



**ANNE ARUNDEL COUNTY
OFFICE OF THE COUNTY AUDITOR**

RECEIVED
JAN 13 2012
COUNTY COUNCIL

January 13, 2012

The Honorable Members of the County Council
Anne Arundel County, Maryland
44 Calvert Street
Annapolis, Maryland 21401

Dear Members:

On July 18, 2011, the County Council passed Resolution No. 39-11 (Attachment A) requesting that I undertake a performance audit of Anne Arundel Community College (AACC). On September 7, 2011, Victoria Fretwell, Chair of the AACC Board of Trustees, provided a document entitled "Information to Assist the Anne Arundel County Auditor in Responding to County Council Resolution 39-11." Since the Council has this document, I have not attached it to or repeated the information it contains in this report.

On October 11, 2011, Maryland Attorney General Douglas F. Gansler issued an opinion that concludes ED § 16-315(I) of the Annotated Code of Maryland does not authorize me to undertake a performance audit of AACC. Since the AACC Board of Trustees was otherwise unwilling to allow me to conduct the audit, I have not conducted an audit in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

I have, however, compiled the following information in response to the Resolution No. 39-11. I obtained this information from published documents or information provided to me by AACC and the other Maryland community colleges. Since I did not conduct an audit in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States or the auditing or attestation standards issued by the American Institute of Certified Public Accountants, I do not express an opinion or any other form of assurance on the accuracy of the information provided to me by AACC, any of the community colleges who provided information in response to my requests, or the Maryland Association of Community Colleges.

1. *Compare AACC's administrative costs to those of other Maryland community colleges for the past five years.*

I was unable to obtain any public information that would allow me to compare AACC's administrative costs to those of other Maryland community colleges. However, the Maryland Association of Community College's 2011 Databook contains data on the number of full- and part-time positions at each college by category (Administrative, Credit Instructional, Non-credit Instructional, Other Professionals, and Support). The Databook also contains enrollment information. Using this information, I determined that:

- AACC had the greatest number of administrative employees of any community college in the State as of the fall of 2010. Attachment B shows AACC had 123 full-time administrative employees, followed by Montgomery College with 81.
- AACC had the second greatest percentage of administrative employees as a percentage of total employees (6%) as of the fall of 2010. As shown in Attachment C, only Cecil College had a greater percentage (11%).
- AACC had the third greatest percentage of administrative employees as of the fall of 2010 as a percentage of fiscal year 2010 full-time equivalent enrollment (0.84%). Attachment D shows Cecil College and Frederick Community College with greater percentages at 2.08% and 0.91%, respectively.

The number of positions by category published in the MACC 2011 Databook and shown in Attachment A is reported by each community college to MACC. Melissa Beardmore, Vice-President for Learning Resources, advised me that while MACC accurately published the information reported by AACC, AACC did not report accurate information, and the number of AACC administrative positions is less than the number shown in the MACC publication. However, since I was unable to audit this information or Ms. Beardmore's assertion, I cannot give an opinion or assurance on the accuracy of either Ms. Beardmore's assertion or the data published by MACC.

2. *Analyze the effectiveness of AACC's utilization of AACC facilities, including rented facilities, after 9 p.m. and on weekends, and the related costs.*

At my request, AACC provided a list of classes offered after 9 p.m. and on the weekends, and the time and location of each class. I will provide analysis of this information on a later date.

3. *Compare AACC's sabbatical policies to those of other community colleges, including the amounts of sabbatical pay accrued as of June 30, 2011 and by whom, and the amount of sabbatical pay paid in the last six years and to whom.*

The sabbatical policies provided to the County Council in AACC's letters dated

September 7 and September 19, 2011 apply to full-time tenured, tenure-track, and contract faculty, not to administrative personnel. According to Ms. Beardmore, the Board of Trustees has not adopted a sabbatical policy for administrative personnel.

Information regarding sabbatical pay accrued and paid in the last six years was provided by AACC in their September 7, 2011 letter to the County Council. Information regarding the sabbatical pay included in the contract between Dr. Martha Smith and the Board of Trustees dated June 15, 2010 is discussed under item #6 below.

4. Compare the pay and benefits awarded to the President of AACC in 2008, 2009, 2010, and 2011 to pay and benefits of the presidents of other Maryland community colleges, including health insurance, life insurance, retirement or pension contributions, vehicles, club memberships, and any other forms of compensation.

In response to the Council's request, I prepared Attachment E that summarizes Dr. Smith's current compensation and compares it to the current compensation of the presidents at the other Maryland community colleges. This information is based on the information provided to me from each college, and it reflects the most current compensation agreements for each. It does not compare pay and benefits in prior years.

- Sabbatical leave: The attachment includes only sabbatical pay provisions specifically included in a president's current compensation agreement that guarantees sabbatical leave. It does not include sabbatical pay under policies adopted by a college under which eligible administrative employees may apply for a sabbatical leave that may or may not be approved.
- Severance pay: The attachment includes only severance pay provisions found in current employment agreements. Because the chart does not compare pay and benefits in prior years, it does not include severance pay that may have been provided in previous contracts for current or former presidents.

Since Attachment E summarizes Dr. Smith's current compensation package without comparison to prior years, I have provided a summary of enhancements to Dr. Smith's compensation in 2009, 2010, and 2011 below:

- On September 21, 2009, the Board of Trustees and Dr. Smith entered into a Memorandum of Understanding and Agreement that enhanced Dr. Smith's compensation. In addition to the 20% of Dr. Smith's salary the Board of Trustees was already contributing to Dr. Smith's deferred compensation plan, the Board agreed to contribute:
 - An additional one-time contribution of \$15,943 to Dr. Smith's deferred compensation plan on or about August 1, 2009.

- An additional \$12,600 contribution to Dr. Smith's deferred compensation plan on or about August 1, 2009.
 - Annually for a period of nine years thereafter, an additional sum of \$12,600 to Dr. Smith's deferred compensation plan.
 - Beginning in 2010, Dr. Smith is entitled to have these contributions paid to her in some form other than as deferred compensation (for example, as a bonus.)
 - If Dr. Smith terminates her employment before August 1, 2019, the Board may consider some form of payout of the remaining annual contributions of \$12,600 that Dr. Smith would have received if she continued employment until August 1, 2019. The Board's consideration would be eliminated if Dr. Smith is (1) terminated for unsatisfactory performance; (2) employed by or in a position or role with a community college or other educational institution of higher learning in Maryland that would be competitive with or adversely affect AACC; and/or (3) fails to provide the Board with at least one year's notice of her intent to leave, unless her leaving is due to illness, an extenuating circumstance resulting from illness, or some other significant unanticipated circumstance.
- On June 15, 2010, the Board of Trustees and Dr. Smith entered into a Memorandum of Understanding and Agreement that enhanced Dr. Smith's compensation as follows:
 - A new housing allowance of \$15,000 annually.
 - A \$20,000 supplemental retirement contribution to TIAA/CREF.
 - An additional contribution of \$30,000 annually to Dr. Smith's deferred compensation plan
 - One year of sabbatical leave for every six years of service, accruing from Dr. Smith's date of hire on August 1, 1994. See #6 below for more details on the sabbatical leave.
 - On June 24, 2011, the Board of Trustees and Dr. Smith entered into an Employment Agreement to engage Dr. Smith as President Emeritus effective August 1, 2012. See #6 below for more details on this employment agreement.
5. ***Obtain a copy of all contracts between the Board of Trustees and outside agencies or professionals, including but not limited to accountants and legal counsel, and the amounts paid and to whom and for what services in 2008, 2009, 2010, and 2011.***

This information was provided in AACC's September 7, 2011 response. I did not obtain any additional information from AACC.

6. *Determine the amount of the severance pay package agreed to by the Board of Trustees for the President of AACC and any modifications made to that package from 2009 to present.*

The agreements entered into between the Board of Trustees and Dr. Smith from 2009 to the present do not provide for severance pay. However, an agreement entered into on June 15, 2010 provided for sabbatical pay under certain circumstances on or after August 1, 2012, and a subsequent agreement entered into on June 24, 2011 provides employment for Dr. Smith as "President Emeritus" effective August 1, 2012. The details of these contracts with respect to sabbatical pay and compensation for employment as President Emeritus are as follows:

June 15, 2010 Memorandum of Understanding and Agreement

On June 15, 2010, the Board of Trustees entered into a Memorandum of Understanding and Agreement with Dr. Smith that provides one year of sabbatical leave for every six years of service accruing from Dr. Smith's date of hire on August 1, 1994. The agreement specifies that the sabbatical leave may not be taken until August 1, 2012, allowing Dr. Smith to accrue three years of sabbatical leave for her 18 years of service. The agreement says the sabbatical leave may be taken in one year increments with a minimum of six months continuous employment between each subsequent sabbatical leave period, or it may be taken in three consecutive years if Dr. Smith terminates her employment with the college on or after August 1, 2012. The agreement does not require Dr. Smith to undertake any specific activities while receiving sabbatical pay, such as research or study, and the agreement does not require Dr. Smith to report to the Board of Trustees on her sabbatical activities.

June 24, 2011 Employment Agreement

On June 24, 2011, the Board of Trustees and Dr. Smith executed an Employment Agreement that supercedes the June 15, 2010 agreement if Dr. Smith is still employed by AACC on August 1, 2012.

The June 2011 agreement employs Dr. Smith as President Emeritus. The contract commences on August 1, 2012, and it ends on the earlier of July 31, 2017, involuntary termination without cause, voluntary resignation, discharge for cause, or termination for any other reason. Dr. Smith is required to devote her time and efforts to the business of the college. She may not engage in any consulting work or any trade or business that competes or conflicts with or interferes with the performance of her duties under the contract, and she may not engage in any work or role with a community college or other institution in Maryland that competes with AACC.

The agreement requires Dr. Smith to devote on an annual basis 21% of the average level

of services she performed from August 1, 2009 through July 31, 2012, and for her services, Dr. Smith will be compensated as follows:

- \$140,610 annual salary
- Participation in the college's health, dental, vision, and disability benefit programs pursuant to the terms of those programs, except that AACC will pay all required premiums on behalf of Dr. Smith during the first three years of the agreement. After July 31, 2015, if Dr. Smith continues to participate, she is required to pay the premiums.
- 20% of annual salary plus \$12,600 annually to an I.R.C. §457(f) supplemental executive retirement plan (SERP). Dr. Smith vests in the SERP at the earlier of July 31, 2017, death, total disability, or involuntary termination of employment without cause before July 31, 2017.
- Payment of \$12,600 on July 31, 2018 and on July 31, 2019.

7. *Obtain documentation to substantiate AACC's decision to increase continuing education fees for seniors.*

On September 13, 2011, the Board of Trustees approved an increase in the quarterly cycle fee for the seniors program from \$40 to \$80. To justify the fee increase, AACC states in its "Information to Assist the Anne Arundel County Auditor in Responding to County Council Resolution 39-11" that:

"In FY11, expenses for the seniors program, both direct and indirect, exceeded the direct revenues generated by the program:

Direct revenues	\$ 441,086
Direct expenses	1,089,329
Indirect expenses	<u>234,693</u>
Difference	\$ -882,936"

In providing this justification and showing a loss of \$882,936, AACC failed to recognize revenue from the State generated by enrollment in the seniors program. Upon further inquiry, AACC provided information showing revenue from the State of \$1,409,985 and additional "institutional indirect expenses" of \$468,411. Therefore, revenues generated by enrollments in the seniors program exceeded expenses by \$58,638 in fiscal year 2011, prior to the 100% increase in fees.

Revenue from senior fees	\$ 441,086
Revenue from the State from senior enrollments	<u>1,409,985</u>
Total revenue	<u>1,851,071</u>
Direct expenses	1,089,329
Departmental indirect expenses	234,693
Institutional indirect expenses	<u>468,411</u>
Total expenses	<u>1,792,433</u>
Revenues in excess of expenses	<u>\$ 58,638</u>

8. Determine how AACC is implementing furloughs or other pay reductions.

In its fiscal year 2012 budget deliberations, the County Council reduced the appropriation from the County to AACC by \$1,725,000, equivalent to a 2.31% reduction in pay or six furlough days. In response, AACC implemented a "furlough plan" that it estimates will save \$350,200, equivalent to a 0.46% reduction in pay.

The furlough plan AACC implemented differs from the furlough plan implemented by the County. Under the County furlough plan, an employee does not report to work on a furlough day, and that employee is not paid for that day. Under the AACC furlough plan, employees who earn over \$50,000 are required to take one, two, or four furlough days depending on their salaries, and, in exchange, they are given an equal number of "floating administrative leave days," i.e., additional days with paid leave. Employees earning \$50,000 or less are not required to take any furlough days or pay reductions.

AACC closed on December 22, 2011 and will close on May 25, 2012. These are two of the furlough days under AACC's furlough plan. The effect of furlough days on AACC employees is as follows:

- Employees earning \$50,000 or less annually have no pay reductions or furlough days. Because these employees did not or will not work on December 22, 2011 and May 25, 2012, yet their pay was not reduced, these employees effectively have been given two additional paid days of leave in fiscal year 2012.
- Employees earning \$50,001 - \$75,000 annually have pay reductions equal to 0.42% (one day), and, in exchange, they get one floating administrative leave day. Because their pay was reduced for only one furlough day, and these employees did not or will not report to work on the two days the college is closed, they effectively have been given one additional paid day of leave in fiscal year 2012. Additionally, they will receive one paid floating administrative leave day.

Members of the County Council
January 13, 2012
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- Employees earning \$75,001 - \$90,000 annually have a pay reduction equal to 0.83% (two days), which are the two days the college is or was closed in December and May. In exchange they will receive two paid floating administrative leave days.
- Employees earning \$90,001 and greater annually have a pay reduction equal to 1.67% (four days), which are the two days the college is or was closed in December and May and two additional days. In exchange they will receive four paid floating administrative leave days.

9. *Determine whether and the extent to which AACC participates in joint purchasing agreements with other community colleges, the County, the State, or other government entities.*

AACC provided information on joint purchasing agreements in its September 7, 2011 response to the County Council. I have not obtained any additional information from AACC on this item.

Please call if you have any questions on this report or my findings.

Sincerely,



Teresa Sutherland, CPA
County Auditor

c: Victoria Fretwell, Chair, AACC Board of Trustees

ATTACHMENT A

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2011, Legislative Day No. 29

Resolution No. 39-11

Introduced by Mr. Jones, Mr. Grasso, Mr. Fink, Mr. Benoit, Mr. Ladd, and Mr. Walker

By the County Council, July 18, 2011

1 Resolution requesting that the County Auditor undertake a performance audit of
2 Anne Arundel Community College (AACC).

3 WHEREAS, the County Council is the primary fiscal authority of the County
4 and is responsible for approval of the Annual Budget for Anne Arundel County,
5 including the budget of Anne Arundel Community College; and
6

7 WHEREAS, the Fiscal Year 2012 budget imposed several reductions in funding
8 for the Anne Arundel Community College that led the Board of Trustees of
9 Anne Arundel Community College to make decisions implementing increases in
10 fees and tuition and institution of employee furloughs; and
11

12 WHEREAS, the President of the Community College has tendered her
13 resignation effective August 1, 2012 and the County Council believes it is
14 essential to work in partnership with the Board of Trustees to prepare for the
15 new leadership, given the fiscal challenges for the County, and to obtain an
16 accurate and complete picture of the Community College's operation, revenue
17 structures and plans; and
18

19 WHEREAS, Section 16-315(i) of the Education Article of the Annotated Code
20 of Maryland provides for periodic or special audits by an official auditor of any
21 county providing funds for a community college; now, therefore, be it

23 *Resolved by the County Council of Anne Arundel County, Maryland, That County*
24 Auditor Teresa Sutherland is requested to undertake an audit of Anne Arundel
25 Community College. In conducting the audit, the County Auditor is hereby requested to:
26

27 1. Compare AACC's administrative costs to those of other Maryland community
28 colleges for the last five years.
29

30 2. Analyze the effectiveness of AACC's utilization of AACC facilities,
31 including rented facilities, after 9 p.m. and on weekends, and the related costs.
32

33 3. Compare AACC's sabbatical policies to those of other Maryland community
34 colleges, including the amount of sabbatical pay accrued as of June 30, 2011 and
35 by whom, and the amount of sabbatical pay paid in the last six years and to
36 whom.
37

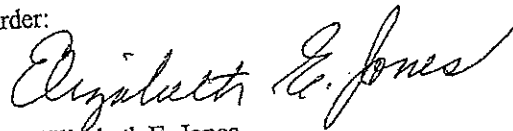
- 1 4. Compare the pay and benefits awarded to the President of AACC in 2008,
2 2009, 2010, and 2011 to pay and benefits of the presidents of other Maryland
3 community colleges, including health insurance, life insurance, retirement or
4 pension contributions, vehicles, club memberships, and any other forms of
5 compensation.
- 6
7 5. Obtain a copy of all contracts between the Board of Trustees and outside
8 agencies or professionals, including but not limited to accountants and legal
9 counsel, and the amounts paid and to whom and for what services in for 2008,
10 2009, 2010, and 2011.
- 11
12 6. Determine the amount of the severance pay package agreed to by the Board of
13 Trustees for the President of AACC and any modifications made to that package
14 from 2009 to present.
- 15
16 7. Obtain documentation to substantiate AACC's decision to increase continuing
17 education fees for seniors.
- 18
19 8. Determine how AACC is implementing furloughs or other pay reductions.
- 20
21 9. Determine whether and the extent to which AACC participates in joint
22 purchasing agreements with other community colleges, the County, the State, or
23 other government entities.

24 and, be it further

25
26 *Resolved*, That County Auditor report back to the County Council with her
27 findings.
28

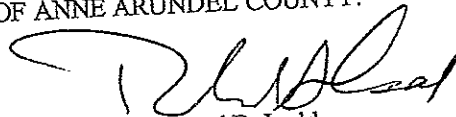
READ AND PASSED this 18th day of July, 2011

By Order:



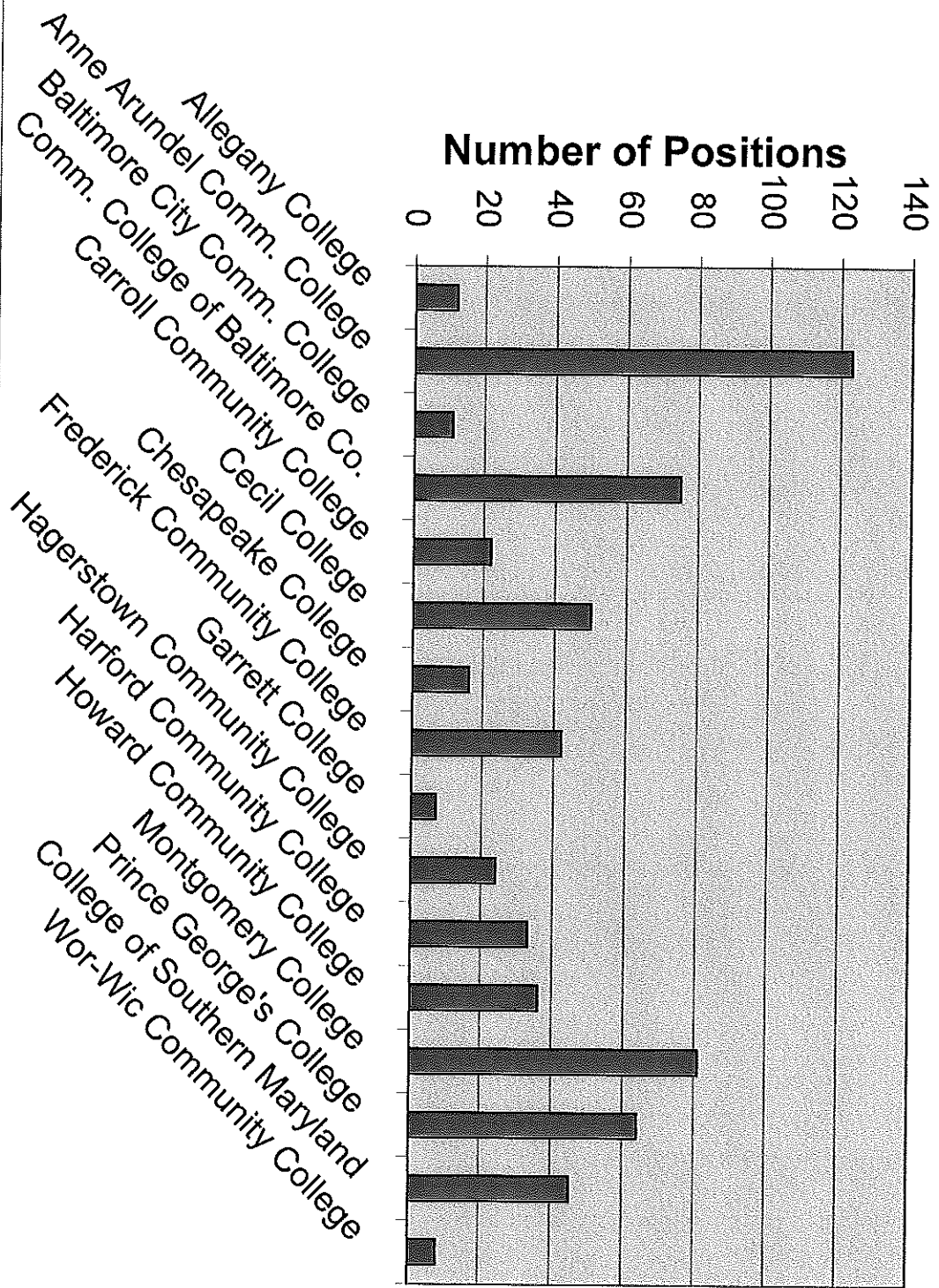
Elizabeth E. Jones
Administrative Officer

I HEREBY CERTIFY THAT RESOLUTION NO. 39-11 IS TRUE AND CORRECT AND DULY
ADOPTED BY THE COUNTY COUNCIL OF ANNE ARUNDEL COUNTY.



Richard B. Ladd
Chairman

ATTACHMENT B ADMINISTRATIVE POSITIONS



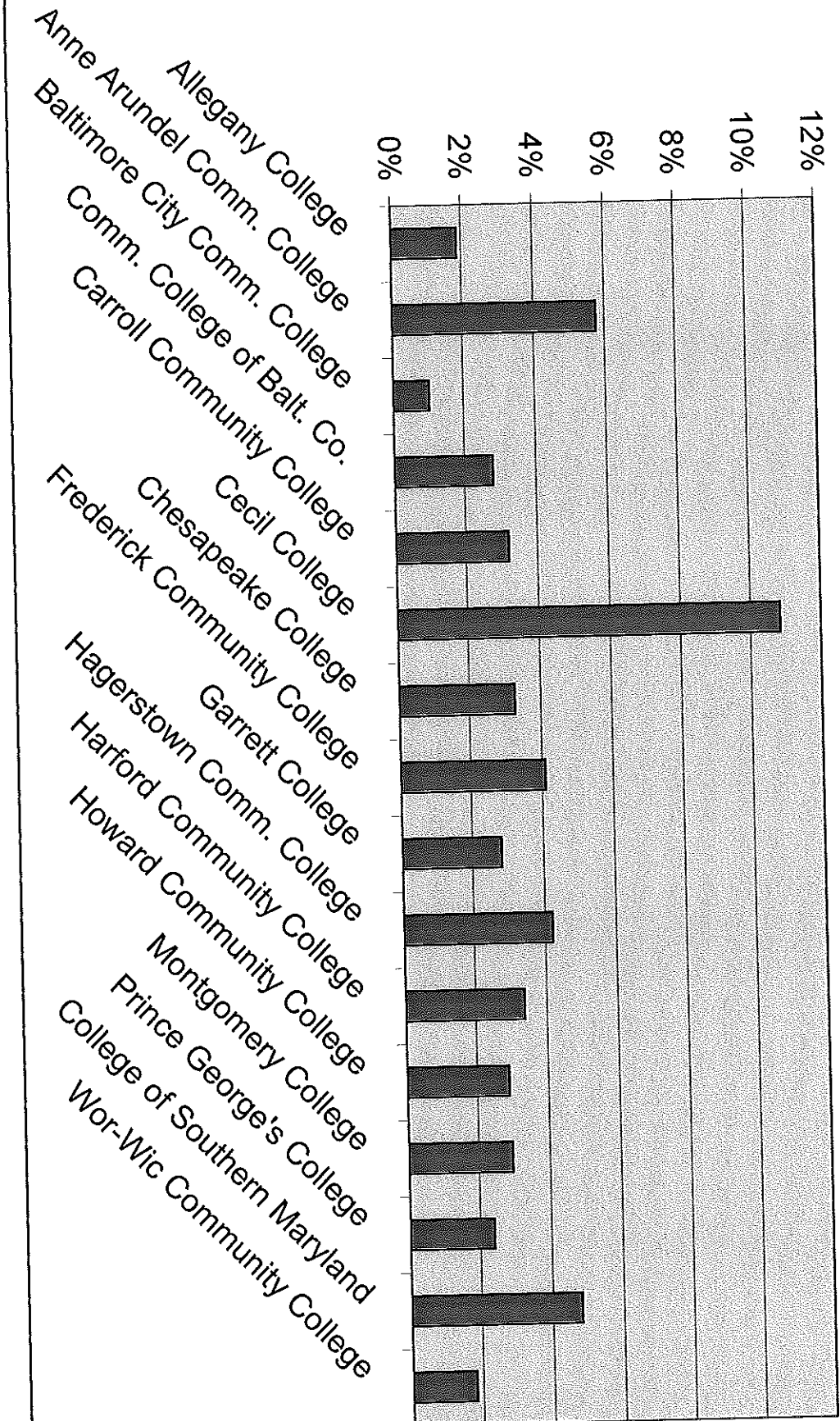
ATTACHMENT B

ADMINISTRATIVE POSITIONS

	Total # of Administrative Positions
Community College	
Allegany College	12
Anne Arundel Community College	123
Baltimore City Community College	11
Comm. College of Baltimore Co.	75
Carroll Community College	22
Cecil College	50
Chesapeake College	16
Frederick Community College	42
Garrett College	7
Hagerstown Community College	24
Harford Community College	33
Howard Community College	36
Montgomery College	81
Prince George's College	64
College of Southern Maryland	45
Wor-Wic Community College	8

Source: Derived from MACC 2011 Databook

ATTACHMENT C ADMINISTRATIVE POSITIONS AS % OF TOTAL POSITIONS



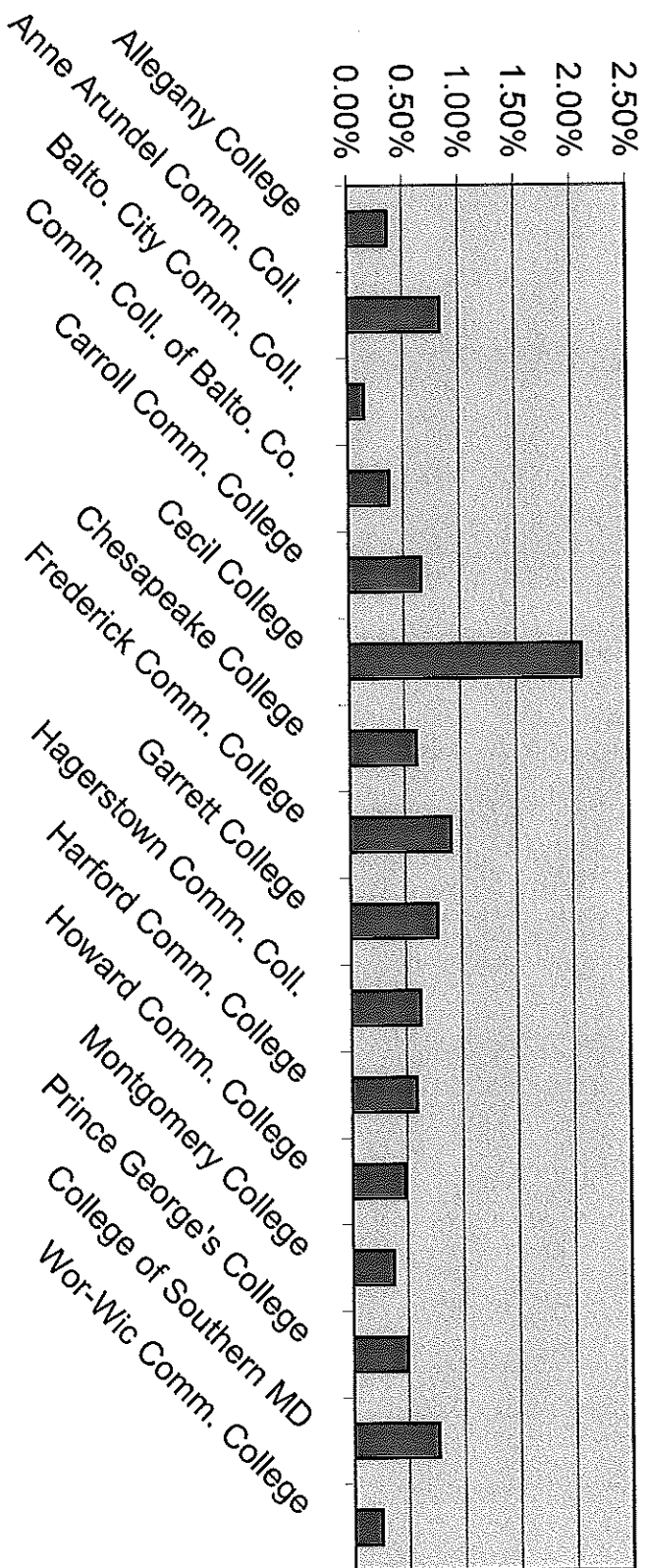
ATTACHMENT C

ADMINISTRATIVE POSITIONS AS % OF TOTAL POSITIONS

Community College	Administrative Positions	Total Positions	Administrative Positions as % of Total Positions
Allegheny College	12	641	2%
Anne Arundel Comm. College	123	2,138	6%
Baltimore City Comm. College	11	1,073	1%
Comm. College of Balt. Co.	75	2,678	3%
Carroll Community College	22	687	3%
Cecil College	50	461	11%
Chesapeake College	16	489	3%
Frederick Community College	42	1,027	4%
Garrett College	7	248	3%
Hagerstown Comm. College	24	570	4%
Harford Community College	33	982	3%
Howard Community College	36	1,244	3%
Montgomery College	81	2,749	3%
Prince George's College	64	2,676	2%
College of Southern Maryland	45	936	5%
Wor-Wic Community College	8	441	2%

Source: Derived from MACC 2011 Databook

**ATTACHMENT D
ADMINISTRATIVE POSITIONS AS % OF FULL-TIME EQUIVALENT
ENROLLMENT**



ATTACHMENT D

ADMINISTRATIVE POSITIONS AS % OF FULL-TIME EQUIVALENT (FTE) ENROLLMENT			
Community College	Total # of Administrative Positions	Full-Time Equivalent Enrollment	Adm. Positions as % of FTE
Allegany College	12	3,309	0.36%
Anne Arundel Community College	123	14,666	0.84%
Baltimore City Community College	11	7,314	0.15%
Comm. College of Baltimore Co.	75	20,137	0.37%
Carroll Community College	22	3,346	0.66%
Cecil College	50	2,402	2.08%
Chesapeake College	16	2,635	0.61%
Frederick Community College	42	4,614	0.91%
Garrett College	7	893	0.78%
Hagerstown Community College	24	3,809	0.63%
Harford Community College	33	5,598	0.59%
Howard Community College	36	7,536	0.48%
Montgomery College	81	21,866	0.37%
Prince George's College	64	13,002	0.49%
College of Southern Maryland	45	5,851	0.77%
Wor-Wic Community College	8	3,228	0.25%

Source: Derived from MACC 2011 Databook