

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

CHAMBERS OF
CATHERINE C. BLAKE
CHIEF JUDGE

U.S. COURTHOUSE
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August 12, 2016

MEMO TO ALL COUNSEL RE: *The Coalition for Equity and Excellence in Maryland Higher Education, Inc., et al. v. Maryland Higher Education Commission, et al.*, Civil No. CCB-06-2773

Dear Counsel:

This will summarize the results of our conference calls on August 1, 3, and 8, 2016.

The State's motion for protective order (ECF No. 469) is **Granted in part** and **Denied in part**. Specifically, the HBI submissions provided to Judge Paul W. Grimm as part of the confidential mediation process will be stricken as exhibits to the plaintiffs' experts reports and may not be directly relied on in presenting the plaintiffs' proposed remedies. The expert reports, however, will not be stricken in their entirety as the State requests. The plaintiffs are entitled to obtain by way of interrogatory (or deposition on written questions) and Rule 30(b)(6) depositions the views of the HBI Presidents on topics relevant to the plaintiffs' proposed remedies. Specifically, the following question and deposition topic has been approved:

[Please identify] all programmatic niches, new programs, program transfers and/or enhancements and all resources and accreditation necessary for the same that the administration and faculty of your institution believe would further the goals of desegregating your institution and contribute to your academic identity.

The State has agreed to provide full responses but reserves the right to object to the relevance of whether the proposed programs would "contribute to [an HBI's] academic identity" and to the qualifications of the HBI Presidents to provide opinion testimony on whether the identified programs would have a desegregative effect on their institutions. The State also reserves the right to object to disclosure to the court of any material it believes was produced as part of the confidential mediation process.¹

Counsel and the court also discussed the possible appointment of an independent expert to assist in connection with the hearing on remedies now scheduled for Monday-Thursday during

¹ If there is such an objection the State may request that the issue be resolved by Judge Grimm.

the weeks of **January 9, 2017**, through **February 16, 2017**. Counsel will attempt to agree on a proposed schedule to submit up to three names to each other and then to the court. If the court chooses to appoint any expert, counsel will be consulted regarding the expert's specific role and appropriate procedures to be followed.

The State also indicated its intent to file a *Daubert* motion challenging the plaintiffs' experts after their depositions are complete. To permit meaningful consideration of the issues prior to January, the State intends to file its motion by late September.

The discovery deadline has been extended until **October 31, 2016**. The next conference calls have been scheduled for **August 29, 2016**, at **3:00 p.m.** and **September 14, 2016**, at **3:30 p.m.** Plaintiffs' counsel will arrange a call-in number. Defense counsel may arrange to have a reporter transcribe the calls if they choose.

Despite the informal nature of this letter, it is an Order of the Court and shall be docketed as such.

Sincerely yours,

/S/

Catherine C. Blake
United States District Judge