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Noe Ortega
Commissioner
Chris Gabrieli
Board Chair

September 29, 2025

Just over five years ago, on June 29, 2020, the Department of Higher Education (the "Department" or "DHE") wrote to all independent institutions of higher education located and authorized to grant degrees in Massachusetts to share pertinent updates and guidance related to *An Act to Support Improved Financial Stability in Higher Education* (the "FARM" law).¹ As we begin the fifth full cycle of implementing this legislation-- and in acknowledgment of the transitions that have occurred across institutions since that time, as well as the upcoming deadline² for private higher education trustees to receive additional instruction and re-training-- I write on behalf of the Department once again to summarize the obligations of your institution under the law and to offer the continued support of my team as we head into the new academic year.

The legal framework established five years ago through *An Act to Support Improved Financial Stability in Higher Education* as codified at M.G.L. c. 69, § 31B(b)(2), and further implemented by the Board of Higher Education's (the "Board" or "BHE") regulations *610 CMR 13.00: Financial Assessment and Risk Monitoring of Institutions of Higher Education*, task the Department with annually screening each Massachusetts independent higher education institution's financial information to assess whether an institution is "at risk of imminent closure,"³ among other new requirements. The FARM law was passed to increase transparency about institutional finance and to avert sudden, precipitous institutional closures and the unfortunate impacts such closures have on students and their families. See 610 CMR 13.03(1)(c).

1. Immediate Notification of Financial Liabilities and Risks

The primary and most important requirement of the FARM law is your institution's affirmative obligation to immediately inform the BHE of "any known financial liabilities or risks

¹ St. 2019, c. 113.

² The BHE initially required all sitting private higher education trustees appointed after October 20, 2020 to receive training within 6 to 12 months of appointment. All trustees that were appointed after October 20, 2020 and trained in 2021 must be re-trained in 2025. See [BHE 21-32](#) (Oct. 20, 2020); and 610 CMR 13.07.

³ Under the Board of Higher Education's (BHE) regulations, "at risk of imminent closure" is defined as "a determination made by the Commissioner, based on an assessment of an Institution's financial resources, that the Institution is at risk of being unable to continue operations or substantially fulfill its obligations to enrolled and admitted students for the balance of the current and subsequent academic year, using December 1 as the annual threshold measurement date." 610 CMR 13.02.

that are reasonably likely to result in the imminent closure of the institution or otherwise negatively affect the institution's ability to fulfill its obligations to current and admitted students."⁴ See M.G.L. c. 69, § 31B(b)(1).

In acknowledgment of the challenges unique to this year's enrollment cycle and to overall institutional revenue sources, we ask that all institutions remain mindful of the following examples of conditions that warrant proactive notification to DHE, and to contact us via email to DHE.FARMSubmissions@mass.gov, if your institution is faced with or considering any of the following:

- significant adverse financial events—including but not limited to the termination of federal (or other) grants, appropriations, or other categories of funding—that would have a substantial impact on the institution's budget or the sustainability of its academic programming;
- any "adverse" events reported to the institution's accreditor (e.g., "adverse events" reported to NECHE under the Commission's Standard 9.10) or to any other oversight entity;
- major changes to academic programs, (e.g., suspending admissions to programs, closing programs while students are still enrolled, or decisions to permanently alter the instructional mode of programs);
- anticipated problems relating to liquidity or cash deficiencies;
- any decisions to close instructional locations or branch campuses; and
- exploration or actual initiation of merger or teach-out discussions with another institution(s).

2. Annual Financial Screenings and Evaluations

The most widely known element of this law is that independent institutions of higher education operating in Massachusetts will be screened on an annual basis to determine whether they may be "at risk of imminent closure." If the results of an annual screening indicate that an institution may be at risk of imminent closure, the DHE will require risk mitigation planning and contingency planning for closure. In certain circumstances, an institution may also be required to furnish a bond with surety or letter of credit sufficient to meet the costs of refunding student

⁴ In addition to this "Immediate Notification" requirement, M.G.L. c. 69, § 31B(f) and 610 CMR 13.08 also requires institutions to "post on its website a copy of the institution's annual financial report or statement...and a summary of the report...in terms that are understandable by the general public..." as well as ensure that its governing board "receive(s) instruction and training in higher education financial metrics, legal and fiduciary responsibilities and applicable standards for accreditation at least once every four years..." These other proactive, statutory obligations of institutions are described further in later sections of this letter.

deposits and maintaining student records. The DHE may also require public notification that an institution is at risk of imminent closure.⁵ The BHE also promulgated regulations ([610 CMR 13.00](#)), and the DHE established [procedures](#), which provide greater detail about this process, including what it means for an institution to be at risk of imminent closure and consequence for institutional non-compliance including and up to fines, degree-granting authority revocation, and referral to the Attorney General.

Under this law⁶, the BHE may conduct these annual screenings either directly or through an accrediting agency with which the BHE has a memorandum of understanding ("MOU"). In accordance with this authority, the BHE is currently implementing this provision of the law under a BHE-approved MOU with the New England Commission of Higher Education ("NECHE"). As long as this MOU is in place, NECHE member institutions will annually undergo a financial screening conducted by NECHE. Pursuant to the MOU, the results of the screening will then be shared with the DHE; the DHE will, in turn, follow up with screened-in institutions in accordance with the DHE's implementation procedures to assess the institution's risk of imminent closure.

Institutions that are not accredited by NECHE are screened annually by the DHE in the spring of each year to assess the institution's risk of imminent closure. Institutions not accredited by NECHE will be contacted by a member of the DHE staff to explain how the annual financial screening will be conducted and to request any necessary financial or other data relevant to the DHE's annual analysis.

I would like to note one additional important point: this law mandates the confidentiality of "any information submitted to, or developed by, the board in furtherance of" the law."⁷ This means that information, data, and documents that you provide to the DHE in the course of these annual screenings and risk mitigation planning discussions are not subject to Massachusetts public records law and cannot be released by the DHE. This provision is essential for ensuring open and frank information sharing between your institution and the DHE.

3. Posting of Audited Financial Statements and Annual Reporting

Another requirement of this law is that each institution must "post on its website a copy of the institution's annual financial report or statement...and a summary of the report, however termed, that is written in terms that are understandable by the general public."⁸

The BHE requires an institution to post its audited financial statements no later than six (6) months after the end of its fiscal year and to post at least three (3) years of audited financial statements on a designated and searchable website, starting as of the date of the enactment of the law. r.

⁵ M.G.L. c. 69, § 31B(b)(2) and (3); see also 610 CMR 13.04(2).

⁶ M.G.L. c. 69, § 31B(b)(2); see also 610 CMR 13.03(1).

⁷ M.G.L. c. 69, § 31B(d); see also 610 CMR 13.06.

⁸ M.G.L. c. 69, § 31B(f); see also 610 CMR 13.08.

Institutions are required to certify their ongoing compliance with this requirement, as well as other FARM-related requirements, through the submission of annual reports via the DHE's online portal.

4. Required Training for Institutional Trustees and Annual Reporting

The law mandates that "each member of an institution's governing body shall receive instruction and training in higher education financial metrics, legal and fiduciary responsibilities and applicable standards for accreditation at least once every 4 years."⁹

In October 2020, the BHE adopted guidelines for implementing this requirement, which can be found on our website [here](#) and [here](#). Importantly, the guidelines included a recommendation that all sitting trustees in key leadership roles – board chairs, vice chairs and chairs of committees, including audit and finance committees – receive training within one year of the date of the BHE's approval of the guidelines, or by November 1, 2021. All other currently sitting independent higher education trustees were to have received training by November 14, 2023, and all newly appointed future independent higher education trustees were expected to receive training within 6 to 12 months of appointment.

Your institution is subject to the entirety of this law, and therefore its board members should have already received this mandatory training. For any members that have not yet received training, it is expected that such members will complete this training by December 31, 2025. Going forward, any new trustees must be trained within 12 months of appointment.

All independent institutions of higher education are required to annually report progress in meeting trustee training requirements, including the BHE's timeframes, for their respective trustees, and to submit as part of the certification process their proposed training agenda/curriculum. Completion of the annual certification (reporting) process remains mandatory for all institutions, and for participating institutions, a condition for renewal of the institution's agreement with the Office of Student Financial Assistance (OSFA) to participate in state financial aid programs.

One way that your institution's trustees can satisfy this training requirement is through participation in a training that was developed by The Boston Consortium, in consultation with the DHE and the Massachusetts Attorney General's Office. The Boston Consortium offered this training to independent institution trustees in January 2021. It was recorded and has been made available for asynchronous viewing on the Department's website, as well as on The Boston Consortium's [website](#). You are also welcome to explore or develop other options to satisfy this training requirement, provided that the training complies with the minimum standards set forth in the BHE-approved guidelines.

⁹ M.G.L. c. 69, § 31B(e); see also 610 CMR 13.07.

5. Institutional Contact

Every institution subject to the law designates, and updates as necessary, an institutional contact for future communications from the DHE related to the law, as we regularly disseminate information about the implementation of the law and reporting requirement reminders. We already have FARM contacts on file for your institution, but if you wish to update them at any time, please email us at DHE.FARMSubmissions@mass.gov. Please note that, for certain elements of this law, in particular annual financial screenings, the DHE will continue to communicate with institutional presidents at various times throughout the process, though the institution's FARM contact will often be included on those communications.

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In closing, if you are at all concerned about the potential impact that any anticipated loss of funding may have on your institution's revenue streams or the ability of the institution to fulfill its obligations to current and admitted students over the next 18 months, then I encourage you to engage the Department for a confidential consultation—even if your institution was not formally identified as an institution warranting further inquiry and assessment under the Department's regulatory financial assessment process pursuant to 610 CMR 13.03(1). Proactive self-reporting not only fosters a clear and candid, as well as confidential, line of communication between an institution and the Department but allows us to work with you as a partner in crafting an effective risk mitigation plan or contingency closure plan that can assist in ensuring the stability of your institution and the successful realization of your students' educational goals.

Please be assured that any communications or information submitted to the Department as part of an institution's FARM compliance (including proactive submissions made outside the context of the annual screening process) are subject to confidentiality shielded from disclosure under the Massachusetts Public Records Law, pursuant to M.G.L. c. 69, s. 31B(d).

Thank you for your continued cooperation and provision of timely information to my staff related to your institution's legal obligations under the FARM law. We acknowledge the many headwinds facing colleges and universities this academic year, and reiterate that the Department is available to assist campuses with managing and mitigating the risk of imminent closure and the potential impacts closures can have on students and their families. We have posted detailed information about FARM, as well as relevant materials, on our [website](#), and we suggest that you and your staff review that resource as you familiarize yourself with the requirements of this law. We update our website frequently, as necessary, so you should consult it on a regular basis.

If you have any additional questions about this communication, including your campus's legal obligations to self-report under the above-referenced conditions, please do not hesitate to reach out to Deputy Commissioner for Administration, Finance, and Operations Matt Cole and

send a communication to the Department's confidential FARM-specific mailbox at DHE.FARMSubmissions@mass.gov.

We at the Department wish you all a strong 2025-26 academic year.

Sincerely,

A handwritten signature in black ink, appearing to read 'Noe Ortega', with a stylized, cursive script.

Noe Ortega
Commissioner, DHE