Senate Bill 959 MHEC Letter of Support 03152023.pd
Uploaded by: Lee Towers
Position: FAV

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Wes Moore
Governor

Aruna Miller
Lt. Governor

Mary Pat Seurkamp, Ph.D.
Chair

Bill Number: Senate Bill 959 **Position:** Support
Title: Higher Education - Maryland 529 Program - Reform
Committee: Chair, Budget & Taxation Committee
Hearing Date: March 15, 2023

Bill Summary:

Senate Bill 959 would abolish and repeal the Maryland 529 Board. It would specify that the State Treasurer is the successor to the Maryland 529 Board and transfer to the Office of the State Treasurer the responsibility for administering the Maryland 529 Program, including the Maryland Prepaid College Trust, the Maryland College Investment Plan, the Maryland Broker–Dealer College Investment Plan, and the Maryland ABLE Program. It would authorize and require the State Treasurer to take certain actions in administering the Maryland 529 Program.

Information:

The Maryland Higher Education Commission (MHEC) has reviewed Senate Bill 959 and supports its passage.

This legislation moves Maryland 529 from its status as an independent State agency under a Board to the Office of the State Treasurer. This will allow State funding for the Save4College State Contribution Program, currently provided to the College Investment Plan through the budget of the Maryland Higher Education Commission, to be appropriated directly through the Office of the State Treasurer thus increasing efficiency of the program.

Providing educational opportunities through planned programs such as Maryland 529 will help make attending college or a private career school easy and affordable. This will greatly increase opportunity for more students, helping make Maryland a leader for the nation.

For additional information, please contact Mr. Lee Towers, Legislative Liaison for the Maryland Higher Education Commission at lee.towers@maryland.gov.

Testimony Higher Education - Maryland 529 Program

Uploaded by: Oluwatosin Afolabi

Position: FAV

Joanne C. Benson
Legislative District 24
Prince George's County

Budget and Taxation Committee
Education, Business and Administration Subcommittee
Pensions Subcommittee
Chair, Rules Committee

Joint Committees
Audit and Evaluation Committee
Children, Youth, and Families
Ending Homelessness
Fair Practices and State Personnel Oversight
Joint Committee on Pensions

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Testimony of Senator Joanne C. Benson

SB 959: Higher Education - Maryland 529 Program - Reform

Good afternoon Chair Guzzone, Vice Chair Rosapepe and members of The Budget and Tax Committee. I am here to present SB959 Higher Education - Maryland 529 Program - Reform

This bill is about trust. As citizens of Maryland, we must continue to uphold the values of integrity and faith with the financial institutions that we are involved in. Currently, we do not see these values being upheld in the program named, "Maryland 529". The financial future of our children was in the hands of this institution, which mismanaged the money belonging to Maryland parents of college students. Those who are not familiar with the unfortunate circumstances surrounding Maryland 529, many wonderful families of the great State of Maryland were unable to receive the benefits that the 529 Board said they were entitled. Imagine sending your child off to college to then, encounter a problem with your hard-earned investment, that was strategically planned out to set your child up for academic and financial stability to then no longer be accessible. This is a pressing issue that needs to be addressed because as many families could not afford to send their children off to college. I know how crucial the subject of education is for our children, and that is why we need to protect their future.

This legislation would abolish and repeal the Maryland 529 Board; stating that the State Treasurer is the successor to the Maryland 529 Board, giving the Office of the State Treasurer the responsibility for administering the Maryland 529 Program. In order to maintain and oversee the security of our investments, this transfers control of the Maryland 529 Board to the State Treasurer and phases out the pre-paid plan. This solution would be effective in creating a way to supervise the different programs of the Maryland 529 Board, the Maryland College Investment Plan, the Maryland Broker-Dealer College Investment Plan, and the Maryland ABLE Program. In the U. S Maryland is ranked in the top four with the highest college graduation rates at 40.9 percent. We can maintain our sterling record of successful college students who greatly contribute to the success of the State of Maryland by using the Office of the State Treasurer to administer the Maryland 529 Program.

Thus, I respectfully urge the committee to issue a favorable report for SB959.

March 14, 2023

Dear Committee Members:

I have never been one who was good with numbers or math and I have no experience with investing. When a close friend who I consider a pretty smart guy and has two children of his own told me about the Maryland Prepaid College Trust (MPCT) in 2013, I thought that's a smart idea. It's guaranteed by the Governor & Maryland Legislature, what could go wrong? My husband and I began contributing to the MPCT in March of 2013 and have an account for four years of tuition for my only daughter Natasha who was 8 years old at the time. We read the contract, not necessarily understanding every bit of "legalese" in it, but enough to know we pay money, money grows, when it's time for her to go to college she gets what we put in PLUS all investment earnings minus some administrative fees. Being naïve I made our monthly payments through June of 2018 and honestly didn't look back or give the account another thought. Again, my trust was in the fact it was guaranteed by the Governor & Maryland Legislature.

Fast forward to 2021 when I checked on Natasha's account because we were inching towards the finish line of high school and found our MPCT Annual Statement documenting my purchase price of $48,290.00 and my FAFSA Value of $71,271.67. Great, there's our contribution PLUS all investment earnings. By this time, Natasha was already talking about her plans to become a mental health therapist so I thought, "Great, she'll have some money left over to go for her Master's degree." MPCT staff, their executive director, their actuaries, Intuition all agreed on the interpretation in November 2021. No letters were sent out within 60 days of the annual statements being sent disputing the calculations.

In the fall of 2022 Natasha announced she had decided to save even more money and planned to go to CCBC so I thought, "Great, she'll have even MORE money left over to go for her Master's degree." I called the MPCT line and spoke with a gentleman who told me that my daughter is very smart (something we already knew) and that there would be no issue with doing that and we could rollover the balance into any other 529 plan when she finished her bachelors degree up. That's around the time that my friend who had originally told me about the program clued me in about the scuttlebutt about issues with the plan. When we received our 2022 MPCT Annual Statement, imagine my surprise when only my purchase price was listed! I emailed AND mailed a letter contesting the statement as written in the **teeny tiny print on the bottom of the statement that "we have 60 days from the date above to notify us of the error."**

Eliminating the investment earnings is a huge change in the agreements that all account holders signed. As anyone who has ever signed a contract knows, you can't go back and retroactively change the terms to harm the other party. Yet, that is precisely what has happened. To date, account holders have not received the proper notification that their contracts were changed. These actions are clearly a breach of Articles IV & IX. What the MPCT board has done is no better than a snake oil salesman with a bait & switch, **essentially picking my daughter's pocket of $22,981.67!** Then to add insult to injury the 529 Board spent $1 million to hire Nelson Mullins, a national law firm known for litigation. How is that credible? Who hires a law firm for just a calculation error? The board has also spent $50,000 to hire a crisis communications firm. And yet, families still aren't getting straight answers to their questions.

My clock is ticking ladies and gentlemen. Natasha will begin college fall of 2023. While some in our group have the financial means to leave their MPCT funds alone and pay out of pocket until this travesty is corrected, others of us do not have that luxury. I'm afraid to touch any of the money because I fear somehow it will negate our ability to regain our investment earnings. It's time for the Maryland Legislature, with financial assistance from the executive branch, to honor its commitments to those parents and others who invested in the Prepaid College Trust. The 2021 FAFSA values need to be honored. Don't allow the Board to apply their "fuzzy math", compel them to honor contracts **NOW**. Even in the current online documents the MPCT states:

MARYLAND LEGISLATIVE GUARANTEE

Your investment comes with peace of mind. Maryland law provides that in the event that funds in the Trust are insufficient to pay full Benefits in any given year, the Governor shall include an amount in the following year's State budget to fully pay Benefits, subject to the Maryland General Assembly's final approval.

PLEASE HELP US.

Anastasia Ramsland

18 Glen Echo Court

Glen Arm, MD 21057

Cell-443-610-0942

CSantos Written testimony 3-15-23.pdf

Uploaded by: Cayetano Santos

Position: FWA

March 15, 2023

My name is Cayetano Santos Jr. I am a resident of Montgomery County, MD (District 18) and an account holder with the Maryland Prepaid College Trust (MPCT). Thank you for the opportunity to describe the experience my family and I had with this program.

In 2007, we opened an MPCT account to help pay for our son's college education. We diligently and faithfully contributed into this account from 2007 until our last payment in October 2021. Since our son planned to start college in the Fall of 2022, we contacted MPCT customer support in early 2022 to better understand the value of our account and how we could receive our benefits. In particular, we inquired about the minimum benefit and were told a minimum benefit amount that was consistent with both our December 31, 2021 account statement and the revised minimum benefit definition in the MPCT August 2021 letter to account holders. We also confirmed with the MPCT customer service representative that our minimum benefit could be used to cover other qualified education expenses such as room, board, and books. The information provided by the MPCT to us regarding our account benefits was a critical factor in our decision as to where our son would attend college. I must emphasize that we exercised due diligence by reading the information provided to us in contract updates, letters, and annual statements and then confirming our understanding of this information with customer service representatives of the MPCT.

Our son began attending a MD state university in the Fall of 2022. To date, we've submitted claims for the Fall 2022 and Spring 2023 semesters' tuition, fees, and other expenses. However, the amount of money we've received from MPCT for each semester was not only below the minimum benefit we were promised, but based on the funds we've received to date, is less than the principal we paid into the plan! How can these actions be justifiable from a program guaranteed by the State of Maryland? We are at a financial loss because we have had to unexpectedly pull money from other accounts to pay for our son's education. The MPCT is supposed to help parents when their children are ready to attend college, not take away their hard-earned money. It is appalling and unconscionable that MPCT is allowed to make families suffer financial hardship, stress and anxiety for their mistakes. At the moment, MD529 currently has excess funds. So to add insult to injury, MPCT has the means to help us but is unwilling to do so. The MPCT is failing our children just when they need the help the most.

In 2022, MPCT claimed that recalculations were needed to correct errors in how earnings are credited to accounts. This is not completely accurate. Recalculations are simply the result of MPCT's reinterpretation of the definitions of minimum benefit and earnings for rollovers. This reinterpretation is effectively a policy change being implemented retroactively on account holder earnings. This policy change has a considerable detrimental impact on beneficiaries and their families since these recalculations result in a significant reduction in minimum benefit and rollover values. For us, our account value dropped by over $17,000 dollars for a 2-year plan. If the MPCT is allowed to make disbursements based on these lower recalculated account balances, we will not be able to use the full benefits that we relied on. We fulfilled our part of the contract; the MPCT needs to live up to their obligations. Now that our son is in college, we urgently need access to our full benefits that we are owed.

Please have the MPCT live up to their half of the contract, just as we and the many other families have done. The MPCT Disclosure Statement states the following:

> Investments in the Maryland Senator Edward J. Kasemeyer Prepaid College Trust are **backed by a Maryland Legislative Guarantee. In the event that the Trust ever experiences a financial shortfall, Maryland law requires the Governor to include funds in the State budget to allow the Trust to pay your full Benefits**. As with the entire State budget, the Maryland General Assembly has final approval.

I respectfully request that the Maryland General Assembly require the State Treasurer to honor the December 2021 annual statement balances provided to account holders, plus all appropriate interest accrued after December 31, 2021. The funds used to credit these accounts should be taken from the program's surplus of $355.6 million dollars (as of June 30, 2022). This should be done in time to allow families to receive their full benefits before Fall 2023 tuition payments are due. If the program's surplus funds are insufficient, the Governor should include in the state budget the remaining amount needed to reimburse the account holders and the General Assembly should approve this appropriation.

Thank you.

Cayetano Santos Jr.

MGA_MD529_Testimony - Google Docs.pdf
Uploaded by: Christine Wesselhoff
Position: FWA

Back in 2008, we thought we were being financially savvy when we decided to purchase a 2 year University pre-paid contract through MD529 for our 3 year old daughter. Tuition costs were rising and we wanted to lock in on the current rates. It wasn't easy, but we managed to pay $22,200 over a 5 yr period. In 2017, we decided to purchase an additional year of a University contract and we did so with a lump sum payment of $11,630. In 2018, we moved out of state and we fully intended to do a rollover distribution when our daughter was in her senior year of high school. The contract clearly stated that the rollover distribution amount would be equal to the payments made to MPCT plus 100% of the investment earnings. And this practice has been calculated and distributed to thousands of policy holders for 20 years. The statement we received in Dec 2021 showed that we had a total of $57,646 in our 2 accounts. Knowing that we had this much money, we made the decision that our daughter could select the school of her choice, which was a private college in NY. We also used this figure when applying for FAFSA. We had heard there were some calculation errors but were told it was on the accounts that had already received distributions so it didn't affect our accounts. Our daughter has already submitted her acceptance for the NY private college. Now we are informed that not only do we not have $57,646, but we also will only receive WAT, which is less than we paid into the program!! So, it turns out that we thought we were being financially savvy back in 2008, but in reality it was the worst investment decision we have ever made. We should have just tucked that money under our mattress because after fees and the lack of increase in MD tuition rates, we will receive less than what we paid into the program. And the number that we used for FAFSA has affected financial aid calculations. What happened to the missing $24,000??

Our first tuition bill will be arriving within a few months. We don't have a year or two to wait for a working group to put together findings. The recalculations that the MD529 Board keeps

Corinna_Loeckenhoff_Testimony_SB0959.pdf
Uploaded by: Corinna Loeckenhoff
Position: FWA

We are testifying to voice our deep concern about the decision of the Maryland Prepaid College Trust (MPCT) to recklessly change the contractually stipulated procedures for rollover calculations. This has completely erased the Trust Returns (amounting to about $40,000) that our accounts had accumulated over the past 14 years. Please pass SB959 but amend the language to specify how families will be made whole by restoring the promised Trust Returns at rollover that were part of the original contracts AND providing a clear timeline for doing so. Our son will be starting his college applications in less than 2 years, we need a fast resolution.

Below is a full explanation of our situation:

When our son (now 15 years old) was born, we were living in Baltimore. To prepare for his future, we set up two accounts with the MPCT, one through myself and one through my husband, to cover 2 years of university each. Both accounts were fully paid off as of 2009.

We opted for this option as a hedge against rising tuition costs and with the confidence that the Maryland Legislature was required to backfill any shortfalls in the Trust in the future.

We later moved from Maryland to New York for professional reasons, but we opted to retain our existing accounts with MPCT. We made this decision because the yearly account disclosures clearly indicated that we could always roll over our account to another qualified tuition program.

At the time we opened the accounts, the conditions for rollovers were described in the disclosure statements as follows:

> **A Contract in existence for three years or more as measured from the first payment due date.** The transferable amount will equal the actual payments made to the Prepaid College Trust plus or minus 100% of the Trust Returns applied to the contract payments, less Operating Expenses and any Benefits used.

This specific language was last included in our 2020-2021 Disclosure Statement, page 7, Article VI: Rollovers and Refunds.

All documents leading up to and including the 2020-2021 Disclosure Statement (page 3, Article II: Definitions, §29) defined Trust Returns as follows:

> 29. **Trust Returns** means the since inception rate of return for the Prepaid College Trust. The date of inception is December 31, 1998 and the since inception rate of return is updated quarterly by the Prepaid College Trust's investment advisor. Trust Returns are used to calculate Rollover Distributions and refunds as described in Article VI of this Disclosure Statement.

Over the years, we carefully monitored the Trust Returns and determined that they were well over 5% and at least as favorable as the returns that we saw in the NY 529 College Saving plan that we had set up for our son's younger sibling. Our December 2021 statement values were consistent with these contractual terms and showed a FAFSA value of more than twice our original investment. Thus, we saw no reason to initiate a rollover before our son had settled on a college.

We were therefore shocked to learn that the Prepaid College Trust apparently made a retroactive change in the calculation of rollovers that completely erased the promised Trust Returns for rollovers without clearly communicating this to families. From what we understand, a rollover would now leave us with LESS than our original investments due to added fees! Even more shocking many families have seen their accounts frozen and are being hit with late fees by their children's universities.

This reckless change breaks with a precedent of over 20 years of how rollovers were calculated. It also constitutes a breach of the promise in our original contract that no changes would be made that would harm the beneficiary.

We request your immediate assistance for us and the thousands of other account holders who are in a similar position. Please support this bill and include amendments that specify how the contractually promised earnings will be restored along with a speedy timeline for doing so.

Sincerely,

Corinna Loeckenhoff and Family

Written Testimony.pdf
Uploaded by: Edward Hall
Position: FWA

Written Testimony for SB0959, Maryland 529 Program Reform
March 15, 2023

I would like to inform the committee of the serious problems I have been having with the Maryland Prepaid College Trust, run by Maryland 529, an independent state agency.

I originally purchased a contract on with the Maryland Prepaid College Trust on behalf of my daughter, Cate, in November 2004, only one month after she was born. I purchased what is known as a 2+2 plan, which prepaid two years of in county community college tuition and fees and two years of in state college tuition and fees in advance, payable in installments. The contract also allowed me to rollover my account to another 529 plan. The disclosure statement and enrollment form allowed a rollover as follows:

> Transfers to Other Eligible Programs. Upon notification in writing to the Board, you may transfer the Account to another program intended to comply with Section 529 of the Internal Revenue Code. All transfers are subject to the Internal Revenue Code. If this contract is less than 3 years old, the transferrable amount will equal the contributions to the Prepaid College Trust plus or minus 75% of the Investment Earnings or losses realized on the contributions, less any administrative fees or benefits used. If this Contract is over 3 years old, the transferrable amount will equal the contributions to the Prepaid Trust plus or minus 100% of the <u>Investment Earnings</u> or losses realized on the contributions less any administrative fees or Benefits used.
>
> Transfers within the College Savings Plans of Maryland. The transferable amount for transfers from the Prepaid College Trust to the Maryland College Investment Plan will equal the contributions to the Prepaid College Trust plus or minus 100% of the <u>Investment Earnings</u> or losses realized on the contributions, at the time the Account is transferred, regardless of how long the Contract has been in effect." (See Article VII, page 18 of the 2003-2004 Maryland Prepaid College Trust and Enrollment Form, emphasis added.)

Another section of the contract reads:

> Changes to the Contract. The Board may amend the terms of this Contract from time to time to comply with changes in the law or regulations or if the Board determines it is in the College Savings Plans of Maryland and/or the Prepaid College Trust's best interest to do so. However, the <u>Board will not retroactively modify existing Contract provisions in a manner adverse to you or your Beneficiary</u> except to the extent necessary to assure compliance with applicable state (including the Enabling Legislation) and federal laws or regulations or to preserve the favorable tax treatment to you, your Beneficiary, the College Savings Plans of Maryland or the Prepaid College Trust. The Board will promptly notify you of such amendments and you will be bound thereby unless you notify the

Board in writing of your intent to terminate the Contract within 60 days of the date of notice. (See Article IX, page 19 of the 2003-2004 Maryland Prepaid College Trust and Enrollment Form, emphasis added.)

After making some installment payments, I used some of the proceeds from the sale of my house in Greenbelt to pay off the balance of the contract, $20,216.58, in August 2007.

In a letter dated August 2021, Maryland 529 changed the calculation of the Rollovers and Refunds by amending the disclosure statement as follows:

> **<u>Article VI, Rollovers and Refunds (p. 10)</u>**
> In an effort to simplify the Benefits available under the MPCT and create an ease of understanding and used by Account Holders, one calculation will be used for the Minimum Benefit, rollovers, and refunds. Contracts held less than 3 years will receive 50% of the earnings. Contracts held greater than 3 years will receive 100% of the earnings from the calculation.
>
> **Earnings for Rollovers and Refunds**
> <u>Accounts in existence on October 31, 2021:</u>
> For accounts in existence on October 31, 2021, contributions in your account prior to November 1, 2021 will earn 6% on balances, compounded monthly, until benefits are withdrawn, or your Contract is terminated.

Maryland 529 issued my account statement in January 2022 stating the FAFSA value of our account (the rollover value) was $63,559,62. In April 2022 Maryland 529 froze the earning portions all the Maryland Prepaid College Trust accounts. In September 2022 they began informing the public that a "calculation error" had occurred and account holders would need to submit a support form to receive a manual calculation of the rollover value of their accounts. Because my daughter is planning to start college this August, I immediately requested a manual calculation in order to determine both my "minimum benefit" and my potential rollover amount.

In January 2023 I received my manual calculation from Maryland 529. The manual calculation from Maryland 529 says my account balance is only $29,134.90 as of December 15, 2022. That is a reduction of $34,424.72 from the January 2022 statement. According to the manual calculation, my account received zero interest from December 2008 through July 2017, a period when interest rates for Treasury Bills were extremely low. The 6% interest rate did not start accruing until November 2021.

In my manual calculation Maryland 529 inappropriately used the methodology of the minimum benefit calculation in my contract to calculate earnings for the rollover calculation for periods prior to November 2021. The minimum benefit calculation in my contract reads as follows:

Minimum Benefits. Minimum Benefits are defined as payments you make under this Contract plus a reasonable rate of return. This monthly rate of return is equal to a U.S. Government Security with a constant maturity of one year minus 1.2%, but will never be less than zero. Notwithstanding any other provisions of this Contract, in the event that Tuition at an Eligible Institution is less than the payments you make under this Contract plus a reasonable rate of return, you may use the difference for other Qualified Education Expenses such as room and board and books. (See Article IV, page 15 of the 2003-2004 Maryland Prepaid College Trust and Enrollment Form.)

In December 2019 the Maryland Department of Legislative Audits issued an audit report that found many deficiencies on how Maryland 529 operated the Maryland Prepaid College Trust. The audit report made recommendations to change the methodology on how Maryland 529 processes rollover and refund requests.

Recommendation 6

Since the purpose of MPCT is to contract for a guaranteed payment of State university or college costs for a specified beneficiary, and not as an investment vehicle, we recommend that the Maryland 529 Board

a. conduct a documented evaluation of the methodology it uses for calculating refund and rollover payments, including consideration of methodologies used by other states, to ensure that rollover and refund payments are not excessive; and

b. ensure that <u>future</u> tuition contracts clearly reflect any changes Maryland 529 considers necessary as a result of this evaluation. (See Audit Report from the Department of Legislative Services for the Maryland 529 Plan, December 2019, page 27 emphasis added.)

While the Department of Legislative Audits did criticize Maryland 529 for providing excessive rollover payments, but they did <u>not</u> recommend using the minimum benefit calculation for rollovers, nor did they recommend retroactive changes to any contracts. They criticized Maryland 529 because it computed earnings owed on rollovers by multiplying the principal by the annual since inception interest rate and the years of the contract. The Department of Legislative Audits provided two possible alternative methodologies for earnings calculations that more accurately reflect the earning in each account.

1) Multiply the balance at the end of each year for the accounts existence times the annual since inception rate of return; or

2) Multiply the balance at the end of each year times the annual return for each year. (See Audit Report from the Department of Legislative Services for the Maryland 529 Plan, December 2019, page 26, Table 2.)

Nowhere did the Department of Legislative Audits find that Maryland 529 had used the minimum benefit calculation for rollovers previously, nor did it suggest that the minimum benefit calculation be used for rollovers. They did seek a more accurate calculation. Nowhere did the Department of Legislative Audits suggest that Maryland 529 change their contracts retroactively to incorporate such a calculation.

I would not have purchased this contract had I thought that I was merely betting that tuition rates would go up. I should be allowed to rollover my account to another 529 based on an accurate calculation of the Maryland Prepaid College Trust investment earnings as allowed in my contract, not the artificially low Treasury Bill rates of much of the last decade. The current method Maryland 529 to calculate rollovers punishes long term Maryland Prepaid College Trust account holders by using the artificially low Treasury Bill <u>interest</u> rates to calculate <u>earnings</u> on our accounts. The erroneous method used by Maryland 529 has restricted my daughter's college choices and will force me to delay my retirement in order to finance her college education.

Please support legislation that will correct these grievous errors and make sure that the state of Maryland honors its contracts.

Sincerely,

Edward Hall

SB959testimony.pdf
Uploaded by: Elena Paoli
Position: FWA

RE: SB 959 March 14, 2023

Section 18–1906(m)(1) should be amended to provide strong assurance that the state treasurer WILL "provide for a rebate from the excess to account holders of existing prepaid contracts in an amount to be determined by the [Board] STATE TREASURER" when "after an annual review that the market value of Trust assets exceeds the amount necessary to satisfy all scheduled payments currently due or scheduled to become due under all prepaid contracts by 30% or more."

The prepaid trust had excess funds during the time we have held prepaid contracts, but the Board never distributed the excess amounts to accountholders. The timely distribution of excess funds would ensure that the contributors of those funds reap the benefits. At a minimum, current and noncontroversial earned interest should be given to all account holders who are currently in the distribution phase of the prepaid plan.

We are longtime accountholders of two Maryland 529 prepaid accounts. We purchased a four-year plan in 2004 and a second four-year plan in 2009 for our two daughters. Since purchasing the plans in lump sums, we had no reason to review the yearly contracts and disclosure statements and had no reason to doubt that the funds were secure and well-managed.

Our older daughter is a freshman at Wake Forest University, and last summer I was able to have the prepaid fund send the weighted average tuition ("WAT") to Wake. Shortly thereafter, I learned that accrued interest and earnings on the WAT was being withheld because of "problems with interest calculations." Nevertheless, in the fall, I was able to have the Fund send the WAT to Wake for Spring 2023 tuition.

As Maryland residents and prepaid fund account holders, we are horrified that the Fund has for many years been mismanaged, leading to the problems it has today. In the past few months, we have learned how the Fund has had a slew of Executive Directors who have quit after a short time. We have read the 2019 Audit, which details extreme mismanagement, including prior interest rate calculation errors and worse. And we have learned that in 2021, 6% interest was applied to rollover accounts retroactively to the inception of accounts, seemingly at odds with what a prepaid account was intended to be. And now, similar promises of 6% interest on existing accounts is not being honored.

We are also very concerned that account holders are being treated differently, where some people were able to cash in on the wrong, elevated account amounts, while most of us have not been given the minimal interest we were expecting.

Elena Paoli and Michael Lynn
District 16

SB959_ MDOD_ FWA.pdf
Uploaded by: Elizabeth Hall
Position: FWA

Carol A. Beatty, Secretary

Wes Moore, Governor
Aruna Miller, Lt. Governor

Maryland
DEPARTMENT OF DISABILITIES

DATE: March 15, 2023
BILL: Senate Bill 959: Higher Education - Maryland 529 Program - Reform
COMMITTEE: Senate Budget and Taxation Committee
POSITION: Favorable with Amendments

Dear Chair Guzzone:

The Maryland Department of Disabilities (MDOD) is pleased to supportwith amendments Senate Bill 959: Higher Education - Maryland 529 Program - Reform and respectfully request that the bill be amended to add "THE SECRETARY OF DISABILITIES, OR THE SECRETARY'S DESIGNEE" to the Financial Education and Capability Commission which replaces the Maryland 529 Board.

The Secretary of Disabilities was added to the Maryland 529 Board (Board) in concert with the addition of the Maryland ABLE Program six years ago. Maryland ABLE Program encourages and assists individuals and families in saving private funds to support individuals with disabilities to maintain health, independence, and quality of life and provides secure funding for disability–related expenses on behalf of designated beneficiaries with disabilities.

Under SB959, the Board is replaced by the State Treasurer, and 'shall work in consultation with the Department of Disabilities to develop, administer, manage, and promote the Maryland ABLE Program'. The amendment, as proposed, would ensure the continuation of MDOD in the same role for quality and continuity of the Maryland ABLE Program.

Highlights of MDOD's collaboration with the Maryland ABLE Program over the past six years include:

- MDOD chaired the initial workgroup that established the Maryland ABLE Program;
- MDOD Secretary chairing the ABLE Subcommittee;
- MDOD providing critical disability-specific knowledge to Board;
- MDOD providing access to essential disability stakeholder input;
- MDOD and Maryland ABLE co-hosting Listening Sessions; and
- MDOD and Maryland ABLE co-sponsoring Informational Sessions.

For those reasons, MDOD would request to continue in our role as an important advisor to the Maryland ABLE Program as a member of the Financial Education and Capability Commission or any other board or commission established to advise the Maryland ABLE Programs.

If you have any questions please contact Elizabeth Hall, Director of Interagency Affairs, (410)767-3652, elizabeth.hall2@maryland.gov.

Sincerely,

Carol A. Beatty

Carol A. Beatty, Secretary

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SB959 MPCT SternElliott.pdf

Uploaded by: Elliott Stern

Position: FWA

Date: March 15, 2023
To: Maryland Senate Budget and Taxation Committee
From: Elliott Stern, Maryland 529 account holder, Potomac, MD
Re: Maryland Senate Bill 959, Higher Education – Maryland 529 Program – Reform

Concerns

I'm writing to express my concerns about the Maryland Prepaid College Trust (MPCT) situation. While I feel empathy for the frustrated MPCT account holders, the account holders and the Maryland taxpayers are fortunate that the program remains able to pay all advertised and contractually promised tuition benefits without invoking the Legislative Guarantee.

I support the pre-November 2021 MPCT account holders in their objective, but that’s not my motivation for submitting this testimony.

Senate Bill 959 seeks to dissolve the MPCT. Despite the current challenges facing the MPCT, I believe a prepaid plan is a valuable offering within the Maryland 529 program. The new, post-November 2021 prepaid contract terms correct fundamental flaws inherent in the original prepaid contract design; flaws the Maryland 529 Board sought to fix in response to the 2019 Legislative Audit. Many Marylanders have demonstrated their preference for a defined tuition benefit over the investment-based options in the Maryland College Investment Plan. Simultaneously, the unfortunate reality is that many Marylanders do not have the financial literacy or discipline to meet their objectives using the Maryland College Investment Plan (MCIP).

While the MPCT situation created under the direction of the Maryland 529 Board must be addressed and resolved, it's not a reason to dissolve the Prepaid College Trust. It's not a reason to deprive Maryland families of the newer, better designed, less complicated prepaid tuition option. Please do not dissolve this program.

And a plan

I ask that the post-November 2021 prepaid contracts -- those using the 10-year Treasury note rate and ledger system accounting for minimum benefits, rollovers, and refunds -- be segregated from the pre-November 2021 prepaid contracts and be permitted to continue on as the new, independent prepaid plan.

For the outstanding pre-November 2021 contracts, I request that account holders be given a final time-bounded rollover window, perhaps 3 months, to conduct rollovers pursuant to their original contract terms at the then-current investment returns. The account holders would have the option to rollover funds (1) into a new or existing MCIP account, (2) into a new post-November 2021 prepaid contract for the same beneficiary and Projected Enrollment Year, or (3) to any other 529 account as permitted by IRS regulations.

Following this one-time rollover window, each account's remaining funds would be automatically rolled over into a new MCIP account and invested in the Enrollment-Based Portfolio closest to the beneficiary's Projected Enrollment Year. Through this method and by the end of the window, all pre-November 2021 contracts will cease to exist.

This strategy represents a compromise, preserving a Maryland 529 prepaid option while giving pre-November 2021 MPCT account holders an exit path with their investment returns intact. The MPCT surplus should be sufficient to support this strategy. The 2022 actuarial soundness valuation letter contained within the 2022 Maryland 529 Annual Report assumed a 6% interest rate applied "for periods both before and after November 1, 2021." The same letter calculated the Trust's funded ratio to be 140.0%.

Please do not deprive Maryland residents of a low risk, defined benefit, prepaid tuition option. Thank you for your consideration.

Conditions and Assumptions

As the above plan was formulated, I kept the following conditions, and assumptions in mind:

- The purpose of the MPCT, per the Enabling Legislation, is that "the prepaid contract will cover the average in–State tuition costs at public institutions of higher education in the State at the time that the benefits are exercised". It is not the MCIP. [MD. Education Code Ann. § 18-1903 (2021)]

- Per the Enabling Legislation, the Trust's fiduciary duty is "Solely in the interest of the participants". The "participants" are recognized collectively. The fiduciary duty is not to each participant individually. The MPCT contract terms must not permit transactions contrary to this duty (i.e. if the "100% investment earnings" rollover provision jeopardizes MPCT solvency) [MD. Education Code Ann. § 18-1907 (2021)]

- In the "Changes to the Contract" clause of the MPCT Contract Article IX, retroactive adverse changes are permitted to assure compliance with Enabling Legislation.

- The MPCT should operate as a deferred, fixed index annuity pegged to the Maryland in-state Weighted Average Tuition.

- Avoiding taxpayer bailouts of MPCT, via the Legislative Guarantee, takes priority over issuing rebates.

- Clawbacks of past distributions are not feasible.

My name is Emma Yang, and I paid a lump sum of $39, 048 in 2011 into the Maryland 529 Prepaid College Trust (MPCT) for my grand-daughter. The FAFSA reporting value of $72,289 for my account in the December 31, 2021 MPCT Annual Statement is consistent with the new changes as stated in the August 21, 2021 Disclosure Statement to go into effect on November 1, 2021. My grand-daughter aspires to be an audiologist, and she decides to go to an in-state university for her undergraduate studies in Fall 2022, knowing that she will have money for the graduate program in audiology in the future. In 7/2022, just before her Fall 2022 semester, according to MPCT her account value is $40,875. What happen to $31,000?

MPCT claims a calculation error; it is NOT a calculation error. The December 2021 account value of $72, 289 corresponds with the principal balance of $39,048 with about 6% investment return since 2011 as the original contract states.

My grand-daughter needs her money NOW that Spring 2023 has started. Waiting until June 2024 is too long and too late. She needs access to her earnings to pay for room/board and books and other qualified higher education expenses.

Help her realize her dream to be an audiologist. I challenge you all as members of the Budget and Taxation Committee to solve the problem. Here are suggestions:

1. As stated, "For Accounts in existence on October 31, 2021, contributions in your Account prior to Ocboter 31, 2021 will earn 6% on balances, compounded monthly, until benefits are withdrawn, or your Contract is terminated. Interest credited after October 31, 2021 will be based on the 10-year Treasury not rate as of June 30, compounded monthly."

2. Unfreeze earnings.

3 Investigate root-cause analysis to prevent future fiasco like this one.

Francois_Guimbretiere_Testimony_SB0959.pdf
Uploaded by: Francois Guimbretiere
Position: FWA

Dear Members of the Assembly,

Please pass SB0959 and help Maryland Prepaid College Trust (MPCT) account holders such as our family who are set to lose tens of thousands of dollars as a result of catastrophic mismanagement and breach of contract. When we prepaid the accounts for our son 14 years ago, our contract clearly stated that we could EITHER claim the years of tuition OR roll over our funds into another college savings account and receive the principal plus or minus 100% of the trust returns since inception. Over the years, we noticed that the rates of tuition did not rise as much as we had expected, but we felt safe in the knowledge that earnings continued to accumulate – given that the trust returns were well above 5% in most years. Our 2021 account statements showed that our investment had paid off and the FAFSA values of our accounts were now worth more than twice the principal amount we had paid in. Imagine our shock when we learned that as of 2022 the MPCT suddenly stopped crediting the promised trust returns during rollovers and even stopped processing rollovers altogether. Some account holders could not even access their principal! This is not a simple "miscalculation" due to mismanagement! The decision to stop paying out the promised trust returns as part of rollovers is a clear breach of contract and breaks with decades of precedent of how rollovers were handled.

Please pass SB959, investigate the rampant mismanagement at the MPCT and restore the original terms of the contract regarding rollover calculations. Also, please provide a clear and accelerated timeline for making these corrections. Our son will be writing his college applications next summer – we need to know NOW how and when we will be able to access his funds.

Respectfully,

Francois Guimbretiere

Howard Griboff Written Testimony_SB959_03.14.23.pd
Uploaded by: Howard Griboff
Position: FWA

To: MD Senate Budget and Taxation Committee

MD Senate Education, Energy, and the Environment Committee

Fr: Howard Griboff, District 17

Date: March 14, 2023

Written Testimony on SB959

Higher Education - Maryland 529 Program - Reform

The following testimony expands upon the one being presented orally by my son Ezra Griboff at the March 15, 2023 hearing on SB949, with added details regarding the MD529 contracts and disclosure statements.

What is $52,000?

Could be someone's annual salary. Could be a hospital bill. In my son's case, that's one full year of college tuition missing from his MPCT account as he faces paying for his second of four years at Emerson College in Boston.

The fact is: on official letterhead, the MD529 Trust twice disclosed there were **investment** earnings available in our Trust account via rollover … once in a letter addressed to me on October 13, 2021 and a second time on the December 31, 2021 Annual Statement.

I had every reasonable expectation to rely on these documents in deciding that I could afford to send my son to Emerson.

These funds are gone because the Trust Board is not honoring my contract that called for **investment earnings in rollovers, that is, the investment gains that the Trust made through investing contributors' funds.**

My Trust contract [specifically Article VII of the 2004-05 Contract] entitled me to 100 percent of **investment** earnings or losses from the day of my first investment to the day I would roll over the Trust funds to the MD College Investment Plan.

"Rollovers" Page from 2004-05 Contract

Article VI – Payments to Eligible Institutions

Time Limits. The Beneficiary has the number of years purchased in the Contract plus 10 years to use all Benefits. This time can be extended for any active service in the U.S. military. Absent a waiver from the Board, failure of the Beneficiary to use all Benefits within the designated time period will be deemed a decision by the Beneficiary not to attend an Eligible Institution and will result in the termination of the Contract, pursuant to the provisions of Article VII.

In addition to the following requirements, the Board may request other information and/or modify or apply specific due dates.

Undergraduate Tuition Payments to Eligible Institutions.

1. No later than March of the Beneficiary's projected enrollment or Initial Eligibility year, the Board will send a confirmation form to you to ensure that the Beneficiary will be using Benefits during that year and to confirm personal information.
2. No later than March of each year after the Beneficiary has begun using Benefits and has existing Benefits remaining in an Account, the Board will send a confirmation form to you to reconfirm personal information about the Beneficiary.
3. Upon receipt of these confirmation forms, the Board will send a Benefits claim form no earlier than June of the same year. This form must be signed by the Account Holder and returned to the Board with an original invoice from an Eligible Institution.

will, without proper claim by the Account Holder, revert to the State.

3. If (a) you fail to make the required payments or supply necessary information, (b) the maximum period in which Benefits can be used has expired, or (c) it is determined that either you or the Beneficiary has made any material misrepresentation related to the Contract, the Board in its sole discretion may terminate the Contract.

Transfers to Other Eligible Programs. Upon notification in writing to the Board, you may transfer your Account to another program intended to comply with Section 529 of the Internal Revenue Code. All transfers are subject to the Internal Revenue Code. If this Contract is less than 3 years old, the transferable amount will equal the contributions to the Prepaid College Trust plus or minus 75% of the Investment Earnings or losses realized on the contributions, less any administrative fees or Benefits used. If this Contract is over 3 years old, the transferable amount will equal the contributions to the Prepaid College Trust plus or minus 100% of the Investment Earnings or losses realized on the contributions, less any administrative fees or Benefits used.

Transfers within the College Savings Plans of Maryland. The transferable amount for transfers from the Prepaid College Trust to the Maryland College Investment Plan will equal the contributions to the Prepaid College Trust plus or minus 100% of the Investment Earnings or losses realized on the contributions, at the time the Account is transferred, regardless of how long the Contract has been in effect.

Refund. Refunds are only given at the written request of the Account Holder, with an original signature, for a specific year(s) under the following

The same contract [specifically Article IX of the 2004-05 Contract] says that, although the Board could amend the terms of the contract from time to time, the change "will not retroactively modify existing Contract provisions in a manner adverse to you or your Beneficiary."

Contract Changes Page from 2004-05 Contract

VII or transfer the Benefits to another Member of the Family of the original Beneficiary. If you transfer Benefits, all terms and conditions of this Contract continue to apply, even though the original Beneficiary has been substituted.

New Account Holder. You may transfer control of the Contract to a new Account Holder. All transfers must be requested in writing and include information as determined by the Board. Your right of control may not be sold, transferred, used as collateral, or pledged or exchanged for money or anything of value. The Board may require affidavits or other evidence to establish that such a transfer is nonfinancial in nature. Your right of control may also be transferred under an appropriate court order as part of divorce proceedings. If you transfer control of the Contract to a new Account Holder, the new Account Holder must agree to be bound by the terms and conditions of this Contract.

New Custodian. If the Account has been funded with assets originally held in an UGMA/UTMA account, you may transfer control of the Contract to a new Custodian upon written notice to the Prepaid College Trust. The notice may be from:

- The Custodian, stating that, in accordance with the terms and conditions of the UGMA/UTMA, the Custodian is releasing control of the Contract to the Beneficiary or to another person who has been properly appointed Custodian;

documentation. If acceptable to the Board, notices, changes, options, and elections relating to the Beneficiary will take effect within a reasonable amount of time after the Board has received the document, unless the Board agrees otherwise.

Changes to the Contract. The Board may amend the terms of this Contract from time to time to comply with changes in the law or regulations or if the Board determines it is in the College Savings Plans of Maryland's and/or the Prepaid College Trust's best interest to do so. However, the Board will not retroactively modify existing Contract provisions in a manner adverse to you or your Beneficiary, except to the extent necessary to assure compliance with applicable state (including the Enabling Legislation) and federal laws or regulations or to preserve the favorable tax treatment to you, your Beneficiary, the College Savings Plans of Maryland, or the Prepaid College Trust. The Board will promptly notify you of such amendments, and you will be bound thereby unless you notify the Board in writing of your intent to terminate the Contract within 60 days of the date of the notice.

Guide to Interpretation. This Contract is intended to qualify for the tax benefits of Internal Revenue Code Section 529. Notwithstanding anything in this Contract to the contrary, this Contract will be interpreted and/or amended to comply with the requirements of that section and applicable regulations.

However, in the MPCT disclosure statement available on the MD529 website (specifically, Article VI of the 2021-22 Disclosure Statement), the Board removed the word **"investment"** and left just the vague word "earnings" in its rollover paragraph. And all of a sudden, $52,000 disappeared from my MPCT account.

"Rollovers" Page from 2022-2023 Highlights Brochure and MPCT Disclosure Statement

Accounts opened on or after November 1, 2021:

- Contributions to Accounts opened on or after November 1, 2021 will accrue regular interest each year, compounded monthly, at a rate equal to the 10-year Treasury note rate. The Treasury note yield applicable to the Account contributions will be updated annually with the June 30th number.

The yield for the 10-year Treasury note will be sourced from the Board of Governors of the Federal Reserve System (US), 10-Year Treasury Constant Maturity Rate [DGS10], as retrieved from FRED, Federal Reserve Bank of St. Louis (**fred.stlouisfed.org/series/DGS10**).

Rollovers from Another Qualified Tuition Program. See Article IV, Contract Payments.

Rollovers to Another Qualified Tuition Program. Upon notification in writing, you may transfer your Account to another Qualified Tuition Program. Based on IRS regulations, rollovers for the same Beneficiary are restricted to one time in a 12-month period.

- **A Contract in existence for less than three years as measured from the first payment due date.** The transferable amount will equal the actual payments made to the Prepaid College Trust plus 50% of the Earnings as applied to the contract payments, less Operating Expenses, outstanding fees, and any Benefits used.
- **A Contract in existence for three years or more as measured from the first payment due date.** The transferable amount will equal the actual payments made to the Prepaid College Trust plus 100% of the Earnings applied to the contract payments, less Operating Expenses, outstanding fees, and any Benefits used.

"investment" is removed from the sentence

- **Transfers within Maryland 529.** The transferable amount for transfers from the Prepaid College Trust to the Maryland College Investment Plan will equal the actual payments made to the Prepaid College Trust plus 100% of the Earnings applied to the contract payments, less Operating Expenses, outstanding fees, and any Benefits used, regardless of how long the Contract has been in effect.

Rollovers to a Qualified Achieving a Better Life Experience ("ABLE") Program. Upon notification in writing, you may transfer your Account to a qualified ABLE Program established pursuant to Section 529A of the Internal Revenue Code allowing Eligible Individuals to save for Qualified Disability Expenses. Based on IRS regulations, rollovers for the same Beneficiary are restricted to one time in a 12-month period. The amount of the Rollover to a qualified ABLE program will equal the actual payments made to the Prepaid College Trust plus 100% of the Earnings applied to the contract payments, less Operating Expenses, outstanding fees, and any Benefits used, regardless of how long the Contract has been in effect. Please note that the receiving ABLE account is subject to an annual contribution limit, currently $15,000. Federal law requires that rollovers from a Qualified Tuition Program to an ABLE account take place by December 31, 2025.

Refund. Refunds are only given at your authorization under the following circumstances:

- **Death or Disability of the Beneficiary.**
  1. *Beneficiary Enrolled at Eligible Institution.* The refund will be the amount that would have otherwise been paid directly to the Eligible Institution, less any Benefits used.
  2. *Beneficiary Not Enrolled at Eligible Institution.* If the Beneficiary has not started receiving Benefits and a Disability occurs, the refund will be equal to the Minimum Benefit calculation for the contract.
- **Scholarship, Grant or Tuition Remission.** The refund will be up to the amount that would have otherwise been paid directly to the Eligible Institution.

Added-tax Refund. Refunds are given under all other circumstances. The refunds discussed below are subject to a federal surtax required by the Code that is equal to 10% of the earnings portion of a Non-Qualified Distribution that is not due to the Beneficiary's death, Disability, attendance at a U.S. military academy, or receipt of a Scholarship.

- **A Contract in existence for less than three years as measured from the first payment due date.** The refund will equal the actual payments made plus 50% of the Earnings as applied to the contract payments, less Operating Expenses, outstanding fees, and any Benefits used. The reduced Earnings applicable to Accounts in existence for less than three years is a financial penalty assessed by the program in order to maintain the actual soundness of the Prepaid College Trust.
- **A Contract in existence for three years or more as measured from the first payment due date.** The refund will equal the actual payments made plus 100% of the Earnings applied to the contract payments, less Operating Expenses, outstanding fees, and any Benefits used.

Excess Benefits Available for Refund. At your authorization, Excess Benefits in an Account will be refunded in accordance with this Article VI.

Board's Right to Delay. In order to preserve the actuarial soundness of the Prepaid College Trust, we reserve the right to delay a rollover or refund for a period of time not to exceed one year. To date, we have not delayed any refunds.

MARYLAND529.COM 11 888.4MD.GRAD

This is the heart of the problem: **the Trust Board's arbitrary recasting of the rollover benefit by removing the word "investment" retroactively modified the existing Contract provisions in a manner adverse to me and my Beneficiary, and breaches the terms of my contract.**

This breach of contract needs to be remedied now, because Fall 2023 tuition bills are due in less than 6 months.

I fully support and thank the General Assembly for proposing to investigate the mismanaged MD529 MPCT.

Although Senate Bill 959 is a step in the right direction, it does not provide the immediate relief my son and I need to pay out-of-state tuition and avoid significant unexpected debt.

I suggest an amendment that leaves no ambiguity on the definitions and calculations of interest rates, investment earnings, distributions, rollovers and refunds.

And I suggest a further amendment that provides immediate rollover access to our contributions and **contractually relied-upon investment earnings**, most recently disclosed on our December 2021 MPCT Annual Statements.

We should not have to wait for the transfer of the Trust responsibilities to the State Treasurer this summer or the outcome of the proposed workgroup's research and recommendations next summer. Whether the contract breach was intentional or inadvertent, it is urgent that the Trust Board be required to respect its contractual obligations. We need our college funds now.

If you were relying on $52,000 … how fast would you want it found?

Thank you for your consideration.

Written Testimony SB0959 MD 529 Reform.pdf
Uploaded by: Judith OConnor
Position: FWA

March 14, 2023

Written testimony in support of SB 959: Maryland 529 Reform

My Dad was just 18 when he was drafted into World War II. After serving, he received his engineering degree from Ohio State, his Masters from UCLA, and worked for Lockheed for 35 years on the most highly classified projects. He dedicated his life to his country, his work, and his family. And when he passed away in 2010, he specified that the money he so carefully saved and left to his grandsons should be used for education. So, I invested it in the Maryland Prepaid College Trust.

Now my younger son is 18, and he just got accepted to Ohio State, his top choice and my Dad's alma mater. Unfortunately, thanks to Maryland 529, we don't know if he can afford to go – and he needs to decide by May. There is a $30,000 discrepancy between his 2021 and 2022 Trust Account Statements. My older son, using his funds in-state, has a similar discrepancy.

Despite Maryland 529's claims, the current "hold" on earnings is not a result of a calculation error. Rather, **Maryland 529 changed contract terms** to justify reduced earnings on our accounts.

> **Contracts from 1998-2021:** These contracts clearly state that account holders have the option of taking a Rollover distribution amount equal to all payments made to MPCT plus or minus 100% of Investment Earnings. This is what my son will need to do if he attends Ohio State. It is an option that has always been available, and that thousands of families have used.
>
> **2019 Board vote and subsequent update to Article VI:** The Investment Earnings rate realized by MPCT was 6% annually. As of today, that figure is 5.3% due to a volatile 2022 stock market. Account holders believed that they would have access to these earnings on accounts established prior to 2021, especially after seeing these amounts reflected on their 2021 statements.
>
> **Today:** Maryland 529's changes to that Article and the new calculations are *not* applying 100% of Investment Earnings. Suddenly, it is a rate equal to 1 Year Treasury Note minus 1.2% (effectively 0-1%) for all periods *before* November 2021 and a *new language* rate of 6% to periods *after* November 2021.
>
> My sons' accounts were funded in 2011. 0-1% being applied for years prior to November 2021 totals tens of thousands less than the 5.3-6% investment earnings return realized and owed to us under the original Article VI. **Maryland 529 is holding money contractually owed to my children for their education and diverting attention by relentlessly referencing a "calculation error."**

Maryland 529 has the ability to release earnings to account holders now.

The MPCT is more than 130% overfunded. Per a 2003 disclosure, an overfunding greater than 130% allows distribution of excess funds. Maryland 529 can do this NOW… not whenever they claim their never-ending recalculations and audits are complete. We saw this distribution on our 2021 statements, and now it's gone. Where is this money? It does not belong to the trust or the state, so why isn't it available to the families who need to use it *now* to pay tuition or make life-changing financial decisions? Why does my current statement reflect only the principal I paid in more than ten years ago?

This issue affects all 27,000 accounts, not the "small number" described by Maryland 529.

The Maryland 529 claim that "this just affects a few hundred families" is laughable. They are referring only to the number of families that requested manual roll-over or refund calculations since the "calculation error" was publicized and earnings frozen. The total number of accounts that are or will be affected by this change in contract terms is, in fact, all of them. Many families don't even know this is happening, as Maryland 529 hasn't exactly been transparent or forthcoming in their accountholder communications.

Maryland 529 may have its lawyers and newly hired crisis management firm, but I, along with holders of 27,000 other MPCT accounts, have both personal and financial reasons to fight this and not back down.

We need a resolution. Thank you for your support.

Regards,

Judy O'Connor
Judyoc9@gmail.com | 301-335-8835

My boys appeared in this Maryland 529 brochure ten years ago, and I was quoted. At that time, I truly thought I was making a sound investment decision. I'm shocked that Maryland 529 is getting away with freezing our funds and changing contract terms. They're hurting so many families like mine. If my son attends Ohio State and Maryland 529 doesn't honor our contract terms, ***he will graduate with an additional $30,000 in debt.***

Flexible tuition plans and payment options.

TUITION PLANS

The Prepaid College Trust offers you a variety of tuition plans, which include payment of tuition and mandatory fees.

- **University Plan:** Purchase one semester or one, two, three, four, or five years at a four-year college or university.
- **Community College Plan:** ***Our most affordable plan.*** Purchase one or two years at a community college. However, this plan does not require your child to attend a community college. If he or she attends a four-year college, in or out of Maryland, this plan will pay up to that year's Weighted Average Tuition of Maryland's community colleges towards the tuition and mandatory fees at the selected college.
- **Two-Plus-Two Plan:** Purchase two years at a community college and two years at a four-year college.

PAYMENT OPTIONS

The Prepaid College Trust also offers several payment options to help you find one to fit your budget.

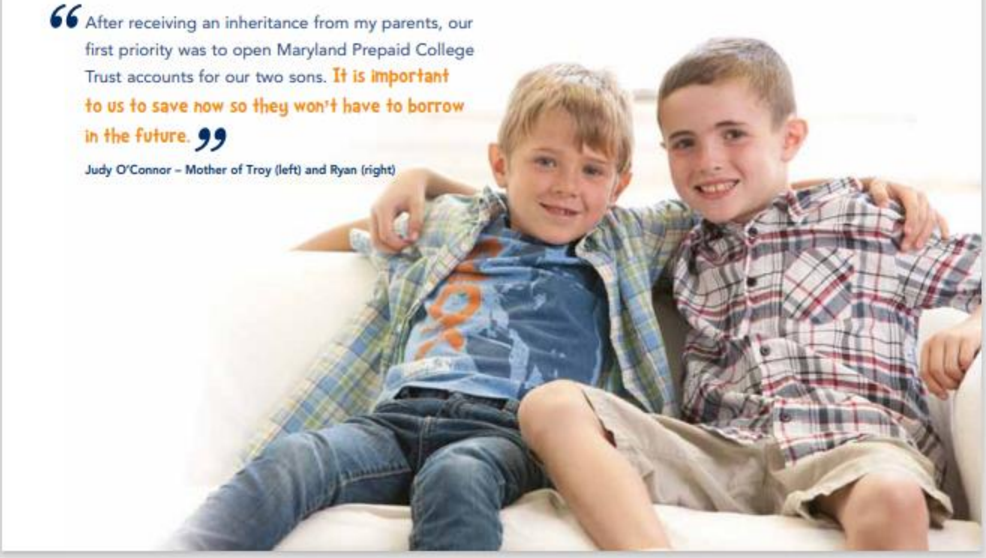
- **Lump Sum:** A one-time payment.
- **Annual:** Equal yearly payments.
- **Five-Year Monthly:** 60 equal monthly payments.
- **Extended Monthly:** Equal monthly payments for a specified number of months that generally continue through July 1st of the projected year of the child's college enrollment (or initial year of eligible use for current 10th–12th graders).
- **Down Payments:** 25%, 40%, or 55% of the lump sum, with the remaining amount paid by either monthly or annual payments, as described above.

Legislative Guarantee

In the event that the Trust ever experiences a financial shortfall, Maryland law requires the Governor to include funds in the State budget to allow the Trust to pay your full benefits. As with the entire State budget, the Maryland General Assembly has final approval.

"After receiving an inheritance from my parents, our first priority was to open Maryland Prepaid College Trust accounts for our two sons. It is important to us to save now so they won't have to borrow in the future."

Judy O'Connor – Mother of Troy (left) and Ryan (right)



testimony (1).pdf
Uploaded by: julie shields
Position: FWA

As a mom and a Maryland public school educator, the one thing that I have no tolerance for is when I feel children are being taken advantage of. I entrusted the future education of my children, Jackson and Hannah, with the Maryland Prepaid Trust and I believe they have been exploited.

Can you please tell Jackson and Hannah why half of the money in their college account is no longer there?

Can you please tell Jackson and Hannah why a law firm and a PR firm have been hired by the Trust, for what purpose, and with whose money?

Can you please tell Jackson and Hannah if the Trust has been acting in a way that represents a fiduciary responsibility to them as the contract states?

Can you please tell Jackson and Hannah why the Trust never contacted their parents when questions arose regarding the Trust's handling of their money.

Can you please tell Jackson and Hannah that the Trust has a large actuarial surplus and has the ability to quickly rectify this situation, but has been unwilling to do so thus far?

Can you please tell Jackson and Hannah whether this is truly a miscalculation error or whether it's a false narrative that has been used to cover an abject breach of contract, and for whose benefit?

Can you please tell Jackson and Hannah and the children of Maryland that you will not idly watch these violations go unanswered and that you will work towards repairing the immense damage that has been done and restoring to them, what is rightfully theirs. Can you please help the children be able to trust the Trust?

Can you please act with the spirit that a society's destiny rests on how it treats its children.

Thank you!

IRS

Topic No. 313 Qualified Tuition Programs (QTPs)

A qualified tuition program (QTP), also referred to as a section 529 plan, is a program established and maintained by a state, or an agency or instrumentality of a state, that allows a contributor either to prepay a beneficiary's qualified higher education expenses at an eligible educational institution or to contribute to an account for paying those expenses. Eligible educational institutions can also establish and maintain QTPs but only to allow prepaying a beneficiary's qualified higher education expenses. Qualified higher education expenses generally include expenses required for the enrollment or attendance of the designated beneficiary at any college, university, vocational school, or other postsecondary educational institution eligible to participate in a student aid program administered by the Department of Education. In addition, for purposes of QTPs, qualified higher education expenses include tuition expenses in connection with a designated beneficiary's enrollment or attendance at an elementary or secondary public, private, or religious school, i.e., kindergarten through grade 12, up to a total amount of $10,000 per year from all of the designated beneficiary's QTPs. They also include expenses for fees, books, supplies, and equipment required for the participation in an apprenticeship program registered and certified with the Secretary of Labor and qualified education loan repayments in limited amounts.

Contributions

QTP contributions on behalf of any beneficiary can't be more than the amount necessary to provide for the qualified higher education expenses of the beneficiary. Contact the program's trustee or administrator to determine the program's contribution limit. Contributions made to a QTP aren't deductible.

The benefits of establishing a QTP are

- Earnings accumulate tax free while in the account.
- The beneficiary doesn't generally have to include the earnings from a QTP as income.
- Distributions aren't taxable when used to pay for qualified higher education expenses (including tuition at an elementary or secondary public, private, or religious school). However, if the amount of a distribution is greater than the beneficiary's qualified higher education expenses (including tuition at an elementary or secondary public, private, or religious school), a portion of the earnings is taxable.
- Amounts can be withdrawn to pay principal or interest on a designated beneficiary's or their sibling's student loan. The amount of distributions for loan repayments of any individual is limited to $10,000 lifetime. Interest paid with these funds doesn't qualify for the student loan interest deduction.

Distributions

You should receive a Form 1099-Q, Payments from Qualified Education Programs (Under Sections 529 and 530) from each of the programs from which you received a QTP distribution. The amount of your gross distribution (box 1) shown on each form will be divided between your earnings (box 2) and your basis or return of investment (box 3). Form 1099-Q should be made available to you by January 31, 2023.

Additional Information

For additional information, refer to Publication 970, Tax Benefits for Education.

Page Last Reviewed or Updated: 26-Jan-2023

SB0959Testimony_Lepine_3.15.23.pdf
Uploaded by: Kimberly Lepine
Position: FWA

Dear Maryland State Senators,

In an effort to clear up the confusion I heard when I attended the joint committee hearing on January 24, I would like to take this opportunity to address some of the confusion regarding the Prepaid College Trust and the federal laws that apply to it.

As you all most likely know, state law and voluntary state boards cannot contradict federal law according to the Supremacy Clause of the US Constitution. For example, the Voting Rights Act of 1965 overwrote state laws that restricted voting rights prior to its passage.

In a similar way, neither the Maryland state government nor the board of Maryland 529 can overwrite Section 529 of the Internal Revenue Code of 1986 (as amended), which governs the existence of all 529 plans, of which the Maryland Prepaid College Trust is but one of many. This section of the code has been amended multiple times since its creation in 1996.

Several members of the legislature have referred to the Maryland Prepaid College Trust as a defined benefit plan. Defined benefit plans are also addressed by federal tax code, but under retirement. 529 plans, on the other hand, are also addressed by federal tax law, but under Section 529, not under any federal statutes that address retirement. The Maryland Prepaid College Trust is a QTP as defined by the IRS, not a defined benefit plan.

As such, there is no federally legal valid argument to be made for withholding earnings or interest generated from contributions made to a QTP such as Maryland Prepaid College Trust from beneficiaries. These earnings and/or interest are the property of the beneficiary alone. Furthermore, Section 529 addresses the governance of rollovers from one QTP to another. See Page 53 of Publication 970, Department of the Treasury, IRS.

After submitting two rollover forms to the Maryland College Investment Plan regarding a federally legal rollover from one QTP (Maryland Prepaid College Trust) to another QTP (Maryland College Investment Plan) and having those forms disregarded by the Maryland529 agency, our family is concerned that we must compel the agency to comply with federal law through the courts in order to ensure that our beneficiary's funds are treated in accordance with current Internal Revenue Code. It is our hope that the legislators looking into this issue as well as the Maryland Treasurer's office will research these federal laws and align the bills currently before the Maryland State Senate (SB0959) and House (HB1290) with Section 529 of the US Internal Revenue Code.

Notice 2018-58

Secure Act 2.0 Title 1: Section 126 does provide a provision for some portion of 529 funds to be rolled over to beneficiaries' IRAs, but this is the first time that 529 plans have had any intersection with retirement accounts of any kind. It does not go into effect until after December 31, 2023.

As you can see, these publicly available federal regulations are fairly easy to understand and directly apply to the situation currently facing the troubled Maryland529 agency and the Prepaid College Trust specifically.

Respectfully,

Kimberly and Ryan Lepine (account holder)
Parents of two Maryland 529 beneficiaries, Blaise and Stephen Lepine

MBarillas written testimony 3-15-23.pdf
Uploaded by: Martha Barillas
Position: FWA

Dear Maryland Legislature/Senate,

As a resident of the state of Maryland and MD529 MPCT account holder, I am writing this testimony to request your assistance in resolving an URGENT matter. In 2007, my family opened an MPCT account. We diligently and faithfully contributed into the MPCT until our last payment in October 2021. Since our son planned to start college in the Fall of 2022, we contacted MPCT customer support in early 2022 to better understand our account benefits. In particular, we inquired about the minimum benefit and were told a minimum benefit amount that was consistent with the revised minimum benefit definition in the MPCT August 21, 2021 letter to us and our December 31, 2021 account statement. Like many families, the information provided to us regarding our MPCT account was a critical factor in our decision as to where our son would attend college.

Our son began attending a MD state university in the Fall of 2022. To date, we've submitted claims for Fall 2022 and Spring 2023 semesters' tuition, fees, and qualified higher educational expenses. However, the amount of money we received from MPCT for each semester was not only below the minimum benefit, we will not even recover the full principal we paid into the plan! How can this be correct and justifiable? The MPCT is supposed serve our children, not take away the hard-earned money they saved. It is appalling and unconscionable that MPCT is not, at a minimum, providing us the equivalent of our principal investment into the fund for our son's education at this time while they correct their own mistakes. At this point, our earnings are not being delayed, they are being denied.

In August 2021, MPCT notified account holders of significant changes in the administration of the Trust. These changes included:

- "Minimum Benefit means payments duly made under this Contract, minus Operating Expenses, plus a certain rate of return. Accounts in existence on October 31, 2021: For accounts in existence on October 31, 2021, **contributions** in your Account prior to October 31, 2021 **will earn 6%** on balances, compounded monthly, until benefits are withdrawn, or your Contract is terminated." (emphasis added) (Page 2, August 2021 letter)

- "Earnings for Rollovers and Refunds. Accounts in existence on October 31, 2021: For accounts in existence on October 31, 2021, **contributions** in your Account prior to October 31, 2021 **will earn 6%** on balances, compounded monthly, until benefits are withdrawn, or your Contract is terminated." (emphasis added) (Page 5, August 2021 letter)

It is clear that the 6% earnings apply to all contributions into the account since its inception. MPCT now claims that the December 31, 2021 statements issued are incorrect because of issues associated with an earnings miscalculation. In its January 6, 2023 update MPCT stated that "Prior to November 1, 2021, any contributions made had earnings attributed at the rate of one-year government security minus 1.2% [and] starting on November 1, 2021, any existing balance began having earnings attributed at the 6% annual rate until used." This is a policy change that negatively impacts families.

When we opened a MD529 MPCT account in 2007, it was our understanding at the time that this plan would yield a rate of return based on the contract's definition of "minimum benefits." Every copy of the MPCT contract since we signed up with MPCT defines minimum benefits as payments made under this contract "plus a reasonable rate of return." The 2021-2022 contract changed the definition of minimum benefit (as provided above) but it still includes a rate of return. The explanation of minimum benefits in the contract goes on to state that "in the event that Tuition at an Eligible Institution is less than payments you make under this contract plus a reasonable return, you may use the difference for other Qualified Higher Education Expenses such as room and board and books." You can find this statement about other qualified higher education expenses in previous years contracts as well. We would note that during the January 24, 2023 hearing, Mr. Savia (MPCT Executive Director) stated multiple times that the MPCT only covers tuition. The definition of minimum benefits and the definition of qualified higher education expenses in the MPCT contracts contradict this statement.

As for the FASFA reporting, we reported the MD529 value provided in writing, believing that was truly what we had in our MD529 account and that money would be paid to us for our son's education. The MPCT annual statement states:

"*FAFSA VALUES REPRESENT THE REFUND VALUE TO BE USED WHEN REPORTING PREPAID TUITION PLANS AS AN ASSET OF THE PARENT ON THE FREE APPLICATION FOR FEDERAL STUDENT AID (FAFSA)."

As you may be aware, this value is used by universities in deciding what financial aid package to offer. This FAFSA value directly impacts a family's finances. Why is it acceptable for MD529 to provide an overestimated and incorrect account value for families to report to FAFSA that negatively impacts a family's opportunity for financial aid? This is leading Maryland families to financial hardships. We are in this situation because of MD529's mismanagement of this plan.

We need a resolution now. For our family, and many others, this is <u>urgent</u> and should be a priority as we are months from having to pay another university bill. Our son deserves the opportunity for a college education. We worked hard to provide that for him and relied on MD529 to help us make that happen. The MPCT Disclosure Statement states the following:

> Investments in the Maryland Senator Edward J. Kasemeyer Prepaid College Trust are **backed by a Maryland Legislative Guarantee. In the event that the Trust ever experiences a financial shortfall, Maryland law requires the Governor to include funds in the State budget to allow the Trust to pay your full Benefits**. As with the entire State budget, the Maryland General Assembly has final approval. (emphasis added)

Clearly, the Maryland legislature has the authority and responsibility to help those of us who have been harmed by MPCT. What are we asking for?

<u>We respectfully request that you direct the State Treasurer to make the affected account holders "whole" again by honoring the amounts reflected in the December 2021 statements before Fall 2023 tuition, fees, and all other educational expenses are due.</u>

Sincerely,

Martha Barillas

MPCT SessionStatement2.pdf
Uploaded by: Mary Wise
Position: FWA

We have a student that made her college list and other decisions based on what we as a family could afford. A large portion of that decision relied on the annual statement on December 31, 2021, that included the “total FAFSA reporting value,” defined as the “refund value” of our accounts. This total tracked with the since inception rate of return as described above, which was about 6 percent. Those documents state that “**after 60 days the information will be considered correct and binding for the account.**” The 529 board never informed us of any changes during this 60-day window. I even called during the summer when I noticed the value had gone down and was told that I could use the 2021 valuation letter as my FAFSA value.

That changed by the Fall. The 529 board has never sent written communications to account holders that the FAFSA numbers were wrong, as required by our contracts. We relied on these 2021 documents, and other corroboration from the Trust, to make financial decisions. I submitted a request for a recalculation on October 4th and didn’t receive anything until January 23rd, 2023. That valuation is barely above the contract amount we put in.

This is not what we expected to have when we set up this account. We had an older account with the Prepaid college trust where we paid over $10,000 for a 2-year college plan and received our contract amount, plus earnings totaling $11,730. We paid into this account for 35 months and received a return rate of around 7%. For our current account, which we have been paying into for 17 years, the earnings rate is now only 1% based on your revised calculations. This is not acceptable. The Trust in not entitled to retroactively change the earnings calculations prior to November 1st, 2021. This is a significant change that breaches Article IX in the contract.

And now we are trying to negotiate with colleges to see if they will consider more aid for our child. These are all colleges that were in our wheelhouse prior to the egregious actions of the MPCT 529 Board. We cannot fully at ease and celebrate our child’s efforts and accomplishments because this is hanging over the whole process. If we are able to get some more aid from a school, that means there may be less aid for another student. The actions of the MD 529 Board have implications beyond what they understand. We are asking that this bill include provisions that the rollover amounts presented in the December 2021 letters, impel the Trust to make those who have been adversely affected by their actions whole, and set up a go forward structure to prevent this from happening to other Maryland families.

This is a cruel change that should not have occurred. PLEASE HELP US AND FIX THIS NOW!

MB Steil testimony 3-14-23.pdf
Uploaded by: Marybeth Steil
Position: FWA

March 14, 2023

My name is Marybeth Steil, and my husband John and I invested in the Maryland Prepaid College Trust (MPCT) as well as the Investment Plan in 2010.

I am writing to you to today to express my **support** for **Senate Bill 959** **<u>with amendments</u>** that will restore our account earnings and provide restoration of full access to both rollovers and distributions for all account holders and their beneficiaries.

Like my fellow MPCT account holders, I am writing to express our outrage at Maryland529 and implore this committee and the Maryland Legislature to fully back the "legislative guarantee" that <u>induced</u> us all to invest in the MPCT. We would not have invested $44,667.00, when our daughter was barely 3 years old, if we had not trusted the Maryland state government to run a solid program and for the state legislature to back their words with their deeds.

Please do not be fooled by Mr. Savia or the others representing Maryland529. **This mess is <u>not</u> a calculation error**. It is a unilateral change in our contracts. They are literally stealing from children. Do not let them get away with it. We <u>always</u> had the option to rollover our funds, so that they could be used at institutions other than Maryland state universities and colleges.

When deciding to open an account with MPCT, my husband and I understood that the in-state tuition benefit afforded by the MPCT was due to increase significantly from our purchase date in 2010, and the advertising materials for the MPCT highlighted it, in the very first pages of the brochure. Remember, this was advertised as an <u>investment</u> in our children's future– not just a piggy bank. No one in their right minds would ask the state to hold funds for 15+ years, charge fees, and then hand back the same amount of money without any earnings. Please do not accept the Maryland529 Board's assertions that the Marylanders who opened 27,000 accounts in the MPCT are this stupid. Why are they continuing to assert this when their fund is doing so well, financially? Is the plan truly overfunded? Are the investment returns truly there? Is there something amiss? Please, for the love of God, remove these people from any decision making over our accounts! They are clearly incompetent.

Every contract from 1998-2021 clearly states that we always had the Second Option - to a Rollover distribution amount EQUAL to all payments made to MPCT plus or minus 100% of Investment Earnings, and in practice has been calculated and distributed to thousands of policy holders before us for 20 years.

Their changes to that Article and the new calculations being used are applying not "100% of Investment Earnings" as written but instead a rate equal to 1 Year Treasury Note minus 1.2% (effectively 0-1%) for all periods before November 2021 and a new language rate of 6% to periods after November 2021.

As of the 2019 Board vote and subsequent 2021 contract changes to Article VI, the Investment Earnings rate realized by MPCT was 6% annually. As of today, that figure is 5.3% due to a tough 2022 stock market.

Does 0-1% being used for years prior to November 2021 in their recalculations, sound like the 5.3-6% investment earnings return realized & owed to all policy holders under the original Article VI to you??

We need this body to compel the MD529 to HONOR their contracts that we all signed and agreed to over the initial 20 years of the program, and not allow these unilateral changes to the terms and benefit calculations of our contracts to stand one day longer. All 27,000 policy holders are being damaged - only a few thousand of us are probably even aware of the damage they have done. But don't worry the other 25,000 are coming behind us as their children hit college age… and they expect to receive what was written in their contracts too.

This "issue" or "error" caused by these contract changes, or "additional benefits" and "simplicity" as their disclosures claimed, can be fixed in 30 minutes if they were compelled to do so.

We don't have 12-18-24 months. My daughter is due to start college in the fall of 2025. We will be looking at schools and evaluating our financial options starting this summer and fall! How are we supposed to evaluate what our options are while the MPCT is in limbo? This is unconscionable.

Thank you for your attention to this matter. Please take corrective action to RESTORE our Earnings, per our terms of the contract, and allow us to Rollover those funds and get out of the MPCT. They are completely incompetent and should not hold our funds for one more day.

Sincerely,

Marybeth Steil
822 Cherry Tree Drive
Eldersburg, MD 21784
Marybeth.steil@gmail.com
District 5

Megan Boley Written Testimony SB 959.pdf
Uploaded by: Megan Boley
Position: FWA

Thank you for giving me the opportunity to write to you about the MD 529 Prepaid College Trust issues.

My name is Megan Boley, and I am from District 27B. I am a high school senior who plans to attend Towson University this fall. My parents opened an MPCT for me when I was born in 2005. I've been told that my MPCT trust account had a rollover value of $91,697.60 in December 2021 as well as in February 2022. This amount would allow me to rollover the balance to the MD Investment Plan so I can pay for tuition and room/board without worrying about going into debt.

I've been told that that balance has been recalculated so that I only have a value of less than 50% which means I would have to take out college loans to pay my room and board, which costs more than tuition, and risk being in significant debt when I graduate college.

I ask that the State of Maryland honor the balance of my Prepaid Trust from the December 2021 statement so I can go to college without adding to the student debt crisis in our country. I propose that this bill include an amendment that allocates dollars through the Maryland Rainy Day fund and provide immediate money for those of us about to enter college.

Thank You.

Megan Boley, age 17

MD529 Testimony .pdf
Uploaded by: Mike McSally
Position: FWA

Dear Concerned Legislators

I write this letter to you to make you aware of my experience with the MD 529 Pre Paid plan over the past 11 months. I currently have 4 accounts that were paid in full in 2011. As I was starting a growing family in the early 2000's, one of the top priorities for me/wife was to ensure we could have the childrens education paid for. We chose the MCPT based on the advice of our financial partner and opened 4 separate four year plans.

Dating back to March of last year we were quickly approaching our oldest daughters graduation from UMD - College Park. After numerous calls with the Intuition team we were reassured about the option to roll over the remaining balance to one of the other three plans, leave in place for future educational costs or use the remaining balance for expenses incurred over the year such as room/board and fees. We chose and submitted the paperwork more than 4 times to receive the balance monies to help offset the housing costs. After checking in with the 529 representatives as to what was taking so long for the check we were informed that there was a hold on all earnings balances going out due to an alleged "calculation error."   Twelve months later not only is this matter not resolved, the confusion, the contradictions and runaround that we have been given has been nothing short of unbelievable.

To make matters worse I have been provided with written documents that have been inaccurate regarding balances, tax information, calculations. I have even received two documents from MD529 and their legal counsel that belong to two other families. The firm that the 529 Board hired to ensure accuracy is sending proprietary information out to the wrong families. The amount of time and effort that I have spent trying to get things squared away is truly a full time job. I have four contracts that I have held since 2011 and at this point I have no idea what it what.

I implore you to dig deep into the real root cause as to what was done to so many Maryland families and their children. It is just down right wrong. The leadership has changed the contract mid stream. The families before us and now after us will receive the benefits the plan was intended to do, yet several thousand of us with kids in school get zero benefits. I was told endless times that the remaining balance on my December 2021 statement could be used for defined college expenses only to have that disappear.

This has been the most frustrating engagement of my adult life. Please dig into this mess like it was your own investment. Thousands of families that have been misled and stonewalled are counting on you.

Regards
Michael McSally

Written Statement.pdf
Uploaded by: Patricia Stavros
Position: FWA

11627 Hunters Run Drive
Hunt Valley MD 21030

March 14, 2023

Dear Maryland Lawmakers and Comptroller:

We are account holders in the Maryland 529 Pre-paid College Trust (MPCT) and are writing this letter to request your assistance in resolving this matter in a way which would be fair and equitable to all of us who have been harmed by the MPCT.

In 2009, we opened a MPCT account for our children with a 25% deposit and regular payments thereafter in order to help prepare for the education of our twins. Since the children were scheduled to start college in the Fall of 2022, I contacted MPCT in March 2022 to better understand our account benefits. I was told that both accounts had a total value of approximately $81,000 as reported on our December 2021 FAFSA statement. We would be able to rollover our account into the MD Investment Plan or request minimum distributions plus excess distributions to cover additional tuition, books, room and board (as defined in the contract). We made critical college decisions based on this information.

My daughter enrolled in college in Fall 2022, and we were required to report this value to FAFSA and the college. My son does not need his account and as a result, we transferred the beneficiary's name over to my daughter. I made numerous subsequent calls to MPCT in preparation for payment of fall tuition in June 2022 and learned that the funds would not be released until August 2022. Around that time, we discovered that 50% of the account value disappeared and have been frantically calling on a weekly basis without any understanding of this the true situation. Due to such shady behavior, we feel that fraudulent practices have occurred, and this is not a miscalculation as we have been led to believe. NOW is the time we need distributions from her account. Where are our earnings?

My daughter, Sofia Konkolics, is attending a 6-year direct entry program for physician assistants, which was not available in Maryland. Her education holds a price tag of close to $500,000. Every bit of the value that was reported on the 12/31/21 statement is needed to fund her education. Now that we do not have full access to these funds, our family is struggling to pay tuition. We are at a financial loss because we have had to unexpectedly pull money from other accounts to pay for our student's education. The MPCT is supposed to help parents when their children are ready to attend college, not take away the hard-earned money they saved. What's the point of working hard, sacrificing, and saving money for your child's college fund when it gives you back less money than the principal that you put in? It is appalling and unconscionable that MPCT has changed the rules when it is time to pay for our daughter's education. At the moment, MD529 currently has excess funds to not only pay us our full principal but also the earnings noted in our December 31, 2021 statements. To add insult to injury, MPCT has the means to help us but refuses to do so.

In the summer of 2022, we were told by representatives that MD529 was working on processing minimum benefits and we would be given an update soon. We continued to make frustrating calls, only to speak with representatives that could not or did not know answers to all our questions. We are now past the date when tuition was due for the Fall 2022. In November 2022, we were told that we could escalate our issue to "account support" and request a manual calculation since our child was currently enrolled in college. Despite weekly calls, I could not reach a manager and no one would return my calls. In December 2022, another tuition payment was due and we still had no answers or access to our funds. An email was sent to Anthony Savia in December 2022 and he suggested that we request the minimum distribution and we could get our excess funds when this situation was resolved. This was done on 12/28/22; however, if this action jeopardizes our ability to receive the full value of our account, I will only assume that this option was suggested by Mr. Savia to harm us further. We finally received a manual calculation on only one of our two accounts in the form of a microscopic, erroneous excel spreadsheet that listed all our contributions, along with the many fees that were deducted. The value of our account is barely the same as our initial investment 15 years ago, and no one is available to help interpret this drastic reduction. The representatives claim they don't have access to any of these reports. We have attempted on numerous occasions to speak with Mr. Savia and he dropped off the face of the earth and not responded. It is truly frightening to be ignored when we trusted MD 529 with precious funds for education.

We chose the Prepaid Investment Plan because it had rollover options that favored out-of-state choices, and are horrified that the account value has been stolen on the exact year that we need the funds. If the Plan wants to change the terms, it should take effect on all new plans, not on existing plans. At this point, we have not had the opportunity to use any of our interest earnings for the entire first year of my daughter's education. Our earnings are not being delayed; they are being denied.

We received a letter from the MD State Senate asking our university to be patient while Maryland resolves this situation. This is unacceptable as institutions will not register students for classes or release grades when tuition is not paid. This letter also states that the issue will not be resolved until April 2023. We have no confidence that this will happen based on the track record since April 2022.

In August 2021, MPCT notified account holders of significant changes in the administration of the Trust. These changes included:

- "Minimum Benefit means payments duly made under this Contract, minus Operating Expenses, plus a certain rate of return. Accounts in existence on October 31, 2021: For accounts in existence on October 31, 2021, contributions in your Account prior to October 31, 2021 will earn 6% on balances, compounded monthly, until benefits are withdrawn, or your Contract is terminated." (Page 2, August 21, 2021 letter)

- "Earnings for Rollovers and Refunds. Accounts in existence on October 31, 2021: For accounts in existence on October 31, 2021, contributions in your Account prior to October 31, 2021 will earn 6% on balances, compounded monthly, until benefits are withdrawn, or your Contract is terminated." (Page 5, August 21, 2021 letter) Based on a plain language interpretation of these statements, it is clear that the 6% earnings earned applied to all contributions into the account since its inception. In addition, at the January 24, 2023 hearing, a consumer panel provided slides to the Committees. In these slides, it states the Board's intent was for the 6% earnings to apply to contributions prior to November 2021. Our December 31, 2021 statement from MPCT indicated a FAFSA reporting value that was consistent with this interpretation so we had no reason to suspect any miscalculation.

MPCT now claims that the December 31, 2021 statements issued are incorrect because of issues associated with an earnings miscalculation. In addition, MPCT is interpreting statements in the August 21, 2021 letter such that the 6% earning does not apply to contributions prior to November 21, 2021. In its January 6, 2023 update MPCT stated that "Prior to November 1, 2021, any contributions made had earnings attributed at the rate of one-year government security minus 1.2% [and] starting on November 1, 2021, any existing balance began having earnings attributed at the 6% annual rate until used."

As for the FASFA reporting, when we filled out our FAFSA for 2022-2023 and 2023-2024, the account statement we were provided indicated a value much higher than our principal. We reported that value, believing that was truly what we had in our MD529 account and that money would be paid to us for our daughter's education. The MPCT annual statement states:

“*FAFSA VALUES REPRESENT THE REFUND VALUE TO BE USED WHEN REPORTING PREPAID TUITION PLANS AS AN ASSET OF THE PARENT ON THE FREE APPLICATION FOR FEDERAL STUDENT AID (FAFSA).”

This FAFSA value directly impacts a family’s finances. Why is it acceptable for MD529 to provide an overestimated and incorrect account value for families to report to FAFSA that negatively impacts a family’s opportunity for financial aid? This is leading Maryland families to financial hardships. We are at the mercy of the Board and the Maryland legislature to fix this problem. We did what we had to on our part. We saved. We read. We communicated. We did our due diligence. Yet, we are in this situation because of mismanagement of a plan by MPCT that has existed over many years. This is not an issue that just started a few months ago. Please have your staff look into the past audits. There have been red flags for years, and it was up to the Board to address them, and up to the state to hold the executive team accountable. Instead, appropriate actions were not taken in time and as a result, families are being negatively impacted. We pay our Maryland taxes, and we are honest hard-working citizens. We never expected to be here. On behalf of our family and all other families with students in college, we ask for your help. During the January 24, 2023 hearing, Mr. Savia stated that it would take several months to solve this problem. That is unacceptable. We need a resolution now. As stated earlier, we have been trying to get resolution for 5 months and in a few months, it will be a year. For our family, this is urgent and should be a priority as we are “months” from having to pay another university bill. Our daughter deserves the opportunity for a college education. We worked hard to provide that for her and relied on MD529 to help us make that happen.

The MPCT Disclosure Statement states the following:

> Investments in the Maryland Senator Edward J. Kasemeyer Prepaid College Trust are backed by a Maryland Legislative Guarantee. In the event that the Trust ever experiences a financial shortfall, Maryland law requires the Governor to include funds in the State budget to allow the Trust to pay your full Benefits. As with the entire State budget, the Maryland General Assembly has final approval.

Clearly, the Maryland legislature has the authority and responsibility to help those of us who have been harmed by MPCT. As described above we have acted in good faith honoring our end of the contract by making payments on time and performed our due diligence in obtaining, confirming, and understanding the information provided to us. We should not have to bear the additional financial burden of having to come up with additional funds to pay for college because of to MD529’s, mismanagement, miscalculations, and ineffective communications.

What are we asking for? We respectfully request that you direct MD529 to make the affected account holders “whole” again by honoring the amounts reflected in the December 2021 statements and reinstating our EARNINGS. During the January 24, 2023 hearing, Mr. Savia stated the plan is in healthy standing and it has millions in surplus of funds. Families before us have received all of their earnings and we expect no less. We need every cent of the interest we earned in this account to pay for education. We need your help to make this right. Thank you for hearing our situation.

Sincerely,

Patricia A Stavros and Sofia Konkolics

Ryan Boley Written Testimony SB 959.pdf

Uploaded by: Ryan Boley
Position: FWA

Thank you for giving me the opportunity to write to you about the MD 529 Prepaid College Trust issues.

My name is Ryan Boley, and I am from District 27B. I am a high school sophomore who plans to attend college in the Fall of 2025. My parents opened an MPCT for me when I was born in 2007. I've been told that my MPCT trust account had a rollover value of $85,516.84 in December 2021 as well as in February 2022. This amount would allow me to rollover the balance to the MD Investment Plan so I can pay for tuition and room/board without worrying about going into debt.

I've been told that that balance has been recalculated so that I only have a value of less than 50% which means I would have to take out college loans and risk being in significant debt when I graduate college.

I ask that the State of Maryland honor the balance of my Prepaid Trust from the December 2021 statement so I can go to college without adding to the student debt crisis in our country. I propose that this bill include an amendment that allocates dollars through the Maryland Rainy Day fund and provide immediate money for those of us about to enter college.

Thank You.

Ryan Boley, age 15

Siena Evers Written Testimony SB0475.pdf
Uploaded by: Siena Evers
Position: FWA

My name is Siena Evers and my parents funded four years of college tuition for me 18 years ago when I was a baby. I'm a senior in high school now. Prior to completing college applications my family let me know how much money was available for my education. I was thankful that my parents planned ahead and provided me with a path to a college degree without the need to incur massive student loan debt. A few months ago we found out that contracts were not being honored. A couple of weeks ago we found out that the value of my account was slashed by over 50%. I need to commit to a college by May 1st and my financial situation is very different from when I applied. How can the state take away over half of my college savings three months before I make the biggest financial decision of my life? When I turned 18 my parents encouraged me to open an IRA. There's not much money in my account now but I am worried that when I am ready to retire the government will take it away. My Mom said that would never happen. When I asked her "isn't that what just happened with my college fund?" she said "yes, I guess it did." If you can't trust the government with your money who can you trust? It is very stressful not knowing what my financial position is. Please help me get my college funds back ASAP so that I can make an informed decision about my future. Thank you.

Written Testimony SB0959_Tammy Glasser.pdf
Uploaded by: Tammy Glasser
Position: FWA

Written Testimony – Senate Bill 959
Tammy Glasser
3/14/2023

My name is Tammy Glasser and I am support senate bill 959 with amendments.

The Maryland 529 staff and board have proven again and again that they do not care about the families and beneficiaries they have harmed. Their mismanagement, misinformation, poor communication, horrible customer service, and breaches of contract cannot be tolerated anymore. I support transferring the Maryland Prepaid College Trust under the office of the State Treasurer in the hopes that the working group will come to a resolution that will uphold the terms of our contract, reinstate our binding 2021 account values plus earnings to date, and the use of rainy day funds to reimburse families who suffered financial hardships due to the suspension of our earnings.

Account holders, the previous Maryland 529 staff, Intuition, actuaries, and auditors all understood the disclosure statement the same way and how the earnings were calculated. I have repeatedly asked the current Maryland 529 staff and board to show me where in our contract it says that rollovers and refunds should receive the earnings rate of the 1-year treasury minus 1.2% which they claim to be the "correct calculation" for contributions before November 2021. There has been no response because it does not exist. For at least 6 months after this date, Maryland 529 staff counseled families like mine on how rollovers receive a 6% earnings on contributions (which was in line with the previous and current disclosure statements as well as the 2021 FAFSA values). Families will not accept anything less and we will not allow our kids to pay the price by taking out student loan debt because of the mistakes made by Maryland 529. We appreciate the legislators and treasurer's desire to honor its promise, take responsibility and make this right.

Amendments needed:

1. Guarantee that all account holders will receive the rollovers and refunds earnings as defined in our original contracts less any appropriate fees.
2. The Treasurer will allocate monies from the rainy day fund for immediate (within 90 days of passage of the Bill) financial relief of account holders with students in their last year of high school and in college, or another approved program. Such 'financial relief' must cover, at a minimum, the immediate costs of attending the school in which they have enrolled (or plan to enroll) up to and including the value of their rollover amounts, plus documented expenses from unplanned loans, mortgages, credit card charges, etc., accrued because of the frozen assets.
3. The deadline for applying for rollovers will be December 31, 2025 (extended from January 1, 2025) or a mechanism for multiple accounts to be merged so that all funds can be transferred in its entirety to meet IRS regulations.
4. In the event that the entire MPCT is dissolved, any remaining assets will be divided among account holders to commensurate with their contributions and time in the Trust to include active account holders as of April of 2022 (when earnings were suspended).

Thank you for your time and consideration,

Tammy Glasser

Testimony SB0959-Wendy Hall-14March2023.pdf

Uploaded by: Wendy Hall

Position: FWA

Wendy Hall, District 13 Testimony for SB0959 March 14, 2023

Dear Members of the Taxation and Budget Committee,

Here is my testimony in support of SB0959: Higher Education - Maryland 529 Program - Reform, with amendments.

In 2006, when our children were 2 and 4, respectively, my husband and I invested in the Maryland Prepaid College Trust (the "Trust") in order to lock in the supposedly rising cost of tuition, as well as to have the option of applying earnings to their education. We weren't sure if our children would attend Maryland state schools, or private or out of state schools, so this plan gave us some flexibility. The MD529 rep who spoke with us encouraged us to select this plan over the MD College Investment Plan both because of his claim that state tuitions were bound to rise dramatically (which was already known to MD529 to being capped), and because the markets were unpredictable. We so regret that decision today.

Today, our older son, Daniel, is attending Cornell University after transferring from Howard Community College. We counted on the earnings on his account to help pay for his education at this revered institution. As you have already heard from so many of my new MD529 **Dis**Trust friends, we were unable to do that. Consequently, we had to refinance our home, trading in our historically low mortgage rate for a much higher one to pay his fall tuition. We are now paying his Spring tuition on a payment plan, out of our very limited savings. We need his account earnings NOW.

Our younger son, Ezra, will be attending the University of Arizona in August. As an out of state student, his tuition costs are high, and we just learned that he is not receiving any aid beyond loans. Given the reprehensible actions by the "Trust", we can't access either of our children's earnings (totaling over $45,000) so we don't know where this money is going to come from.

I am currently on disability retirement, which pays a fraction of my previous salary. Moreover, my annuity will drop significantly on my 62nd birthday this coming September. We NEED their earnings now.

As you have certainly already heard and read in testimony from so many other parents, the "Trust" has inappropriately, and many say, illegally, changed our contracts to remove our promised earnings. I previously had assumed that their 'errors' reflected a lack of familiarity with our original contracts and how they had been applied to other account holders for years. However, after receiving the frankly ludicrous email from Tony Savia on March 3, I realize that he and the Board are doubling down on the lies and obfuscations. Why they would do that, I can only imagine - and it's not a pretty vision. The entire situation, even without speculation on nefarious goings on, is a stain on Maryland's reputation. As a proud Marylander, I am ashamed of my state in this instance.

I am relieved, however, to see the Legislature and the Administration poised to correct this shameful debacle. Therefore, I support SB0959, although with some amendments[1]:

1. Guarantee that all account holders will receive all earnings as defined in our original contracts. Although less than returns received by those who rolled their MPCT accounts

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[1] Please note that other account holders are suggesting additional amendments that I also support. I am presenting what I see as the most critical ones here.

over before April 2022 (per former MD529 client communications manager Spencer Fells), we will accept, at minimum, the FAFSA values reported in the December 31, 2021 account statements, plus earnings received since that date, less any appropriate fees.

2. The Treasurer will allocate monies from the rainy day fund for **immediate** (within 90 days of passage of the Bill) financial relief of account holders with students in their last year of high school and in college, or another approved program. Such ‘financial relief’ must cover, at a minimum, the immediate costs of attending the school in which they have enrolled (or plan to enroll) up to and including the value of their rollover amounts, plus documented expenses from unplanned loans, mortgages, credit card charges, etc., accrued because of the frozen assets.
3. The deadline for applying for rollovers will be December 31, 2025 (extended from January 1, 2025). Alternatively, those with multiple accounts can merge them to avoid the stipulation against more than one rollover per year.
4. In the event that the entire MPCT is dissolved, any remaining assets will be divided among account holders commensurate with their contributions and time in the Trust. Account holders will include those who have used their WAT and closed their accounts since earnings were frozen in April of 2022.

Here’s the bottom line: I’m glad to have the Treasury take over, but it MUST honor our contracts, provide our earnings, and for those of us with kids in or near college or other approved programs, to create a mechanism to get our money to us BEFORE bills are due in August. The deadline for rollovers must be extended. in the event of dissolution of the MPCT, any remaining assets should be divided appropriately among account holders.

Thanks very much for your consideration of my testimony. I look forward to a favorable vote on the bill, with the listed amendments.

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MARYLAND STATE TREASURER
Dereck E. Davis

Informational Testimony of the Maryland State Treasurer's Office

Senate Bill 959: Higher Education - Maryland 529 Program - Reform

Senate Budget and Taxation Committee and Senate Education, Energy, and the Environment Committee

March 15, 2023

During his electoral address to the General Assembly, Treasurer Davis expressed a willingness to be a part of the solution to fix the problems facing the Maryland 529 Program. To that end, the State Treasurer's Office (STO) appreciates the opportunity to provide information regarding the reforms proposed in Senate Bill 959. By reviewing STO's current staffing levels and the resources needed to integrate the Maryland 529 Program, this testimony endeavors to help the Committees decide the best path forward. Additionally, the testimony suggests one amendment to clarify the General Assembly's intent.

Background on STO

The State Treasurer's Office maintains a small staff of 63 employees who account for and invest over $20 billion in assets on behalf of the State, oversee the State's debt issuances (exceeding $1.0 billion in 2022), and manage the State's self-insurance program for tort claims, among other responsibilities. In order to fulfill the agency's core debt management, insurance, and treasury management functions, STO competes directly with private-sector employers in those industries. The tight labor market has made filling vacancies especially challenging, which led to a high-water mark vacancy rate of 35% in December 2021. Reclassifying salaries and implementing a telework policy have helped to reduce the vacancy rate to closer to 13%.

In terms of information technology (IT), upon taking office, Treasurer Davis learned that STO operates on a legacy system that is vulnerable to hardware and software challenges. The system had become so outdated that hardware replacement parts were nearly impossible to find and software had become completely unsupported. In fiscal year 2023, STO completed an important first step by upgrading the insurance part of the IT system, which is the one that interfaces most directly with the public. STO must now focus on banking, the system's most critical activity, which is responsible for all payments and

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revenues received by the State. Leasing new hardware and entering into a new service agreement, STO is working to make the system more secure throughout the transition.

While great progress has been made in terms of staffing and IT, Treasurer Davis continues to focus on hiring staff and modernizing the operations of the office. Additional resources are needed to support the core operations of the agency that are critical to overall functioning of State government.

Costs of 529 Program Integration

By extension, STO requires both flexibility and resources to successfully integrate its operations with those of the Maryland 529 Program. Flexibility with funding will help the Treasurer to take an agile approach to implementation. Additional resources will make it possible for STO to operationalize all of the Board's responsibilities, which comprise the majority of the bill text. For illustrative purposes, the list below identifies resources that STO anticipates needing for staffing, IT, and consultants.

Staffing

- **Existing Vacancies**: Several vacant positions within Maryland 529 need to be filled to improve the provision of services to account holders.
- **Deputy Director**: Hiring a Deputy Director will facilitate communication across STO, support the work of the Executive Director, and assist with succession planning in future years.
- **Contract Management**: There is need to increase State oversight of the various contracts that Maryland 529 manages. For example, the Program has three separate managers overseeing each of the three savings plans (Prepaid Plan, Maryland College Investment Plan, and ABLE). Additionally, Maryland 529 has contracts with other vendors who provide accounting, actuarial, auditing, and other services.
- **Customer and Constituent Service**: Maryland 529 currently lacks internal staff to provide customer service outreach. STO envisions establishing a robust staff dedicated to communicating with account holders and legislators. Beyond handling Prepaid Plan inquiries, these customer service representatives will also assist the Maryland College Investment Plan and ABLE account holders.
- **IT and Human Resources (HR)**: The on-boarding of new staff and the integration of Maryland 529's IT system with STO's requires the addition of at least one full-time IT professional and one full-time HR professional.
- **Legal**: Additional STO staff and/or attorneys from the Office of the Attorney General may be needed to implement the interest payment requirement under § 18-1909 of the Education Article in the bill.
- **Marketing**: Marketing each of the three plans will require care and attention as public trust in Maryland 529 is rebuilt. STO may seek to hire an additional marketing expert to help the Program navigate these challenges.
- **Workgroup**: Depending on the nature of the work that the Workgroup undertakes, the expenditure of staff time may justify the need for additional staff to help the Workgroup until the work is complete.

IT

Resources are needed to upgrade STO's website and integrate the Maryland 529 website. These investments will better support the anticipated increase in web traffic following the transition.

Consultants

STO may require the assistance of various consultants to handle claims, review past practices, and communicate updates with the public. Possible engagements include audit and performance review, communications, and outside legal counsel. The need for outside legal counsel is especially pressing as long as the Assistant Attorney General position for Maryland 529 remains vacant.

Proposed Amendment

STO suggests one amendment to clarify the General Assembly's intent surrounding the proposed reforms. Specifically, the legislation is silent as to a remedy for account holders. The incentive for rolling over accounts from the Prepaid Plan to the Maryland College Investment Plan helps to phase out the Prepaid Plan, but does not address concerns that account holders have raised about their earnings. If the General Assembly would like STO to resolve the dispute between the Maryland 529 Program and account holders, the legislation will need to identify the methodology, process, and funding source for such resolution.

Treasurer Davis and STO hope that this information is useful as the committees consider Senate Bill 959. Please contact Laura Atas, Deputy Treasurer for Public Policy (latas@treasurer.state.md.us), with any questions.