

TITLE 540 INDIANA EDUCATION SAVINGS AUTHORITY

ARTICLE 1. FAMILY COLLEGE SAVINGS TRUST PROGRAM PROCEDURES AND OPERATIONS

Rule 1. Definitions

540 IAC 1-1-1 Applicability

Authority: IC 21-9-4-7

Affected: IC 21-9

Sec. 1. The definitions in this rule apply throughout this article. (*Indiana Education Savings Authority; 540 IAC 1-1-1; filed Sep 9, 1997, 4:45 p.m.: 21 IR 84; readopted filed Oct 6, 2003, 4:00 p.m.: 27 IR 570*)

540 IAC 1-1-2 “Academic period” defined

Authority: IC 21-9-4-7

Affected: IC 21-9

Sec. 2. “Academic period” means one (1) semester, one (1) quarter, or an equivalent period for a vocational institution. (*Indiana Education Savings Authority; 540 IAC 1-1-2; filed Sep 9, 1997, 4:45 p.m.: 21 IR 84; readopted filed Oct 6, 2003, 4:00 p.m.: 27 IR 570*)

540 IAC 1-1-3 “Account” defined

Authority: IC 21-9-4-7

Affected: IC 21-9

Sec. 3. “Account” means a trust account. (*Indiana Education Savings Authority; 540 IAC 1-1-3; filed Sep 9, 1997, 4:45 p.m.: 21 IR 84; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4104*)

540 IAC 1-1-4 “Account owner” defined

Authority: IC 21-9-4-7

Affected: IC 21-9; IC 30-2-8.5

Sec. 4. “Account owner” means any:

- (1) individual;
- (2) emancipated minor;
- (3) trust;
- (4) estate;
- (5) partnership;
- (6) association;
- (7) company;
- (8) corporation; or
- (9) qualified custodian under the Uniform Transfers to Minors Act (IC 30-2-8.5);

that is designated at the time an account is opened as having the right to select or change a beneficiary, designate a person to whom funds may be distributed from an account, and withdraw funds from the account before the account is disbursed to or for the benefit of a beneficiary. (*Indiana Education Savings Authority; 540 IAC 1-1-4; filed Sep 9, 1997, 4:45 p.m.: 21 IR 85; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4104*)

540 IAC 1-1-5 “Administrative account” defined

Authority: IC 21-9-4-7

Affected: IC 21-9-5

Sec. 5. “Administrative account” means the administrative account of the trust fund established under IC 21-9-5. (*Indiana*

Education Savings Authority; 540 IAC 1-1-5; filed Sep 9, 1997, 4:45 p.m.: 21 IR 85; readopted filed Oct 6, 2003, 4:00 p.m.: 27 IR 570)

540 IAC 1-1-6 “Administrative fee” defined

Authority: IC 21-9-4-7

Affected: IC 4-22-2; IC 21-9

Sec. 6. “Administrative fee” means the fee as determined and published by the board from time to time pursuant to IC 21-9-4-7. *(Indiana Education Savings Authority; 540 IAC 1-1-6; filed Sep 9, 1997, 4:45 p.m.: 21 IR 85; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4104)*

540 IAC 1-1-7 “Administrator fee” defined

Authority: IC 21-9-4-7

Affected: IC 21-9

Sec. 7. “Administrator fee” means the annual fee charged by the program administrator, as approved and published by the board from time to time pursuant to IC 21-9-4-7. *(Indiana Education Savings Authority; 540 IAC 1-1-7; filed Sep 9, 1997, 4:45 p.m.: 21 IR 85; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4104)*

540 IAC 1-1-7.5 “Adoption agreement” defined

Authority: IC 21-9-4-7

Affected: IC 21-9

Sec. 7.5. “Adoption agreement” means the enrollment form contract or account application contract promulgated by the board from time to time. *(Indiana Education Savings Authority; 540 IAC 1-1-7.5; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4105)*

540 IAC 1-1-8 “Authority” defined

Authority: IC 21-9-4-7

Affected: IC 21-9

Sec. 8. “Authority” means the Indiana education savings authority. *(Indiana Education Savings Authority; 540 IAC 1-1-8; filed Sep 9, 1997, 4:45 p.m.: 21 IR 85; readopted filed Oct 6, 2003, 4:00 p.m.: 27 IR 570)*

540 IAC 1-1-9 “Beneficiary” defined

Authority: IC 21-9-4-7

Affected: IC 21-9

Sec. 9. “Beneficiary” means the individual designated as the beneficiary of the account at the time the account is established or as a new beneficiary when beneficiaries are changed. *(Indiana Education Savings Authority; 540 IAC 1-1-9; filed Sep 9, 1997, 4:45 p.m.: 21 IR 85; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4105)*

540 IAC 1-1-10 “Board” defined

Authority: IC 21-9-4-7

Affected: IC 21-9-4

Sec. 10. “Board” means the board of directors of the authority established under IC 21-9-4. *(Indiana Education Savings Authority; 540 IAC 1-1-10; filed Sep 9, 1997, 4:45 p.m.: 21 IR 85; readopted filed Oct 6, 2003, 4:00 p.m.: 27 IR 570)*

540 IAC 1-1-10.5 “Contributor” defined

Authority: IC 21-9-4-7

Affected: IC 21-9; IC 30-2-8.5

Sec. 10.5. “Contributor” means any:

- (1) individual;
- (2) emancipated minor;
- (3) trust;
- (4) estate;
- (5) partnership;
- (6) association;
- (7) company;
- (8) corporation; or
- (9) qualified custodian under the Uniform Transfers to Minors Act (IC 30-2-8.5);

that may make deposits for the benefit of an account beneficiary. (*Indiana Education Savings Authority; 540 IAC 1-1-10.5; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4105*)

540 IAC 1-1-11 “Eligible educational institution” defined

Authority: IC 21-9-4-7

Affected: IC 21-9; 26 U.S.C. 529, as effective 1986

Sec. 11. “Eligible educational institution” has the meaning as set forth in the Internal Revenue Code of 1986, as defined in section 11.5 of this rule, subject to limitations applicable under IC 21-9. (*Indiana Education Savings Authority; 540 IAC 1-1-11; filed Sep 9, 1997, 4:45 p.m.: 21 IR 85; filed Apr 1, 1998, 10:55 a.m.: 21 IR 2821; readopted filed Aug 26, 2004, 2:00 p.m.: 28 IR 324*)

540 IAC 1-1-11.5 “Internal Revenue Code” defined

Authority: IC 21-9-4-7

Affected: IC 21-9

Sec. 11.5. “Internal Revenue Code” means the Internal Revenue Code of 1986, as amended and effective April 4, 2002 (26 U.S.C. 1, et seq.). (*Indiana Education Savings Authority; 540 IAC 1-1-11.5; filed Apr 1, 1998, 10:55 a.m.: 21 IR 2821; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4105*)

540 IAC 1-1-11.6 “Member of the family” defined

Authority: IC 21-9-4-7

Affected: IC 21-9

Sec. 11.6. “Member of the family” has the meaning as set forth in 26 U.S.C. 529*.

*26 U.S.C. 529 is hereby incorporated by reference. Copies of 26 U.S.C. 529 may be obtained from the United States Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20402 and at <http://www.access.gpo.gov/uscode/title26/title26.html>. (*Indiana Education Savings Authority; 540 IAC 1-1-11.6; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4105*)

540 IAC 1-1-12 “Nonqualified distribution” defined

Authority: IC 21-9-4-7

Affected: IC 21-9

Sec. 12. “Nonqualified distribution” means any refund from earnings on an account that is not:

- (1) used for qualified higher education expenses of the designated beneficiary;

- (2) made on account of the death or disability of the designated beneficiary;
- (3) made on account of a scholarship (or allowance or payment described in 26 U.S.C. 135(d)(1)(B) or 26 U.S.C. 135(d)(1)(G)) received by a designated beneficiary, but only to the extent of the amount of the scholarship (or allowance or payment described in 26 U.S.C. 135(d)(1)(B) or 26 U.S.C. 135(d)(1)(G))*; or
- (4) made on account of a rollover.

*26 U.S.C. 135 is hereby incorporated by reference. Copies of 26 U.S.C. 135 may be obtained from the United States Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20402 at <http://www.access.gpo.gov/uscode/title26/title26.html>. (*Indiana Education Savings Authority; 540 IAC 1-1-12; filed Sep 9, 1997, 4:45 p.m.: 21 IR 85; errata filed Nov 20, 1997, 3:15 p.m.: 21 IR 1350; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4105*)

540 IAC 1-1-13 “Penalty” defined

Authority: IC 21-9-4-7
Affected: IC 21-9

Sec. 13. “Penalty” has the meaning set forth in 26 U.S.C. 529. (*Indiana Education Savings Authority; 540 IAC 1-1-13; filed Sep 9, 1997, 4:45 p.m.: 21 IR 85; filed Apr 1, 1998, 10:55 a.m.: 21 IR 2822; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4105*)

540 IAC 1-1-14 “Program” defined

Authority: IC 21-9-4-7
Affected: IC 21-9-3

Sec. 14. “Program” means any plan or program established and operated by the authority pursuant to and in accordance with 26 U.S.C. 529 and IC 21-9-3. (*Indiana Education Savings Authority; 540 IAC 1-1-14; filed Sep 9, 1997, 4:45 p.m.: 21 IR 86; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4106*)

540 IAC 1-1-15 “Program administrator” defined

Authority: IC 21-9-4-7
Affected: IC 21-9

Sec. 15. “Program administrator” shall be the entity chosen by the authority to administer the program under this article, a contract entered into with such entity, and the directions and policies of the board. (*Indiana Education Savings Authority; 540 IAC 1-1-15; filed Sep 9, 1997, 4:45 p.m.: 21 IR 86; readopted filed Oct 6, 2003, 4:00 p.m.: 27 IR 570*)

540 IAC 1-1-16 “Qualified higher education expenses” defined

Authority: IC 21-9-4-7
Affected: IC 21-9

Sec. 16. “Qualified higher education expenses” has the meaning set forth in 26 U.S.C. 529. (*Indiana Education Savings Authority; 540 IAC 1-1-16; filed Sep 9, 1997, 4:45 p.m.: 21 IR 86; filed Apr 1, 1998, 10:55 a.m.: 21 IR 2822; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4106*)

540 IAC 1-1-16.5 “Rollover” defined

Authority: IC 21-9-4-7
Affected: IC 21-9

Sec. 16.5. “Rollover” means any distribution that, within sixty (60) days of such distribution, is transferred:

- (1) under the program to another account established for such designated beneficiary under 26 U.S.C. 529 that is subject to the law of another jurisdiction provided that such distribution or transfer does not occur within twelve (12) months from the date of any previous distribution or transfer to any account established under 26 U.S.C. 529 for the benefit of such designated beneficiary; or

(2) to the account of another beneficiary who is a member of the family of the designated beneficiary provided that the account of the other beneficiary is part of the program or subject to the law of another jurisdiction and 26 U.S.C. 529. (*Indiana Education Savings Authority; 540 IAC 1-1-16.5; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4106*)

540 IAC 1-1-17 “Scholarship” defined

Authority: IC 21-9-4-7

Affected: IC 21-9; 26 U.S.C. 117, as effective 1986; 26 U.S.C. 529(b)(3)(C), as effective 1986

Sec. 17. “Scholarship” has the meaning as set forth in the Internal Revenue Code of 1986, as defined in section 11.5 of this rule. (*Indiana Education Savings Authority; 540 IAC 1-1-17; filed Sep 9, 1997, 4:45 p.m.: 21 IR 86; filed Apr 1, 1998, 10:55 a.m.: 21 IR 2822; readopted filed Aug 26, 2004, 2:00 p.m.: 28 IR 324*)

540 IAC 1-1-18 “Trustee” defined

Authority: IC 21-9-4-7

Affected: IC 21-9

Sec. 18. “Trustee” means the program administrator unless the board otherwise directs. (*Indiana Education Savings Authority; 540 IAC 1-1-18; filed Sep 9, 1997, 4:45 p.m.: 21 IR 86; readopted filed Oct 6, 2003, 4:00 p.m.: 27 IR 570*)

Rule 2. Program Administrator's Duties

540 IAC 1-2-1 Duties

Authority: IC 21-9-4-7

Affected: IC 21-9

Sec. 1. The program administrator shall do the following:

- (1) Generally administer and carry out the program according to the directions and policies of the board.
- (2) Post contributions to accounts within seven (7) business days following verification that such contributions consist of fully collected funds and allocate investment earnings to accounts quarterly.
- (3) Collect all administrative fees, either directly from account owners or accounts, and deposit them into the administrative account in the name of the authority and disburse such funds at such times and in such amounts to the authority as reasonably directed by the authority.
- (4) Provide the authority and all appropriate governmental and regulatory agencies all reports and information as may be required or deemed necessary to obtain tax advantages available under state or federal laws.
- (5) Provide regular reports at least quarterly to each account owner showing all contributions, withdrawals, and earnings posted to each account during the previous reporting period.
- (6) Upon request, provide a copy of the annual report and audited financial statements prepared for the governor and general assembly to an account owner or beneficiary.
- (7) Provide reports at least quarterly to the authority, containing such information as requested by the authority, within seven (7) business days following the end of the quarter.
- (8) Comply with the terms and conditions of the contract with the authority.
- (9) Comply with all laws, rules, regulations, and policies applicable to the program.

(*Indiana Education Savings Authority; 540 IAC 1-2-1; filed Sep 9, 1997, 4:45 p.m.: 21 IR 86; readopted filed Oct 6, 2003, 4:00 p.m.: 27 IR 570*)

Rule 3. Account Owner Eligibility

540 IAC 1-3-1 Eligibility

Authority: IC 21-9-4-7

Affected: IC 21-9

Sec. 1. An account owner may be a resident of any state. The account owner shall execute an adoption agreement with the program administrator that specifies the terms and conditions under which the account owner shall participate in the plan. Each account owner shall provide the program administrator with a valid Social Security number. (*Indiana Education Savings Authority; 540 IAC 1-3-1; filed Sep 9, 1997, 4:45 p.m.: 21 IR 86; readopted filed Oct 6, 2003, 4:00 p.m.: 27 IR 570*)

540 IAC 1-3-2 Contributors (Repealed)

Sec. 2. (*Repealed by Indiana Education Savings Authority; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4109*)

Rule 4. Beneficiary Eligibility

540 IAC 1-4-1 Eligibility

Authority: IC 21-9-4-7

Affected: IC 21-9

Sec. 1. A beneficiary may be a resident of any state. There shall be no restrictions based upon the age of the beneficiary, or any required relationship between the account owner and the beneficiary. An account owner shall name a beneficiary at the commencement of participation in the plan and provide the program administrator with a valid Social Security number of the beneficiary. (*Indiana Education Savings Authority; 540 IAC 1-4-1; filed Sep 9, 1997, 4:45 p.m.: 21 IR 87; readopted filed Oct 6, 2003, 4:00 p.m.: 27 IR 570*)

540 IAC 1-4-2 Number of beneficiaries

Authority: IC 21-9-4-7

Affected: IC 21-9

Sec. 2. An account owner may name only one (1) beneficiary per account, and, therefore, an alternate beneficiary may not be named. (*Indiana Education Savings Authority; 540 IAC 1-4-2; filed Sep 9, 1997, 4:45 p.m.: 21 IR 87; readopted filed Oct 6, 2003, 4:00 p.m.: 27 IR 570*)

540 IAC 1-4-3 Number of accounts

Authority: IC 21-9-4-7

Affected: IC 21-9

Sec. 3. There is no limit on the number of accounts that may be opened for one (1) beneficiary by different account owners; however, the sum total of contributions in all accounts for the same beneficiary may not exceed the maximum cumulative amount permitted for a beneficiary provided in 540 IAC 1-8-4. (*Indiana Education Savings Authority; 540 IAC 1-4-3; filed Sep 9, 1997, 4:45 p.m.: 21 IR 87; filed Oct 10, 2000, 3:06 p.m.: 24 IR 375*)

Rule 5. Change of Beneficiary

540 IAC 1-5-1 Beneficiary change

Authority: IC 21-9-4-7

Affected: IC 21-9; IC 30-2-8.5

Sec. 1. (a) Except for an account owner who made a contribution to an account as a qualified custodian under the Uniform Transfers to Minors Act (IC 30-2-8.5), an account owner may change a beneficiary by submitting to the program administrator a request to change the beneficiary. The new beneficiary must be eligible for participation under 540 IAC 1-4 and be a member of the family of the beneficiary being changed. The request to change a beneficiary shall accompany the evidence, as specified by the program administrator, that the proposed beneficiary is a member of the family of the beneficiary being changed.

(b) An individual shall be considered a member of the beneficiary's family pursuant to 540 IAC 1-1-11.6. (*Indiana Education*

Savings Authority; 540 IAC 1-5-1; filed Sep 9, 1997, 4:45 p.m.: 21 IR 87; filed Apr 1, 1998, 10:55 a.m.: 21 IR 2822; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4106)

540 IAC 1-5-2 Administrative fee (Repealed)

Sec. 2. *(Repealed by Indiana Education Savings Authority; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4109)*

Rule 6. Transfer of Ownership

540 IAC 1-6-1 Transfer

Authority: IC 21-9-4-7

Affected: IC 21-9; IC 30-2-8.5

Sec. 1. An account owner may transfer ownership at any time upon request to the program administrator. The new account owner must be an individual eligible for participation under 540 IAC 1-3. If an account owner is a qualified custodian under the Uniform Transfers to Minors Act (IC 30-2-8.5), then upon the termination of the custodianship, as provided in IC 30-2-8.5, the beneficiary of such account shall be deemed the new account owner. *(Indiana Education Savings Authority; 540 IAC 1-6-1; filed Sep 9, 1997, 4:45 p.m.: 21 IR 87; filed Apr 1, 1998, 10:55 a.m.: 21 IR 2822; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4106)*

540 IAC 1-6-2 Administrative fee (Repealed)

Sec. 2. *(Repealed by Indiana Education Savings Authority; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4109)*

Rule 7. Account Administration

540 IAC 1-7-1 Administration

Authority: IC 21-9-4-7

Affected: IC 21-9

Sec. 1. For each new account opened, an account owner shall make an initial deposit for each account opened in an amount not less than fifty dollars (\$50). *(Indiana Education Savings Authority; 540 IAC 1-7-1; filed Sep 9, 1997, 4:45 p.m.: 21 IR 88; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4107)*

540 IAC 1-7-2 Administrator fee charge

Authority: IC 21-9-4-7

Affected: IC 21-9

Sec. 2. The program administrator shall charge an annual administrator fee, which shall be based on the value of the assets of the portfolio. As used in this section "portfolio" means the investment selected by the account owner to which account contributions are allocated. *(Indiana Education Savings Authority; 540 IAC 1-7-2; filed Sep 9, 1997, 4:45 p.m.: 21 IR 88; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4107; filed May 27, 2003, 11:15 a.m.: 26 IR 3338)*

540 IAC 1-7-3 Maximum term (Repealed)

Sec. 3. *(Repealed by Indiana Education Savings Authority; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4109)*

Rule 8. Contributions and Contribution Schedules

540 IAC 1-8-1 Contributions

Authority: IC 21-9-4-7
Affected: IC 21-9

Sec. 1. Contributions by an account owner or contributor shall be made in cash only, with available contribution payment options determined by the authority. These options may include such methods as payroll deductions, electronic funds transfer, or other such methods as the authority determines. (*Indiana Education Savings Authority; 540 IAC 1-8-1; filed Sep 9, 1997, 4:45 p.m.: 21 IR 88; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4107*)

540 IAC 1-8-2 Contribution amount

Authority: IC 21-9-4-7
Affected: IC 21-9

Sec. 2. An account owner or contributor must specify an amount to be contributed according to the contribution option chosen by the account owner in the adoption agreement. All contributions, other than initial contributions defined in 540 IAC 1-7-1, must be in an amount not less than twenty-five dollars (\$25). (*Indiana Education Savings Authority; 540 IAC 1-8-2; filed Sep 9, 1997, 4:45 p.m.: 21 IR 88; errata filed Nov 20, 1997, 3:15 p.m.: 21 IR 1350; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4107; filed May 27, 2003, 11:15 a.m.: 26 IR 3338*)

540 IAC 1-8-3 Maximum yearly contributions (Repealed)

Sec. 3. (*Repealed by Indiana Education Savings Authority; filed Oct 10, 2000, 3:06 p.m.: 24 IR 376*)

540 IAC 1-8-3.5 Contribution procedure

Authority: IC 21-9-4-7
Affected: IC 21-9

Sec. 3.5. Any contributor may make a contribution to an existing account on behalf of an account owner to the extent permitted by 26 U.S.C. 529, provided that a contribution form identifying the applicable account owner and account is completed and submitted and any other requirements of the program administrator in connection with such contribution, or series of contributions, are fulfilled. (*Indiana Education Savings Authority; 540 IAC 1-8-3.5; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4107*)

540 IAC 1-8-4 Maximum account contributions

Authority: IC 21-9-4-7
Affected: IC 21-9

Sec. 4. Contributions cannot be made to any account which would result in the total of all account contributions held on behalf of one (1) beneficiary to exceed the maximum account contribution amount set by the board pursuant to a formula or other methodology adopted by the board from time to time and as published by the board from time to time pursuant to IC 21-9-4-7. The maximum account contribution amount shall be adjusted annually pursuant to a formula or other methodology adopted by the board from time to time. In the event that total account contributions for a single beneficiary exceed the maximum account contribution amount due to new contributions, the excess amount shall be refunded to the account owner or owners, pro rata, without penalty. (*Indiana Education Savings Authority; 540 IAC 1-8-4; filed Sep 9, 1997, 4:45 p.m.: 21 IR 88; filed Oct 10, 2000, 3:06 p.m.: 24 IR 375; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4107*)

540 IAC 1-8-5 Premature cancellation (Repealed)

Sec. 5. (*Repealed by Indiana Education Savings Authority; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4109*)

540 IAC 1-8-6 Interruption of attendance (Repealed)

Sec. 6. *(Repealed by Indiana Education Savings Authority; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4109)*

540 IAC 1-8-7 Cancellation notice and procedure (Repealed)

Sec. 7. *(Repealed by Indiana Education Savings Authority; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4109)*

540 IAC 1-8-8 Contribution adjustments

Authority: IC 21-9-4-7

Affected: IC 21-9

Sec. 8. Contribution amounts and contribution schedules may be adjusted by submitting to the program administrator notice to adjust payments. No administrative fee shall be charged to account owners for such adjustments. *(Indiana Education Savings Authority; 540 IAC 1-8-8; filed Sep 9, 1997, 4:45 p.m.: 21 IR 89; readopted filed Oct 6, 2003, 4:00 p.m.: 27 IR 570)*

Rule 9. Cancellation and Payment of Refunds

540 IAC 1-9-1 Cancellation

Authority: IC 21-9-4-7

Affected: IC 21-9

Sec. 1. An account owner may at any time cancel an adoption agreement by submitting to the program administrator notice to terminate agreement. *(Indiana Education Savings Authority; 540 IAC 1-9-1; filed Sep 9, 1997, 4:45 p.m.: 21 IR 89; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4107)*

540 IAC 1-9-2 Exceeding maximum term (Repealed)

Sec. 2. *(Repealed by Indiana Education Savings Authority; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4109)*

540 IAC 1-9-2.5 Premature cancellation

Authority: IC 21-9-4-7

Affected: IC 21-9

Sec. 2.5. An account may be terminated by the program administrator at the direction of the board if the account has a balance of less than five hundred dollars (\$500) and no contributions have been made within the preceding calendar year. Notwithstanding the foregoing, if distributions of at least five hundred dollars (\$500) are paid from the account for qualified higher education expenses within the preceding calendar year, the account shall not be subject to cancellation. The board shall instruct the program administrator as to such cancellations from time to time. *(Indiana Education Savings Authority; 540 IAC 1-9-2.5; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4108)*

540 IAC 1-9-2.6 Interruption of attendance (Repealed)

Sec. 2.6. *(Repealed by Indiana Education Savings Authority; filed May 27, 2003, 11:15 a.m.: 26 IR 3338)*

540 IAC 1-9-2.7 Cancellation notice and procedure

Authority: IC 21-9-4-7

Affected: IC 21-9

Sec. 2.7. Prior to cancellation for failure to maintain an appropriate balance, make required contributions, or to resume attendance, appropriate notice, as established by the board, shall be given to the account owner with an opportunity to cure. *(Indiana Education Savings Authority; 540 IAC 1-9-2.7; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4108)*

540 IAC 1-9-3 Refund

Authority: IC 21-9-4-7

Affected: IC 21-9

Sec. 3. (a) If the adoption agreement is canceled by the account owner (unless the cancellation is the result of a rollover) or by the board for failure to maintain an appropriate balance, make required contributions, or to resume attendance, the account owner, or the beneficiary if the account owner so directs, is entitled to a refund. Any portion of the refund attributable to earnings is subject to the penalty for a nonqualified distribution.

(b) Funds that are refunded to an account owner, or the beneficiary if directed by the account owner, pursuant to this section shall be reported to the appropriate taxing authorities for the tax year in which such refund is made. (*Indiana Education Savings Authority; 540 IAC 1-9-3; filed Sep 9, 1997, 4:45 p.m.: 21 IR 89; errata filed Nov 20, 1997, 3:15 p.m.: 21 IR 1350; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4108*)

Rule 10. Payment of Benefits
540 IAC 1-10-1 Benefit payment

Authority: IC 21-9-4-7

Affected: IC 21-9

Sec. 1. For payment of benefits from the trust to begin, the account owner shall submit a notice to use program benefits. The payment of benefits shall be made only for qualified higher education expenses or shall be subject to applicable penalties for nonqualified distributions. All qualified higher education expenses shall be paid:

- (1) directly to the eligible educational institution;
- (2) to the beneficiary as directed by the account owner; or
- (3) to the account owner.

Payment shall be subject to a minimum distribution amount of fifty dollars (\$50). (*Indiana Education Savings Authority; 540 IAC 1-10-1; filed Sep 9, 1997, 4:45 p.m.: 21 IR 90; filed Apr 1, 1998, 10:55 a.m.: 21 IR 2823; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4108; filed May 27, 2003, 11:15 a.m.: 26 IR 3338*)

540 IAC 1-10-1.5 Substantiation requirements (Repealed)

Sec. 1.5. (*Repealed by Indiana Education Savings Authority; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4109*)

540 IAC 1-10-1.6 Exhaustion of account (Repealed)

Sec. 1.6. (*Repealed by Indiana Education Savings Authority; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4109*)

540 IAC 1-10-2 Distribution of benefits

Authority: IC 21-9-4-7

Affected: IC 21-9

Sec. 2. Distribution of benefits shall begin after receipt by the administrator of notice to use program benefits and shall continue throughout the beneficiary's period of enrollment at an eligible educational institution or until the account balance has been exhausted, whichever occurs first. (*Indiana Education Savings Authority; 540 IAC 1-10-2; filed Sep 9, 1997, 4:45 p.m.: 21 IR 90; readopted filed Oct 6, 2003, 4:00 p.m.: 27 IR 570*)

540 IAC 1-10-3 Beneficiary graduation (Repealed)

Sec. 3. (*Repealed by Indiana Education Savings Authority; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4109*)

540 IAC 1-10-4 Rollover distributions

Authority: IC 21-9-4-7
Affected: IC 21-9

Sec. 4. An account owner may transfer the account funds pursuant to a rollover made in accordance with 26 U.S.C. 529. Upon the receipt by the administrator of a rollover notice from the account owner, the administrator shall transfer all of the account funds to the account designated in the rollover notice. (*Indiana Education Savings Authority; 540 IAC 1-10-4; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4108*)

Rule 11. Investment Policies

540 IAC 1-11-1 Investment policies and objectives

Authority: IC 21-9-4-7
Affected: IC 21-9

Sec. 1. Investment policies will be adopted from time to time by the board in accordance with IC 21-9. (*Indiana Education Savings Authority; 540 IAC 1-11-1; filed Sep 9, 1997, 4:45 p.m.: 21 IR 90; readopted filed Oct 6, 2003, 4:00 p.m.: 27 IR 570*)

Rule 12. Miscellaneous

540 IAC 1-12-1 Separate accounting

Authority: IC 21-9-4-7
Affected: IC 21-9

Sec. 1. The program administrator shall provide separate accounting for each designated beneficiary. (*Indiana Education Savings Authority; 540 IAC 1-12-1; filed Sep 9, 1997, 4:45 p.m.: 21 IR 90; readopted filed Oct 6, 2003, 4:00 p.m.: 27 IR 570*)

540 IAC 1-12-2 Investment direction

Authority: IC 21-9-4-7
Affected: IC 21-9

Sec. 2. An account owner or beneficiary shall be permitted to direct the investment of any contributions or earnings on any contributions only in accordance with 26 U.S.C. 529 and the terms of the program. (*Indiana Education Savings Authority; 540 IAC 1-12-2; filed Sep 9, 1997, 4:45 p.m.: 21 IR 90; filed Jul 8, 2002, 1:51 p.m.: 25 IR 4109*)

540 IAC 1-12-3 Security for a loan

Authority: IC 21-9-4-7
Affected: IC 21-9

Sec. 3. Funds held by the trust program shall not be used by an account owner or beneficiary as security for a loan. (*Indiana Education Savings Authority; 540 IAC 1-12-3; filed Sep 9, 1997, 4:45 p.m.: 21 IR 90; readopted filed Oct 6, 2003, 4:00 p.m.: 27 IR 570*)

540 IAC 1-12-4 Board policies

Authority: IC 21-9-4-7
Affected: IC 21-9

Sec. 4. The board shall, from time to time, adopt policies relating to the procedures for implementing the trust program, including, but not limited to, those policies contemplated in this article. (*Indiana Education Savings Authority; 540 IAC 1-12-4; filed Sep 9, 1997, 4:45 p.m.: 21 IR 90; readopted filed Oct 6, 2003, 4:00 p.m.: 27 IR 570*)

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