

11 KAR 12:020. General rules for investments and fund transfers.

RELATES TO: KRS 164A.310(4), 164A.325(7), 164A.335, 164A.375

STATUTORY AUTHORITY: KRS 164A.325(9)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164A.325(7) authorizes the board to promulgate administrative regulations necessary for the administration of the savings plan trust. KRS 164A.310(4) requires the board to invest moneys within the program fund in investments determined by the board to be appropriate. This administrative regulation establishes the requirements for investments and fund transfers.

Section 1. Investments.

(1) The program administrator, an investment manager, a trustee or depository institution holding funds received pursuant to KRS 164A.335 shall adhere to the following standards:

- (a) Safety of principal at the time of a projected cash need shall be paramount for all investment situations;
- (b) Liquidity of investments shall be assured for funds which may be needed to satisfy short term cash flow needs; and
- (c) Except as provided in paragraphs (a) and (b) of this subsection, maximizing investment yield shall be the prime objective of an investment.

(2) In accordance with the standards established in subsection (1) of this section, the board through the program administrator or an investment manager shall invest funds received pursuant to KRS 164A.335 in any of the following solely in the interest of the participants and beneficiaries and for the exclusive purposes of providing benefits to beneficiaries and defraying reasonable expenses of administering the plan:

- (a) Deposits or banker's acceptances with commercial banks whose outstanding indebtedness is rated A or better by a nationally recognized rating service, and deposits with a financial institution to the extent fully insured by the Federal Deposit Insurance Corporation or other U.S. government insurance entity;
- (b) U.S. Treasury securities, obligations backed by the full faith and credit of the United States government, and U. S. government agency securities;
- (c) Repurchase agreements, both overnight and term, which shall be:
 - 1. Governed by a Public Securities Association or equivalent master repurchase agreement including the appropriate annexes; and
 - 2. Collateralized at 100 percent with U.S. Treasury securities, U.S. government agency securities, and other obligations backed by the full faith and credit of the United States government. Collateral shall be held by a third party custodian;
- (d) Bank certificates of deposit rated A/A-1 or better by a nationally recognized rating service;
- (e) State or municipal obligations rated in one (1) of the two (2) top classifications by a nationally recognized rating service (at least AA or Aa, SP-2 or MIG-2/VMIG-2);
- (f) Obligations of a U.S. corporation, if the obligations are rated at least AA or As by a nationally recognized rating service;
- (g) Collateralized mortgage or credit card obligations, mortgage backed securities, or similar securities that are collateralized at 100 percent, if the obligations are either:
 - 1. Fully insured by a U.S. government insurance entity; or
 - 2. Issued by a corporation whose obligations would be an authorized investment;
- (h) Commercial paper rated in the highest classification as established by a nationally recognized rating service (A-1 or Prime-1);
- (i) Mutual funds, including money market funds, equity funds, international funds, growth funds, income funds, and funds combining one (1) or more of the foregoing

investment options which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state; and

(j) Other investments approved by the board of directors with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent investor acting in a like capacity and familiar with the matters would use in the conduct of an enterprise of a like character and with like aims.

Section 2. Administrative Fund.

(1) The costs of administering the Kentucky educational savings plan trust shall be paid out of the administrative fund.

(2) Funds shall be transferred to the administrative fund from the program fund, as the program administrator determines is necessary to cover the administrative costs of the trust.

(3) The total amount transferred to the administrative fund during a trust year shall not exceed four (4) percent of the total investment earnings accruing and credited to the program fund during that trust year.

(4) Monies transferred to the administrative fund pursuant to KRS 164A.335 and this administrative regulation shall be deposited in accordance with KRS 41.070(2).

(17 Ky.R. 3570; eff. 8-2-1991; 19 Ky.R. 435; eff. 10-1-1992; 26 Ky.R. 86; 626; 714; eff. 10-11-1999; Crt eff. 9-28-2018; Cert to Am, filing deadline 7-17-2026.)