

**Maryland 529  
Board Meeting Minutes**

**April 6, 2020  
12:00 PM – 1:15 PM**

**Conference Call**

**Board Members/Designees Present via  
Conference Call**

Nancy K. Kopp, State Treasurer and Board  
Chair  
Geoffrey Newman, Secretary of Higher  
Education's Designee and Board Vice-  
Chair  
Carol Beatty, Secretary of Maryland  
Department of Disabilities  
Amalie Brandenburg, Superintendent of  
School's Designee  
Keith Persinger  
Sam Gallo  
Keith Persinger  
Joanna Pratt  
Peter Tsirigotis  
Dr. Lisa Weah

**Board Members/Designees Not Present**

Justin Hayes, Maryland Comptroller's  
Designee and Board Secretary  
Ellen Herbst, Chancellor of University  
System of Maryland's Designee

**Staff, Representatives and Guests**

Erin Layton, Executive Director and Interim  
Director of Investments & Cash  
Management  
Bernadette Benik, Chief Deputy Treasurer  
Janaki Kannan, Director of Finance,  
Bette Anne Mobley, Director of Maryland  
ABLE  
Michelle Winner, Director of Marketing &  
Public Relations  
Meghan Marek, Assistant Attorney General  
Maria Dodge, Executive Associate  
Dave McAvoy, T. Rowe Price

**Maryland 529 Board Meeting**

Treasurer Kopp called the meeting to order at 12:07 pm. The Treasurer requested that Erin Layton report to the Board on the Agenda items.

**Investments**

Ms. Layton summarized the current market situation noting the impact of the COVID-19 Pandemic on the Maryland College Investment Plan ("MCIP") money market, the negative effect it could have on account holders. She explained the voluntary actions that T. Rowe Price ("TRP") is prepared to take to waive its fees to ensure a positive yield for investors. Maryland 529 requests that the Board approve the reduction of the Agency's 5bps fee to cover any shortfalls in the money market fund only. Ms. Layton estimated the potential monetary impact to Maryland 529 and responded to questions noting that the recommendation reflects similar actions taken during the 2008/2009 financial crisis.

After discussion and upon motion duly made and seconded, it was

**RESOLVED**, that the Board approves Maryland 529 reducing its 5bps fee, as needed, to cover shortfalls in the money market fund only, as a result of the COVID-19 Pandemic. The Executive Director will keep the Board apprised of the situation as it progresses.

Ms. Layton reported to the Board that agency personnel are doing well under the circumstances and that 20 of the 21 employees are able to work remotely. Due to some family health issues, the 21<sup>st</sup> employee is still being set up for remote access. Ms. Layton also detailed some of the systems that have been put in place to continue business operations.

Ms. Layton presented her next recommendation to the Board, this one with respect to fees on the ABLE program's Cash Option. She reported that the ABLE Program is similar to MCIP as it assesses an Administrative Fee of 30bps on the ABLE cash option (10bp go to Maryland ABLE, 10bp to Sunday and 10bp to Oregon). Due to the current market circumstances, and as Oregon and BYN Mellon are waiving their fees, Maryland 529 is requesting that the Board approve a waiver of the 10bsp for the ABLE program. The Board discussed the potential impact if rates go negative, and what options may be available to the program if the rates go negative.

Thereafter and upon motion duly made and seconded, it was

**RESOLVED**, that the Board approves Maryland ABLE Program reducing its 10bps fee, as necessary, to prevent a negative return in the money market fund due to the COVID-19 Pandemic. The Executive Director will keep the Board apprised of the situation as it progresses.

Ms. Layton emailed out a clarification to the Board after the meeting. She clarified that Maryland ABLE will waive the 10bps program fee (as interest rates approach zero) within the cash option while all other account holder fees will remain the same. The Program currently incurs approximately \$2k per month for the ABLE prepaid card and that fee can no longer be offset against the cash interest rate paid to account holders. For the time being, Maryland ABLE will cover this expense. Given the change in the economic environment, staff will reevaluate the prepaid card subsidy currently in place and bring back proposals to the ABLE Special Committee.

#### **Maryland Prepaid College Trust ("MPCT")**

Ms. Layton requested that the Board extend the MPCT enrollment period from 5/31/20 to 6/30/20. She informed the Board that the extension would not have any impact on the actuarial soundness of the program and that operationally the extension would be feasible, although it might affect comparison of year over year data. After a discussion and upon motion duly made and seconded, it was

**RESOLVED**, that the Board approve the extension of the MPCT enrollment period from 5/31/20 to 6/30/20 due to the COVID-19 Pandemic.

The Executive Director requested that Board approve Maryland 529 only require one signature on physical checks during the State of Emergency enacted by the Governor. After a discussion

regarding the independent checks and balances that are in place with the Advanced Accountant's daily reconciliation, and upon motion duly made and seconded, it was

**RESOLVED**, that the Board approve that Maryland 529 only require one signature on physical checks during the State of Emergency enacted by the Governor due to the COVID-19 Pandemic, with the understanding that there is an independent, real-time check and balance in place, through the daily reconciliation process, and that upon the lifting of the State of Emergency, Maryland 529 will return to the two signature requirement for physical checks.

Ms. Layton reported to the Board that Maryland 529 has received inquiries regarding hardship provisions for MPCT in light of the COVID-19 Pandemic. She then explained the flexibility that account holders currently have regarding late payments and account contracts. After discussion and upon motion duly made and seconded, it was

**RESOLVED**, that the Board approve that Maryland 529 waive account late fees, beginning March 2020 due to the current COVID-19 State of Emergency, with Maryland 529 tracking the waivers.

Next, Mr. Layton summarized account recontribution options that an account holder has. The topic was revisited based on USM's decisions to refund some monies to students during the pandemic. After discussion and upon motion duly made and seconded

**RESOLVED**, that the Board approve Maryland 529's waiver of the \$10 administrative fee for an account holder that recontributes monies refunded due to the COVID-19 Pandemic to their MPCT account.

Ms. Layton informed the Board that the "Box Project" is currently on hold until staff is back in the office working.

Treasurer Kopp welcomed Sam Gallo to the Board.

Ms. Layton reported to the Board that Maryland 529 is reviewing comments from counsel on the MPCT Request for Proposal ("RFP") and they will be meeting next week to discuss further. The posting of the RFP is on hold until the State of Emergency is lifted. Ms. Layton indicated that the Oracle contractors are on board and are providing Banner support and working on projects at this time.

She also informed the Board that the Office of the Attorney General will not be conducting a procurement for the forensic audit recommended in the last OLA audit. Ms. Layton will review the previous audit scope and work to procure a contract to complete the recommended review.

Ms. Layton summarized that the recently-passed Budget Reconciliation and Financing Act, which is waiting for the Governor's signature, will limit State Contributions to two per beneficiary beginning in 2021 under the State Contribution Program. The Act also allows the Board to adopt regulations regarding the Program. Ms. Marek is looking into the Act and Ms. Layton would like to come back to the Board with a recommendation at a future meeting.

Ms. Layton gave an update of open staffing positions. A final interview was conducted, via conference call, with the Director of Investment and Cash Management candidate. Ms. Layton is still considering the candidate and Ms. Pratt supports any decision made by the Executive Director. The other open positions are on hold for now.

### **ABLE – Special Committee Report**

Secretary Beatty summarized the Special Committee Report including the continuing issues regarding the Virginia plan, wherein Maryland residents believe they are signing up for a Maryland Plan when, in fact, they are enrolling in the Virginia plan and not getting the Maryland tax benefits. She explained the plan of actions that the Committee has developed. The Committee understands that some of these steps should be put on hold until the new fiscal year due to the current State of Emergency.

Secretary Beatty informed the Board that Michelle Winner requested and received a Marketing proposal from The Hatcher Group, which is being reviewed by the Committee. Although the Committee is not ready to bring a proposal to the Board, they will forward The Hatcher Group proposal to the Board for review.

Ms. Mobley presented to the Board her communications with PNC Bank educating PNC that there are multiple ABLE programs and not just a Virginia plan. PNC was marketing the Virginia ABLE program in Maryland without knowledge that other programs exist or the potential tax benefits an account holder could be missing out on. PNC has held off distributing the Virginia marketing materials nationally now that they are aware that there are multiple ABLE programs. Ms. Mobley also informed the Board that there are several states looking into legal action against Virginia. The upcoming NAST conference is probably going to be a virtual conference so there will be no opportunity to have a face to face meeting with Mary Morris of Virginia 529 to discuss Virginia ABLE and the ongoing issues. ABLE will be reaching out to the Maryland Consumer Protection Division to see if they can be of assistance in any way. Ms. Mobley is also working with Justin Hayes so the Comptroller's office can be prepared to respond to tax benefit inquiries.

The Committee would like the support of the Board to go forward with steps they have developed for customer information. The Committee will come back to the Board with a comprehensive marketing plan and a report on the progress being made in other areas. After discussion, there was an agreement that the Board support said actions.

The Board requested that Ms. Mobley forward a list of the various States that are offering tax incentives for review.

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

**RESOLVED**, that the meeting adjourned at 1:15 pm.

Approved: Justin H. Hayes, Esq.  
Justin Hayes, Board Secretary

Digitally signed by Justin H. Hayes, Esq.  
Date: 2020.05.29 17:17:17 -04'00'

Date: \_\_\_\_\_

Exhibit List

- 1A – Agenda
- 1B – Executive Director’s Report
- 1C – SB192 - Redlined
- 2 – ABLE Special Committee Report