

**Maryland 529  
Board Meeting Minutes**

**December 1, 2022  
9:30 AM – 11:05 AM  
Held via: Video Conference**

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

Peter Tsirigotis, Board Chair  
Geoffrey Newman, Secretary of Higher  
Education’s Designee, Board Vice-Chair  
Ellen Herbst, Chancellor of University  
System of Maryland’s Designee, Board  
Secretary  
Treasurer Dereck Davis, Maryland  
Treasurer  
Carol Beatty, Secretary of Maryland  
Department of Disabilities  
Justin Hayes, Maryland Comptroller’s  
Designee  
Capathia P. Campbell  
Dave Erculiani  
Jessica McClain  
Joanna Pratt

**Board Members/Designees Absent**

Justin Dayhoff, Designee for the  
Superintendent of Maryland State  
Department of Education

**Staff, Representatives and Guests**

Anthony Savia, Executive Director  
Meghan Marek, Assistant Attorney General  
Bette Ann Mobley, Director of ABLE  
Dan Rambert, Director of Investments &  
Cash Management  
Michelle Winner, Director of Marketing  
Maria Dodge, Director of Operations  
Glenn Ross, Marquette Associates, Inc.  
Dave McAvoy, T. Rowe Price  
Diana Kendall, T. Rowe Price  
James Balsan, Vestwell  
Sally Riefenstahl, Vestwell  
Daniel Nzouankeu, Vestwell  
Claire Whittington, Intuition College  
Savings Solutions  
Megan Schutz, State Treasurer’s Office  
Kelly Norton, Department of Legislative  
Services  
Members of the Public

**Maryland 529 Board Meeting**

Mr. Tsirigotis opened the meeting at 9:33 AM.

In accordance with the Open Meetings Act, the meeting began with a statement summarizing the closed session held at the end of the October 27 Board meeting. The closed session was called to order at 1:20pm and those present included: Peter Tsirigotis, Geoffrey Newman, Ellen Herbst, Justin Dayhoff, Justin Hayes, and Dave Erculiani along with Anthony Savia, Meghan Marek, Maria Dodge, and Vern Shird.

The Board voted to approve the closed meeting minutes from October 17 and after discussion with Maryland 529 staff, including the procurement officer, voted to award the next contract for actuarial services to Bolton Partners, Inc. The closed session adjourned at 1:36pm.

Mr. Tsirigotis congratulated the ABLE Program on its 5th anniversary.

- **ABLE Updates**

Ms. Mobley reported that in honor of the ABLE Plan's 5<sup>th</sup> anniversary, the State of Maryland issued a Proclamation celebrating the achievement and she has worked with Hatcher Group to put together a publication that provides information on the Plan's success to date.

Secretary Beatty joined the meeting at approximately 9:40 AM.

Mr. Balsan provided background on the Prepaid Card Program, the existing process, the options for funding the expenditures and the proposed process to match interest retained by the Program, as reasonably as possible. He provided various scenarios and steps to move forward, including potential language for the Disclosure Statement. Ms. Mobley also asked that the Board decide how it would like the process to be reported. The Board has previously decided that the interest funds can be used to offset the cost of the cards. There being no more discussion and upon motion duly made and seconded, it was unanimously

**RESOLVED**, that the Board approves the ABLE Plan be allowed to earmark portions of interest revenue earned to remit back to account holders, using the process presented with the goal of balancing the supplementation of the prepaid card expenses and remitting as much funds as possible back to the account holders.

The Board requested that the results be reported back to the Board for the next three quarters. There being no additional discussion regarding the proposed updates to the program Disclosure Statement and upon motion duly made and seconded, it was unanimously

**RESOLVED**, that the Board approve the proposed updates to the Disclosure Statement regarding the new interest revenue process as it pertains to the MD ABLE prepaid card and potential revenue returns to account holders.

Ms. Mobley presented potential statute changes related to final IRS regulations. She requested the Board approve the ABLE team working with the legislators to have Maryland law reflect the language from the final federal regulations allowing a hierarchy of individuals to open an ABLE account on behalf of a qualified beneficiary. Although a redline version was not provided to the Board due to a technical issue, Ms. Marek explained that most of the proposed language was new.

There was a motion duly made and seconded to approve staff working with the General Assembly without further review from the Board, but the motion failed on a vote of 4 yea votes (Board members Campbell, Herbst, Hayes and Secretary Beatty) to 5 nay (Board members Tsirigotis, Erculiani, McClain, Pratt and Treasurer Davis) with one abstention (Board member Newman).

There was a discussion that the Board would like to see a redlined version before they vote on the issue. A Board meeting would be scheduled for the following week to discuss.

Ms. Mobley and Ms. Marek presented updates to the ABLE Disclosure Statement, which are similar to those on Prepaid Disclosure Statement revisions, but specifically include annual contribution limits and new administrative efficiencies put in place now that the Vestwell acquisition of Sunday has been completed.

Mr. Balsan, Ms. Sally Riefenstahl, and Mr. Nzouankew left the meeting.

- **Board Chair Items**

The proposed 2023 Board meeting dates were presented with notation that the Audit & Governance Committee meeting for May will be moved to May 4, 2023.

Mr. Tsirigotis requested that 2023 Board Officer Nominations be submitted to Mr. Savia no later than February 15, 2023 so the nominations are ready for a vote at the February Board meeting.

Mr. Tsirigotis reported that the Maryland Open Meetings Compliance Board (“OMCB”) issued findings based on a complaint that the Maryland 529 Board violated the Open Meetings Act by moving into an administrative session on September 9, 2022 and not timely posting a notice of the. The Compliance Board opinion found that moving into a closed session fell within the Board’s administrative functions and was not a violation of the Act.

The OMCB found that the Board had violated the Act by failing to approve and post the minutes from the June and July 2022 meetings in a timely manner, which minutes were delayed due to the Board’s focus on urgent matters and the transition of executive staff within the agency. The Board also found a violation of the Act with respect to the summary of recent closed meetings, determining that a better summary of who was in attendance is required.

With respect to the timeliness of the meeting notice, the Compliance Board could not reach a final determination but noted that when meetings are called with short notice, the Board should ensure that it take “extra measures” to provide notice. It was noted that signatures on the findings are an acknowledgment that the Board Members are aware of the findings and should be sent to Ms. Marek.

- **Prepaid College Trust**

Mr. Savia provided an update on the Maryland Prepaid College Trust calculation issue noting that there have been two mass communications updating account holders as to the status. He indicated that they are just about ready to begin manual calculations from the priority list of about 400 account holders that have submitted account assistance forms out of the 31,000+ accounts. Those calculations will be turned over to Intuition College Savings Solutions (“ICSS”) to process in a timely manner. They will also be working with ICSS to provide updates to their Prima system to set up automatic calculations in the future. He will keep the Board apprised of the progress.

There was a discussion regarding the timing of the process, year-end documentation, and a notice to be issued next week giving an update on the status. Mr. Tsirigotis apologized on behalf of the Board for the continued inconvenience this issue has caused.

- **Minutes**

Mr. Tsirigotis asked for comments on the minutes from the October 27, 2022 Board meeting's open session. There being none and upon motion duly made and seconded, it was

**RESOLVED**, that the minutes from the October 25, 2022 Board meeting's open session are hereby approved.

The vote was unanimous among those voting with Secretary Beatty, Ms. Pratt and Ms. McClain abstaining as they were not at the meeting.

- **Administration, Personnel & Finance ("APF") Committee Report**

Ms. Herbst reported that, at the July 28, 2022 APF meeting, the Committee approved recommending the FY2024 Budget, which was subsequently approved by the whole Board, and it received an informational report on the soundness valuations.

- **Audit & Governance ("A&G") Committee Report**

Ms. McClain reported that there are no updates recommended for the Investment Committee's ("IC") Charter but that it had been reviewed by both the IC and A&G Committees. The Committee does recommend the APF Charter's minor wording updates and the A&G Charter's added responsibility for fraud oversight, control deficiencies and compliance. There being no discussion and upon motion duly made and seconded, it was unanimously

**RESOLVED**, that the Board approve the recommended changes to the Charters for the Administration, Personnel & Finance Committee, and the Audit & Governance Committee, as presented.

Ms. McClain reminded the Board that they should complete and return the Committee and Board Self-Evaluation forms by the end of the year, so they may be reviewed at the next Board meeting.

- **Investment Committee Report**

Ms. Pratt reported that the IC Committee has not had a meeting since its last report to the Board, but that they continue to monitor the market and the Plan, which is doing well. In response to an inquiry, Mr. Ross indicated that year end numbers will be available at the next meeting.

- **Program Updates**

Mr. McAvoy, T. Rowe Price, presented a recap of the State Contribution Program noting that the total funds requested for this year are \$7.4M compared to \$10.9M last year. The decrease is due to the legislative changes made over the last two years. He reported that 33% of the unique beneficiaries receiving the 1,200 awards will be first time participants.

Ms. Whittington, ICSS, noted that open enrollment starts today. She reviewed the third quarter numbers noting that year over year numbers will be available starting with the first quarter 2023.

She reported increased activity as would be expected during an active benefits period, including customer engagement calls. There was a discussion regarding the account holder feedback and the lack of returned calls and prolonged waits. Ms. Whittington explained that ICSS is attempting to do a one call resolution even if the time with each individual caller takes longer, which may cause a delay in the waiting queue. She is not aware of any calls not being returned, but they do have a call back feature on their system. There was additional discussion that the account holder submitted forms are not a component of the ICSS interaction and that there should be an additional communication to account holders reminding them of the various communication options and where they should be calling for their specific needs. Mr. Savia will work with Ms. Winner's team to again communicate that information out to account holders.

- **Executive Director Update**

Ms. Winner presented the Annual Report Summary (ARS) noting that all the data in the summary is taken from the Annual Report, which was approved at the last meeting. The ARS is posted on the website for account holder convenience. There being no more discussion and upon motion duly made and seconded, it was unanimously

**RESOLVED**, that the Board approve the Annual Report Summary as presented.

Mr. Savia reported that the Budget for FY2024 has been submitted to the State and that the current year's budget six-month numbers will be presented at the next meeting.

Mr. Savia provided a personnel update noting that there is a temporary Chief Financial Officer starting in December to primarily oversee the Office of Legislative Audits' audit. The permanent position has been posted and that recruitment will be shared with the Board. He also reported that interviews are being conducted for a new Assistant Attorney General with Ms. Marek onboard until her replacement is found.

Mr. Savia noted that Mr. Tsirigotis and he have discussed having a Board Retreat. As of now there are no details to share, but they are looking at March 31 as a potential date. The purpose will be to look at the long-term plans for the agency, the mission/vision statements, etc.

- **New Business**

Ms. Marek reported Disclosure Statement Revisions were not clearly identified in a motion and approval at the last meeting and for clarity she would like to have it approved at this meeting. There being no discussion, and upon motion duly made and seconded, it was unanimously

**RESOLVED**, that the Board approve the Prepaid Trust Disclosure Statement language updates, as presented.

Ms. Pratt asked for additional discussion of the Prepaid calculation issue, and specifically about why the timeline for resolution has stretched so long. There was a discussion that the Prepaid Trust is not a simple interest-bearing account, but rather a purchase of defined benefits. It was noted that correction of the calculation issues includes data management issues.

- **Closed Session (11:02 AM)**

There being no more business to discuss in open session and upon motion duly made and seconded, it was unanimously

**RESOLVED**, that the Board move into Closed Session to discuss and approve minutes from the previous closed session meeting.


Approved:  \_\_\_\_\_ Date: February 1, 2023 \_\_\_\_\_  
Ellen Herbst, Board Secretary

Exhibit:

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|---|--|
| 1- Agenda                                       | 3C- Open Meeting Acts Findings         |
| 2A- ABLÉ Proclamation – Anniversary             | 4 Minutes – Open Session – 10/27/22    |
| 2A1- ABLÉ Anniversary Information               | 6A-C Committee Charters                |
| 2A2- ABLÉ Return on Investment Presentation     | 6D- Self -Evaluation Forms             |
| 2B- ABLÉ Hierarchy Proposed Legislative Changes | 8A- State Contribution Program Summary |
| 3A- Proposed 2023 Meeting Schedule              | 8B- MPCT Quarterly Report              |
|   | 9- Annual Report Summary & Highlights  |
|   | 10- MPCT Disclosure Statement Updates  |