

11 KAR 12:090. Transfer of ownership of Kentucky Educational Savings Plan Trust Program fund.

RELATES TO: KRS 164A.350(6), Chapter 385

STATUTORY AUTHORITY: KRS 164A.325(9)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164A.350 states that the participant retains ownership of the principal amount of payments to the program fund, and that the trust retains ownership of the investment income until distributions are made. KRS 164A.300 through 164A.380 provide to the participant reversionary rights in the investment income in the event of termination, and confer upon the participant various powers to terminate the participation agreement, substitute beneficiaries, and delay distribution of benefits. Nothing in the foregoing statutes prohibits a participant from transferring these rights and ownership and reversionary interests to another eligible participant or to a minor beneficiary under the Uniform Transfers to Minors Act. Furthermore, nothing in the foregoing statutes precludes a beneficiary from also being a participant. This administrative regulation permits such a transfer and sets forth the procedures to facilitate a transfer under the Uniform Transfers to Minors Act.

Section 1. General Rule. A participant may assign ownership interest in payments to another eligible participant at any time. An assignment of ownership shall only be effective to transfer ownership interest in the trust if the assignment:

- (1) Is to another individual who qualifies as eligible pursuant to 11 KAR 12:030;
- (2) Is irrevocable;
- (3) Transfers all ownership, reversionary rights, and powers of appointment (i.e., power to substitute beneficiaries) and to direct the distribution of benefits; and
- (4) Is in writing and submitted to the program administrator.

Section 2. Subject to Section 1 of this administrative regulation and in accordance with KRS Chapter 385, a participant, eighteen (18) years old or older, may make a gift of the ownership interest in the program fund to a minor beneficiary by designating in the assignment that the transfer is to a qualified custodian for the beneficiary.

Section 3. Upon receipt of a valid assignment of ownership, the assignee shall be considered the participant for all purposes of KRS 164A.300 through 164A.380, regardless of the source of subsequent payments.

(17 Ky.R. 3580; eff. 8-2-1991; 19 Ky.R. 442; eff. 10-1-1992; Crt eff. 9-28-2018; Cert to Am, filing deadline 7-17-2026.)