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José Luis Santos
Interim Commissioner
Chris Gabrieli
Board Chair

October 14, 2026

I hope that you are well as you continue to usher in the 2026-27 academic year.

The purpose of my outreach today is to provide you with important information regarding the ongoing implementation by the Department of Higher Education (Department, or DHE) of *An Act to Support Improved Financial Stability in Higher Education* (the "FARM" law).¹ All private (independent) institutions of higher education (IHEs) located in the Commonwealth and authorized to grant degrees are subject to the FARM law. Enacted in November 2019, the purpose of the FARM law is to increase transparency about IHE financial conditions, avert precipitous closures, and mitigate the unfortunate impacts such closures can have on campus communities, including students, faculty and staff and their families. See M.G.L. c. 69, § 31B; 610 CMR 13.00 *et seq.*

As we begin the sixth full cycle of implementing this legislation, and in consideration of recent institutional closures, mergers, and transitions in the Commonwealth, I write on behalf of the Department to: 1) share operational enhancements the Department is implementing in this year's FARM cycle in furtherance of its consumer protection responsibilities; 2) reiterate and summarize the obligations of your institution under the law and the Department's resources and supports available to you; and 3) highlight provisions of the law that demand focused attention.

I. FY2027 Operational Enhancements

On September 29, 2026, DHE's outgoing Commissioner, Noe Ortega, presented, in partnership with Board of Higher Education (Board, or BHE) Chair Gabrieli, a series of operational enhancements that have been or are in the process of being implemented by Department staff pursuant to the Department's existing statutory and regulatory responsibilities under FARM. Links to the slides presented may be accessed on the Department's website at: <https://www.mass.edu/bhe/documents/2026-9-26-FARM-Update.pdf>. I encourage you to review the September 2026 BHE materials for additional information regarding the enhancements summarized below. I further want to affirm that in my role as Interim Commissioner, I will be moving forward accordingly.

¹ St. 2019, c. 113; M.G.L. c. 69, § 31B.

a) *DHE Commitment to December timeline for posting notices required under 610 CMR 13.04(2)*

Under the FARM law and its implementing regulations, the BHE is required to conduct annual financial screenings, either directly or in partnership with an accrediting agency, of all IHEs located in the Commonwealth and authorized to grant degrees, to assess whether each institution is “at risk of imminent closure.”² IHEs that screen in must then submit risk mitigation plans to the Department that identify all known financial liabilities or risks that may lead to imminent closure, and detail how they intend to mitigate those risks. If an institution does not submit the requested risk mitigation plans, or if the plans do not demonstrate a likelihood that the risk of imminent closure will be mitigated during the current and subsequent academic year (using December 1st as the annual threshold measurement date), the Commissioner is required to post public notice of this determination. See 610 CMR 13.03(2)(b)(2)³ and 610 CMR 13.04(2).

As set forth in our regulations and implementation procedures, the exact timing, as well as the content and format, of a required public notice is subject to the sole discretion of the Department. 610 CMR 13.04(2); see also [Implementation Procedures](#), Section III.2

Please be advised the Department intends to complete its annual screening and assessment reviews for all institutions by or before December 1, 2026, and, absent unique or exigent circumstances,⁴ post all public notices⁵ regarding IHEs identified as “at risk of imminent closure” no later than December 31, 2026.⁶ In practice, this means that requests for additional time to supplement risk mitigation plans beyond December 1, 2026 are unlikely to be granted, and we intend to make these determinations based on facts in hand and not speculation about future events. Please note that this commitment does not preclude the Department from requiring the posting of public notices at any other time of the year, if facts or circumstances (e.g., new

² “Risk of Imminent Closure” is defined in regulation 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 1st as the annual threshold measurement date.” 610 CMR 13.02.

³ Pursuant to 610 CMR 13.03(2)(b)(2), if an institution “does not submit the requested risk mitigation plans, or if the submitted plans do not demonstrate the likelihood that Risk of Imminent Closure will be mitigated during the current and subsequent academic year, the Commissioner shall require continued contingency planning for closure and, after providing notice to the Institution and an opportunity to cure, notification to the public, as set forth in 610 CMR 13.04 and/or may impose sanctions as outlined in 610 CMR 13.07.”

⁴ Examples of unique circumstances include documented risk mitigation strategies (e.g., a real estate transaction or an anticipated donation) set to close with certainty after December 31st. An example of an exigent circumstance includes a demonstration that it would be in the best interest of enrolled students, and would not otherwise harm students, to post after December 31st (e.g., to avoid unnecessary disruption during a student exam period).

⁵ Subject to the “notice and opportunity to cure” requirements set forth in 610 CMR 13.03(2).

⁶ The Department intends to implement and repeat this cadence annually.

financial liabilities, rapidly deteriorating or dire financial conditions) are brought to the Department's attention after the close of the December 1st review cycle.

b) Reviewing, enhancing, and broadening current training for IHE leadership

The FARM statute currently requires that all IHE trustees "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." M.G.L. c. 69, § 31B(e) (emphasis added); 610 CMR 13.07. The BHE is further charged with establishing the rules and regulations to implement and enforce this section, as well as all other sections, of the FARM law. M.G.L. c. 69, § 31B(g). The Department's experiences with recent closures have revealed high turnover rates in key leadership roles at institutions, resulting in varying experience levels and varying degrees of competencies and understandings of legal, financial, and fiduciary duties and requirements; nor can the Department be sure what information has or has not been conveyed to an IHE's full Board of Trustees, in confidential discussions, about the circumstances and challenges the IHE faces. Accordingly, during FY2027 the Department intends to partner with our colleagues at the Attorney General's office, as well as representatives from IHEs, and with the assistance of a consultant will develop an additional, heightened training module on fiscal and fiduciary duties geared towards the leadership of IHEs, with a particular focus on IHEs that have screened into the FARM process and are preparing risk mitigation and contingency closure plans. More information on this work will become available as this work advances.

c) Explore scaling the Department's capacity to meet increasing institutional risk

As the number of institutions transitioning to closure has increased, so too has the number of institutions that screen into the FARM process each cycle. The Department plays an essential collaborative role in supporting IHEs that have screened into the FARM process, which requires dedicated resources to deliver on the FARM law's mandates while protecting the best interests of the Commonwealth's students. This steady increase in the number of IHEs experiencing financial challenges demands additional resources to support IHEs, including financial planning and academic transfer articulation, and to ensure that available state and other resources are leveraged to support students, faculty, staff, and community members throughout institutional transitions. To meet this increased need and strengthen the Department's capacity to independently verify the financial status of IHEs, DHE will procure accounting and financial consultants to provide targeted expertise as needed and explore internal staffing strategies to enhance the Department's audit and fiscal monitoring functions.

II. Summary of IHE Obligations

In both the Department's initial "Dear Colleague" letters to you in 2020⁷ and my predecessor's "Dear Colleague" letter to you last fall⁸, the Department emphasized the core requirements under the FARM law that all Massachusetts IHEs are responsible for proactively following. For your convenience, I am listing those requirements here, along with links to the relevant statutory or regulatory citations:

- Posting a copy of the IHE's annual financial report or statement and a summary of said report on a designated, searchable website in terms that are understandable and accessible to the general public (M.G.L. c. 69, § 31B(f); *see also* 610 CMR 13.08);
- Ensuring that all of the IHE's institutional trustees (including and especially those in key leadership roles such as board and committee chairs) are trained in higher education financial metrics, legal and fiduciary responsibilities, and applicable standards for accreditation at least every four years (M.G.L. c. 69, § 31B(e); *see also* 610 CMR 13.07);⁹
- Affirmatively and immediately informing DHE staff of "any known financial liabilities or risks 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." (M.G.L. c. 69, § 31B(b)(1)).

To be clear, proactive notification to the Department of all "known financial liabilities or risks," as required by Section 31B(b)(1) of the law, remains the primary and most important requirement of the FARM law, not only because it fosters a clear, candid, and confidential line of communication between you/your institution and the Department, but also because it allows us to work with you as a partner in crafting another essential aspect of the FARM framework that I wish to highlight today – an effective risk mitigation and contingency closure plan.

III. Highlighting certain aspects of the law requiring focused attention

a) Required Contingency Closure Planning Obligations for "Screened-In" Institutions

If your institution has already "screened into" the FARM process pursuant to 610 CMR 13.03(1), then you have already been apprised of your obligation to submit active risk mitigation

⁷ [June 29 2020 FARM Annual Screening Letter.pdf](#) and [December 10 2020 FARM Trustee Training Letter to IHEs.pdf](#).

⁸ [2025-09-29 Commissioner Ortega FARM Dear Colleague Letter.pdf](#)

⁹ Additional, publicly available guidance on the institutional trustee training requirement may be found on DHE's website: https://www.mass.edu/bhe/lib/documents/BHE/07_BHE%2021-32%20Attachment%20A%20to%20Trustee%20Training%20Implementation%20Guidelines.pdf

plans proving financial recovery capacity while simultaneously building contingency closure plans that shall include, at a minimum:

1. Arrangements for students to complete their programs of study, which must include the development of transfer agreements for current and incoming students;
2. A plan for the transfer and long-term maintenance of student records, including but not limited to student transcripts, and where and how such records will be transferred;
3. Information about the rights and responsibilities of student loan borrowers;
4. Information about the institution's financial condition, accreditation status with any and all accreditors, and any outstanding compliance issues regarding federal and state financial aid programs;
5. A plan that assures the refund of deposits made by students in anticipation of enrolling or continuing their enrollment at the institution, and for the cost of protecting and maintaining student records;
6. Information about the institution's enrollment, revenue, and student records necessary to calculate the required surety or letter of credit amount sufficient to meet the costs of refunding student deposits and maintaining student records in the event of closure;
7. A comprehensive budget which shows the existence and commitment of sufficient resources to sustain the institution's educational offerings through closure; and
8. Consideration of the broader impacts on the institution's key constituencies, including faculty, staff, and the host community or communities.

See M.G.L. c. 69, § 31B(3); 610 CMR 13.04.

I want to especially convey the importance of having an active and detailed plan in place for transferring and maintaining student records. Varying institutional policies and practices, as well as the varying conditions and forms of student records (*e.g.*, digitized v. paper-based), can impair a closing institution's ability to meet the Board's student records maintenance expectations. To assist your institution's development of such plans, Department staff issued written guidance on student records in November 2025 (Attachment A). I encourage you to use this resource to build or update your own institutional policies and operational guidelines.¹⁰ The timely creation and thorough vetting of all risk mitigation and contingency closure plans are vital.

Please remember that if your institution declines to cooperate with the Department, fails to submit complete risk mitigation or contingency closure plans, or otherwise fails to meet its obligations under the FARM law, the Department may exercise its sanctioning authority pursuant to M.G.L. c. 69, § 31B(c) and 610 CMR 13.10, which includes:

- the imposition of a monetary fine in an amount of up to \$1,000 per day;

¹⁰ The student records maintenance guidelines are also available online at: [DHE Guidelines for the Preservation of Student Records by Massachusetts Institutions of Higher Education](#).

- the suspension of any state funding; and
- the suspension or revocation of any degree granting authority previously conferred.

b) Encouraged Contingency Closure Planning Guidance for Massachusetts Institutions

If your IHE has not “screened in” or otherwise been identified as financially distressed, then risk mitigation and contingency closure planning may be new to you as it falls beyond the scope of your general FARM compliance obligations.¹¹ Nevertheless, we have observed that IHEs which engage in advanced, voluntary planning and preparedness tend to support improved outcomes for students. To this end, I strongly recommend you begin to proactively identify peer institutions and, when relevant to the evolving circumstances of your IHE, consider developing on a timely basis emergency teach-out agreements with such peer institutions. In addition, we ask that you pay particular attention to ensuring the preservation and long-term maintenance of your student records, in the event of a closure or institutional transition. To that end, please review the condition of your student records and consider proactively developing a Student Records Maintenance Plan¹² to help ensure the appropriate, archiving and maintenance your student records (whether through an articulation agreement with another IHE or a third-party vendor) in accordance with best practices and Department guidance and regulations.

Please consider that proactive planning under the FARM framework is neither an admission nor presumption of financial distress or imminent closure, but rather a best practice. Under the best-case scenario, your efforts now will provide your institution with a continuity playbook for safekeeping – and under the worst-case scenario, they may help mitigate the negative impacts that a precipitous closure can have on campus communities, including students, faculty, and staff.

In closing, I want to thank you for your partnership and your continued cooperation and attention to your institution’s legal obligations under the FARM law. We understand and

¹¹ Please be advised that, in addition to undergoing the Department’s standard annual financial screening, all institutions are still obligated, subject to the Department’s sanctioning authority cited above, to proactively notify the Department of “known financial liabilities or risks” that are reasonably likely to lead to imminent closure or otherwise negatively impact your institution’s ability to fulfill its obligations to students (M.G.L. c. 69, § 31B(b)(1)); publicly post annual audited financial reports and summaries (M.G.L. c. 69, § 31B(f)); and ensure governing board trustees complete state-approved financial training (M.G.L. c. 69, § 31B(e)).

¹² See 610 CMR 13.04(1)(a)(2), defining a “Student Records Maintenance Plan” as a plan to “cover the cost of protecting and maintaining all Student Records from at least the past 60 years, including ensuring that Student Records are in a digitized, accessible, indexed, searchable, and readily convertible portable format. The plan must encompass all Student Records held by the Institution, including those from other, closed Institutions for which the Institution serves as custodian.”

recognize the unprecedented headwinds currently facing the higher education sector-- from enrollment declines, to shifting demographics, to a constantly evolving federal landscape—all of which are causing significant financial pressures for many, if not all, of our higher education institutions throughout the Commonwealth. Please know that as a regulator our role is not just oversight. We are here to act as a resource to help institutions navigate these challenges, while upholding our primary, shared commitment to student success.

Meanwhile, Detailed information about FARM, as well as relevant materials, templates, and guidance for complying with the law's core regulatory requirements, are available on our website, and we suggest that you and your staff review them as you familiarize yourself with the requirements of this law. We update our website frequently, as necessary, so you should consult our website on a regular basis. <https://www.mass.edu/strategic/farm.asp>

If you have any additional questions about this communication, please do not hesitate to reach out to Deputy Commissioner for Administration, Finance, and Operations Matt Cole via email to the Department's confidential FARM mailbox at DHE.FARMSubmissions@mass.gov.

The Department wishes you all a successful 2026-2027 academic year.

Sincerely,

A handwritten signature in black ink, appearing to read "José Luis Santos". The signature is fluid and cursive, with the first name "José" being more prominent.

José Luis Santos
Interim Commissioner, DHE