

**Maryland 529
Meeting Minutes**

**February 20, 2020
9:30 AM – 12:30PM**

**Maryland 529
217 E. Redwood Street, Suite 1350
Baltimore, MD 21202**

Board Members/Designees Present

Nancy K. Kopp, State Treasurer and Board
Chair
Geoffrey Newman, Secretary of Higher
Education's Designee and Board Vice-
Chair
Justin Hayes, Maryland Comptroller's
Designee and Board Secretary
Carol Beatty, Secretary of Maryland
Department of Disabilities
Ellen Herbst, Chancellor of University
System of Maryland's oncoming Designee
Amalie Brandenburg, Superintendent of
School's Designee
Joanna Pratt
Peter Tsirigotis

**Board Members Present via Conference
Call**

Keith Persinger

Board Members/Designees Absent

Dr. Lisa Weah

Staff, Representatives and Guests

Erin Layton, Executive Director and Interim
Director of Investments and Cash
Management
Bernadette Benik, Chief Deputy Treasurer
Janaki Kannan, Director of Finance
Bette Anne Mobley, Director of Maryland
ABLE
Meghan Marek, Assistant Attorney General
Maria Dodge, Executive Associate
Glenn Ross, Marquette Associates
Dave McAvoy, T. Rowe Price

Guests via Conference Call

Sally Reinfenstahl, BNY Mellon

Maryland 529 Board Meeting

Treasurer Kopp called the meeting to order at 9:40 am.

• Approval of Minutes

Treasurer Kopp asked for comments on the minutes from the December 5, 2019 Board meeting. There being no revisions and upon motion duly made and seconded, it was unanimously

RESOLVED, that the minutes for the December 5, 2019 Board meeting are hereby approved.

Treasurer Kopp asked for comments on the minutes from the December 23, 2019 Board meeting. There being no revisions and upon motion duly made and seconded, it was unanimously

RESOLVED, that the minutes for the December 23, 2019 Board meeting are hereby approved.

- Board Officer Nominations

Ms. Layton reported that she received two emails with nominations that the existing Board Officers remain in office. After discussion and upon motion duly made, it was unanimously

RESOLVED, that the Board Officers for the upcoming year are: Treasurer Nancy Kopp – Board Chair, Geoff Newman – Board Vice-Chair, and Justin Hayes – Board Secretary.

Treasurer Kopp informed the Board that that Amalie Brandenburg will Chair the Administration, Personnel and Finance Committee, Joanna Pratt will Chair the Investment Committee, and Ellen Herbst will Chair the Audit & Governance Committee.

Joanna Pratt and Secretary Beatty entered the meeting at this time.

- ABLE

Ms. Mobley presented the ABLE update. She reported that there were 1,931 accounts and \$13.35 million in assets under management. Sixty-one (61%) of funded accounts are in the Cash Option and these accounts represent 45% of the program's total AUM. Ms. Mobley recapped ABLE's participation in the recent National Association of State Treasurer's ("NAST") Legislative Conference. The conference gave staff an opportunity to meet with Maryland federal representative to obtain additional sponsorship for the Age of Adjustment Act, sharing Maryland ABLE's process for the Entity as Authorized legal Representative information with the Treasurer from Ohio, and for Meghan Marek to sit on the panel which discussed an overview of the Social Security Representative Payees role in relation to ABLE account management.

Ms. Mobley also indicated that there will be a site visit with BYN Mellon next week to discuss the program management in detail.

Ms. Mobley presented to the Board an account holder issue that occurred regarding a Center for Medicare & Medicaid Services ("CMS") employee who was attempting to open a Maryland ABLE account while being supported live by Maryland ABLE's customer service staff and Ms. Mobley. During the online enrollment process the account holder became frustrated when she encountered an issue wherein she was not able to proceed as instructed even after putting in her information. It was determined that she had logged on to Virginia's ABLE website and not Maryland's ABLE website. The account holder was very upset and shared her dissatisfaction with Ms. Mobley. There was discussion regarding the continued issues with people thinking they are logging on to Maryland ABLE when they were really being directed to Virginia ABLE by paid ads through Google. After discussion, it was requested that the Special ABLE Committee reconvene to determine a course of action. Upon motion duly made and seconded, it was unanimously

RESOLVED, that the Board enables a Special ABLE Committee to prepare a plan of action, hopefully by the end of March, to address the advertising of ABLE Now (Virginia's program)

versus Maryland ABLE, so that Maryland citizens can understand the differences between signing up for one plan versus the other, including the potential tax issues.

Ms. Sally Reinfenstahl, BNY Mellon, summarized the Maryland ABLE 2019 4th Quarter Report. She indicated the BNY Mellon will be clarifying the source for some of the 529 rollover accounts, as well as further researching accounts that have been closed to determine why they were closed.

Ms. Reinfenstahl informed the Board that 119 cards have been requested in 2020 for the new prepaid card. Ms. Layton indicated that when the interest rates were lowered to lower the card costs, it was not expected that the fund would grow as quickly as it has. Maryland ABLE will be looking into this unexpected growth.

There was a discussion as to whether or not general information was available on what account holders are doing in other states. Ms. Mobley reported that the information is not readily available and that others aren't willing to share. Maryland ABLE is comparable to Oregon, but ahead of Washington.

Ms. Reinfenstahl presented the Board with the Entity ALR Accounts Statistics, as of the end of 2019. It was noted that this is another way to protect vulnerable account holders. Ms. Mobley reported that they are continuing the training for Entity ALRs.

- Administration, Personnel & Finance Committee Report

Ms. Layton reported to the Board that the Committee completed the annual Committee Charter review and the quarterly budget review. The Agency's administrative updates included that staff performance evaluations were finished and the struggles with DoIT were continuing. The Agency will review and report back to the Committee on the revenue between the three plans and any revisions that may be needed to the Disclosure Statements to reflect the outcome of the review. Maryland 529 reported the status of staffing positions and an update on the pending Requests for Proposals ("RFPs"). As part of the Board's priorities, there was an update on the prepaid RFP and the ABLE policies and procedures that are being put in place. Ms. Marek summarized the two new qualified expenses in the SECURE Act and there was a review of State Contribution Issues.

Mr. Newman noted that there was still a need to discuss the review process for the two positions that the Board oversees.

- Audit & Governance Committee Report

Mr. Tsirigotis noted that most of the items from the Audit & Governance Committee meeting will be covered in the Executive Director's Report.

Mr. Tsirigotis reported Board Policies and Procedures are being drafted and reviewed and the Committee will report back to the Board in June.

There was a new process established for the Board Officer nominations. The Committee Charter's annual review was completed and included approved changes for the nomination process.

The Committee has determined, as part of the Board's request for follow up of outstanding actions, that a tracking list be created to show the status of projects for the Board and Committees review and for use in Office of Legislative Audits ("OLA") reporting. It is the suggestion of the Committee that the Board and the other Committees utilize this tracking report.

Upon motion duly made and seconded, and with no discussion needed, it was unanimously

RESOLVED, that the Board approve the Audit & Governance Charter, as amended by the Audit & Governance Committee.

Ms. Layton reported that they are working on the delegation of authorities chart. Ms. Herbst indicated that she will send the chart she has been working on for the University System to Ms. Layton for her review.

After reviewing and discussing the proposed revisions to the Bylaws, and upon motion duly made and seconded, it was unanimously

RESOLVED, that the Board approves the amended Bylaws, as presented by the Audit & Governance Committee, to reflect the changes to the Board Officer nominating process.

- Investment Committee Report

Ms. Layton summarized the written report from the Investment Committee. She indicated that one of the take-a-ways from the meeting was for Marquette and her to research potential Socially Responsible Investments ("SRI"). There was a brief recap of the discussion from the Committee on the subject and some additional discussion among the Board.

- Maryland College Investment Plan ("MCIP")

Mr. McAvoy summarized the T. Rowe Price ("TRP") report. There was a discussion on what constitutes a new account. Ms. Layton noted that they are looking at different trends and numbers as well as new ways to analyze the numbers for presentation to the Board. There was also discussion about the different portfolio enrollment trends.

Mr. McAvoy explained the data reflects that the redesign of the website is working and that Maryland Account Holders are utilizing the technology at a higher rate than the national average.

Mr. McAvoy indicated that employers are starting to ask questions about the potential benefits of the plan and that there have been 15 internal employer advisor requests for information regarding Maryland 529 ("MD529") so far this year.

He reported that although the number of rollovers out of the program is up compared to the number of accounts coming in, the dollar amounts of the accounts coming in is higher than those going out by a 3 to 1 margin.

Treasurer Kopp asked if there was marketing being done regarding apprenticeships. Ms. Layton indicated that it has been added to the clips but she hasn't sent them out yet. During discussion about how apprenticeships would be handled by the two programs, Ms. Layton noted that the Prepaid does not have an apprenticeship contract, but that she was looking into the issue along with her review of whether to reorganize the MPCT to sell units instead of semesters for the prepaid program.

Mr. McAvoy thanked the State for funding the Save4College State Contribution program beyond the original budget amount. He reported that there were approximately 45 families they are working with regarding the income-verification issues for the 2019 contribution period. TRP has received approximately 13,000 applications already for 2020, with about 3,200 being new applications and the rest being returning account holders for a total of about \$6M in funds. There continues to be account holders that are taking advantage of the rules in place for applications. There was discussion about the pending legislation that could apply after 2020. There was a request that Ms. Layton send the Board a copy of her written testimony on the issue.

- Executive Director's Report

Ms. Layton expressed her concerns about the Banner system crashing. Ms. Kannan provided several examples of system failure with the need to restart the server. Although there have been manual procedures put in place, they are only temporary fixes. DoIT has not been able to help, Ellucian (the original creator of the Banner software) isn't able to assist, and upon reaching out to another state who still uses Banner for a prepaid product, Washington, we determined they are not on the same version of Banner as Maryland and have reverse engineered their platform to support the system and therefore cannot be of assistance either.

The new Oracle service provider may or may not be able to help once they are on board. There is a concern that we are losing data when we have to do a restart even though DoIT can do a back-up dump. There was a suggestion that the record keeping issue needs to be dealt with immediately, independent of all of the other issues and there may be a need for an RFP for a new recording keeping service. Ms. Layton informed the Board that in her conversations with the State Procurement Office, the COMAR procurement exception was brought up. Ms. Layton indicated that she would like to utilize this provision for Agency needs. The Board discussed the high-risk nature of the situation and asked what was needed for the situation to be urgently. They noted the Agency's history of attempts to accomplish procurement of a new recordkeeping system, and to bring on DoIT for assistance, and how those previous paths have not worked. They detailed the concerns of the software being without any safety nets. Counsel recommended the Board continue its discussion of the path forward after receiving legal advice during closed session.

Ms. Kannan gave an update of the Box Project. MD529 is hoping to be able to report back on the results of the project at the April meeting. There are 46 accounts, transactions for which will

be looked for in the 201 boxes that will be delivered from archives tomorrow. The belief is that six of the accounts will account for \$150,000 in overpayments from the MPCT.

Ms. Layton informed the Board that interviews for the Director of Investments and Cash Management took place this past week and that there are one or two candidates that they expect to bring back to be interviewed by a panel, which will include Joanna Pratt and any other Board Members that might be interested in assisting.

The Agency's new computers have been delivered and they will be installed in the next couple of weeks.

Ms. Layton reported to the Board that the Agency received a follow up letter from OLA requesting additional clarification. The Board discussed the draft response that Ms. Layton provided and made suggestions for some minor revisions.

Ms. Layton informed the Board that Peter Tsirigotis and Bernadette Benik have volunteered to serve on the Audit Services RFP Committee, which will be discussed in more detail during the closed session.

There was discussion that MD529 may be able to staff some of its seasonal position needs with students from the University System of Maryland and/or Morgan State University. This led to a general discussion regarding the status of staffing.

- Legal Update

Ms. Marek presented the draft revisions to the Disclosure Statements due to the passage of the SECURE Act in December 2019. After discussion and upon motion duly made and seconded, it was unanimously

RESOLVED, that the Board approve the changes to the Disclosure Statements for the MCIP and MPCT, as presented.

Ms. Marek presented the updated chart of 2020 session bills.

- Closed Session

Upon motion duly made and seconded, it was unanimously

RESOLVED, that the Maryland 529 Board moves into a closed session in accordance with Maryland Code, General Provisions §§ 3-305(b)(1),(7), and (14) to discuss materials not subject to the Open Meeting Act and to seek advice of counsel on same.

The Board returned from closed session at 12:20PM.

Ms. Brandenburg had left the meeting at the start of closed session.

It was announced that during closed session, the Board approved the Executive Director's recommendation of an Incentive Award for a particular staff member, and discussed matters related to the ongoing procurement of audit services and instructed staff to move forward with the RFP as published.

During closed session the Board also discussed risks posed by the recordkeeping system and received legal advice on the application of the procurement exception noted by the Executive Director.

The Board noted the risks associated with the recordkeeping system are too great and the potential impact too severe not to proceed as urgently as possible with the Prepaid procurement. It noted that current processes to work around recordkeeping issues should be documented as well as efforts to engage the new Oracle vendor in troubleshooting the Banner issues.

Upon motion duly made and seconded, it was unanimously

RESOLVED, that the Board approves staff move forward with an independent procurement, after revising the necessary procedures, of a Program Manager for the MPCT.

With there being no further business, upon motion duly made and seconded, it was

RESOLVED, that the Board meeting is adjourned at 12:30 PM.

Approved: Justin H. Hayes, Esq. Digitally signed by Justin H. Hayes, Esq.
Date: 2020.05.29 17:16:23 -04'00' Date: _____
Justin Hayes, Board Secretary

Exhibit List

- 1A. Agenda
- 1B. Minutes - 12/5/19 Board Meeting
- 1C. Minutes - 12/23/19 Board Meeting
- 3A. ABLE 4th Quarter 2019 Reports
- 3B. ABLE Outreach Schedule
- 5A. Bylaws with Revisions
- 5B. Audit & Governance Charter Revisions
- 6. Investment Committee Report
- 7. T. Rowe Price Report
- 8A. Executive Director's Report
- 8B. Project Tracker
- 9A. MCIP Plan Disclosure Update
- 9B. MPCT Plan Disclosure Update
- 10A. OLA Letter – February 14, 2020
- 10B. Draft Response to OLA-Attachments