March 31, 2016

To Whom It May Concern:

We appreciate the opportunity to respond to the exposure draft of the Governmental Accounting Standards Board (Board or GASB) entitled *Fiduciary Activities*. In general, we welcome guidance as set forth in the Board’s exposure draft regarding the reporting of activities for which a government has a fiduciary responsibility. However, we have some comments and suggestions as noted below.

Background:

The Virginia College Savings Plan (Virginia529) is the largest 529 Plan in the country with over $55 billion in assets under management and over 2 million account holders as of June 30, 2015. 529 Plans were developed in the late 1990’s to assist families to save for college on a tax-advantaged basis. There are two types of 529 Plans; prepaid and savings. Prepaid plans are defined benefit plans in which the account holder purchases a contract at an actuarially determined price from the providing state. While contract terms vary by state, in general a prepaid contract will obligate the state to provide the owner/purchaser with a benefit sufficient to cover tuition and fees at a public school once the underlying beneficiary (child/student) attends college. Savings plans on the other hand, are defined contribution plans in which participants contribute to investment portfolios of their choice in amounts determined by them. There is no contract or monetary obligation from the providing state and the investment options are subject to loss of principal. 529 savings plans may be described generally as 401ks for college.

Virginia529 offers a prepaid and three savings programs. The prepaid program is accounted and reported as a Proprietary (Enterprise) Fund. The savings programs are either
reported as Fiduciamy (Private Purpose Trust Funds) Funds or reported as Other Information. As a defined benefit plan, Virginia529’s prepaid plan reports an actuarially-determined liability for its tuition and fee contract obligations.

According to the criteria set forth in the exposure draft, Virginia529’s prepaid and savings plans all should be reported as fiduciary activities. Further, the prepaid program would be reported as a private-purpose trust fund and the savings programs would be reported as investment trust funds.

Virginia529 had submitted a comment letter on the preliminary views document in March 2015. Some of our concerns were not addressed in the exposure draft. Thus we are sending this comment letter as well.

Comments:

We request clarification as to the recognition of a liability for a prepaid 529 plan. The exposure draft explains that the Board determined that a liability to the beneficiaries should be recognized when an event occurs that compels the government to disburse fiduciary resources. Virginia529 is not compelled to disburse resources from its prepaid program until the account owner or beneficiary requests benefits to pay tuition and fees (or cancel the contract).

Paragraph 18 states that “... a state government would recognize a liability in a Section 529 college savings plan that qualifies for fiduciary fund reporting when a participant requests a tuition payment or withdrawal.” This paragraph implies that the Board intends that the liability for any college savings plan not be recognized until the beneficiary (or account owner) requests a distribution to pay college costs. This logic may apply to defined contribution college savings plans, but would not apply to prepaid college savings plans that are defined benefit plans under which the liability is established once the contract has been executed and the participant has satisfied their obligation for payment. As with any defined benefit plan (e.g., defined benefit pensions), the liability exists once the contract is executed and grows actuarially as the beneficiary ages.

Paragraph 27 of Appendix B discusses certain situations in which a government would incur a liability as soon as it assumes control of the resources if in fact the beneficiary does not need to take action to compel the government to disburse resources. That exception would not apply to Virginia529’s prepaid program since the account owner or beneficiary must request a disbursement and identify the college to which the benefit should be sent.

Without guidance as to the recognition of the actuarial liabilities for these types of plans, the actuarial liabilities associated with prepaid tuition contracts would potentially be removed.

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1 Virginia529’s programs are “controlled” by Virginia529 (paragraph 10), and meet the criteria in paragraphs 7(a) and 7(b).
2 Paragraphs 13 (savings programs with individual accounts) and 14 (prepaid).
from the financial statements under the current exposure draft. This would appear to be an unintended consequence as it is inconsistent with the Boards efforts of recognizing similar pension actuarial liabilities as set forth in GASB Statements No. 67 & 68. If Virginia529 is required to report its prepaid program as a fiduciary fund and is not required to recognize its liability to account owners/beneficiaries until they request a withdrawal, then the financial statements would become less transparent and useful to users/readers.

If the question of when to report fiduciary fund liabilities is not resolved in the final statement, we would request that paragraphs 32 & 33 of Appendix B remain. These paragraphs imply that Virginia529’s prepaid program (currently reported as a proprietary enterprise fund) may continue to be reported as a business-type activity even though it would be defined as a fiduciary activity and thus reported in a fiduciary fund.

We appreciate the efforts of the Governmental Accounting Standards Board and the opportunity to provide our comments. Should you have any questions or need additional information concerning our response, please contact Gary Ometer at (804) 371-0788.

Sincerely,

Mary G. Morris

c: Martha S. Mavredes, Virginia Auditor of Public Accounts
    Gary Ometer, Chief Financial Officer