February 21, 2023

Dear Maryland General Assembly:

Thank you for your involvement in delving into the Maryland 529 fiasco. My son was born in 2004 and the following year we started a MD prepaid college trust for him in addition to a MD college investment plan account. As he was a senior in high school in 2022, our financial advisor instructed us to call the 529 office to confirm our current account balances and initiate a roll over from the prepaid college trust to the investment plan. This allowed our trust earnings that we accumulated (and were entitled to in the disclosure agreement) to roll over so that we had enough money to pay for both tuition and room and board. Our balance in the pre-paid college trust was more than $93,000 as of March 1, 2022. What a relief it was to see how our money had grown and that sacrificing to save while he was a baby/young child had paid off and we would not go into debt paying for his college education. This number was also reported to FAFSA as what our college contribution could be (this also leads to more issues).

We called to initiate the rollover for the year last summer, but we were told that there was a "calculation error" that would soon be corrected (a lie), our earnings were frozen, and the plan would only pay for the portion of tuition not covered by my son's legislative scholarships. So we had to scramble to come up with the funds to pay out of pocket for Benjamin's room and board at University of Maryland until the earnings were "released." His father finally was allowed to initiate the rollover in September (well after payment was due). We moved approximately $21,000 to our investment plan account which covered tuition, fees, room and board, course books and a laptop for my son for the 22-23 school year (all qualified expenses). Fast forward to January 2023 and us hearing about issues with the trust. We checked our account balance, which at this point should have had more than $70,000 available, and were absolutely shocked to see the value is only a little over $15,000! With the 529 plan's "new calculation," our principal supposedly made a little over $1,000 in earnings over 17 years. It's disgraceful. We are beyond frustrated and feel like we have been taken advantage of by the state's 529 plan.

Below are some more points that you have probably received from other parents. I just wanted to send you our personal story so you could have it on record and see how it has impacted an Essex, Maryland family. We made a point of saving years ago so we would not have to worry about paying for our son's college while we should be working to save for retirement. This has kept me up every night since I discovered this issue. We and many other parents are counting on you and Maryland legislators to make things right and find a way to make our accounts whole again.

Our son is in college NOW and we MD529 to HONOR their contracts and give us our earnings NOW!

Thank you for listening.

Lisa Harlow (& James Harlow)
Parents of Benjamin Harlow, Class of 2026 University of Maryland

1. The 529 board and its executives have claimed the reason account holders do not have access to money they were promised is due to an interest rate calculation error that they have now fixed. That is incorrect. The problem is an investment earnings issue and a breach of contract.

2. Our original contract stated that funds in our accounts could be rolled over to another

qualifying plan, and if our contract had been in existence for at least 3 years, the rollover would include "100 percent of the investment earnings."

3. For decades, the Prepaid College Trust paid accountholders who wanted to roll over their money their principal balances plus earnings, often called trust returns. Disclosures from 2016 through 2021 define a trust return: “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."

4. Under Article IX of our contract, while the board could amend the terms, "the Board will not retroactively modify existing Contract provisions in a manner adverse to you or your Beneficiary." Yet the board has done just that. First, when it froze rollovers and limited access to our accounts in 2022. And then, according to the manual calculations distributed to account holders in 2023, it changed the definition of investment earnings to interest earnings, which has a significant and detrimental negative impact on the value of our accounts.

5. Accountholders received annual statements 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.” It is a crime to use false information on FAFSA forms.

6. Parents relied on those 2021 documents, and other corroboration from the trust, to make financial decisions. This was not at all like a banking error that mistakenly inflates the amount you have in your checking account, as Maryland 529 Executive Director Anthony Savia claimed to the state Senate. The FAFSA amounts made mathematical sense in 2021 and they make sense today. The 529 board has never sent written communications to account holders that the FAFSA numbers were wrong, as required by our contracts. “The agency did not communicate with the account holders the way they should have,” Savia acknowledged at the Jan. 19 House appropriations briefing.

7. Board chairman Peter Tsirigotis, a Greenberg Traurig financial services lawyer, told the House committee that the board’s fiduciary duty was “to the plan.” (He resigned the next day) However, Maryland state law dictates that the fiduciary's duty is “solely in the interest of the participants,” a fact that was discussed by board trustees on several occasions in recent years, a review of the board’s minutes show.

8. The Prepaid College trust lured account holders into the trust through inaccurate and misleading marketing. For years, it said tuition rates would increase by 6 or 7 percent every year, even though it knew actual increases were less than half that. “And don’t worry, if Tuition does not rise as projected, you are eligible for a Minimum Benefit equal to the payments you make plus a reasonable rate of return,” its 2011 brochures stated.