

11 KAR 12:070. Benefits payable from the Kentucky Educational Savings Plan Trust Program fund.

RELATES TO: KRS 164A.310(8), 164A.330(5), 164A.335, 26 U.S.C. 529

STATUTORY AUTHORITY: KRS 164A.325(9)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164A.325(9) authorizes the board to promulgate administrative regulations to implement the Kentucky Educational Savings Plan Trust. This administrative regulation establishes the maximum benefits payable in an academic period, the duration of the payments, the payment of benefits for a beneficiary residing off campus and the notice provisions for a refund of the payments for nonuse or unused benefits from the program fund.

Section 1. Distribution of Benefits. (1) Upon submission of a notice to use trust benefits, the participant shall specify the level of benefits to be paid. The participant shall elect distribution of an allotment of the account balance, calculated by dividing the account balance by the number of academic periods in the beneficiary's program of study, or a higher amount, which shall not exceed the beneficiary's higher education costs for each academic period. The participant may adjust the level of benefits paid in an academic period by notifying the program administrator in writing.

(2) Distribution of benefits shall begin after receipt by the program administrator of a notice to use trust benefits and shall continue throughout the beneficiary's period of enrollment at an institution of higher education, or until the account balance has been exhausted, whichever occurs first.

(3) If a participant transfers ownership rights pursuant to KRS Chapter 385, Uniform Transfers to Minors Act, notwithstanding KRS 385.202(1), which mandates the transfer of custodial property to the minor upon attainment of age eighteen (18), the property shall be distributed for postsecondary educational purposes in accordance with the terms of the participation agreement during each academic period of the beneficiary's educational program.

Section 2. Beneficiary Residing Off Campus. If a beneficiary resides off campus, upon written request of the participant, the program administrator shall pay to the beneficiary, for room and board for an academic period, that portion of higher education costs not paid to the institution that shall not exceed the amount of the beneficiary's higher education costs permitted for room and board pursuant to 26 USC 529.

Section 3. Unused Benefits. (1) During academic period. If a beneficiary's higher education costs are less than the benefits due for an academic period, that portion of the unused benefits shall accumulate to the beneficiary's account. The unused benefits plus the beneficiary's entitlement in the program fund in an academic period not exceeding the higher education costs may be paid for the beneficiary in the next succeeding academic period.

(2) After graduation. If the beneficiary graduates from an institution of higher education, and a balance remains in the beneficiary's account, the program administrator shall pay, upon the written request of the participant, the balance of the payments and the earnings from the investments in the program fund remaining in the account to the participant pursuant to KRS 164A.350. (17 Ky.R. 3576; eff. 8-2-1991; 19 Ky.R. 440; eff. 10-1-1992; 2482; eff. 7-1-1993; 21 Ky.R. 2724; 22 Ky.R. 31; eff. 7-6-1995; 25 Ky.R. 397; 812; eff. 10-1-1998; 26 Ky.R. 89; 558; eff. 9-1-1999; 2288; eff. 8-14-2000; Crt eff. 9-28-2018.)