

TESTIMONY TO PHILADELPHIA CITY COUNCIL'S EDUCATION COMMITTEE
BY MICHAEL COARD, ESQ. AND PROFESSOR E. SONNY HARRIS
ON BEHALF OF HEEDING CHEYNEY'S CALL
WEDNESDAY, NOVEMBER 20, 2013

Good afternoon to the entire Education Committee and especially to Chairperson Jannie L. Blackwell, Co-Chairperson Blondell Reynolds Brown, and Member David Oh.

My name is Michael Coard and both Professor E. Sonny Harris and I are proud alumni of historic Cheyney University (CU). I am also the attorney for a recently formed organization known as Heeding Cheyney's Call (HCC)- which consists of and/or is actively endorsed by CU alumni, current, prospective, and former students, current and retired faculty members, current and retired staff persons, federal, state, and elected officials, and many civic and religious community leaders. In our effort to save and enhance CU, we are considering all options- including civil rights litigation in federal court- to attain our ultimate goal of "parity through equity" in order to finally have traditionally and predominantly black CU placed on a level playing field with Pennsylvania's 13 traditionally and predominantly white state-owned institutions. I am here today to speak briefly about the Commonwealth of Pennsylvania's "funding formula" relative to CU.

We are here speaking in Philadelphia City Council Chambers because many of Philadelphia's African-American high school students who matriculate to college enroll at CU. In addition, the vast majority of CU students are from Philadelphia. Moreover, many of CU's graduates live, vote, work, and pay taxes in Philadelphia. Furthermore, many of CU's faculty and staff are from Philadelphia. In other words, Philadelphia has a direct political and legal connection to CU. Also, Philadelphia, as the largest among the state's 67 counties, has a powerfully direct political and legal connection to the Commonwealth of Pennsylvania.

From its beginnings as the African Institute and later the Institute for Colored Youth in 1837 to Cheyney Training School for Teachers in 1914 to Cheyney State Teacher's College in 1951 to Cheyney State College in 1959 and then to CU in 1983, this institution has created the likes of Julian Abele (architectural designer of the Philadelphia Free Library and also the Art Museum), Ed Bradley ("60 Minutes" correspondent), Octavius Catto (martyred civil rights activist), Dr. Rebecca J. Cole (one of the first African-American female physicians in the country), Marcus Foster (nationally renowned educator), Joseph E. Lee, Esquire (one of the first African-Americans to practice law in Florida), Bayard Rustin (civil rights activist), Andre Waters (NFL star), Dr. Wade Wilson (the alumnus who served as CU president from the "pre-formula funding" era in 1968-1980 when student enrollment soared to approximately 3,000), and literally hundreds of other notables in their various professions.

Also, it is the oldest black institution of higher learning in America. It has 33 majors and concentrations for undergraduates as well as a Masters in Educational Leadership program and a recently established Masters in Public Administration program. The Masters in Educational Leadership program has historically been one of the nationally ranked leaders in producing Masters' degrees in education for students of color and one

of the major producers of teacher and administrative leaders in the tri-state region. Its impressive undergraduate and graduate “Call Me MISTER” Teacher Leadership Program encourages African-American men- who are much needed and woefully underutilized in the field of education- to dedicate their lives to becoming role models. Its outstanding “Teach STEM Scholarship Project” prepares African-American women to become highly qualified teachers who will change paradigms in Science, Technology, Engineering, and Mathematics education through positive role-modeling and high tech innovation. (It must be pointed out that, despite the success of and the need for this project, the Commonwealth of Pennsylvania has approved a university administrative decision to place it on moratorium since 2010.) The extraordinary “Aquaculture Research and Education Center” meets the needs of the region’s critical waterways with the objective of training students to become professionals in various scientific areas in the United States and abroad. Its distinguished “Keystone Honors Academy” is a far-reaching academic excellence program that fosters intellectually enriching experiences for the entire campus community. It also positions students to receive a Bond-Hill Scholarship that provides for complete tuition funding for students to attend state graduate programs in the fields of medicine, law, education, and business. All of this clearly highlights the greatness of CU.

However, due to decades-long racial discrimination by the Commonwealth, CU- an all-time great institution- currently has an all-time high budget deficit and an all-time low student enrollment. And things are going from bad to worse, significantly due to the implementation of no new developed and attractive programs such as engineering, health care, etc. and primarily due to the Commonwealth’s inequitable “funding formula.”

But before specifically addressing this most important “funding formula” issue, I must put it in context. I previously mentioned the Commonwealth’s decades-long racial discrimination because of the following:

- 1) In 1969, which was 44 years ago, the Commonwealth was officially found by the precursor to the US Department of Education to have been one of just ten states still operating a racially discriminatory system of higher education.
- 2) In 1980, which was 33 years ago, a successful racial discrimination lawsuit was filed against the Commonwealth by CU students, faculty, and staff
- 3) In 1983, which was a mere 30 years ago, the Commonwealth- for the first time ever- submitted a formal anti-racial discrimination plan that was finally deemed acceptable to the US Department of Education’s Office for Civil Rights (OCR).
- 4) In 1999, which was 14 years ago, the Commonwealth signed a formal agreement with and at the request of OCR in order to resolve then-unresolved and ***still-unresolved*** issues regarding CU in connection with Title VI of the Civil Rights Act of 1964 and the Equal Protection Clause of the Fourteenth Amendment to the US Constitution.

In regard to the “funding formula,” I must state at the outset that it is based on a complex and esoteric 25 page document consisting of algebraic equations, standard deviations, square roots, Z Scores, and even the Bell Curve. But I will not bore you with any of that. Quite the contrary, I will make it very simple: The Commonwealth’s “formula funding” is an ostensibly objective process designed to determine how much or how little funding

each of the 14 state-owned universities receives based on awards and on penalties. It is interesting to note that this formula negatively affects CU- Pennsylvania's only predominantly black school- much more than it does any of Pennsylvania's 13 predominantly white institutions. The legal term for this is "unconstitutional racial discrimination" resulting from, at worst, malicious intent and, at (relative) best, adverse impact. This explains why, e.g., West Chester University (WCU) received nearly \$6,000,000 in fiscal year 2013-2014 from the Commonwealth while CU received a paltry \$470,000. And to add insult to injury, CU also had its aforementioned unarguably successful Keystone Honors Program for academically talented students cut by 25 percent and in fiscal year 2012-2013 had its aforementioned Bond Hill Scholarship Program funding reduced in the amount of \$524,000. It also explains why WCU was determined by the Commonwealth to have just one penalty while Cheyney was charged with several.

"Funding formula" penalties are assessed to schools based on such categories as low enrollment, insufficient retention, inadequate scholarship resources, etc. But how can a university increase enrollment without additional state funding or retain students without academic support systems from the state or raise scholarship money without specialists hired by the state?

I must elaborate on this low enrollment issue. Any school's enrollment is obviously determined to a large extent by its tuition amount. And such amount is oppressively high for CU students because the average household income of their families is less than \$40,000 and more than 80 percent of these students are on financial aid. Increases in tuition automatically equal decreases in enrollment. That is precisely why the school's 1977 enrollment of about 3,000 is now down a shocking 60 percent to less than 1,200 Full-Time Equivalent (FTE) students. And when enrollment drops, the school loses funding due to FTE enrollment requirements in the "funding formula." This is the major factor underlying the university's massive \$14 million accumulated debt with a structural deficit of an additional \$5 million more in fiscal year 2013-2014

As noted in a May 4, 2011 letter from OCR to Governor Tom Corbett, the aforementioned 1999 agreement with OCR- which is the federal agency responsible for enforcing Title VI of the Civil Rights Act of 1964- "**requires** Pennsylvania to take steps at Cheyney, including those to... (inter alia) provide the **funding and other resources** necessary to ensure the successful implementation of these and other measures."

One example of the inequity of this "funding formula" is how things have gotten worse instead of better. In fiscal year 2000-2001, the funding indicators led to basically similar performance funding payments to each of the 14 universities. However, since then, the performance funding disparity has expanded. As a result, in fiscal year 2012-2013, CU received the **lowest** performance funding payment of about \$320,000 compared to WCU, which received about \$5,230,000. From the time that the "funding formula" began in the 1980s until 2012, CU has received approximately \$7,240,000 compared to an average of about \$25,500,000 for each of the other 13 universities.

A reasonable person would assume that the Commonwealth has an arguably legitimate basis for its “funding formula” despite its negative effect on CU. But, surprisingly, it does not.

In fact, the Commonwealth in an October 3, 2013 letter from the Governor’s Office of General Counsel to Heeding Cheyney’s Call contended that CU “currently receives almost three times as much in state appropriations ‘per student’ as the other thirteen universities within the Pennsylvania State System of Higher Education (PASSHE).” But that contention is mathematically and fundamentally flawed. As an illustration, if a school with a student population of one receives \$100 from the Commonwealth, it could be disingenuously argued that that school gets more “per capita” than a school with a student population of ten that receives \$300 from the Commonwealth. The former would get \$100 “per capita” while the latter would get only \$30 “per capita.” However, in total dollars, the latter nonetheless has gotten more than three times the former. Furthermore, this “per capita” characterization deceptively ignores the vastness of the larger school’s facilities and resources relative to the smaller school’s.

The Commonwealth’s second contention was that CU “is in the midst of several major capital projects, including a new residence hall and state-of-the-art science building funded entirely by a \$70 million commitment made by the Governor and PASSHE” completely disregards the fact that the two (so-called) new buildings on CU’s campus are the first in about 30 years while the 13 traditionally white institutions continued and continue to build genuinely new ones. By the way, the living conditions in the older dormitories on CU’s campus are, in a word, deplorable. As a matter of fact, that very same word was used in an official 2010 report to describe some of the university’s physical facilities. Additionally, because of the antiquated sewer system, hot water is often unavailable for days at a time for students in the dormitories and for employees throughout the campus. In addition, Waring Hall is literally a boarded up eyesore with its door hanging off the hinges as if it were in a poverty-stricken slum area. That would not be tolerated at any of the 13 traditionally white institutions. And speaking of those 13 institutions, their student athletes justifiably complain about the squalid conditions at the Cope Hall gymnasium, so much so that many of those athletes simply refuse to use the facility’s repulsive showers and locker room when they compete against CU. Once again, that would not be tolerated at any of their institutions.

The Commonwealth’s third contention that its “investment of \$118,000 ‘per pupil’ in capital projects at Cheyney is more than ‘ten times’ that of the other PASSHE universities” is not only delusory but is also based on fuzzy math and is therefore absolutely incorrect. Moreover, it suffers from a malady similar to that of the first contention.

As US District Judge Catherine C. Blake ruled on October 7, 2013 in Coalition For Equity and Excellence in Maryland Higher Education v. Maryland Higher Education Commission- a case that involved Maryland’s four black universities and included allegations of racial discrimination remarkably analogous to those raised by HCC in Pennsylvania- a “state’s ‘funding formula’ is a traceable (and thereby unlawful) policy... (when) it is rooted in or (is) a continuation of the funding practices that disadvantaged Historically Black Institutions during (a state’s) de jure era...” Accordingly, she noted-

pursuant to the US Supreme Court's 1992 United States v. Fordice decision- that a state "is... liable for inequities that flow from current (funding formula) 'policies rooted in the prior system.'" Although the available evidence did not adequately prove that Maryland had engaged in such "prior-to-current" racial funding inequities, Pennsylvania is a much different story. One need only go back to the aforementioned years of 1969, 1980, and/or 1983 to see the overwhelming evidence.

One can also review the many reputable academic treatises that address this kind of "funding formula" inequity. They include the meticulous research of scholars such as, but not limited to, James B. Stewart in his "Effects of Public Policy Conflicts and Resource Allocation" as well as Beverly Lindsay and Manuel J. Justiz in their "The Quest for Equity in Higher Education."

There is an urgent need to revise the Commonwealth's inequitable "funding formula" to take into account CU's historic mission, its unique contributions to Pennsylvania, and its immediate exceptionally positive potential. Equity demands that such a revision include not only what is currently due but also retroactive compensation as well.

We respectfully request whatever assistance that Council's Education Committee can provide to save and enhance historic CU, not only because of Philadelphia's direct political and legal connection to CU but also because it is simply the right thing to do. Such assistance could possibly consist of additional hearings and/or a "sense of Council" type resolution and/or an actual bill and/or any ingeniously conceived effective action.

Thank you.

www.HeedingCheyneysCall.org