

CHAPTER 19B-16 FLORIDA COLLEGE SAVINGS PROGRAM

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19B-16.001 Application of Rule Chapter; Definitions.

(1) These rules apply to participants in the Florida College Savings Program (the “Florida College Investment Plan”), a qualified tuition program that allows persons to make contributions to a trust account established for the purpose of meeting some or all of the qualified higher education expenses of a designated beneficiary.

(2) For the purposes of the Florida College Savings Program and Rule Chapter 19B-16, F.A.C.:

(a) “Account” means an account in the program established pursuant to a participation agreement.

(b) “Account balance” means the amount remaining in an account, including all contributions to the account, investment gains or losses, after deduction of any applicable fees authorized in Rule 19B-16.012, F.A.C.

(c) “Application” means the Florida Prepaid College Plan and Florida College Investment Plan New Account Application and the Florida College Investment Plan Add-On Application, adopted pursuant to Rule 19B-16.002, F.A.C.

(d) “Automatic contribution plan” means a method of making contributions to an account in the Program whereby funds are automatically withdrawn from a benefactor’s bank account on a pre-scheduled, recurring basis.

(e) “Benefactor” means the person who is designated on the application as the account owner, unless the benefactor was subsequently changed pursuant to Rule 19B-16.006, F.A.C. The benefactor is the owner of the account established for the designated beneficiary named in the application.

(f) “Board” means the Florida Prepaid College Board.

(g) “Contingent benefactor” means a person designated on the application as the survivor, unless the benefactor has subsequently changed the contingent benefactor pursuant to Rule 19B-16.008, F.A.C. The contingent benefactor enjoys only the rights set forth in Rule 19B-16.008, F.A.C.

(h) “Custodial capacity” means an account where the benefactor acts in a representative capacity pursuant to a court order appointing a guardian, pursuant to the Uniform Transfers to Minors Act or pursuant to the Uniform Gifts to Minors Act.

(i) “Designated beneficiary” means the same as that term is defined in s. 529 of the Internal Revenue Code and is the person designated on the application as the beneficiary, unless the benefactor changed the designated beneficiary pursuant to Rule 19B-16.007, F.A.C.

(j) “Eligible educational institution” means the same as that term is defined in s. 529 of the Internal Revenue Code.

(k) “Internal Revenue Code” means the same as that term is defined in Section 1009.97(3)(l), F.S.

(l) “Investment options” means the investment options available to benefactors that are described in the Comprehensive Investment Plan for the Program adopted by the Board and approved by the State Board of Administration, pursuant to Section 1009.973, F.S.

(m) “Member of the family” means the same as that term is defined in s. 529 of the Internal Revenue Code.

(n) “Participation agreement” means the contract between a benefactor and the Board.

(o) “Person” means the same as the term “person,” as used in s. 529 of the Internal Revenue Code.

(p) “Program” means the Florida College Savings Program (the “Florida College Investment Plan”).

(q) “Qualified higher education expenses” means the same as that term is defined in s. 529 of the Internal Revenue Code.

(r) “Qualified tuition program” means the same as that term is defined in s. 529 of the Internal Revenue Code.

(s) “Rollover distribution” means the transfers described in Rule 19B-16.009, F.A.C. Rollover distributions into the Program must be made by check, money order or electronic funds transfer.

Rulemaking Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.981 FS. History—New 5-30-02, Amended 11-27-02.

19B-16.002 Application for Participation in the Program.

(1) Any person may apply for participation in the Program by submitting a completed Florida Prepaid College Plan and Florida College Investment Plan New Account Application, along with an initial contribution to the Program that meets the requirements of Rule 19B-16.004, F.A.C. Benefactors and designated beneficiaries do not have to be residents of the State of Florida. Any natural person named as the benefactor or contingent benefactor in a completed application must have reached the age of majority and must be a citizen or resident alien of the United States with a valid social security number. Any person named as the beneficiary in a completed application must be a citizen or resident alien of the United States with a valid social security number.

(2) The Florida Prepaid College Plan and Florida College Investment Plan New Account Application, Form No. FPCB 2012-01, <http://www.flrules.org/Gateway/reference.asp?No=Ref-00771>, is hereby incorporated by reference. The form may be obtained from the Board by calling (800)552-GRAD (4723) (prompt 1).

(3) Only one (1) benefactor, one (1) co-benefactor and one (1) designated beneficiary can be named on an application, except that scholarship accounts may be established for the benefit of one (1) or more beneficiaries identified in the future. A benefactor may submit applications for more than one (1) designated beneficiary. More than one (1) benefactor may submit an application for the same designated beneficiary.

Rulemaking Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.981 FS. History--New 11-27-02, Amended 1-29-04, 12-28-04, 6-2-05, 12-20-05, 1-1-07, 11-27-07, 11-18-08, 1-28-09, 4-5-09, 10-26-09, 10-18-10, 12-5-11.

19B-16.003 Participation Agreement.

(1) The contract between the Board and a benefactor shall consist of the benefactor's completed application and the participation agreement. The Florida College Investment Plan Participation Agreement, Form No. FPCB 2010-4, is hereby incorporated by reference. The form may be obtained from the Board by calling 1(800)552-GRAD (4723) (prompt 1).

(2) Except when a participation agreement is established by a benefactor functioning in a custodial capacity, a benefactor, or any successor benefactor, retains ownership of all funds in his or her account, except for those funds actually distributed from the account, on behalf of a designated beneficiary.

(3) The benefactor may at any time increase or decrease contributions to the Program for the designated beneficiary.

(4) A participation agreement shall remain in effect until terminated pursuant to Rule 19B-16.010, F.A.C.

Rulemaking Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.981(2) FS. History--New 11-27-02, Amended 12-28-04, 6-2-05, 7-13-06, 12-4-07, 5-29-08, 6-3-09, 6-22-10.

19B-16.004 Payment and Minimum Contributions.

(1) Contributions to an account may be made by checks, money orders, rollover distributions, electronic funds transfers, automatic contribution plan or employer payroll deductions. Contributions may not be made by credit cards or other means of credit, third party checks of \$10,000.00 or more, or traveler's checks.

(2) A benefactor, a contingent benefactor and a designated beneficiary shall not direct the investment of any contributions or amounts held in the Program.

(3) The benefactor must select one or more investment options for the funds contributed to an account on the application. A benefactor may change the selection of the investment options that will apply to future contributions to an account at any time. A benefactor may transfer all or any portion of the funds invested in one investment option or options to another investment option or investment options, to the extent permitted under s. 529 of the Internal Revenue Code.

(4) To establish an account, a benefactor must submit, together with the completed application, one of the following:

(a) A deposit of not less than two-hundred fifty dollars (\$250.00); or

(b) An authorization for a payroll deduction or automatic contribution plan in an amount not less than twenty-five dollars (\$25.00) per month.

(5) A benefactor may make a contribution to the account at any time.

Rulemaking Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.981 FS. History—New 5-30-02, Amended 11-27-02, 12-28-03, 4-21-05, 1-28-09.

19B-16.005 Maximum Account Balance Limit.

(1) The maximum account balance limit shall be determined annually by the Board. The maximum account balance limit shall be calculated by multiplying the qualified higher education expenses, including tuition fees, room and board, and supplies, at the most expensive eligible educational institution, by seven (7), and rounding the resulting product downward to the nearest \$1,000.00 increment. In determining the qualified higher education expenses at the most expensive eligible educational institution, the Board will consult the figures compiled by the College Board and published in the annual College Handbook which is found at the College Board's website at <http://store.collegeboard.com>. The maximum account balance limit shall not exceed the amount permitted pursuant to s. 529 of the Internal Revenue Code. The Board will publish the amount of the maximum account balance limit annually in the Florida Administrative Weekly. The account balance for a designated beneficiary plus the redemption value of an advance payment contract under the Florida Prepaid College Plan for the same beneficiary shall not exceed the account balance limit. However, accounts for a designated beneficiary that have reached the maximum account balance limit may continue to accrue investment earnings. The redemption value of an advance payment contract shall be as provided in subsection 19B-4.005(2), F.A.C.

(2) If the Board receives contributions for a designated beneficiary and the sum of the new contribution, the account balance for that designated beneficiary, and the redemption value of any advance payment contract under the Florida Prepaid College Plan for that beneficiary exceeds the maximum account balance limit, the Board shall return the excess to the person making the contribution.

Rulemaking Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.98, 1009.981 FS. History—New 5-30-02, Amended 11-27-02, 12-28-03, 7-13-06, 7-9-08.

19B-16.006 Change of Benefactor.

(1) The ownership of a participation agreement may be transferred to another person at any time, subject to any applicable

limitations associated with the benefactor functioning in a custodial capacity. To complete a change of ownership, the benefactor must submit to the Board a notarized, written request to transfer the ownership of the participation agreement to a person who has achieved the age of majority together with an application executed by the person to whom the participation agreement is to be transferred. If the account was established on or after February 1, 2009, such request also must include the notarized signature of the contingent benefactor.

(2) Upon the death of the benefactor, if the benefactor has named a contingent benefactor, the contingent benefactor shall become the benefactor if the Board receives a certified copy of the death certificate of the deceased benefactor and a completed application signed by the contingent benefactor.

(3) A change in the benefactor of an account may also be effected by a court order or if no contingent benefactor has been designated by the notarized, written request from the personal representative of the benefactor's estate accompanied by a certified copy of the death certificate of the benefactor and letters of administration issued to the personal representative. In either case, the successor benefactor must submit to the Board a completed application signed by the successor benefactor.

Rulemaking Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.981 FS. History--New 5-30-02, Amended 1-28-09.

19B-16.007 Change of Designated Beneficiary.

Except when a participation agreement is established by a benefactor functioning in a custodial capacity, the designated beneficiary may be changed to any member of the family of the then-current designated beneficiary, at any time, by submitting a written, notarized request signed by the benefactor directing the Board to change the designated beneficiary for the account. If the account was established on or after February 1, 2009, such request also must include the notarized signature of the contingent benefactor.

Rulemaking Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.981 FS. History--New 5-30-02, Amended 1-28-09.

19B-16.008 Contingent Benefactor.

(1) For accounts established prior to February 1, 2009:

(a) The benefactor may designate a contingent benefactor on the application who will enjoy a right of survivorship in the event of the death of the benefactor and who will become the owner of the account automatically upon the death of the benefactor, subject to any applicable limitations associated with the benefactor functioning in a custodial capacity.

(b) Upon the death of the benefactor, the contingent benefactor shall become the benefactor if the Board receives a certified copy of the death certificate of the deceased benefactor and a completed application signed by the contingent benefactor.

(c) Subject to any applicable limitations associated with the benefactor functioning in a custodial capacity, the benefactor may

change the contingent benefactor at any time without the consent of the contingent benefactor by submitting a written request signed by the benefactor to the Board.

(d) The benefactor may elect to change the rights of a contingent benefactor to be the same as those for accounts established on or after February 1, 2009, by submitting a written request to the Board. The request must contain the notarized signatures of the benefactor and the contingent benefactor. If the benefactor changes the rights enjoyed by the contingent benefactor to those for accounts established on or after February 1, 2009, the change in the contingent benefactor's rights is irrevocable, the provisions of paragraphs 19B-16.008(1)(a), (b) and (c), F.A.C., shall not apply to the account, the provisions of subsection 19B-16.008(2), F.A.C., shall apply to the account, and the account shall be deemed to have been established on or after February 1, 2009.

(2) For accounts established on or after February 1, 2009:

(a) The benefactor may designate a contingent benefactor on the application. When a contingent benefactor is designated, the benefactor and the co-benefactor each will enjoy a right of survivorship in the event of the death of the other and, if the Board receives a certified copy of the death certificate of the deceased benefactor or contingent benefactor, the survivor of them will become the sole owner of the account automatically, subject to any applicable limitations associated with the benefactor functioning in a custodial capacity.

(b) Changes to the benefactor, contingent benefactor and designated beneficiary for a participation agreement, requests for the voluntary termination for a participation agreement and requests for refunds associated with the termination of a participation agreement must be in writing and contain the notarized signatures of the benefactor and the contingent benefactor.

Rulemaking Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.981 FS. History—New 5-30-02, Amended 11-27-02, 1-28-09.

19B-16.009 Rollover Distributions.

Except when functioning in a custodial capacity, a benefactor may make a transfer of funds into an account in the Program or from an account in the Program to the extent permitted by s. 529 of the Internal Revenue Code by submitting a notarized, written request to the Board. For accounts established on or after February 1, 2009, such transfers from an account also must include the notarized signature of the contingent benefactor.

Rulemaking Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.981(3) FS. History—New 5-30-02, Amended 1-28-09.

19B-16.010 Termination and Withdrawal; Distributions.

(1)(a) A benefactor may voluntarily terminate a participation agreement at any time by submitting a written, notarized request to terminate the participation agreement to the Board and receive a refund. For accounts established on or after February 1, 2009, such

requests also must include the notarized signature of the contingent benefactor. Any written request for voluntary termination of a participation agreement shall be processed within thirty (30) days following receipt of the request by the Board. The amount of the refund will be the account balance. The refund shall be paid only to the benefactor.

(b) A benefactor may voluntarily terminate a participation agreement at any time by submitting a written, notarized request for a rollover distribution of the entire Account Balance. For accounts established on or after February 1, 2009, such requests also must include the notarized signature of the contingent benefactor. Any written request for a rollover distribution of the entire Account Balance must indicate the qualified tuition program to which said rollover distribution is to be made and will be processed within thirty (30) days following receipt of the request by the Board.

(c) A participation agreement shall be deemed to have been voluntarily cancelled when the benefactor requests a distribution of all funds in the account so that the account balance is zero. However, the benefactor of an account that has been voluntarily cancelled may reactivate the account and the participation agreement at any time by making a contribution to the account.

(2) Involuntary termination of a participation agreement shall occur:

(a) Upon a determination by the Board that the benefactor has made a material misrepresentation in the application submitted to the Board by the benefactor or in any communication from the benefactor to the Board regarding the Florida College Savings Program. A material misrepresentation includes, but is not limited to, providing an invalid Social Security Number or Taxpayer Identification Number, falsely certifying that the benefactor is a citizen or resident alien of the United States, or providing a false certification that a person is a member of the family of a designated beneficiary.

(b) When a benefactor has failed to provide the Board with all information required to complete the benefactor's application for 120 days after the Board receives the application. The Board will notify the benefactor in writing of any information that is required to complete the application.

(c) When no contributions to or withdrawals from the account have been made for twenty-five (25) calendar years. The Board shall extend such period for ten calendar years if it receives a written request or requests by a benefactor. Any time spent by the designated beneficiary as an active duty member of the armed services of the United States tolls such time periods.

(3) The Board will terminate a benefactor's participation agreement if the balance in the account is less than two hundred fifty dollars (\$250.00) on the first day of any calendar month that is more than twenty-four (24) months following the date on which the Board received the benefactor's application and initial contribution to the Program, unless the Board receives a special petition seeking waiver of this rule pursuant to Rule 19B-12.001 and subsection 19B-12.003(3), F.A.C.

(4) Notwithstanding the provisions of subsection (3), accounts established prior to April 1, 2005, will not be terminated for

failing to comply with the requirements of subsection 19B-16.004(4), F.A.C., until the first day of any calendar month that is more than twenty-seven months following the date on which the Board received the benefactor's application and initial contribution to the Program, unless the Board receives a special petition seeking waiver of this rule pursuant to Rule 19B-12.001 and subsection 19B-12.003(2), F.A.C.

(5) Upon involuntary termination of a participation agreement, the benefactor may obtain a refund of the account balance by submitting a written notarized request signed by the benefactor to the Board. For accounts established on or after February 1, 2009, such requests also must include the notarized signature of the contingent benefactor. Such refund shall be paid to the benefactor.

(6) A benefactor may request a distribution by submitting a written request to the Board. Distributions may be made from an account by any method allowed pursuant to s. 529 of the Internal Revenue Code.

Rulemaking Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.981(3) FS. History—New 5-30-02, Amended 11-27-02, 4-21-05, 1-28-09.

19B-16.011 Unclaimed Refunds.

(1) The Board will mail written notice to the benefactor of a terminated participation agreement when a refund for the account has been available for six (6) years. The notice shall indicate the procedure which must be followed to obtain a refund of the monies held by the Board for said accounts and that if a claim for a refund is not made within seven (7) years of the termination of the account that the funds shall be subject to disposition as provided under Section 1009.981(2)(b)10., F.S. An alphabetical list of the names of the account owners of such accounts shall be posted on the Board's website on the Internet. Any such refund for any account terminated pursuant to Rule 19B-16.010, F.A.C., which remains unclaimed after seven (7) years shall be subject to disposition pursuant to Section 1009.981(2)(b)10., F.S.

(2) The Board shall annually review and approve the list of unclaimed refunds which have remained unclaimed for the periods required under this rule and are subject to disposition pursuant to Section 1009.981(2)(b)10., F.S.

Rulemaking Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.981(4) FS. History—New 5-30-02, Amended 1-1-07, 1-28-09.

19B-16.012 Fee Schedule.

The following fee schedule will apply to all participation agreements, benefactors and designated beneficiaries:

(1) Application Fee –

(a) A fifty dollar (\$50.00) nonrefundable application fee will be collected at the time an application is submitted.

(b) If a benefactor named on an application has a Florida Prepaid College Plan advance payment contract and the qualified beneficiary of that contract is the same as designated beneficiary named on the application for the Program, a thirty dollar (\$30.00)

nonrefundable application fee will be collected at the time the application is submitted.

(c) If an application for both the Florida Prepaid College Plan and the Program is submitted on the same application, an eighty dollar (\$80.00) nonrefundable application fee will be collected at the time the application is submitted.

(2) Insufficient Funds – Benefactors will automatically be assessed a twenty dollar (\$20.00) fee for all payments returned for insufficient funds.

(3) Administration Fee – The Board will annually determine the amount of the administration fee that will apply to all accounts. The amount of the administration fee will be published annually in the Florida Administrative Weekly. The Board will determine the amount of the administration fee based on the total amount invested in the Program by all benefactors, the amounts of the fees that the Board must pay for investment management services, trustee services, records administration services, marketing services, and customer services and the annual budget of the Board, which has been approved by the State Board of Administration. The administration fee will be expressed as a basis point charge against the account balance (a percentage of the account balance). The administration fee will be deducted from each account automatically on a daily basis.

(4) Termination Fee – Benefactors will automatically be assessed a fifty dollar (\$50.00) fee for the termination of any account pursuant to paragraph 19B-16.010(1)(a) or (b) or (2)(a) or (c), F.A.C. The termination fee will not be collected when an account is terminated due to the death or disability of the designated beneficiary or the receipt by the designated beneficiary of a scholarship, provided the Board receives documentation of those circumstances.

Rulemaking Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.971(4)(n), 1009.981 FS. History—New 11-27-02, Amended 4-21-05.