

BOARD OF HIGHER EDUCATION

REQUEST FOR BOARD ACTION

NO.: BHE 19-04

BOARD DATE: January 22, 2019

Receipt of Report Issued by the *Transitions in Higher Education: Safeguarding the Interests of Students (THESIS) Working Group* and Charge to the Commissioner to Develop Implementation Recommendations

MOVED: The Board of Higher Education (BHE) receives the report issued by the THESIS Working Group and expresses its appreciation to the THESIS members for their work. The BHE directs the Commissioner to advance the Working Group recommendations, as outlined in the report and in accordance with the attached implementation timeline, which includes a stakeholder vetting process and target implementation for academic year 2019-2020. The BHE further directs the Commissioner to provide regular updates to Board on the Department's progress in this regard.

Authority: BHE By Laws, Article III, Section 2; M.G.L. c. 69, § 30 et seq.; M.G.L. c. 15A, §9 and 16; 610 CMR 2.

Contact: Carlos E. Santiago, Commissioner
Thomas J. Simard, Deputy Commissioner for Administration and Finance

BACKGROUND

During the May 1, 2018 Board of Higher Education (BHE) meeting, Chair Gabrieli announced that he and Commissioner Santiago would be convening a working group of stakeholders that would look at potential methods to assess and monitor the fiscal health of institutions of higher education, as well as ways to proactively mitigate the risks associated with institutional closures, and provide recommendations to the BHE. *See BHE By Laws, Article III, Section 2.* Referencing the recent closure of Mount Ida College announced precipitously in April 2018, Chair Gabrieli expressed a sense of urgency on behalf of the BHE to take action to support and protect students from imminent, disruptive closures.

The Working Group, which came to be known as the Transitions in Higher Education: Safeguarding the Interest of Students (THESIS), was promptly assembled and co-chaired by the Commissioner and Chair Gabrieli.

THESIS met four times—in June, October, and December 2018, and in January 2019—and transmitted its final report to the BHE on January 17, 2019. The full THESIS report, along with the report's Appendices, is attached to this motion as "Attachment A."

In summary, the THESIS Working Group report includes two findings and several recommendations. The findings are as follows:

- 1) *The risk of further challenges to viability at non-profit institutions of higher education (NPIHEs) leading to potential student disruption is significant, ongoing, and likely growing; and*
- 2) *Current standard financial metrics are insufficient for timely or fully identifying at-risk NPIHEs, and current processes among the triad of accreditors, U.S. Department of Education, and state authorities are insufficient to ensure prevention/mitigation of future unacceptable disruption to students and others.*

Based on these findings, the THESIS Working Group recommends that the BHE act expeditiously to adopt a plan whereby the Department of Higher Education (DHE) could:

- (i) proactively identify NPIHEs at heightened risk of financial non-viability that could affect students; (ii) actively monitor those NPIHEs that appear to be at the highest and most imminent risk; and, (iii) if/when a defined threshold of risk is exceeded, intervene to ensure those NPIHEs complete thorough contingency plans for teach-out and transfer and inform students and other stakeholders on a timely basis.*

The specifics of the THESIS Working Group recommendation are outlined in detail in the attached report. Subject to further stakeholder vetting, key elements (design parameters) of the proposal for BHE consideration include, among other things:

- 1) Requiring annual screening of all relevant NPIHEs using a Teachout Viability Metric (TVM) to identify institutions in need of potential monitoring and intervention.
- 2) Establishing a "North Star" of student protection, recommended at 18 months, as part of the annual screening process-- which focuses on the ability of NPIHEs to financially sustain operations for the balance of the current academic year and the entire subsequent year (using December 1st as the annual threshold measurement date).
- 3) Actively monitoring those institutions that approach the 18-month threshold and requiring action (*e.g.*, notice to students and contingency planning) from those institutions at risk of crossing cross the 18-month threshold.
- 4) Empowering the DHE, independently through its regulatory authority and its financial aid participation agreements as well as in collaboration with the Attorney General's Office, to take necessary and appropriate enforcement actions in the event of NPIHE non-compliance.
- 5) Creating and adequately resourcing an Office of Student Protection within the DHE to perform the proposed screening, monitoring and interventions.
- 6) Establishing an external advisory council to support the Commissioner in implementing and executing these new, proposed functions.
- 7) Actively supporting and advancing current DHE/AGO collaborations to fully support, inform, and educate Boards of Trustees of NPIHEs in financial distress on their fiduciary duties.
- 8) Respecting NPIHE autonomy and confidentiality.

Finally, the Working Group identified the following contingencies as steps needed to advance the recommendations:

- 1) that the BHE and DHE establish the necessary regulations and policies (as may be refined through stakeholder vetting and BHE/DHE decision-making);
- 2) that the DHE form and appropriately resource a new Office of Student Protection and that the Commissioner establish an external advisory council; and
- 3) that the DHE work with the Administration and Legislature to identify appropriate resources and to propose and enact any necessary legislation.

A proposed implementation timeline developed by the DHE and intended to advance the working group recommendations is attached as "Attachment B."

Attachments:

ATTACHMENT A – THESIS Working Group January 2019 Report

APPENDIX – “Transitions in higher education – Safeguarding the interests of students” EY-Parthenon September 2018 Report

ATTACHMENT B – Implementation Timeline