

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
Division of Student Financial Aid
(Amendment)

11 KAR 12:010. Definitions for 11 KAR Chapter 12.

RELATES TO: KRS 164A.300-164A.380

STATUTORY AUTHORITY: KRS ~~164A.310(14)~~, 164A.325(9)

CERTIFICATION STATEMENT: This is to certify that this administration regulation complies with the requirements of 2025 RS HB 6, Section 8.

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 definitions for 11 KAR Chapter 12.

Section 1. Definitions.

- (1) "Academic period" means one (1) semester or one (1) quarter or an equivalent period for a vocational technical institution.
- (2) "Account" means the account in the program fund established and maintained under the trust for a beneficiary.
- (3) "Account balance" means the fair market value of an account as of the accounting date.
- (4) "Accounting date" means the date, not later than the last business day of each quarter as determined by the program administrator.
- (5) "Administrative fund" is defined in KRS 164A.305(2).
- (6) "Beneficiary" is defined in KRS 164A.305(3).
- (7) "Benefits" is defined in KRS 164A.305(4).
- (8) "Board" is defined by KRS 164A.305(5).
- (9) "Dependent person" means a person who is unable to meet the criteria for an independent person as defined in subsection (14) of this section.
- (10) "Designated date" means the date on which each beneficiary is eligible to be designated in a participation agreement.
- (11) "Domicile" or "legal residence" means a person's true, fixed, and permanent home and is the place where the person intends to remain, and to which the person expects to return if absent without intending to establish a new domicile elsewhere.
- (12) "Effective date" means the date which a participant may enter into a participation agreement with the trust, which is on or after July 1, 1989.
- ~~(13) ["Higher education costs" is defined by KRS 164A.305(6).]~~
- ~~(13)~~ ~~(14)~~ "Independent" means a person:
 - (a) Who has not been claimed by his parent as a dependent on a federal or state income tax return for the tax year preceding the date of application for reclassification of residency status;
 - (b) Who demonstrates no financial dependence upon a parent; and
 - (c) Whose parent's income is not taken into account by a private or governmental agency furnishing educational financial assistance to the person, including a scholarship, loan, or other assistance.
- ~~(14)~~ ~~(15)~~ "Institution of higher education" is defined in KRS 164A.305(7).
- ~~(15)~~ ~~(16)~~ "Notice to authorize payroll deduction" means the participant's written instruction to the participant's employer to deduct payments from the participant's earnings and forward that amount to the trust.
- ~~(16)~~ ~~(17)~~ "Notice to increase or decrease payments under participation agreement" means the participant's written instruction to the program administrator of the trust to

increase or decrease payments under a participation agreement.

(17) ~~{(18)}~~ "Notice to preauthorize debit" means the participant's mailed or electronic written instruction to the participant's financial institution to debit or charge the participant's checking or savings account for payments due under the participation agreement.

(18) ~~{(19)}~~ "Notice to substitute beneficiary" means the participant's mailed or electronic written instruction to the program administrator of the trust to substitute a beneficiary.

(19) ~~{(20)}~~ "Notice to terminate the participation agreement" means the participant's mailed or electronic written instruction to the program administrator of the trust to terminate a participation agreement under the trust.

(20) ~~{(21)}~~ "Notice to use trust benefits" means the participant's mailed or electronic written instruction to the program administrator of the trust to notify the trust of the date benefits are to begin and level of benefits paid.

(21) ~~{(22)}~~ "Parent" means one (1) of the following:

(a) A person's father or mother; or

(b) A court-appointed legal guardian if the guardianship was not established primarily to confer Kentucky residency on the person.

(22) ~~{(23)}~~ "Participant" is defined in KRS 164A.305(9).

(23) ~~{(24)}~~ "Participation agreement" is defined in KRS 164.305(10).

(24) ~~{(25)}~~ "Payments" means the money paid by the participant to the trust under the participation agreement.

(25) ~~{(26)}~~ "Program administrator" is defined in KRS 164A.305(11).

(26) ~~{(27)}~~ "Program fund" is defined in KRS 164A.305(12).

(27) ~~{(28)}~~ "Property settlement agreement" or "decree of dissolution by the court" means the agreement or judgment approved or entered by a court of competent jurisdiction which sets forth the participant's right, if any, to the participant's interest in the participation agreement.

(28) "Qualified Educational Expenses" is defined in KRS 164A.305(13).

(29) "Trust year" means the fiscal year beginning July 1 and ending the following June 30 of each year~~[for purposes of the calculation of benefits]~~.

(30) "Vested participation agreement" is defined in KRS 164A.305(14).

GREG ROUSH, Chair

APPROVED BY AGENCY: June 12, 2025

FILED WITH LRC: July 11, 2025 at 8:25 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Wednesday, September 24, 2025, at 10:00 a.m. Eastern Time at 100 Airport Road, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through September 30, 2025. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Hon. Miles F. Justice, General Counsel, Kentucky Higher Education Assistance Authority, P.O. Box 798, Frankfort, Kentucky 40602-0798, phone (502) 696-7309, fax (502) 696-7293, email mjustice@khea.com.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: David Lawhorn

(1) Provide a brief summary of:

(a) What this administrative regulation does:

The administrative regulation establishes the definitions for 11 KAR Chapter 12 for administration of the Kentucky Educational Savings Plan Trust.

(b) The necessity of this administrative regulation:

The administrative regulation is necessary to provide uniform definitions for terms used in the administration of the Kentucky Educational Savings Plan Trust.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

The administrative regulation conforms to the content of the authorizing statutes by providing uniform definitions for terms used in the administration of the Kentucky Educational Savings Plan Trust.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This administrative regulation assists in the effective administration of the Kentucky Educational Savings Plan Trust by providing uniform definitions for terms used in the administration of the program.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

The amendment will change the existing administrative regulation by eliminating the definition of Higher Education Costs and adding Qualified Educational Expenses as a defined term instead to be consistent with the Internal Revenue Code. Further, specify that certain forms for the program may be submitted by email.

(b) The necessity of the amendment to this administrative regulation:

This amendment is necessary to update defined terms for the program and to allow for electronic submission of forms.

(c) How the amendment conforms to the content of the authorizing statutes:

This amendment conforms to the content of the authorizing statutes by accurately setting forth the current definitions for the program as well as allowing for electronic submission of forms.

(d) How the amendment will assist in the effective administration of the statutes:

The amendment will assist in the effective administration of the Kentucky Educational Savings Plan Trust by deleting an unnecessary definition and adding as a defined term a current term from the authorizing statute as well as authorizing electronic submission of forms.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

As of January 31, 2025, there were 24,895 participants in the Kentucky Educational Savings Plan Trust.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the

change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

Program participants must submit the specified forms in order to access plan benefits.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

There is no cost to program participants in order to comply with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

As a result of compliance, participants will be able to utilize the plan benefits as specified in the plan materials.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

There are no costs associated with the amendment to this administrative regulation.

(b) On a continuing basis:

See (5)(a) above.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

The funds held in the Trust are private funds contributed by the participant. In accordance with KRS 164A.335, funds may be transferred from the Program Fund to an Administrative Fund for the purpose of paying operating costs associated with administering the trust.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

No increase in fees or funding will be necessary to implement the amendment to this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(9) TIERING: Is tiering applied?

NO. Tiering was not applied to the amendment of this administrative regulation. The concept is not applicable to this amendment of this administrative regulation. The administrative regulation is intended to provide equal opportunity to participate within parameters, and consequently does not inherently result in disproportionate impacts on certain classes of regulated entities or address a particular problem to which certain regulated entities do not contribute. Disparate treatment of any person or entity affected by this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution. The regulation provides equal treatment and opportunity for all applicants and recipients.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation:

KRS 164A.310, 164A.325, 26 U.S.C. 529.

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act:

KRS 164A.310 and 164A.325.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions:

Finance and Administration Cabinet, Kentucky Higher Education Assistance Authority

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year:No additional revenues will be generated through this amendment to the administrative regulation.

For subsequent years:Same as above.

2. Revenues:

For the first year:No costs are associated with this administrative regulation.

For subsequent years:Same as above.

3. Cost Savings:

For the first year:

For subsequent years:Same as above.

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts):

There are no affected local entities.

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year:

For subsequent years:Same as above.

2. Revenues:

For the first year:

For subsequent years:

3. Cost Savings:

For the first year:No expenditures will be required as a result of this amendment to the regulation.

For subsequent years:Same as above.

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a):

The entities affected by the amendment to this administrative regulation are those who elect to participate in the KESPT program.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year:No revenues will be generated through this amendment to the administrative regulation.

For subsequent years:Same as above.

2. Revenues:

For the first year:No costs are associated with this amendment to the administrative regulation.

For subsequent years:Same as above.

3. Cost Savings:

For the first year:No costs are associated with this amendment to the administrative regulation.

For subsequent years:Same as above.

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

(a) Fiscal impact of this administrative regulation:

Since this administrative regulation merely defines applicable terms for the KESPT program and the forms to be utilized in accessing benefits, there is no fiscal impact.

(b) Methodology and resources used to reach this conclusion:

As noted, there is no fiscal impact on any of the affected entities as this regulation simply defines terms and prescribes the forms to be used for the KESPT program.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(13):

This administrative regulation will not have a "major economic impact".

(b) The methodology and resources used to reach this conclusion:

As discussed above, there is no fiscal impact from this administrative regulation.