

CHAPTER 136G

MINNESOTA COLLEGE SAVINGS PLAN

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136G.03 DEFINITIONS.

[For text of subs 1 and 2, see M.S.2004]

Subd. 3. **Account owner.** "Account owner" means a person who enters into a participation agreement and is entitled to conduct transactions on the account, including selecting and changing the beneficiary of an account and receiving distributions from the account.

[For text of subs 4 to 21, see M.S.2004]

Subd. 21a. **Minor trust account.** "Minor trust account" means a Uniform Gift to Minors Act account or a Uniform Transfers to Minors Act account created and operating under the laws of Minnesota or another state.

Subd. 22. **Nonqualified distribution.** "Nonqualified distribution" means a distribution made from an account other than (1) a qualified distribution; or (2) a distribution due to the death or disability of, or scholarship to, or attendance at a United States military academy by, a beneficiary.

[For text of subs 23 to 31, see M.S.2004]

Subd. 32. **Scholarship.** "Scholarship" means a scholarship or educational assistance allowance.

[For text of subs 33 and 34, see M.S.2004]

History: 2005 c 107 art 2 s 33-36

136G.05 HIGHER EDUCATION SERVICES OFFICE.

[For text of subs 1 to 7, see M.S.2004]

Subd. 8. **Administration.** The director shall administer the program, including accepting and processing applications, maintaining account records, making payments, making matching grants under section 136G.11, and undertaking any other necessary tasks to administer the program. The office may contract with one or more third parties to carry out some or all of these administrative duties, including providing incentives and marketing the program. The office and the board may jointly contract with third-party providers, if the office and board determine that it is desirable to contract with the same entity or entities for administration and investment management.

[For text of subs 9 and 10, see M.S.2004]

History: 2005 c 107 art 2 s 37

136G.09 PLAN ACCOUNTS; GENERALLY.

[For text of subs 1 to 10, see M.S.2004]

Subd. 11. **Effect of plan changes on participation agreement.** Amendments to sections 136G.01 to 136G.13 automatically amend the participation agreement. Any amendments to the operating procedures and policies of the plan shall automatically amend the participation agreement after adoption by the office or the board.

Subd. 12. **Special account to hold plan assets in trust.** All assets of the plan, including contributions to accounts and matching grant accounts and earnings, are held

in trust for the exclusive benefit of account owners and beneficiaries. Assets must be held in a separate account in the state treasury to be known as the Minnesota college savings plan account or in accounts with the third-party provider selected pursuant to section 136G.05, subdivision 8. Plan assets are not subject to claims by creditors of the state, are not part of the general fund, and are not subject to appropriation by the state. Payments from the Minnesota college savings plan account shall be made under sections 136G.01 to 136G.13.

History: 2005 c 107 art 2 s 38,39

136G.11 MATCHING GRANTS.

Subdivision 1. **Matching grant qualification.** By June 30 of each year, a state matching grant must be added to each account established under the program if the following conditions are met:

- (1) the contributor applies, in writing in a form prescribed by the director, for a matching grant;
- (2) a minimum contribution of \$200 was made during the preceding calendar year;
- (3) the beneficiary's family meets Minnesota college savings plan residency requirements; and
- (4) the family income of the beneficiary did not exceed \$80,000.

Subd. 2. **Family income.** (a) For purposes of this section, "family income" means:

(1) if the beneficiary is under age 25, the combined adjusted gross income of the beneficiary's parents or legal guardians as reported on the federal tax return or returns for the calendar year in which contributions were made. If the beneficiary's parents or legal guardians are divorced, the income of the parent claiming the beneficiary as a dependent on the federal individual income tax return and the income of that parent's spouse, if any, is used to determine family income; or

(2) if the beneficiary is age 25 or older, the combined adjusted gross income of the beneficiary and spouse, if any.

(b) For a parent or legal guardian of beneficiaries under age 25 and for beneficiaries age 25 or older who resided in Minnesota and filed a federal individual income tax return, the matching grant must be based on family income from the calendar year in which contributions were made.

Subd. 3. **Residency requirement.** (a) If the beneficiary is under age 25, the beneficiary's parents or legal guardians must be Minnesota residents to qualify for a matching grant. If the beneficiary is age 25 or older, the beneficiary must be a Minnesota resident to qualify for a matching grant.

(b) To meet the residency requirements, the parent or legal guardian of beneficiaries under age 25 must have filed a Minnesota individual income tax return as a Minnesota resident and claimed the beneficiary as a dependent on the parent or legal guardian's federal tax return for the calendar year in which contributions were made. If the beneficiary's parents are divorced, the parent or legal guardian claiming the beneficiary as a dependent on the federal individual income tax return must be a Minnesota resident. For beneficiaries age 25 or older, the beneficiary, and a spouse, if any, must have filed a Minnesota and a federal individual income tax return as a Minnesota resident for the calendar year in which contributions were made.

(c) A parent of beneficiaries under age 25 and beneficiaries age 25 or older who did not reside in Minnesota in the calendar year in which contributions were made are not eligible for a matching grant.

[For text of subs 4 to 12, see M.S.2004]

Subd. 13. **Forfeiture of matching grants.** (a) Matching grants are forfeited if:

- (1) the account owner transfers the total account balance of an account to another account or to another qualified tuition program;
- (2) the beneficiary receives a full tuition scholarship or is attending a United States service academy;

- (3) the beneficiary dies or becomes disabled;
- (4) the account owner changes the beneficiary of the account; or
- (5) the account owner closes the account with a nonqualified withdrawal.

(b) Matching grants must be proportionally forfeited if:

- (1) the account owner transfers a portion of an account to another account or to another qualified tuition program;
- (2) the beneficiary receives a scholarship covering a portion of qualified higher education expenses; or
- (3) the account owner makes a partial nonqualified withdrawal.

(c) If the account owner makes a misrepresentation in a participation agreement or an application for a matching grant that results in a matching grant, the matching grant associated with the misrepresentation is forfeited. The office and the board must instruct the plan administrator as to the amount to be forfeited from the matching grant account. The office and the board must withdraw the matching grant or the proportion of the matching grant that is related to the misrepresentation.

History: 2005 c 107 art 2 s 40-43

136G.13 ACCOUNT DISTRIBUTIONS.

Subdivision 1. **Qualified distribution methods.** (a) Qualified distributions may be made:

- (1) directly to participating eligible educational institutions on behalf of the beneficiary;
- (2) in the form of a check payable to both the beneficiary and the eligible educational institution; or
- (3) directly to the account owner or beneficiary if the account owner or beneficiary has already paid qualified higher education expenses.

(b) Qualified distributions must be withdrawn proportionally from contributions and earnings in an account owner's account on the date of distribution as provided in section 529 of the Internal Revenue Code.

[For text of subs 2 to 4, see M.S.2004]

Subd. 5. **Distributions due to death or disability of, or scholarship to, or attendance at a United States military academy by, a beneficiary.** An account owner may request a distribution due to the death or disability of, or scholarship to, or attendance at a United States military academy by, a beneficiary from an account by submitting a completed request to the plan. Prior to distribution, the account owner shall certify the reason for the distribution and provide written confirmation from a third party that the beneficiary has died, become disabled, or received a scholarship for attendance at an eligible educational institution, or is attending a United States military academy. The plan must not consider a request to make a distribution until a third-party written confirmation is received by the plan. For purposes of this subdivision, a third-party written confirmation consists of the following:

- (1) for death of the beneficiary, a certified copy of the beneficiary's death record;
- (2) for disability of the beneficiary, a certification by a physician who is a doctor of medicine or osteopathy stating that the doctor is legally authorized to practice in a state of the United States and that the beneficiary is unable to attend any eligible educational institution because of an injury or illness that is expected to continue indefinitely or result in death. Certification must be on a form approved by the plan;
- (3) for a scholarship award to the beneficiary, a letter from the grantor of the scholarship or from the eligible educational institution receiving or administering the scholarship, that identifies the beneficiary by name and Social Security number or taxpayer identification number as the recipient of the scholarship and states the amount of the scholarship, the period of time or number of credits or units to which it

applies, the date of the scholarship, and, if applicable, the eligible educational institution to which the scholarship is to be applied; or

(4) for attendance by the beneficiary at a United States military academy, a letter from the military academy indicating the beneficiary's enrollment and attendance.

History: 2005 c 107 art 2 s 44,45

136G.14 MINOR TRUST ACCOUNTS.

(a) This section applies to a plan account in which funds of a minor trust account are invested.

(b) The account owner may not be changed to any person other than a successor custodian or the beneficiary unless a court order directing the change of ownership is provided to the plan administrator. The custodian must sign all forms and requests submitted to the plan administrator in the custodian's representative capacity. The custodian must notify the plan administrator in writing when the beneficiary becomes legally entitled to be the account owner. An account owner under this section may not select a contingent account owner.

(c) The beneficiary of an account under this section may not be changed. If the beneficiary dies, assets in a plan account become the property of the beneficiary's estate. Funds in an account must not be transferred or rolled over to another account owner or to an account for another beneficiary. A nonqualified distribution from an account, or a distribution due to the disability or scholarship award to the beneficiary, or made on account of the beneficiary's attendance at a United States military academy, must be used for the benefit of the beneficiary.

History: 2005 c 107 art 2 s 46