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Sequence Number: 04-15-14
Rule ID(s): 5698
File Date: 4/1/14
Effective Date: 9/28/14

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §§ 4-5-202, 4-5-207 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Agency/Board/Commission:	Board of Trustees of the Baccalaureate Education System Trust Fund Program
Division:	
Contact Person:	LaKesha Page
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Revision Type (check all that apply):
x Amendment
___ New
___ Repeal

Rule(s) Revised (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	**Chapter Title**
1700-05-03	College Savings Incentive Plan
Rule Number	**Rule Title**
1700-05-03-.01	In General
1700-05-03-.02	Eligibility Requirements
1700-05-03-.03	Application for Matching Contribution
1700-05-03-.04	Rejection of Application or Forfeiture of Matching Contribution
1700-05-03-.05	Ineligible Individuals
1700-05-03-.06	Single Beneficiaries with Multiple Accounts
1700-05-03-.07	Amount of Minimum and Matching Contribution
1700-05-03-.08	Deposit and Ownership of Matching Contributions
1700-05-03-.09	No Guarantee of a Matching Contribution

Chapter Number	**Chapter Title**
Rule Number	**Rule Title**

Amendments

Chapter 1700-05-03

College Savings Incentive Plan

Rule 1700-05-03-.01 In General is amended by deleting the language contained in the rule in its entirety and replacing it with the following language so that, as amended, the rule shall read:

(1) Purpose. The purpose of these rules is to establish and implement the college savings incentive plan or plans for the benefit of low-income individuals using funds from the Small and Minority-Owned Business Assistance Program pursuant to Chapter 359 of the 2013 Public Acts. The public act authorizes the Board of Trustees of the Baccalaureate Education System Trust Fund Program to promulgate rules relative to the implementation and administration of incentive plan or plans.

(2) Definitions. For purposes of these rules:

(a) "Academic term" means the school segment consisting of a single semester, quarter, term or equivalent.

(b) "Account" means the record that contains the amount of contributions maintained on behalf of a Beneficiary under a Contract, plus the earnings or losses incurred thereon, including any Withdrawals made from the Account.

(c) "Beneficiary" means an individual designated under a Contract as the individual entitled to apply contributions and earnings accrued under the Contract as well as Matching contributions to the payment of that individual's undergraduate, graduate and professional Qualified higher education expenses as defined in this chapter.

(d) "Board" has the same meaning as given in T.C.A. § 49-7-802(2).

(e) "Contract" means an Educational savings plan tuition contract entered into pursuant to T.C.A. § 49-7-808 by the Board and a Purchaser with an Eligible college savings program to provide for the payment of Qualified higher education expenses as defined in this chapter.

(f) "Educational savings plan" means a plan which permits individuals, associations, contributions and trusts to make contributions to an account that is established by a Purchaser for a designated Beneficiary.

(g) "Eligible college savings program" means any college savings program established pursuant to § 529 of the Internal Revenue Code with which the Board has contracted to provide similar benefits for Tennessee residents, or any § 529 college savings program established by the State of Tennessee, except for the educational services plan established in Chapter 1700-05-01 of the Official Compilation of the Rules and Regulations of the State of Tennessee.

(h) "Eligible educational institution" means an institution of postsecondary education as defined in § 529 of the Internal Revenue Code.

(i) "Fiscal year" means the period beginning on July 1 of each year and ending on June 30 of the next following year.

(j) "Household" means a group of individuals who are related by birth, marriage, or adoption and who share a residence.

(k) "Legally incompetent" means that an individual has been declared incompetent by a court of law. An individual shall not be considered to be Legally incompetent unless proof thereof is furnished in such form and manner as the Board may require.

(l) "Matching contribution" means the amount that is deposited by the Board into the Board's account for each Beneficiary after all eligibility requirements for participation in the Matching grant incentive program have been satisfied pursuant to Rule 1700-05-03-.02.

(m) "Matching grant incentive program" means the educational incentive program established pursuant to T.C.A. § 49-7-808(d) in which matching funds are contributed by the Board to Purchasers on behalf of Beneficiaries based on income levels for the Purchaser's Household and the amount of the Purchaser's contributions for the payment of the Beneficiary's Qualified higher education expenses.

(n) "Member of the family" means the mother, father or ancestor of either, stepmother, stepfather, siblings of either the mother or father of the Beneficiary, or such other person as may be defined as a "Member of the family" of the Beneficiary under the sections of the Internal Revenue Code that are applicable to the eligible college savings program.

(o) "Minimum contribution" means the amount that must have been contributed to the Account of a Beneficiary during the Qualifying period as determined pursuant to Rule 1700-05-03-.07 in order to be eligible for the Matching contribution.

(p) "Permanent disability" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or is anticipated to last for a continued or indefinite duration. An individual shall not be considered to have a Permanent disability unless proof is furnished of the existence of the disability from a health care professional in such form and manner as the Board may require. The Board must approve any finding of a Permanent disability.

(q) "Purchaser" means an individual who enters into a Contract for the creation and deposit of contributions to a savings account on behalf of a Beneficiary, or in the case of the Purchaser's death or legal incompetence, the Purchaser's appointee.

(r) "Purchaser's appointee" means the person who is named in the Contract by the Purchaser to exercise the rights of the Purchaser under the Contract if the Purchaser dies or becomes Legally incompetent.

(s) "Qualified higher education expenses" has the same meaning as given under § 529 of the Internal Revenue Code and the regulations promulgated thereunder.

(t) "Qualifying period" means the time period as set by the Board each year during which a Purchaser must meet the conditions set forth in these rules in order to be eligible for a Matching contribution, including the time period during which a Purchaser must file an application for the Matching contribution.

(u) "Redemption value" means the current cash value of an Account attributable to the sum of the principal invested through Purchaser contributions and the earnings or losses incurred thereon.

(v) "State" means the State of Tennessee.

(w) "Tennessee resident" means a person who has a continuous physical presence and maintenance of a dwelling place within the State of Tennessee for at least twelve (12) months immediately prior to entering into a Contract, provided that absence from the State for short periods of time may not affect the establishment of a residence. The

effect of absences from the State for short periods of time will be determined on a case-by-case basis. A minor child shall be deemed a Tennessee resident if the child's legal guardian or noncustodial parent is a resident of Tennessee. Military or diplomatic personnel whose home of record is Tennessee shall also be deemed Tennessee residents for purposes of these rules.

(x) "Withdrawal" means a disbursement of funds from the Account that is directed by the Purchaser to be paid to the Purchaser or an Eligible educational institution.

Authority: Chapter 359 of the 2013 Public Acts codified in T.C.A. § 49-7-808(d), § 49-7-805 and § 65-5-113(c).

Rule 1700-05-03-.02 Eligibility Requirements is amended by deleting the language contained in the rule in its entirety and replacing it with the following language so that, as amended, the rule shall read:

(1) The Purchaser must file an application for the Matching contribution in accordance with Rule 1700-05-03-.03 during the applicable Qualifying period.

(2) The Purchaser must have an Account with the Eligible college savings program pursuant to the rules contained in Chapter 1700-05-04 Educational Savings Plan for the Beneficiary listed on the application on the date the application is filed with the Board and on the date the Matching contribution is deposited into the Account.

(3) An amount equal to or greater than the Minimum contribution established in Rule 1700-05-03-.07 must have been contributed to the Account during the Qualifying period.

(4) The Purchaser and the Beneficiary of the Account must be Tennessee residents at the time the application is filed with the Board.

(5) The Beneficiary must be less than age twenty-five (25) at the time the application is filed with the Board.

(6) The Purchaser must be a Member of the family of the Beneficiary.

(7) In addition to the eligibility requirements contained in paragraphs (1) through (6) of this rule, Purchasers who are applying to participate in the Matching grant incentive program are required to meet the income limits established by the Board for the Purchaser's Household in order to receive the matching contribution. In addition, the Purchaser shall not be claimed as a dependent on someone else's income tax return. The Board shall establish the income limits based on income standards that may be amended from time to time, including, but not limited to the following:

(a) Federal poverty guidelines;

(b) Federal poverty thresholds;

(c) Federal Income Eligibility Guidelines for free and reduced meals; and/or

(d) Federal Department of Health and Human Services poverty guidelines.

(8) The Board shall consider factors in determining which standard will be used to establish the income limits for eligibility in the Matching grant incentive program, which include, but are not limited to, any or all of the following:

(a) The amount of fund appropriations;

(b) The number of program Purchasers; and/or

(c) The anticipated participation level in the program.

Authority: Chapter 359 of the 2013 Public Acts codified in T.C.A. § 49-7-808(d), § 49-7-805 and § 65-5-113(c).

Subparagraph (1)(e) of Rule 1700-05-03-.03 Application for Matching Contribution is amended by deleting the language contained in the subparagraph in its entirety and replacing it with the following language so that, as amended, the subparagraph shall read:

(e) The Purchaser's Household income;

Authority: Chapter 359 of the 2013 Public Acts codified in T.C.A. § 49-7-808(d), § 49-7-805 and § 65-5-113(c).

Paragraph (2) of Rule 1700-05-03-.03 Application for Matching Contribution is amended by deleting the language in the paragraph in its entirety and replacing it with the following language so that, as amended, the paragraph shall read:

(2) The application must be filed with the Board during the applicable Qualifying period and will be processed on a first come, first serve basis based on the amount of funds appropriated by the General Assembly.

Authority: Chapter 359 of the 2013 Public Acts codified in T.C.A. § 49-7-808(d), § 49-7-805 and § 65-5-113(c).

Rule 1700-05-03-.03 Application for Matching Contribution is amended by adding the following new paragraphs (3) and (4):

(3) In addition to the application requirements contained in paragraphs (1) and (2) of this rule, a Purchaser who is applying to participate in the Matching grant incentive program and receive the Matching contribution shall provide the Board with the following:

(a) A copy of the federal income tax returns for the Purchaser and for each individual residing in the Purchaser's Household who is required to file an income tax return, for the tax year immediately preceding the year that the Beneficiary account is being established by the Purchaser;

(b) A copy of all W-2, W-4 and 1099 Forms that accompany each tax return in (a);

(c) A statement from the Purchaser or a member of the Purchaser's Household indicating why he/she is not required to file a federal tax return, in the event that the Purchaser or a member of the Purchaser's Household was not required to file a tax return for the tax year preceding the Purchaser's date of application;

(d) Authorizations executed by the Purchaser and the members of the Purchaser's Household allowing the Board to verify the federal adjusted gross income for the Purchaser and all individuals residing in that Household; and

(e) Such other and further documentation required by the Board.

(4) Subsequent to a Purchaser's initial application to participate in the Matching grant incentive program, and for each subsequent Qualifying period, the Purchaser shall reapply to participate in the Matching grant incentive program by submitting an application and providing the information requested in paragraph (3) of this rule to the Board to ensure the Purchaser's continued eligibility to participate in this program. In the event that the Purchaser becomes ineligible to continue participating in the Matching grant incentive program and to continue receiving the Matching contribution for any Beneficiary accounts, the Purchaser shall be able to continue making contributions to the Purchaser's § 529 college savings account but will not receive the Matching

contribution for that year or any other subsequent year that the Purchaser does not qualify.

Authority: Chapter 359 of the 2013 Public Acts codified in T.C.A. § 49-7-808(d), § 49-7-805 and § 65-5-113(c).

Subparagraph (1)(b) of Rule 1700-05-03-.04 Rejection of Application or Forfeiture of Matching Contribution is amended by deleting the language contained in the subparagraph in its entirety and replacing it with the following language so that, as amended, the subparagraph shall read:

(b) The Purchaser fails to meet the eligibility requirements to participate in the Matching grant incentive program as provided in Rule 1700-05-03-.02.

Authority: Chapter 359 of the 2013 Public Acts codified in T.C.A. § 49-7-808(d), § 49-7-805 and § 65-5-113(c).

Paragraph (1) of Rule 1700-05-03-.05 Ineligible Individuals is amended by deleting the language contained in the paragraph in its entirety and replacing it with the following language so that, as amended, the paragraph shall read:

(1) For the first Fiscal year that the Matching grant incentive program is in operation, the following individuals shall not be eligible to receive Matching contributions as either a Purchaser or a Beneficiary: Tennessee Department of Treasury employees; members of the Board, or an immediate family member of any of the foregoing. For purposes of this rule, an "immediate family member" means a parent, spouse, sibling, child, stepchild or grandchild. For each subsequent Fiscal year, the Board shall determine whether the total amount of money available for the Fiscal year will be sufficient to allow the individuals listed in this rule to receive a Matching contribution.

Authority: Chapter 359 of the 2013 Public Acts codified in T.C.A. § 49-7-808(d), § 49-7-805 and § 65-5-113(c).

Rule 1700-05-03-.06 Single Beneficiaries with Multiple Accounts is amended by deleting the language in the rule in its entirety as well as the title of the rule, and replacing it with the following language so that, as amended, the rule shall read:

Purchasers and Beneficiaries.

(1) A Purchaser may only have one (1) Beneficiary on each Account.

(2) A Purchaser may not have more than one (1) Account in the same Beneficiary's name.

(3) A Beneficiary who has been designated as a Beneficiary on more than one (1) Account by two (2) or more different Purchasers shall only be eligible for one (1) Matching Contribution during each Qualifying period and shall not be eligible to receive another Beneficiary's Matching contributions through a change in Beneficiary.

(4) A Purchaser may request that the Beneficiary for the Purchaser's account be changed. A Purchaser may only change the Beneficiary on his or her account or accounts one (1) time. A Purchaser may change a beneficiary on an Account or Accounts by submitting the request for a change to the Board on a form prescribed by the Board. The new Beneficiary on an Account or Accounts will receive the Purchaser contributions and the Matching contributions from the accounts that were in a previous Beneficiary's name, unless the new Beneficiary already has an existing account with another Purchaser.

(5) A Purchaser may not remove his or her name from an Account and substitute it with another Purchaser's name; however, a Purchaser's name may be removed from an Account upon the Purchaser's death, divorce or Permanent disability.

Authority: Chapter 359 of the 2013 Public Acts codified in T.C.A. § 49-7-808(d), § 49-7-805 and § 65-5-113(c).

Paragraph (1) of Rule 1700-05-03-.07 Amount of Minimum and Matching Contribution is amended by deleting the language contained in the paragraph in its entirety and replacing it with the following language so that, as amended, the paragraph shall read:

> For the first Fiscal year that the Matching grant incentive program is in operation, the Minimum contribution for participation in the Matching grant incentive program made by the Purchaser shall be twenty-five dollars ($25.00), and the Matching contribution shall be four (4) times the Minimum contribution, up to a maximum Matching contribution of five hundred dollars ($500.00). The maximum contribution that can be made by a Purchaser in order to receive the maximum Matching contribution shall be one hundred twenty-five dollars ($125.00); however, the Purchaser is not prohibited from contributing more to his or her Eligible college savings plan Account without the expectation of receiving a higher Matching contribution. For each subsequent year or a portion of the year that the Matching grant incentive program is in operation, the Board may either set the Minimum and Matching contribution or delegate the responsibility of establishing the Minimum and Matching contributions to the State Treasurer. The Minimum or Matching contributions may be established or amended at any time, and may be established for any duration of time deemed necessary by either the Board or the State Treasurer. The Matching contribution amount for the Matching grant incentive program shall be determined either by the Board or the State Treasurer based upon the amount appropriated in that year's general appropriations act for the purposes set forth in these Rules, the number of program Participants, and the anticipated level of participation in the program.

Authority: Chapter 359 of the 2013 Public Acts codified in T.C.A. § 49-7-808(d), § 49-7-805 and § 65-5-113(c).

Rule 1700-05-03-.08 Deposit and Ownership of Purchaser Contributions and Matching Contributions is amended by deleting the language contained in the rule and the title of the rule in its entirety and replacing it with the following so that, as amended, the rule shall read:

Contributions and Withdrawals.

(1) Contributions.

(a) Purchaser contributions to the Matching grant incentive program shall be made in accordance with Rule 1700-05-04-.04 by those Purchasers who qualify for participation in the program for a Beneficiary or Beneficiaries. Purchaser contributions will be subject to the limitations established in Rule 1700-05-04-.04.

(b) Matching contributions shall be made by the Board for each Beneficiary Account established by a Purchaser but shall be maintained in an account separate from the account that contains the Purchaser's contributions.

(2) Withdrawals.

(a) Eligibility. Once a Beneficiary has been accepted for enrollment in an Eligible educational institution the Purchaser may begin using funds, including Purchaser contributions and Matching contributions, on deposit in the Account for the payment of Qualified higher education expenses of the Beneficiary by requesting a Withdrawal of funds. Funds shall not be deemed on deposit in the Account until the fifteenth (15th) day following receipt of the respective funds from the Board. If the Purchaser desires the Board to send payment directly to the Eligible educational institution where the Beneficiary is enrolled, the notification must include the name and address of the institution, the amount of funds needed to pay the Qualified higher education expenses and supporting documentation showing the Qualified higher education expenses to be paid. Failure to provide sufficient notice prior to the start of the Academic term in which the funds would be used may result in an untimely payment being made to the institution.

(b) Written Request. Any Withdrawal requests must be made in writing by the Purchaser or through other means acceptable to the Board, including electronic means.

(c) Amount and Timing of Withdrawal. Subject to any limitations on Withdrawals contained in these rules, the Withdrawal amount will equal the amount requested, not to exceed the Redemption value of the Beneficiary's Account at the time the Withdrawal is processed. The Withdrawal amount will be paid within sixty (60) calendar days of receipt by the Board of the request required by subparagraph (2)(b).

(d) Withdrawals for Qualified Higher Education Expenses. The Purchaser may use either Purchaser contributions or the Matching contributions to pay for Qualified higher education expenses by directing payment to the Purchaser, the Beneficiary or an Eligible educational institution as an advance payment or as reimbursement for Qualified higher education expenses. Third party documentation to substantiate the request shall not be required unless otherwise provided for in § 529 of the Internal Revenue Code or the regulations promulgated thereunder.

(e) Withdrawals for Non-Qualified Higher Education Expenses. The Purchaser may only use Purchaser contributions, and not Matching contributions, to pay for non-Qualified higher education expenses, provided that the Purchaser contributions have been on deposit in the Account for at least fifteen (15) calendar days and provided that there is at least one hundred dollars ($100.00) remaining in the Account from Purchaser contributions once the Withdrawal is made. Such a Withdrawal may be made without causing termination of the Contract and without requiring the Purchaser to establish that the Withdrawal of the Purchaser contributions will be used for Qualified higher education expenses. The earnings portion of Withdrawals made for non-Qualified higher education expenses could be subject to federal taxation as prescribed under the sections of the Internal Revenue Code and the regulations promulgated thereunder that are applicable to the program.

(f) Scholarship Refund. If a Beneficiary is the recipient of a scholarship, allowance or payment described in § 25A(g)(2) of the Internal Revenue Code that the Board determines cannot be converted into money by the Beneficiary, the Purchaser may request a Withdrawal of all or a portion of the Purchaser contributions; however, the Matching contributions will be refunded back to the Board. The Purchaser must furnish information about the scholarship, allowance or payment to the Board. If the scholarship, allowance or payment has a duration that extends beyond one (1) Academic term, the Purchaser may request a refund in advance of the scholarship payment. The amount of the refund payable to the Purchaser will be equal to the Redemption value of the Account that is not needed to cover the future Qualified higher education expenses on account of the scholarship, allowance or payment minus any applicable fee(s) charged by the Board and the Matching contributions.

(g) Contract Termination and Refund. Except as provided in subparagraph (2)(c) of this rule, a Contract may not be terminated by a Purchaser for any reason except one (1) of the following circumstances: (i) the Beneficiary has died or suffers from a Permanent disability; (ii) the Beneficiary is age eighteen (18) or older and has decided not to attend an Eligible educational institution; (iii) the Beneficiary has completed the requirements for a degree that is less than a bachelor's degree at an Eligible educational institution and the Beneficiary does not plan to pursue further education; (iv) the Beneficiary has completed the bachelor's degree requirements at an Eligible educational institution; or (v) the Redemption value of the Account equals one hundred dollars ($100.00) or less and no contributions have been deposited to the Account for a period of at least fifteen (15) consecutive days. The Contract termination request must be accompanied by documentation acceptable to the Board to substantiate the reason for the Contract termination. In the event that a Contract is terminated due to the Permanent disability or death of the Beneficiary, the amount of the refund paid to the Purchaser shall be equal to the Redemption value of the Account at the time the refund is made minus the Matching contributions, which will revert back to the Board. In the event that the Contract is terminated under any of the conditions described in items (ii) – (v) above, the amount of

the refund paid to the Purchaser shall be equal to the Redemption value of the Account at the time the refund is made minus the Matching contributions and any applicable fee charged by the Board. The actual termination of the Contract will not occur until all funds in the Account have been refunded.

(h) Rollovers Out of the Program. The Purchaser may rollover all or a portion of the Purchaser contributions in the Account to an account established for another Beneficiary under the qualified tuition program established under § 529 of the Internal Revenue Code by making a rollover request to the Board on such forms as may be prescribed by the Board. If the rollover is for the benefit of another Beneficiary, the Beneficiary to whose Account the funds are being transferred must be a Member of the family of the original Beneficiary. Any rollover under this Rule shall be administered in accordance with the applicable rollover provisions of the Internal Revenue Code. Any rollover made under this paragraph shall be equal to the amount requested, not to exceed the Redemption value of the Account plus Matching contributions, but minus any applicable fees charged by the Board. The Redemption value of the Account shall be determined as of the date the rollover is made. The rollover of the Matching contributions shall be subject to the limitations contained in Rule 1700-05-03-.06.

Authority: Chapter 359 of the 2013 Public Acts codified in T.C.A. § 49-7-808(d), § 49-7-805, § 49-7-811, § 49-7-812 and § 65-5-113(c).

Paragraph (1) of Rule 1700-05-03-.09 No Guarantee of a Matching Contribution is amended by adding the language "the Matching grant incentive program," after the language "the Board," and before the word "nor".

Authority: Chapter 359 of the 2013 Public Acts codified in T.C.A. § 49-7-808(d), § 49-7-805 and § 65-5-113(c).

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
David H. Lillard, Jr.	x				
Justin Wilson	x				
Tre Hargett	x				
Richard Rhoda	x				
Larry Martin	x				
John Morgan	x				
Joseph DiPietro	x				
Peter Abernathy	x				
Betty Sue McGarvey				x	

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Board of Trustees of the Baccalaureate Education System Trust Fund Program on 12/19/13 (*date as mm/dd/yyyy*), and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date: 2/28/14

Signature: Alison G. Cleaves

Name of Officer: Alison G. Cleaves

Title of Officer: Assistant General Counsel

DELONIA C. COSTA STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON COUNTY

Subscribed and sworn to before me on: 2-28-2014

Notary Public Signature: Delonia C. Costa

My commission expires on: 10-18-2016

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

R E Cooper Jr

Robert E. Cooper, Jr.
Attorney General and Reporter

4-8-14
Date

Department of State Use Only

Filed with the Department of State on: 4/11/14

Effective on: 9/28/14

Tre Hargett
Secretary of State

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Regulatory Flexibility Addendum
Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

Not applicable.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://state.tn.us/sos/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

It is not anticipated that the rule amendments will impact local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The proposed rules establish a matching grant incentive program for low income households to receive a matching money contribution from the Board when an individual from that household establishes an eligible college savings plan account or § 529 college savings account with the Board of Trustees of the Baccalaureate Education System Trust Fund Program ("Board").

The amendments to Rule 1700-05-03-.01 In General establish defined terms that are used in the rules and also add defined terms to the proposed rules that are already contained in Chapter 1700-05-04 Educational Savings Plan for the establishment of the § 529 college savings account so that the defined terms are consistent.

The amendments to Rule 1700-05-03-.02 Eligibility Requirements establish the eligibility requirements for the matching grant incentive program, which are to establish a §529 college savings account and to meet the income limits established by the Board in order to receive the matching grant amount. Housekeeping changes were also made to this rule for clarity and conciseness.

The amendments to Rule 1700-05-03-.03 Application for Matching Contribution establish the types of income documentation that a purchaser of a § 529 college savings account would need to provide in order to participate in the matching grant incentive program, and specifies that applications to participate in the matching grant incentive program will be processed on a first come, first serve basis.

The amendments to Rule 1700-05-03-.04 Rejection of Application or Forfeiture of Matching Contribution clarify that should a purchaser fail to meet the eligibility requirements for the matching grant incentive program, the purchaser's application for participation will be rejected.

The amendments to Rule 1700-05-03-.05 Ineligible Individuals provide that for the first fiscal year in which the matching grant incentive program is in operation, neither a Tennessee Department of Treasury employee nor Board members (or the immediate family member(s) of the employees or Board members) may participate in the matching grant incentive program.

The amendments to Rule 1700-05-03-.06 Single Beneficiaries with Multiple Accounts establish limitations on the number of beneficiaries that may be named on a single account and the number of accounts that may be established in a single beneficiary's name. The amendments also address changes in beneficiary and purchaser names on § 529 college savings accounts.

The amendments to Rule 1700-05-03-.07 Amount of Minimum and Matching Contribution establish the minimum and maximum amount of purchaser and matching grant contributions, such that the minimum purchaser contribution shall be twenty-five dollars ($25.00) and the matching contribution shall be four (4) times the minimum contribution, up to a maximum matching contribution of five hundred dollars ($500.00).

The amendments to Rule 1700-05-03-.08 Deposit and Ownership of Matching Contributions establish how contributions and withdrawals may be made, which are consistent with contributions and withdrawals for the eligible college savings program or § 529 college savings account.

The amendment to Rule 1700-05-03-.09 No Guaranty of Matching Contribution clarifies that individuals who participate in the matching grant incentive program are not guaranteed a matching contribution and that matching contribution amounts are available subject to appropriations made by the General Assembly.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Chapter 359 of the 2013 Public Chapters codified in Tenn. Code Ann. § 65-5-113(c) and § 49-7-808(d).

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The persons or entities most directly affected by this rule are those that wish to or have already opened an eligible college savings plan account or § 529 college savings account and who qualify for a matching grant contribution from the Board based on income eligibility.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

To the best of the Board's knowledge, there are no Attorney General opinions or any judicial ruling that directly relates to these rules.

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

It is anticipated that there will not be an increase or decrease in State revenues or expenditures because the money used to fund the matching grant incentive program will come from the Small and Minority-Owned Business Program pursuant to Chapter 359 of the 2013 Public Chapters, codified in Tenn. Code Ann. § 65-5-113(c) and § 49-7-808(d).

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

LaKesha Page; Board Administrator, Board of Trustees of the Baccalaureate Education System Trust Fund Program; Department of Treasury; 502 Deaderick Street, Andrew Jackson Building, 15th Floor; Nashville, Tennessee 37243 and Alison Cleaves, Assistant General Counsel; Department of Treasury; 502 Deaderick Street, Andrew Jackson Building, 13th Floor; Nashville, Tennessee 37243.

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

LaKesha Page; Board Administrator, Board of Trustees of the Baccalaureate Education System Trust Fund Program; Department of Treasury; 502 Deaderick Street, Andrew Jackson Building, 15th Floor; Nashville, Tennessee 37243 and Alison Cleaves, Assistant General Counsel; Department of Treasury; 502 Deaderick Street, Andrew Jackson Building, 13th Floor; Nashville, Tennessee 37243.

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

LaKesha Page; Board Administrator, Board of Trustees of the Baccalaureate Education System Trust Fund Program; Department of Treasury; 502 Deaderick Street, Andrew Jackson Building, 15th Floor; Nashville, Tennessee 37243 and Alison Cleaves, Assistant General Counsel; Department of Treasury; 502 Deaderick Street, Andrew Jackson Building, 13th Floor; Nashville, Tennessee 37243.

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

Any additional information requested by committee relevant to the proposed rules will be provided promptly upon request.

(Rule 1700-05-03-.1 continued)

RULE
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THE TREASURY DEPARTMENT
BACCALAUREATE EDUCATION SYSTEM
TRUST

CHAPTER 1700-05-03
COLLEGE SAVINGS INCENTIVE PLAN

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1700-05-03-.01 IN GENERAL.

(1) Purpose. ~~Chapter 884 of the Tennessee Public Acts of 2010 authorized the Board of Trustees of the Baccalaureate Education System Trust Program to establish, or contract for the establishment of, an incentive plan or plans to encourage Tennessee residents to participate in any college savings program established pursuant to § 529 of the Internal Revenue Code with which the Board has contracted to provide similar benefits for Tennessee residents, or in any § 529 college savings program established by the state of Tennessee.~~ The purpose of these rules is to establish ~~the amount, terms and conditions of the incentive plan, including the requirements for participation and administration of the plan, as required by and consistent with the Act.~~and implement the college savings incentive plan or plans for the benefit of low-income individuals using funds from the Small and Minority-Owned Business Assistance Program pursuant to Chapter 359 of the 2013 Public Acts. The public act authorizes~~d~~ the Board of Trustees of the Baccalaureate Education System Trust Fund Program to promulgate rules relative to the implementation and administration of incentive plan or plans.

(2) Definitions. For purposes of these rules:

(a) "Academic term" means the school segment consisting of a single semester, quarter, term or equivalent.

~~(a)~~(b) "Account" means the record that contains the amount of contributions maintained on behalf of a Beneficiary under a Contract, plus the earnings or losses incurred thereon, including any ~~W~~withdrawals made from the Account.

~~(b)~~(c) "Beneficiary" means an individual designated under a Contract as the individual entitled to apply contributions and earnings accrued under the Contract ~~to the payment of that individual's undergraduate, graduate and professional Tuition and Other educational costs as such terms are defined in Rules 1700-5-1-.01(2)(v) and1700-5-1-.01(2)(m), respectively, of the Official Compilation of the Rules and Regulations of the State of Tennessee.~~as well as Matching contributions to the payment of that individual's undergraduate, graduate and professional Qualified higher education expenses as defined in this chapter.

~~(c)~~(d) "Board" has the same meaning as given in T.C.A. § 49-7-802(2).

~~(d)~~(e) "Contract" means an Educational savings plan tuition contract entered into ~~by~~ pursuant to T.C.A. § 49-7-808 by the Board and a Purchaser with an Eligible college ~~Savings~~ savings ~~Program~~ program to provide for the payment of ~~Tuition and Other~~

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(Rule 1700-05-03-.2 continued)

~~educational costs.~~Qualified higher education expenses as defined in this chapter.

~~(e)~~(f) "Educational savings plan" means a plan which permits individuals, associations, contributions and trusts to make contributions to an account that is established by a Purchaser for a designated Beneficiary ~~that entitles the Beneficiary to apply such contributions and earnings thereon to the payment of that Beneficiary's Tuition and Other educational costs.~~.

~~(f)~~(g) "~~Eligible~~ Eligible~~educational~~ college savings program" means any college savings program established pursuant to § 529 of the Internal Revenue Code with which the Board has contracted to provide similar benefits for Tennessee residents, or ~~in~~ any § 529 college savings program established by the State of Tennessee, except for the educational services plan established in Chapter 1700-05-01 of the Official Compilation of the Rules and Regulations of the State of Tennessee.

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(h) "Eligible educational institution" means an institution of postsecondary education as defined in § 529 of the Internal Revenue Code.

~~(g)~~(i) "Fiscal year" means the period beginning on July 1 of each year and ending on June 30 next following year.

(j) "Household" means a group of individuals who are related by birth, marriage, or adoption and who share a residence.

(k) "Legally incompetent" means that an individual has been declared incompetent by a court of law. An individual shall not be considered to be Legally incompetent unless proof thereof is furnished in such form and manner as the Board may require.

~~(h)~~(l) "Matching contribution" means the amount that is deposited by the Board into ~~an~~ the Board's ~~Account~~ account for each ~~of a~~ Beneficiary ~~as determined in Rule 1700-05-03-.07 below who satisfies the requirements specified in~~after all eligibility requirements for participation in the Matching grant incentive program have been satisfied pursuant to Rule 1700-05-03-.02.

(m) "Matching grant incentive program" means the educational incentive program established pursuant to T.C.A. § 49-7-808(d) in which matching funds are contributed by the Board to Purchasers on behalf of Beneficiaries based on income levels for the Purchaser's Household and the amount of the Purchaser's contributions for the payment of the Beneficiary's Qualified higher education expenses.

~~(i)~~(n) "Member of the family" means the mother, father or ancestor of either, stepmother, stepfather, siblings of either the mother or father of the Beneficiary, or such other person as may be defined as a "~~member~~ Member of the family" of the Beneficiary under the sections of the Internal Revenue Code ~~which~~ that are applicable to the ~~Eligible~~ eligible college savings program.

~~(j)~~(o) "Minimum contribution" means the amount that must have been contributed to the Account of a Beneficiary during the Qualifying period as determined pursuant to Rule 1700-05-03-.07 ~~below~~ in order to be eligible for the Matching contribution.~~;~~

(p) "Permanent disability" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or is anticipated to last for a continued or indefinite duration. An individual shall not be considered to have a Permanent disability unless proof is furnished of the existence of the disability from a health care professional in such form and manner as the Board may require. The Board must approve any finding of a Permanent disability.

(Rule 1700-05-03-.3 continued)

~~(k)~~(q) "Purchaser" means an individual who enters into a Contract for the creation and deposit of contributions to a savings account on behalf of a Beneficiary, or in the case of the Purchaser's death or legal incompetence, the Purchaser's appointee.

~~(l)~~(r) "Purchaser's appointee" means the person who is named in the Contract by the Purchaser to exercise the rights of the Purchaser under the Contract if the Purchaser dies or becomes ~~legally~~ Legally incompetent.

(s) "Qualified higher education expenses" has the same meaning as given under § 529 of the Internal Revenue Code and the regulations promulgated thereunder.

~~(m)~~(t) "Qualifying period" means the time period as set by the Board each year during which a Purchaser must meet the conditions set forth in these ~~Rules~~ rules in order to be eligible for a Matching contribution, including the time period during which a Purchaser must file an application for the Matching contribution.

(u) "Redemption value" means the current cash value of an Account attributable to the sum of the principal invested through Purchaser contributions and the earnings or losses incurred thereon.

(v) "State" means the State of Tennessee.

~~(n)~~(w) "Tennessee resident" means a person who has a continuous physical presence and maintenance of a dwelling place within the State of Tennessee for at least twelve (12) months immediately prior to entering into a Contract, provided that absence from the State for short periods of time ~~shall~~ may not affect the establishment of a residence. The effect of absences from the State for short periods of time will be determined in a case-by-case basis. A minor child shall be deemed a Tennessee resident if the child's legal guardian~~,~~ or noncustodial parent is a resident of Tennessee. Military or diplomatic personnel whose home of record is Tennessee shall also be deemed Tennessee residents for purposes of these r~~R~~ules.

(x) "Withdrawal" means a disbursement of funds from the Account that is directed by the Purchaser to be paid to the Purchaser or an Eligible educational institution.

Authority: *T.C.A. § § 49-7-805(16), and 49-7-805(4).* ***Administrative History:*** *Original rule filed October 1, 2010; effective March 31, 2011.*

1700-05-03-.02 ELIGIBILITY REQUIREMENTS. ~~To be eligible for a Matching contribution, the following requirements must be met:~~

(1) The Purchaser must file an application for the Matching contribution in accordance with Rule 1700-05-03-.03 ~~below~~ during the applicable Qualifying period~~, as such term is defined in Rule 1700-05-03-.01(2)(m);~~.

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(2) The Purchaser must have an Account with the Eligible college savings program pursuant to the rules contained in Chapter 1700-05-04 Educational Savings Plan for the Beneficiary listed on the application on the date the application is filed with the Board and on the date the Matching contribution is deposited into the Account~~;~~.

(Rule 1700-05-03-.4 continued)

(3) An amount equal to or greater than the Minimum contribution established in Rule 1700-05-03-.07 ~~below~~ must have been contributed to the Account during the Qualifying period~~;~~.

(4) The Purchaser and the Beneficiary of the Account must be Tennessee residents~~, as defined in Rule 1700-05-03-.01(2)(n) above,~~ at the time the application is filed with the Board~~;~~.

(5) The Beneficiary must be less than age twenty-five (25) at the time the application is filed with the Board. ~~; and~~

(6) The Purchaser must be a Member of the family of the Beneficiary ~~as defined in Rule 1700-05-03-.01(2)(i) above.~~.

(7) In addition to the eligibility requirements contained in paragraphs (1) through (6) of this rule, Purchasers who are applying to participate in the Matching grant incentive program ~~in order to receive the Matching contribution~~ are required to meet the income limits established by the Board for the Purchaser's Household in order to receive the matching contribution. In addition, the Purchaser shall not be claimed as a dependent on someone else's income tax return. The Board shall establish the income limits based on income standards that may be amended from time to time, including, but not limited to the following:

(a) Federal poverty guidelines;

(b) Federal poverty thresholds;

(c) Federal Income Eligibility Guidelines for free and reduced meals; and/or

(d) Federal Department of Health and Human Services poverty guidelines.

(8) The Board shall consider factors in determining which standard will be used to establish the income limits for eligibility in the Matching grant incentive program, which include, but are not limited to, any or all of the following:

(a) The amount of fund appropriations;

(b) The number of program Purchasers; and/or

(c) The anticipated participation level in the program.

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Authority: *T.C.A. § § 49-7-805(16), and 49-7-805(4).* ***Administrative History:*** *Original rule filed October 1, 2010; effective March 31, 2011.*

1700-05-03-.03 APPLICATION FOR MATCHING CONTRIBUTION.

(1) A Purchaser must file an application for the Matching contribution on a form as prescribed by the Board. The application must include the following information:

(a) The name and address of the Beneficiary;

(b) The name and address of the Purchaser;

(c) The relationship of the Purchaser to the Beneficiary;

(d) The sex and date of birth of the Beneficiary;

(e) The Purchaser's Household income;~~The income of the Purchaser. Although such information is required, an income test is not a qualification for the Matching contribution;~~

(Rule 1700-05-03-.5 continued)

(f) Authorization from the Purchaser for the Board to verify with the Eligible college savings program that all the requirements set forth in these Rules have been met for purposes of qualifying for the Matching contribution; and

(g) Such other information as the Board may require.

(2) The application must be filed with the Board during the applicable Qualifying period and will be processed on a first come, first serve basis based on the amount of funds appropriated by the Ggeneral Aassembly. ~~as defined in Rule 1700-05-03-.01(2)(m) above.~~

(3) In addition to the application requirements contained in paragraphs (1) and (2) of this rule, a Purchaser who is applying to participate in the Matching grant incentive program and receive the Matching contribution shall provide the Board with the following:

(a) A copy of the federal income tax returns for the Purchaser and for each individual residing in the Purchaser's Household who is required to file an income tax return, for the tax year immediately preceding the year that the Beneficiary account is being established by the Purchaser;

(b) A copy of all W-2, W-4 and 1099 Forms that accompany each tax return in (a);

(c) A statement from the Purchaser or a member of the Purchaser's Household indicating why he/she is not required to file a federal tax return, in the event that the Purchaser or a member of the Purchaser's Household was not required to file a tax return for the tax year preceding the Purchaser's date of application;

(d) Authorizations executed by the Purchaser and the members of the Purchaser's Household allowing the Board to verify the federal adjusted gross income for the Purchaser and all individuals residing in that Household; and

(e) Such other and further documentation required by the Board.

(4) Subsequent to a Purchaser's initial application to participate in the Matching grant incentive program, and for each subsequent Qualifying period, the Purchaser shall reapply to participate in the Matching grant incentive program by submitting an application and providing the information requested in paragraph (3) of this rule to the Board to ensure the Purchaser's continued eligibility to participate in this program. In the event that the Purchaser becomes ineligible to continue participating~~ion~~ in the Matching grant incentive program and to continue receiving the Matching contribution for any Beneficiary accounts, the Purchaser shall be able to continue making contributions to the Purchaser's § 529 college savings account but will not receive the Matching contribution for that year or any other subsequent year that the Purchaser does not qualify.

Authority: *T.C.A. § § 49-7-805(16), and 49-7-805(4).* ***Administrative History:*** *Original rule filed October 1, 2010; effective March 31, 2011.*

1700-05-03-.04 REJECTION OF APPLICATION OR FORFEITURE OF MATCHING CONTRIBUTION.

(1) Rejection of Application. An application for a Matching contribution will be rejected by the Board if any of the following occurs:

(a) The Purchaser fails to provide all the information required in Rule1700-05-03-.03;

(b) The Purchaser fails to meet the eligibility requirements to participate in the Matching grant incentive program as provided in Rule 1700-05-03-.02.~~The requirements for the Matching contribution as set forth in these Rules have not been met;~~

(Rule 1700-05-03-.6 continued)

(c) The Purchaser makes a misrepresentation in the application for the Matching contributions; or

(Rule 1700-05-03-.04, continued)

(d) The requisite Minimum contribution was not made to the Account during the Qualifying period.

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(2) Forfeiture of Matching Contribution. If, at any time, the Board determines that a Purchaser made a misrepresentation in an application for a Matching contribution that resulted in a Matching contribution being made to an Account, the Matching contribution will be forfeited and returned to the Board.

(3) Applications Made in Subsequent Qualifying Periods. Rejection of an application for a Matching contribution shall not preclude the Purchaser from reapplying for a Matching contribution in subsequent Qualifying periods, provided the Purchaser completes a new application and files the same with the Board during the applicable Qualifying period. Notwithstanding this Rule, the Board may, at its discretion, reject any application made by a Purchaser who was found to have made a misrepresentation on an application submitted by the Purchaser in a previous year.

Authority: *T.C.A. § § 49-7-805(16), and 49-7-805(4).* ***Administrative History:*** *Original rule filed October 1, 2010; effective March 31, 2011.*

1700-05-03-.05 INELIGIBLE INDIVIDUALS.

(1) For the first Ffiscal year that the Matching grant incentive program is in operation, the following individuals shall not be eligible to receive Matching contributions as either a Purchaser or a Beneficiary: Tennessee Department of Treasury employees; ~~a~~ members of the Board; or an immediate family member of any of the foregoing.~~For Fiscal year 2011, an employee of the Tennessee Treasury Department, an employee of the Eligible college savings program, a member of the Board, a member of the Eligible college savings program's board or an immediate family member of any of the foregoing shall not be eligible for matching contributions pursuant to these Rules as either a Purchaser or as a Beneficiary.~~ For purposes of this ~~r~~Rule, an "immediate family member" means a parent, spouse, sibling, child, stepchild or grandchild. For each subsequent ~~Fiscal~~ Ffiscal year, the Board shall determine whether the total amount of money available for that ~~Fiscal~~ Ffiscal year will be sufficient to allow the individuals listed in this rule to receive a Matching contribution. ~~to pay the matching contribution to all potential qualified applicants. If the Board makes such a determination, then the provisions of this Rule shall not apply for that Fiscal year.~~

Authority: *T.C.A. § § 49-7-805(16), and 49-7-805(4).* ***Administrative History:*** *Original rule filed October 1, 2010; effective March 31, 2011.*

1700-05-03-.06 Purchasers and Beneficiaries. ~~**SINGLE BENEFICIARIES WITH MULTIPLE ACCOUNTS.**~~

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(1) A Purchaser may only have one (1) Beneficiary on each Account.~~A Beneficiary who has been designated as Beneficiary on multiple Accounts shall only be eligible for one Matching contribution during each Qualifying period.~~

(2) A Purchaser may not have more than one (1) Account in the same Beneficiary's name.~~Any application for a Matching contribution that is rejected due to this requirement or for the failure to meet any other requirement shall not be carried forward to subsequent Qualifying periods. A new application must be completed and filed with the Board during each Qualifying period.~~

(3) A Beneficiary who has been designated as a Beneficiary on more than one (1) Account by two (2) or more different Purchasers shall only be eligible for one (1) Matching Contribution during each Qualifying period and shall not be eligible to receive another Beneficiary's Matching contributions through a change in Beneficiary.

(Rule 1700-05-03-.04, continued)

(4) A Purchaser may request that the Beneficiary for the Purchaser's account may be changed. A Purchaser may only change the Beneficiary on his or her account or accounts one (1) time. A Purchaser may change a beneficiary on an Account or Accounts by submitting the request for a change to the Board on a form prescribed by the Board. The new Beneficiary on an Account or Accounts will receive the Purchaser contributions and the Matching contributions from the accounts that were in a previous Beneficiary's name, unless the new Beneficiary already has an existing account with another Purchaser.

(5) A Purchaser may not remove his or her name from an Account and substitute it with another Purchaser's name; however, a Purchaser's name may be removed from an Account upon the Purchaser's death, divorce or Permanent disability.

Authority: *T.C.A. § § 49-7-805(16), and 49-7-805(4).* ***Administrative History:*** *Original rule filed October 1, 2010; effective March 31, 2011.*

1700-05-03-.07 AMOUNT OF MINIMUM AND MATCHING CONTRIBUTION.

~~(1)~~ For the first Ffiscal year that the Matching grant incentive program is in operation, the Minimum contribution for participation in the Matching grant incentive program made by the Purchaser shall be twenty-five dollars ($25.00), and the Matching contribution shall be four (4) times the Minimum contribution, up to a maximum Matching contribution of five hundred dollars ($500.00). The maximum contribution that can be made by a Purchaser in order to receive the maximum Matching contribution shall be one hundred twenty-five dollars ($125.00); however, the Purchaser is not prohibited from contributing more to his or her Eligible college savings plan Account without the expectation of receiving a higher Matching contribution. For each subsequent year or a portion of the year that the Matching grant incentive program is in operation, ~~either~~ the Board may either set the Minimum and Matching contribution or ~~the Board may~~ delegate the responsibility of establishing the Minimum and Matching contributions to the State Treasurer. The Minimum or Matching contributions may be established or amended at any time, and may be established for any duration of time deemed necessary by either the Board or the State Treasurer. The Matching contribution amount for the Matching grant incentive program shall be determined either by the Board or the State Treasurer based upon the amount appropriated in that year's general appropriations act for the purposes set forth in these Rules.; the number of program Participants, and the anticipated level of participation in the program. ~~For Fiscal year 2011, the Minimum contribution and Matching contribution will each equal fifty dollars ($50.00). For each subsequent Fiscal year, the Board shall set the Minimum contribution and Matching contribution. The Matching contribution amount shall be determined by the Board based upon the amount appropriated in that year's general appropriations act for the purposes set forth in these Rules.~~

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(Rule 1700-05-03-.07, continued)
Authority: *T.C.A. § § 49-7-805(16), and 49-7-805(4).* ***Administrative History:*** *Original rule filed October 1, 2010; effective March 31, 2011.*

1700-05-03-.08 Contributions and Withdrawals.~~**DEPOSIT AND OWNERSHIP OF MATCHING CONTRIBUTIONS.**~~

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(1) Contributions.~~The respective Matching contributions will be direct deposited by the Board into the Accounts of those Beneficiaries whose applications were approved. The Board will initially choose the investment product in which the Matching contributions will be invested. Except in the case of a forfeiture as provided in Rule 1700-05-03-.04(2) above, the Purchaser will thereafter have all ownership of the Matching contributions and the earnings thereon on behalf of the Beneficiary to the same extent as the other contributions credited to the Account. The decision to reallocate among investment options, rollover, disburse, and/or to make any transactions relative to the Matching contributions will be within the discretion of the Purchaser.~~

(a) Purchaser contributions to the Matching grant incentive program shall be made in accordance with Rrule 1700-05-04-.04 by those Purchasers who qualify for participation in the program for a Beneficiary or Beneficiaries. Purchaser contributions will be subject to the limitations established in Rrule 1700-05-04-.04.

(b) Matching contributions shall be made by the Board for each Beneficiary account established by a Purchaser but shall be maintained in an account separate from the account that contains the Purchaser's contributions.

(2) Withdrawals.

(a) Eligibility. Once a Beneficiary has been accepted for enrollment in an Eligible educational institution the Purchaser may begin using funds, including Purchaser contributions and Matching contributions, on deposit in the Account for the payment of Qualified higher education expenses of the Beneficiary by requesting a Withdrawal of funds. Funds shall not be deemed on deposit in the Account until the fifteenth (15th) day following receipt of the respective funds from the Board. If the Purchaser desires the Board to send payment directly to the Eligible educational institution where the Beneficiary is enrolled, the notification must include the name and address of the institution,~~and~~ the amount of funds needed to pay the Qualified higher education expenses and ~~with~~ supporting documentation showing the Qualified higher education expenses to be paid. Failure to provide sufficient notice prior to the start of the Academic term in which the funds would be used may result in an untimely payment being made to the institution.

(b) Written Request. Any Withdrawal requests must be made in writing by the Purchaser or through other means acceptable to the Board, including electronic means.

(c) Amount and Timing of Withdrawal. Subject to any limitations on Wwithdrawals contained in these rules, the Wwithdrawal amount will equal the amount requested, not to exceed the Redemption value of the Beneficiary's Account at the time the Withdrawal is processed. The Withdrawal amount will be paid within sixty (60) calendar days of receipt by the Board of the request required by subparagraph (2)(b).

(d) Withdrawals for Qualified higher education expenses. The Purchaser may use either Purchaser contributions or the Matching contributions to pay for Qualified higher education expenses by directing payment to the Purchaser, the Beneficiary or an Eligible educational institution as an advance payment or as reimbursement for Qualified higher education expenses. Third party documentation to substantiate the request shall not be required unless otherwise provided for in § 529 of the Internal Revenue Code or the regulations promulgated thereunder.

(Rule 1700-05-03-.07, continued)

(e) Withdrawals for Non-Qualified Higher Education Expenses. The Purchaser may only use Purchaser contributions, and not Matching contributions, to pay for non-Qualified higher education expenses, provided that the Purchaser contributions have been on deposit in the Account for at least fifteen (15) calendar days and provided that there is at least one hundred dollars ($100.00) in the Account from Purchaser contributions once the Withdrawal is made. Such a Withdrawal may be made without causing termination of the Contract and without requiring the Purchaser to establish that the Withdrawal of the Purchaser contributions will be used for Qualified higher education expenses. The earnings portion of Withdrawals made for non-Qualified higher education expenses could be subject to federal taxation as prescribed under the sections of the Internal Revenue Code and the regulations promulgated thereunder that are applicable to the Program.

(f) Scholarship Refund. If a Beneficiary is the recipient of a scholarship, allowance or payment described in § 25A(g)(2) of the Internal Revenue Code that the Board determines cannot be converted into money by the Beneficiary, the Purchaser may request a Withdrawal of all or a portion of the Purchaser contributions; however, the Matching contributions will be refunded back to the Board. The Purchaser must furnish information about the scholarship, allowance or payment to the Board. If the scholarship, allowance or payment has a duration that extends beyond one (1) Academic term, the Purchaser may request a refund in advance of the scholarship payment. The amount of the refund payable to the Purchaser will be equal to the Redemption value of the Account that is not needed to cover the future Qualified higher education expenses on account of the scholarship, allowance or payment minus any applicable fee(s) charged by the Board and the Matching contributions.

(g) Contract Termination and Refund. Except as provided in subparagraph (2)(c) of this rule, a Contract may not be terminated by a Purchaser for any reason except one (1) of the following circumstances: (i) the Beneficiary has died or suffers from a Permanent disability; (ii) the Beneficiary is age eighteen (18) or older and has decided not to attend an Eligible educational institution; (iii) the Beneficiary has completed the requirements for a degree that is less than a bachelor's degree at an Eligible educational institution and the Beneficiary does not plan to pursue further education; (iv) the Beneficiary has completed the bachelor's degree requirements at an Eligible educational institution; or (v) the Redemption value of the Account equals one hundred dollars ($100.00) or less and no contributions have been deposited to the Account for a period of at least fifteen (15) consecutive days. The Contract termination request must be accompanied by documentation acceptable to the Board to substantiate the reason for the Contract termination. In the event that a Contract is terminated due to the Permanent disability or death of the Beneficiary, the amount of the refund paid to the Purchaser shall be equal to the Redemption value of the Account at the time the refund is made minus the Matching contributions, which will revert back to the Board. In the event that the Contract is terminated under any of the conditions described in items (ii) – (v) above, the amount of the refund paid to the Purchaser shall be equal to the Redemption value of the Account at the time the refund is made minus the Matching contributions and any applicable fee charged by the Board. The actual termination of the Contract will not occur until all funds in the Account have been refunded.

(e) Rollovers out of the Program. The Purchaser may rollover all or a portion of the Purchaser contributions in the Account to an account established for another Beneficiary under the qualified tuition program established under § 529 of the Internal Revenue Code by making a rollover request to the Board on such forms as may be prescribed by the Board. If the rollover is for the benefit of another Beneficiary, the Beneficiary to whose Account the funds are being transferred must be a Member of the family of the original Beneficiary. Any rollover under this Rule shall be administered in accordance with the applicable rollover provisions of the

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Internal Revenue Code. Any rollover made under this paragraph shall be equal to the amount requested, not to exceed the Redemption value of the Account plus Matching contributions, but minus any applicable fees charged by the Board. The Redemption value of the Account shall be determined as of the date the rollover is made. The rollover of the Matching contributions shall be subject to the limitations contained in rule 1700-05-03-.06.

Authority: *T.C.A. § § 49-7-805(16), and 49-7-805(4).* ***Administrative History:*** *Original rule filed October 1, 2010; effective March 31, 2011.*

1700-05-03-.09 NO GUARANTEE OF A MATCHING CONTRIBUTION.

(1) Notwithstanding any provision of these Rules to the contrary, neither the State, the Board, the Matching grant incentive program, nor the Eligible college savings program guarantees that any Beneficiary will receive a Matching contribution. The availability or the amount of the Matching contributions authorized by these Rules are subject to the appropriation of funds in each year's general appropriations act for the purposes set forth in these Rules.

Authority: *T.C.A. § § 49-7-805(16), and 49-7-805(4).* ***Administrative History:*** *Original rule filed October 1, 2010; effective March 31, 2011*

1700-05-03-.10 EXTENT OF AVAILABLE FUNDS.

(1) In the event the Board receives more eligible applications for the Matching contribution than the amount of money appropriated by the general assembly during a given Qualifying period, the Board will award the Matching contribution to the first eligible applicants to apply until the available funds have been exhausted.

(2) In the event excess appropriations remain in any given fiscal year after providing the Matching contributions to all eligible applicants, the excess funds will be transferred to the educational services plan established in Chapter 1700-05-01 of the Official Compilation of the Rules and Regulations of the State of Tennessee, unless the general assembly otherwise directs.

Authority: *T.C.A. § § 49-7-805(16), and 49-7-805(4).* ***Administrative History:*** *Original rule filed October 1, 2010; effective March 31, 2011.*