

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

**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.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.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 either by mail or electronically.

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.

(011 KAR 012:090. 17 Ky.R. 3580; eff. 8-2-1991; 19 Ky.R. 442; eff. 10-1-1992; Crt eff. 9-28-2018; 52 Ky.R. 190; eff. 3-3-2026.)

*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@kheaa.com](mailto:mjustice@kheaa.com).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

**Contact Person: David Lawhorn**

**(1) Provide a brief summary of:**

**(a) What this administrative regulation does:**

This administrative regulation sets forth the procedures for a transfer of KESPT ownership interest from a plan participant to a minor beneficiary under the Uniform Transfers to Minors Act.

**(b) The necessity of this administrative regulation:**

The Authority is required to promulgate administrative regulations pertaining to the administration of the KESPT program.

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

This administrative regulation conforms to the content of the authorizing statutes by prescribing the method of transfer of KESPT program account interest to a minor beneficiary when desired.

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

This administrative regulation assists with the effective administration of the statutes by prescribing the means by which interest in a KESPT program account can be transferred to a minor beneficiary.

**(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 changes the existing regulation by providing that an UTMA transfer can be completed by electronic means.

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

The amendment to this administrative regulation is necessary in order to enable KESPT program participants to transfer their plan interests to a minor beneficiary via electronic request thus making this process more efficient for plan participants.

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

This amendment conforms to the content of the authorizing statutes by updating the means by which plan interests can be transferred more simply and efficiently.

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

This amendment will assist in the effective administration of the KESPT program by enabling participants to transfer their interest in a plan to a minor beneficiary electronically.

**(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 are 24,895 participants in the KESPT program.

**(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:**

Those individuals who seek to participate transfer plan interests to a minor beneficiary, they can now do so either by mail or electronically.

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

There will be no cost to the applicants in complying 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, program participants will be able to transfer their plan interests to a minor beneficiary more easily.

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

**(a) Initially:**

There is no cost to implement 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:**

No funding source is required in order to implement this administrative regulation since it merely expands the means by which plan interests may be transferred.

**(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 does not establish any fees, nor does it directly or indirectly increase any fees.

**(9) TIERING: Is tiering applied?**

Tiering was not applied. It is not applicable to this amendment. This administrative regulation is intended to provide equal opportunity to participate, and consequently does not inherently result in disproportionate impacts on certain classes of regulated entities. 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(14), 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(14) 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 expenditures will be required as a result of this amendment to the administrative regulation.

**For subsequent years:**Same as above.

**2. Revenues:**

**For the first year:**No additional revenues will be generated through 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 administrative regulation.

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

**For subsequent years:**Same as above.

**2. Revenues:**

**For the first year:**No revenues will be generated through 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.

**(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 expenditures will be required as a result of this amendment to the regulation.

**For subsequent years:**Same as above.

**2. Revenues:**

**For the first year:**No revenues will be generated through 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.