

February 21, 2023

Dear Legislators,

I want to thank you for your support and for reviewing the ongoing issues with the MD529 Prepaid Trust. I have been surprised, frustrated, angered, and disappointed by how MD529 has handled this situation.

I am asking that you please investigate the concerns account holders have about how MD529 misguided parents, provided false information, did not alert families to the calculation issue in a timely manner, and how an altered disclosure statement and earnings calculations methodology has retroactively modified the earnings families will receive and brought harm to countless Maryland families. We need your help to resolve these issues and find a solution that will help make families whole. The Maryland Prepaid Trust was built on a promise and the trust families have in the Maryland state legislature to help families afford the cost of college.

We understand this is a complicated issue and a difficult one to understand, especially since what the Maryland 529 Board and Executive Director, Tony Savia is telling you is different than what you are hearing from constituents and Maryland families. The messaging has been convoluted with two different issues - a "calculation error" that resulted in freezing additional earnings owed to families and an "interpretation error" of the disclosure statement that has cost families thousands of dollars. I hope the outline below helps answer some of your questions and provide you with the perspective from our family's point of view.

The GREAT NEWS that went terribly WRONG for SOME account holders:

- The following statement was included in the Maryland 529's Annual Report 2020, where the Board announced their plans to give back some of the Trust's earnings to the account holders. – I thought this was great news for **ALL OF US** who have contributed over the years.
 - *While having an actuarial surplus can protect the Trust's soundness from lower than expected investment returns, or higher than expected tuition increases, the Board is permitted by statute to consider a rebate when the Trust exceeds a certain funding status and plans to explore such an option.*
 - FYI – the Prepaid Trust is considered overfunded at 130% which it has been for the past 9 years. It is currently overfunded at 140% with a surplus of \$355M.
- From the June 2021 MD529 Board minutes:
 - *The Board endorses the rate of return calculation for minimum benefits, rollovers and refunds to be the Trust's since-inception rate of return as of 6/30/21 for balances held **PRIOR** to November 1, 2021.*

It says balances held **PRIOR** to November 1, 2021; not balances held on October 31, 2021. It's important that you pay close attention to the language and how it shifts over time.

<https://maryland529.com/LinkClick.aspx?fileticket=oq2Tmovalro%3d&tabid=1156&portalid=0&mid=4659&language=en-US>

- On November 4, 2022, we receive an email update that says:
 - *On behalf of Maryland 529, I want to again thank you for your patience this year as we have faced the challenge of correcting issues in the Maryland Prepaid College Trust created during the change-over process in 2021. As an update, on October 27, 2022, our Board voted on a number of initiatives that have placed us on a path forward toward providing accurate account values. One noteworthy change agreed-to by the Board is to retroactively change the method for calculating the minimum benefit from a “net contribution” formula to a ledger balance method. This change will ensure that all account holders receive the benefit of compounding of accrued benefits.*

What were the initiatives the Board voted on? We don't know because they were in closed session but, it sounds like they were making decisions in our best interest. I like the sound of “compounded accrued benefits”. So, even though things are bumpy and earnings are frozen, it's all going to work out, right?

- The Maryland 529's Annual Report 2022 included a letter dated October 26, 2022 (yes, just 4 months ago) to Chair of the Board, Peter Tsirigotis from Gabriel, Roeder, Smith & Company (“GRS”) reporting on the actuarial soundness valuation of the Maryland Prepaid College Trust (“MPCT”) as of June 30, 2022. Although the term “actuarial soundness” is not specifically defined, the purpose of the actuarial valuation is to evaluate the financial status of the MPCT as of June 30, 2022. The parameters for the report included:
 - *Beginning November 1, 2021, the same interest crediting will be used in calculations performed for the Minimum Benefit, rollovers and refunds. **Interest will be credited on contract payments** made to the Trust prior to November 1, 2021 at the since inception rate of return as of June 30, 2021 (6.00 percent) for periods **both before and after** November 1, 2021. Contract payments made on or after November 1, 2021 will be credited interest based on the 10-year Treasury note rate as of June 30, compounded monthly.*

More great news, the Board's decision to provide account holders 6% compounded earnings on contributions made prior to November 2021 was a sound one. So even though the past months have been bumpy with freezes and miscalculations, it's all going to work out, right?

I was pleased that the Board and leadership of the Prepaid College Trust saw fit to allocate the overfunding of the Trust to those who had been account holders prior to the change and also removed the inequity for those who used the Trust to pay tuition compared to those who rolled their funds over to the MD529 Investment Plan.

While parents are still believing the great news above, things are unraveling at Maryland 529. Why some parents are seeing RED:

- In December 2021, account holders received their annual statements. For the first time, they included the FAFSA value and it seems for those I've talked to, their balances were in line with the 6% compounded earnings. There are also parents who had their FAFSA calculated and received a letter from MD529 in 2019 and 2020, and the December 2021 balances were in line with what they previously received. They did not appear to be inflated and we had no reason to doubt the information. Per the Disclosure Statement - *You have 60 days after receiving an Annual Statement to inform us if any information in the Annual Statement is incorrect. After 60 days, we will consider the information in the Annual Statement to be correct and binding upon you and your Beneficiary.*

Shouldn't the same apply to Maryland 529, after 60 days, the information should be considered correct and binding? A FAFSA value represents parental assets. Historically, the FAFSA is the dollar amount an account holder can rollover to the MD529 Investment Plan (in other words, historically, it's been viewed as real money a.k.a. your account balance). This FAFSA balance is also reported on the federal FAFSA form and impacts financial aid. But Mr. Savia says that "it's only a number and it means nothing, that it was not our account value". He continued to tell families that it was an inflated number, well if that is the case, how will he rectify the negative impact on my child's financial aid package?

- In April 2022, MPCT froze the interest earnings distributions to beneficiaries due to an identified "calculation error". **NO NOTIFICATION** was sent to account holders to alert them of this issue or how this may or may not impact their account.
- Countless families (including my own) called MD529 during Spring 2022 and **CONFIRMED** the FAFSA number/account balance and was provided a new slightly higher value (because that's how compounded interest works). In April 2022, a MD529 representative clearly stated to me if I wanted to rollover my account, I would receive a 6% earnings but I needed to wait till June 1 because some accounts had calculation errors. That deadline was extended numerous times. But, if she was quoting me my account balance, she didn't mean my account, right?
- Families used this **CONFIRMED** value to make their college selections. We did not make this decision lightly; our family had a meeting to discuss all our financial resources (including our Trust balance) to determine if we could afford the Savannah College of Art and Design. Based on the information we were provided by MD529, the answer was "yes"! This was the best news yet – our daughter gets to go to her dream school!
- Although MD529 knew in April 2022 that there was a so called "calculation issue" and they suspended distribution of any additional earnings, they did **NOT NOTIFY FAMILIES TILL AUGUST 29TH (after tuition bills were due)** via email (which MD529 admits that they only have email addresses for approx. 15,000 of the 27,000+ account holders).

The email read:

- *Maryland 529 is currently working to address earnings calculation issues in the Maryland Prepaid College Trust (MPCT) that are impacting some Account Holders who need to take a distribution. To protect the Trust as a whole, the Maryland 529 Board has temporarily suspended the addition of certain interest earnings on MPCT distributions.*

*It is important to emphasize that **no MPCT Account funds are at risk**, and that MPCT Account Holders are still able to access their principal balances for Tuition payments and/or rollovers. Once all issues have been resolved, Account Holders will have access to their interest earnings.*

If they say “no funds”, wouldn’t you assume that means none of your perceived funds (contributions plus earnings) are at risk? The email did **NOT** say your December 2021 statements were incorrect and it did **NOT** say that account values that staff may have quoted you were wrong. It says “some account holders” and “that no funds are at risk”. Would you assume if there was an issue with YOUR account, you would have been notified separately? Would you assume that everything is okay with your account value and if not, maybe its off by a little but certainly not 40 - 60%?

Maryland 529 had an **OBLIGATION TO BE TRANSPARENT AND ALERT ACCOUNT HOLDERS** of the severity of this issue and the impact it would have on what we still believed at the time to be our account balances.

- For ten months, families have been calling and the staff answering the phones do not know basic information to assist families. Staff just responds that they “have no idea and cannot tell us anything”. I have tried calling, emailing, using the online contact form, submitting questions for Board meetings, and responding to the manual calculations form, and I have never received one response! Our frustration continues to grow as spring tuition bills are now past due.

The JANUARY 6th BOMBSHELL that sent parents over the edge:

On January 6th, Maryland 529 sent an email and document outlining the new calculation methodology. It states:

In the process of distributing these additional earnings (which ironically stem from an increase to percentage of attributable earnings effective November 1, 2021), the calculation was inaccurately reported and had to be corrected in compliance with the Board approved Disclosure Statement.

There were graphs included and it was **NOW** clear that the Board, Executive Director, or Intuition College Savings Plan changed the interpretation of the disclosure statement that account holders believed to be true.

Let’s take a closer look at how the wording has changed:

- Remember the June 2021 MD529 Board minutes where a vote took place:

- *The Board endorses the rate of return calculation for minimum benefits, rollovers and refunds to be the Trust's since-inception rate of return as of 6/30/21 for balances held **PRIOR** to November 1, 2021.*

FYI – Maryland 529 refers to “balances” as the total amount (principal + earnings) in your account each month on the 15th.

- Current Disclosure Statement from August 2021:

- *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. “*

*In an effort to simplify the Benefits available under the MPCT and create an ease of understanding and use 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-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.*

This changes the words a bit from “balances” to “balances on contributions” but that seems to have the same meaning. It says contributions prior to November 1, 2021, which should date back to initial contributions. Then it says “will earn” which makes it a little fuzzy as “will earn” could mean in the future - which makes it less clear than the initial vote by the Board.

This is historically in line with rollover and refunds return rate calculation, but most importantly a big boost for the Minimum Benefits. – which reflects the Board giving some of the trust's surplus back to the account holders who have been contributing all these years and making it equitable for all. [Prepaid College Trust](#)

- From the January 6th clarifying document included in the MD529 email:

- *In light of a calculated surplus in the MPCT Program, the Board of Directors voted in 2021 to implement a 6% Earnings rate on all balances in accounts as of October 31, 2021. Earnings compound every month.*

They refer to the Board of Directors' vote in 2021, which said (according to their minutes), “balances PRIOR”. They changed the wording to say “balances in accounts as of October 31, 2021”. This is different than balances held (or contributions) prior to November 1, 2021.

I submitted a rollover request form in April 2022 right after a MD529 representative told me it would earn 6% earnings, they held my form for 9 months and finally only allowed me to rollover my principal. I couldn't wait any longer since I needed the money to pay our tuition bill.

BREACH of Contract:

According to the Disclosure Statement, Article IX: *We may amend the terms of this Contract from time to time to comply with changes in the law or regulations or if we determine it is in Maryland 529's and/or the Prepaid College Trust's best interest to do so. **However, we will NOT RETROACTIVELY MODIFY existing Contract provisions in a manner adverse to you or your Beneficiary.***

But isn't that what they did, they retroactively modified the earnings rate of return for rollovers and refunds?

Historically families who did a rollover or refund, received the since-inception rate of return of the Trust, usually 5.5-6%.

- Now, families who want to do a rollover (sometimes a preference for students studying out-of-state) or refund, will receive the 1-year treasury minus 1.2%, essentially 0-1.8% return rate for being invested for approximately 10-20 years. It was our contributions that built the Trust yet **we will not benefit from the calculated surplus in the MPCT Program – we are the “missing middle”.**

By RETROACTIVELY MODIFYING the terms of the contract for rollovers and refunds, it has adversely effected many families. Our contributions built the Trust, and now we are having earnings taken away. The families who already took a rollover and the ones who invested right before November 1, 2021 and have 18+ years before taking distributions, will benefit a tremendous amount of return. But the families who have been invested for the past 10-20 years and their children are in or near college is not only missing out, they are losing thousands of dollars.

The families who children are in college have been harmed by the frozen earnings and the retroactively modified terms of the contract. From every indication, we don't think this was the intent of the Board. Why would they give the surplus of Trust funds to new families instead of the ones who have been invested all these years. **It just doesn't make sense.**

Other concerns:

- Because MD529 froze earnings and have taken so long to find a solution, families may finally receive earnings in a tax year where they did not have education expenses which will result in IRS penalties and taxes.
- The 1099-Q tax forms that families are receiving appear to be inaccurate. Providing false information to the IRS is a crime.
- Because they put a hold on my rollover for 9 months it has delayed my ability to rollover my 2nd and 3rd accounts in a timely manner. The IRS only allows 1 rollover per beneficiary per 12 months. So, I will be stuck in the MD Prepaid Trust for at least 2 more years even if I want out.

Maryland 529 should not expect that parents will be able to magically fill this gap in funding that they created. With no advance warning and tuition bills that were due, families had to quickly pivot to

refinance their homes, take out credit card debt, borrow from family, and set-up tuition payment plans that have fees – none of which was necessary if MD529 had honored their contract. Worst of all, this is impacting the beneficiaries, our children as many of them will have to take out student loans and debt that they did not plan for.

I put my trust in the state of Maryland and my family has experienced a great deal of harm. On top of the financial burden, this situation has created so much stress, worry and sleepless nights. I have spent over 30 plus hours researching information, writing letters, meeting with other account holders, and taking days off from work to attend hearings in Annapolis.

Families need your help and we need it now. There needs to be a solution and families need to be made whole before tuition bills are due for Fall 2023.

Thank you so much for your support.

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