

**ORAL TESTIMONY**  
**Senate Bill 0959, Maryland 529 Program Reform**  
**Senate Committee on Budget and Taxation**  
**Cheryl Moss Herman**  
**March 15, 2023**

My name is Cheryl Moss Herman. I encourage you to move SB 0959 with important amendments that remedy the harm caused to account holders.

Moving the 529 from an independent agency to the Treasurer's office will help if concrete steps are taken to improve transparency and accountability, but FIRST there must be resolution of the harm to account holders caused by detrimental reliance on program officials and contractors – and by breach of contract.

While Maryland 529 will tell you that the Trust pays in semesters – it is important that you know that these benefits have a monetary value. The monetary value must be calculated – according to contract terms – not only for distribution benefits directly for 529 qualified education expenses, but also for the opportunity to conduct a roll over or refund. Both the FAFSA value and the 1099-Q information reported to the Internal Revenue Service are monetary values.

The challenge I face is that the current Trust leadership and Board is telling me that the monetary values shared with me by Maryland 529 leadership as late as July 2022, and which are consistent with my binding end of year 2021 statement are wrong. Ms. Layton was the boss – we had an uncontested statement.

We RELIED on that information to make important financial decisions with my college freshman daughter. The difference in monetary value for me is almost \$50,000. That's \$50,000 that I will need to find "elsewhere" to pay for her four-year college expenses.

How is this change consistent with the mission of the Maryland 529? It's not.

I could have considered a rollover - but the initial interpretation of benefits from the 2021 changes yielded a similar \$11,000 per semester value. This is not surprising, given that one purpose of the 2021 contract change was to equalize benefits whether account holders took minimum benefits or rollover.

Contracts signed prior to November 2021 provided for rollover to another 529 with the since inception investment earnings that have averaged 5 to 6% since 1998. The late 2022 reinterpretation, which was not known to account holders until January 2023

reduced these earnings to zero. As you are hearing today, this change is inconsistent with contract terms.

Understanding how we got to the unacceptable place that we find ourselves in and the dramatic impacts account holders are experiencing is important as you consider SB 0959 and amendments to yield a timely and equitable solution that mitigates harm caused by the State to account holders and shapes the future of the Maryland 529.

In YOUR actions, YOU must recognize the harm caused to Maryland college students and their families by state agency actions through detrimental reliance on information provided directly and repeatedly by Maryland 529 leadership and agents, and by breach of contract in detrimentally changing rollover terms.

SB 0959 MUST be amended to require the Trust to honor its contract terms regarding rollovers, enabling transfers with 100% of investment earnings. Accounts with students in college should be prioritized.

Consider access to the Governor's Rainy Day Fund to cover extraordinary expenses incurred by some due to the detrimental reliance on information provided by the Trust. Together, these remedy much of the current harm.

As the Trust is wound down, the Workgroup should explore FUTURE enhancements to accountability, transparency, and efficiency of the 529. It should begin immediately, and conclude its work by December 2023 - to allow the findings to be considered during the next legislative session.

The workgroup should have subpoena power; the current "hide the ball" is unacceptable. The results should be made public contemporaneously with transmittal to the Governor.

The current situation is unacceptable. Resolution. Accountability. Transparency. OUR kids' futures are in YOUR hands.