

From: [Renner, Jamie](#)
To: adrian@segar.com
Cc: [Mishaan, Jessica](#)
Subject: Your Public Records Request
Date: Thursday, July 2, 2020 11:26:17 AM
Attachments: [2020-7-2 Renner Response to Heck - Production.pdf](#)

Dear Mr. Segar:

You recently submitted a Public Records Act request to our Office seeking either of the following records:

1. Notice of a proposed plan of transaction (and/or an actual plan of transaction itself) submitted to this Office by Marlboro College (or the Corporation of Marlboro College); and/or
2. Any third-party correspondences to our Office regarding the proposed transaction.

Attached is an electronic file containing records responsive to your request. These documents were received by our Office this past Monday, June 29. With respect to certain other potentially responsive documents received by our Office that day, pursuant to 1 V.S.A. §318(a)(5)(B), we invoke our right to additional time to respond due to the need to appropriately examine the records requested. We will further respond within ten business days of receipt of your request (which we consider to have been made on June 29).

If you feel information has been withheld or redacted in error, you may appeal to the Deputy Attorney General Josh Diamond. Thank you for reaching out to our office.

Sincerely,

Jamie Renner

Jamie Renner
Assistant Attorney General
Office of the Vermont Attorney General
109 State Street, Montpelier, VT 05609
Dir: 802-828-5947

Renner, Jamie

From: Kevin Quigley <kevin@marlboro.edu>
Sent: Monday, June 29, 2020 11:07 AM
To: Curtis, Christopher
Cc: Renner, Jamie; Jeff McMahan
Subject: Emersonre-related material
Attachments: AG Notice for Marlboro Institute at Emerson College June 26 2020 (1).docx; Marlboro Narrative - Emerson Transaction Narrative - June 26, 2020 (1).docx

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.

Hello Chris and Jamie,

In case you didn't receive this in the numerous documents sent Friday, I am attaching a copy of the required notice and the narrative related to the Emerson transaction.

I look forward to hearing from you about this matter.

Kevin Q.



Kevin F. F. Quigley
President

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Marlboro College

This Notice is provided pursuant to 11B V.S.A. §12.02(g) in connection with the proposed transfer of academic programs and related assets by The Corporation of Marlboro College (“Marlboro”) to Emerson College (“Emerson”) for the establishment of the Marlboro Institute for Liberal Arts and Interdisciplinary Studies at Emerson College. A copy of the substantive portions of the executed Agreement for Asset Exchange in Support of Marlboro Institute (the “Asset Exchange Agreement”) is attached for your reference.

Marlboro College is a Vermont public benefit corporation recognized as tax-exempt pursuant to Section 501(c)(3) of the Internal Revenue Code. Emerson College is a Massachusetts charitable educational corporation also recognized as tax-exempt pursuant to Section 501(c)(3) of the Internal Revenue Code.

Pursuant to the Asset Exchange Agreement, Marlboro will transfer its academic programs, related assets and endowment funds to Emerson in consideration of Emerson’s agreement to integrate certain elements of the Marlboro educational programming into the renamed Marlboro Institute, employ tenured and tenure-track members of the Marlboro faculty and accept the transfer of Marlboro’s students (the “Emerson Transaction”). The Emerson Transaction, together with the Campus Sale previously described, is the culmination of a two-year process during which Marlboro continually reassessed its ability to continue as an independent institution.

As described in the materials provided in connection with the Campus Sale, over that two-year time period, Marlboro suffered declining student enrollments and retention coupled with increasing tuition discounts, leading to decreasing revenues that outpaced Marlboro’s ability to appropriately reduce its expenses. The College’s experience during this time period mirrored the experience of institutions of higher education generally due to an overall demographic decline in college-aged students in the United States and the Northeast in particular. This demographic decline was exacerbated by rising concerns about the cost of college education and mounting skepticism that traditional residential liberal arts programs, like Marlboro’s, would lead to gainful employment. Moreover, Marlboro’s accrediting agency, the New England Commission on Higher Education, expressed concerns, both before and during this period, about whether Marlboro could continue to meet accreditation criteria demonstrating enrollment and financial sustainability.

Concluding that it would not be able to remain independent, Marlboro sought an academic alliance to enable its students to complete their educations with an institution that would integrate Marlboro’s unique pedagogical approach. The College believes that it has found that alliance with Emerson and is working to complete the Emerson Transaction effective as of July 16, 2020.

Completion of the Emerson Transaction will integrate Marlboro’s pedagogy into Emerson’s academic programs, maintain the unity of Marlboro’s faculty and provide for the continued educational experience of Marlboro’s students as seamlessly as possible. In consideration of Emerson’s agreements, Marlboro will transfer its endowment funds to Emerson so that those funds may continue to support the Marlboro programs, faculty and students to which they have been applied to date. Emerson has agreed in the Asset Exchange Agreement to use the endowment funds to support the Marlboro Institute at Emerson. In further support of the integration of

Marlboro's academic programs at Emerson, Emerson will name two Marlboro representatives to the Emerson Board of Trustees.

Upon the completion of the Campus Sale and the Emerson Transaction, Marlboro will have sold or transferred all of its assets and will proceed to engage in an orderly wind-up of its affairs.

Please let us know what other information the Attorney General's Office would like to review in connection with the Emerson Transaction. We are available to answer any questions at your convenience.



Marlboro College

NARRATIVE OF MARLBORO COLLEGE'S EFFORTS TO MAINTAIN ITS INDEPENDENCE

HISTORY OF INCREASING CHALLENGES

Since the Great Recession, small, rural, liberal arts colleges have struggled to attract students from a shrinking pool of applicants, particularly in the Northeast US, in an increasingly competitive marketplace. These pressures have also affected Marlboro.

For the 2009-2010 academic year, Marlboro enrolled 310 students, charged net tuition revenues of \$7.2MM, and drew \$1.5MM from its endowment. In the last academic year for which complete information is available (2018-2019), enrollment had dropped to 142 (-54%), net tuition revenues had fallen to less than \$2.0MM (-72%) and the draw from the endowment and other reserves (the proceeds from the sale of the graduate building) was \$5.2MM (+200% increase). These downward trends in revenue and ever-larger endowment draws created enormous-- indeed, existential -- challenges for Marlboro.

EFFORTS TO ADDRESS CHALLENGES

Over many years, Marlboro attempted to address these enrollment and financial challenges while preserving Marlboro as a four-year liberal arts college, with traditions of independent thought and study, self-reliance, and community governance.

During the 2009-2010 academic year, it created a Task Force on the Future, which concluded that to expand enrollment Marlboro must, among other things, differentiate itself through marketing, seek partnerships to increase offerings and pursue capital improvements. Shortly thereafter it undertook efforts to create more effective marketing and messaging, with guidance from three Boston-area consultants. It also created dual enrollment courses with Brattleboro High School and launched Summer programs for high school students. Further, it

expanded its recruitment efforts, increased alumni participation in the admissions process and implemented new admissions software.

During the 2013-2014 academic year, Marlboro adopted a new Strategic Plan that included 32 Educational Ideals focusing on student support, self-directed academics and civic engagement, helped launch a Six College Collaborative to facilitate cross-enrollment with other schools in southern Vermont, and launched a new web site and marketing initiative.

In 2015, the New England Association of Schools and Colleges (now New England Commission of Higher Education or “NECHE”)¹ expressed concerns over Marlboro’s viability, especially given its operating deficits and enrollment levels. Given that concern, NECHE required the college to submit annual reports on enrollment and finances. During that year, Marlboro launched its Beautiful Minds competition to attract enrollment interest, and joined the Colleges That Change Lives recruiting tour. It also expanded experiential learning curricular efforts, including Movies from Marlboro, travel-based environmental studies, and Speech Matters—a program linking the classroom to public policy challenges. Further, the college froze spending, eliminated a number of staff positions and secured funding to construct a new visual arts center.

In 2016, Marlboro introduced The Renaissance Scholarship program offering free tuition for one exceptional student from each state. This program was designed, to raise Marlboro’s profile nationally, enhance recruitment and expand diversity on our rural campus in Southern Vermont. In an effort to control expenditures, we froze hiring, reduced health benefits, and announced the termination of a voluntary phased retirement. We also took steps to adjust the faculty/student and staff/student ratios to more sustainable levels.

During the 2016-2017 academic year, Marlboro began efforts to relocate its graduate program to the undergraduate campus and sell the graduate center building. This was driven not only by an interest in economic efficiency, but also with an eye towards developing synergies

¹ NECHE (f/k/a NEASC) is the regional accrediting organization that accredits Marlboro’s academic programs.

between our graduate and undergraduate programs that would expand educational opportunities and boost recruitment for both programs.

That Fall Marlboro launched a five-year operating plan to increase the enrollment and endowment and reframe the curriculum to better reflect current trends and student interest. On November 29, 2017 NECHE issued a “Notice of Concern,” indicating that Marlboro might not continue to meet the required standards for accreditation. It stated that Marlboro “will need to overcome considerable enrollment and financial challenges,” and that “the ‘longest-and steepest overall enrollment decline in [its] history’ must be reversed.” Further it indicated that “overall enrollment at the graduate level needs to grow in order for the programs to remain viable,” and that endowment draws over the past 3 fiscal years “are not sustainable.” NECHE stated that it would conduct a focused evaluation in the Fall of 2018 to determine whether there had been progress in two areas: enrollment and finances.

At a June 2018 special board meeting, the Trustees began to consider the potential for pursuing a comprehensive partnership with another institution. That Summer and Fall Marlboro pursued various collaborations with other institutions to expand curricular opportunities, improve efficiencies and enhance viability.

In an attempt to address falling admissions, the next academic year (2018-2019) Marlboro launched a new admissions customer relationship management system, added admissions counselors, and explored ways to improve retention. It also created a Trustee committee to explore curriculum options. In June 2018, the committee proposed that the faculty consider a specialized curriculum, faculty teaching at other schools’ campuses and internet-based delivery of courses. Over the Summer, after considering these options the faculty concluded that none of these alternatives was viable in the Marlboro context. Instead the faculty created a plan to reinforce the liberal arts curriculum called the Marlboro Promise. This Promise is designed to connect our rigorous, self-directed academic program to the world of meaningful work by assuring that students learn to: (1) write and communicate with clarity and precision, (2) live, work and collaborate with a wide range of people, and (3) lead ambitious projects from idea to execution.

Based on the continued deterioration of enrollment and financial condition, it was clear to the board by this time that continuing on a stand-alone basis was likely not viable, and that an alliance was therefore the only likely alternative to closure. In addition, closure was considered to be clearly inferior to an alliance, due to the adverse impact on faculty, students and staff. The Board of Trustees therefore established a Strategic Options Task Force (SOTF) in November 2018 to explore partnership options that would preserve Marlboro's "DNA" relating to its identity, pedagogy, people and campus. The SOTF included representatives of the board, faculty, students and staff. To assist in this effort, Marlboro retained Ernst & Young/Parthenon. Marlboro also entered into a new lease with the Marlboro Music Festival, under which MMF would construct two new buildings (valued at more than \$10MM) on the college campus. Marlboro also reset its tuition by 1/3, to assist with recruitment efforts by more closely aligning its tuition "sticker price" to the amount students actually pay.

Based on an internal analysis that was confirmed by E&YP, the Board of Trustees concluded at its February 2019 meeting that Marlboro was no longer financially viable on a stand-alone basis. The analysis indicated the following:

- Enrollment and net student revenues had declined significantly over the past ten years; e.g. tuition revenues declined from \$7.2MM in 2009-10 to less than \$2MM a decade later;
- The endowment draw for the current fiscal year was expected to exceed 8% ;
- The operating deficit could not be closed at current tuition discount rates, which had risen to over 60% in recent years—a completely unsustainable level;
- Despite numerous cost-cutting measures, the college was subject to an unavoidable, albeit modest, rise in operating expenses;
- Even under an optimistic scenario, the required draw on the endowment is expected to increase to more than double digit levels, an even more unsustainable level;
- Despite significant investments in marketing and a more data-driven approach with an expanded admissions teams, we were not recruiting the students needed; and

- Declining college age demographic in our primary recruitment areas coupled with an inability to expand international recruitment in the current political environment, while discounting at ever increasing amounts resulted in less student revenue supported the needed institutional infrastructure.

Concurrently the SOTF pursued partnership efforts. With E&YP, it created a community inquiry process designed to identify the college's most important assets and attributes, a process that included interviews and focus groups with students, faculty, staff and trustees (many of whom are alumni). The results of this process were incorporated into a request to institutions for expressions of interest in some form of partnership. The request was sent to roughly 75 institutions that met criteria identified by the board, in consultation with E&YP. Four institutions expressed interest in pursuing partnerships and submitted formal proposals to the SOTF. The SOTF undertook due diligence on each of the four proposals in April 2019. Based on this information, the SOTF ranked the four proposals based on a scoring rubric consisting of (1) consistency with Marlboro's vision, (2) commitment to Marlboro's academic model, (3) maintenance of the Marlboro name and governance structures, (4) continuation of the Marlboro campus, (5) financial strength and (6) transition plan. Based on this analysis, the proposal of the University of Bridgeport was clearly superior to the others, and the SOTF recommended to the board that Marlboro pursue negotiations with the University of Bridgeport.

In its June 2019 meeting, and based on this recommendation, the board decided to pursue discussions with the University of Bridgeport. Negotiations of an agreement with UB began immediately and continued through the summer. As they progressed, it became clear that there were challenges. Marlboro was unable to obtain sufficient financial information and assurances that the University of Bridgeport would maintain Marlboro's academic vision. On September 13, 2019, Marlboro suspended negotiations with UB due to insurmountable barriers to developing a compelling financial and academic model that supported both institutional missions. Soon thereafter, Marlboro began discussions with the institution that was ranked second of the four proposals by the SOTF. At about the same time, Marlboro renewed an earlier conversation it had with Emerson College concerning a potential alliance. Among all the proposals, Emerson's most clearly met the two essential criteria that EY-Parthenon helped us

identify: 1) Emerson had more demand from student applications than seats available (Emerson is very selective and admits just one in three students), and 2) its tuition revenue per student was at least \$10,000 more than Marlboro's. These two factors are indicators of a more financially sustainable institution. In addition, Emerson, as a substantially larger institution, had roughly ten times more net assets than Marlboro. In addition to these factors, what was most compelling about a partnership with Emerson was that its Institute for Liberal Arts and Interdisciplinary Studies had by far the best alignment with Marlboro's pedagogy and values. Based on its response, Marlboro chose to begin negotiations with Emerson College in the Fall of 2019, and entered into a term sheet on November 6. The term sheet provided that Emerson will rename its existing Institute for Liberal Arts and Interdisciplinary Studies after Marlboro, permanently employ every Marlboro tenured and tenure track faculty who chooses to go to Emerson, and accept present Marlboro students with their existing credits at the tuition rate they are paying to Marlboro (Emerson normally charges approximately \$25k more on average). In addition, Marlboro agreed to transfer its endowment to Emerson, and Emerson agreed to revise its Institute curriculum to more closely reflect Marlboro's particular teaching pedagogy and learning style.

On December 19, 2019, NECHE reissued its Notice of Concern. It stated that Marlboro "continues to face serious challenges with respect to finance and enrollment," that its endowment draw and tuition discount rate were "unsustainable" and the college was not effective in attracting sufficient new students. It also concurred with Marlboro that "a successful merger is the only way to address the financial and enrollment concerns." Finally, NECHE stated that failure on the part of the College to begin teaching out its students in the event the merger with Emerson does not transpire, will lead the Commission to immediately consider stronger public action."

Following a series of seven town meetings, virtual and face-to-face, throughout the Summer and Fall on the college's circumstances and plans to merge with the University of Bridgeport and then transfer its programs to Emerson, on December 14, more than 75 people gathered in the College's Ragle Hall to share their views on the potential merger of Marlboro and

Emerson and provide an opportunity for community members to offer comments directly to the Trustees.

Over the Winter, Marlboro and Emerson task forces met to address, among other things, revisions to the Emerson Institute curriculum, faculty employment, acceptance of Marlboro students, and financial issues. In addition, they decided that, rather than transferring the campus to Emerson, Marlboro would sell it and transfer the sale proceeds to Emerson to provide further support to the Marlboro Institute at Emerson.

During the Winter, the Marlboro entered into transfer agreements with Bennington College and Castleton University, and St. Michael's College in Vermont, as well as the College of Atlantic in Maine, for those students not interested in completing their education at Emerson. These agreements provided an option for Marlboro students to transfer with relative ease, by waiving application fees and certain other requirements in the transfer application process, and by accepting most of Marlboro's credits.

Shortly after announcing the term sheet with Emerson, Marlboro formed a Campus Working Group (CWG) that included town and county community members, as well as students, staff, alumni, faculty, and Trustees. The CWG retained a consultant and a broker to seek proposals from organizations, businesses, and individuals for endeavors that would benefit the community and make productive use of the Marlboro campus. This effort produced a number of proposals. After review, the CWG concluded that the Democracy Builders (DB) proposal would provide the greatest benefits to the community. Shortly afterward the Marlboro board of trustees accepted the CWG's recommendation and began negotiations to sell the campus to DB.

CONCLUSION

Over the past ten years, Marlboro has developed and followed two strategic plans and numerous initiatives to address enrollment, retention, curriculum, and operations. It invested in new marketing, increased its admissions budget, and made possible creative programming. It evaluated and employed a variety of cost saving financial approaches, found ways to share back

office expenditures and staff with other institutions, and used its partnership with the Music Festival to gain much needed new buildings and campus improvements. It sought to right-size where it could without changing the educational fabric of the College. From 2008 to today, its tenured and tenure-track faculty have decreased from 38 to 24, reflecting a serious commitment to controlling expenses to enhance viability.

Despite these efforts, it is clear that Marlboro is not sustainable on a stand-alone basis. Especially with the havoc that the COVID-pandemic is wreaking on the higher education landscape, there is no credible reason to think that there will be a meaningful change in the trends in higher education nationally and Marlboro's financial and enrollment trends. Specifically, these trends have undermined, and will continue to erode, Marlboro traditions and its ability to deliver a true, four-year, fully accredited, liberal arts education. As a result, the current course with an asset exchange with Emerson and the campus sale to Democracy Builders reflects the most appropriate way forward.