

• Both the U.S. District Court and 4th Circuit U.S. Court of Appeals have affirmatively recognized the legitimacy of the plaintiffs' *case-in-chief*, namely:

-- **(1)** that, *since preceding the 1930's (!!),* the State of Maryland has knowingly and persistently presided over a racially-distinct, duel, and unequal State-funded system of higher education that has placed Maryland's HBIs demonstrably at a competitive and comparability disadvantage, ***and***

-- **(2)** that, consequently, Maryland has failed to live up to its obligation to ensure "*the constitutional right of students to attend any public college or university for which they are qualified without being required to accept racial segregation at*

[1] This action, *The COALITION FOR EQUITY AND EXCELLENCE IN MARYLAND HIGHER EDUCATION, et al. v. MARYLAND HIGHER EDUCATION COMMISSION, et al.*, arises under Title VI of the Civil Rights Act of 1964 and the Equal Protection Clause of the Fourteenth Amendment. Plaintiffs allege that the defendants have failed to desegregate Maryland's system of higher education as required by federal law under the framework articulated in *United States v. Fordice,* 505 U.S. 717, 112 S. Ct. 2727, 120 L.Ed.2d 575 (1992).

[2] The *Plaintiffs* are the Coalition for Equity and Excellence in Maryland Higher Education and four *Historically Black Institutions* ("*HBIs*") of higher learning, namely, Morgan State University, Bowie State, Coppin State University, and the University of Maryland, Eastern Shore (UMES) (collectively, "the Coalition"). The *Defendants* are the State of Maryland, the Maryland Higher Education Commission ("MHEC"), and its officers in their official capacities (collectively, "the State"). "*TWIs*" refers to Maryland's "*Traditionally White Institutions*" of higher learning.

that institution. *Maryland's TWIs already meet that standard of integration; Maryland's HBIs do not*." (U.S. District Court Judge Catherine Blake, Memorandum Opinion, p. 3, dated 11/08/17)).

• In that same paragraph of her Opinion, Judge Blake went on to say that:

-- "*A remedial plan must encourage other-race students to attend the HBIs, but it will not be educationally sound if it unduly harms the students at the integrated TWIs. Crafting such a plan is a daunting task requiring the good faith collaboration of the Coalition and the State."*

-- *"The court urges such collaboration to strengthen and enhance Maryland's HBIs for the benefit of all Maryland students, present and future."*

• Judge Blake's memorandum opinion also explained that:

-- "*Maryland's distinguished historically black institutions ("HBIs") serve a vital mission in our system of public higher education. Yet current policies and practices traceable to the de jure [prior "segregation under law"] system . . . persist*." (p.2)

-- "*In such circumstances, the Supreme Court has placed the burden squarely on the state to reform such policies to the extent practicable and consistent with sound educational practices*." *U.S. v. Fordice*, 505 U.S. 717, 729 (1992)." (p. 3)

• In order to compel Maryland to comply fully with its constitutional duty to rid the State of these vestiges of discrimination, Judge Blake held that:

-- "*[T]he court will order appointment of a Special Master, authorized to consult with all relevant decision makers, to propose a remedial plan including funding for new programs and student recruitment at the HBIs . . .* ."

• **Critical Facts the Public Must Keep in Mind**. The public therefore needs to understand that these judicial pronouncements reflect clear acknowledgement of *an indisputable truth* that underlines the importance of this case, namely that:

-- **65 years after** the U.S. Supreme Court's 1954 decision in *Brown v. Board of Education*, the State of Maryland has still not fulfilled its legal duty to fully comply with the letter and intent of that landmark decision – insofar as its publicly-funded historically black institutions of higher learning ("HBIs") are concerned.

• And yet, despite this sad fact, Maryland continues to resist taking the full measure of good faith steps required to rectify its long-delayed compliance.

-- For instance, the State of Maryland continues to resist this law suit **by** :
(1) *proposing blatantly inadequate funding remedies* (e.g., only $200 million) that would only serve to perpetuate, indefinitely, the inequitable competition that still exists between HBIs and TWIs in their respective academic program offerings, and possibly in other important respects, as well; **and also by**

(2) *publicly spreading the irrelevant contention that,* "*The lower court ruled against the Plaintiffs on nine of their ten claims.*" (*See*, Sept. 26, 2019 Letter from the Governor's Chief Legal Counsel Scholtz to Delegate Barnes, p. 2), when in fact the court has found that ending "*constitutional violations relating to program duplication" is critical to* remedying the discrimination that HBIs have suffered.

• So, the issue of which side won or lost nine contentious claims in this law suit is a pointless and misleading distraction. (Moreover, it does not address how the courts will ultimately adjudicate at least some of those nine legal issues).

• Instead, of far greater, overarching, importance – **something the public must keep in mind** – is that the courts have firmly upheld the plaintiffs' *case-in-chief: i.e.*, that on-going, unconstitutional, and racially discriminatory effects within Maryland's duel system of publicly-funded institutions of higher education continue to be ***an indisputable fact*** that must finally be rooted out, as the law requires, no matter how "*daunting a task*" it may be for the State of Maryland.

• **Our Goal**. The courts have ordered good faith mediation with the plaintiffs to fulfill this task. After generations of foot dragging, this final vestige of State-sanctioned discrimination *must be remedied* ***promptly, fully, and consistent with court orders and the principles of equity and excellence for Maryland's HBIs!!***

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