

NOTICE OF INTENT
Louisiana Tuition Trust Authority
Office of Student Financial Assistance
Achieving a Better Life Experience (ABLE) Program
(LAC 28:VI.Chapter 5)

The Louisiana Tuition Trust Authority announces its intention to amend its administrative rules (LSA-R.S. 17:3091 *et seq.*).

This rulemaking will add Chapter 5 to LATTA's administrative rules to implement the Louisiana ABLE Act, established in Louisiana through Act 93 of 2014, to provide for a savings program for persons with disabilities as established in Internal Revenue Code (IRC) section 529A. (ST17174NI)

Title 28
EDUCATION

Part VI. IRC Section 529 Savings Plans:
START and ABLE

Subchapter A. Tuition Trust Authority

Chapter 5. Achieving a Better Life
Experience (ABLE)

§501. General Provisions

A. The Louisiana Achieving a Better Life Experience (ABLE) Account Program was enacted in 2014 to provide a program of savings to encourage and assist individuals and families in saving private funds for the purpose of supporting persons with disabilities in endeavors to maintain health, independence, and quality of life. The purposes of the Program include all of the following:

1. To pay qualified disability expenses so that persons with disabilities may maintain health, independence, and quality of life.

2. To provide secure funding for disability-related expenses on behalf of designated beneficiaries that will supplement, but not supplant, benefits provided through private insurance, the medical assistance program administered by this state in accordance with Title XIX of the Social Security Act, the supplemental security income program under Title XVI of such Act, the beneficiary's employment, and other sources.

3. To comply fully with all provisions of the Stephen Beck, Jr., ABLE Act of 2014 (Public Law 113-295, Division B), and all regulations issued pursuant thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081 - 3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance.

§503. Legislative Authority

A. The Louisiana ABLE Act is established by Act 604 of the 2016 Regular Session of the Louisiana Legislature. 22-A, Title 17 of the Louisiana Revised Statutes (R.S. 17:3081-3089).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081 - 3089.

HISTORICAL NOTE:

§505. Program Administration

A. The Louisiana Tuition Trust Authority (LATTA) is a statutory authority whose membership consists of the Louisiana Board of Regents, plus one member from the Louisiana Bankers Association, the state treasurer, and one member each from the House of Representatives and Senate.

B. The LATTA administers the ABLE Account Program through the Louisiana Board of Regents, Office of Student Financial Assistance (LOSFA).

C. LOSFA, a program under the Board of Regents, performs the functions of the state relating to programs of financial assistance and certain scholarship programs for higher education in accordance with directives of its governing bodies and applicable law, and as such is responsible for administering the ABLE Account Program under the direction of the LATTA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081 - 3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance.

§507. Applicable Definitions

A. Words and terms not otherwise defined in these rules shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

Account Owner—the Eligible Individual who opened the account and who is also the Beneficiary.

Administrator—the individual who has the authority to direct the activities of the account. The Administrator of the account may be the account owner or a person authorized by law or by authentic act to administer the account on behalf of the beneficiary. For purposes of these rules, the term Administrator shall mean the Account Owner or a person who is legally authorized to act on his behalf.

Beneficiary—the Eligible Individual who established ABLÉ account, or for whom an ABLÉ account was established, and who is the owner of such account.

Current Value—the value of an ABLÉ Account at a given point in time.

a. The current value of fixed earnings investment options includes the accumulated value of the principal deposited and earnings on deposits.

b. The current value of variable earnings investment options includes the number of units in the investment option purchased multiplied by the current value of each unit. This value may be more or less than the amount originally deposited.

Deposits—the actual amount of money received for deposit for investment in an ABLÉ Account. Deposits do not include earnings on deposits.

Eligible Individual—An individual is an eligible individual for a given tax year if one of the following is met:

a. The individual is entitled to benefits based on blindness or disability under Title II or XVI of the Social Security Act, and such blindness or disability occurred before the date on which the individual attained age 26; or

b. A disability certification with respect to such individual is filed with the Secretary for such taxable year.

False or Misleading Information—a statement or response made by a person which is knowingly false or misleading, and made for the purpose of establishing a program account and/or receiving benefits to which the person would not otherwise be entitled.

Fixed Earnings—the placement of all deposits in an ABLÉ Account, including the interest earned thereon, in investments that normally provide a fixed rate of return for a specific period of time.

Louisiana Board of Regents—the agency of state government responsible for administering the ABLÉ Account Program under the direction of the Louisiana Tuition Trust Authority.

Office of Student Financial Assistance (LOSFA)—a program under the Board of Regents, performs the functions of the state relating to programs of financial assistance and certain scholarship programs for higher education in accordance with directives of its governing bodies and applicable law, and as such is responsible for administering the ABLÉ Account Program as directed by LATTÀ and the Louisiana Board of Regents.

Louisiana Resident—

a. any person who resided in the state of Louisiana on the date of the application and who has manifested intent to remain in the state by establishing Louisiana as legal domicile, as demonstrated by compliance with all of the following:

i. if registered to vote, is registered to vote in Louisiana;

ii. if licensed to drive a motor vehicle, is in possession of a Louisiana driver's license;

iii. if owning a motor vehicle located within Louisiana, is in possession of a Louisiana registration for that vehicle;

iv. if earning an income, has complied with state income tax laws and regulations;

b. a member of the Armed Forces stationed outside of Louisiana who claims Louisiana on his/her official DD Form 2058 as his/her legal residence for tax purposes, and is in compliance with state income tax laws and regulations, shall be considered eligible for program participation.

c. A member of the Armed Forces stationed in Louisiana under permanent change of station orders shall be considered eligible for program participation;

d. persons less than 21 years of age are considered Louisiana residents if they reside with and are dependent upon one or more persons who meet the above requirements;

Louisiana Tuition Trust Authority (LATTÀ)—the statutory body responsible for the administration of the ABLÉ Account Program.

Maximum Allowable Account Balance—\$500,000.

Member of Family—an individual who is the brother, sister, stepbrother, stepsister, half-brother, or half-sister to the beneficiary, including an adopted brother, sister, stepbrother, stepsister, half-brother, or half-sister.

Natural Person—a human being.

Other Person, with respect to any designated beneficiary—any person, other than the beneficiary, whether natural or juridical, who is not a member of the family, including but not limited to individuals, groups, trusts, estates, associations, organizations, partnerships, corporations, and custodians under the Uniform Transfer to Minors Act (UTMA).

Owner's Agreement—the agreement for program participation that the account owner or administrator completes and signs. It incorporates, by reference, R.S. 17:3081 et seq., and the rules promulgated by the LATTÀ to implement this statutory provision and any other state or federal laws applicable to the agreement and the terms and conditions as set forth therein.

Person—a human being or a juridical entity.

Qualified Disability Expenses (QDEs)—Expenses that relate to the blindness or disability of the designated beneficiary in maintaining or improving his or her health, independence, or quality of life. QDEs may, but need not, benefit only the disabled individual. QDEs include, but are not limited to, expenses related to the beneficiary's:

- a. Education;
- b. Housing;
- c. Transportation;
- d. Employment training and Support;
- e. Assistive Technology and Related Services;

- f. Personal Support Services;
- g. Health, Prevention, and Wellness;
- h. Financial Management and Administrative Services;
- i. Legal Fees;
- j. Expenses for Oversight and Monitoring;
- k. Funeral and Burial Expenses; and
- l. Other expenses which may be identified by the Internal Revenue Service.

Redemption Value—the cash value of the money in an ABLE Account invested in a fixed earnings option that are attributable to the sum of the principal deposited and the earnings on principal authorized to be credited to the account by the LATTA, less any disbursements and refunds. Redemption value is not applicable to an ESA invested in variable earnings.

Refund Recipient—the person designated in the ABLE Account Program owner's agreement or by operation of law to receive refunds from the account. The refund recipient can only be the account owner, his heirs, or his estate.

Trade Date—the date that a deposit to an investment option that includes variable earnings is assigned a value in units, the date a disbursement or refund from an investment option that includes variable earnings is assigned a value, or the date of a change in investment options that includes variable earnings is assigned a value, whichever is applicable.

Variable Earnings—refers to that portion of funds in an ABLE Account invested in equities, bonds, short-term fixed income investments or a combination of any of the three.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance.

§509. Establishment of an ABLE Account

A. An ABLE Account is established by or on behalf of an Eligible Individual to provide the funding necessary for Qualified Disability Expenses (QDEs).

B. Only one ABLE account may be established for an Eligible Individual, whether the account is established in Louisiana or with another ABLE program.

C. The Eligible Individual must be a Louisiana resident as defined in §507 and must meet the following citizenship requirements:

- 1. be a United States citizen; or
- 2. be a permanent resident of the United States as defined by the U.S. Citizenship and Immigration Services (USCIS) or its successor and provide copies of USCIS documentation with the submission of the owner's agreement; or
- 3. be lawfully residing in the United States and have a valid Social Security number.

D. An ABLE Account may be established by the Account Owner or an Administrator who is authorized by law or by

authentic act to administer the account on behalf of the Account Owner.

1. An Administrator who is not the account owner may establish an account on behalf of an Eligible Individual upon provision of documentation to LOSFA evidencing that person has the legal right to act on behalf of the Eligible Individual.

2. Documentation required to establish an account on behalf of an Eligible Individual includes:

- a. If a parent, a copy of the Eligible Individual's birth certificate;
- b. If an adoptive parent, documentation evidencing the adoption of the Eligible Individual;
- c. If a custodian, court documents evidencing the appointment of the custodian by a court of law;
- d. If designated by the Eligible Individual to administer his affairs, documentation evidencing such designation.

E. Program Enrollment Period. An account may be established at any time during the calendar year.

F. Completing the Owner's Agreement

1. This agreement must be completed and signed by the Administrator.

2. The Administrator who is also the account owner may designate a limited power of attorney to an Administrator who would be authorized to act on his behalf in the event the account owner becomes incapacitated.

3. The Administrator must certify

- a. that the person for whom the account is being established is an Eligible Individual as defined in §507;
- b. that the Eligible Individual is a Louisiana resident;
- c. that the Eligible Individual meets the citizenship requirements set forth in §509.B.;
- d. that if he is not the Eligible Individual, that he is authorized by law or by authentic act to open and administer the ABLE account on behalf of the Eligible Individual;
- e. that he will provide the documentation necessary to establish the certifications made for Subsections E.2.(a)-(d) upon request by LOSFA or the Internal Revenue Service; and
- f. that he has read and understands the Owner's Agreement and Participation materials.

4. The Administrator agrees to the following terms when completing the Account Owner's Agreement:

- a. All transactions involving the ABLE Account will be reported to the Social Security Administration on a monthly basis.
- b. Fees

(1) That except for penalties which may be imposed on refunds, the LATTA shall not charge fees for the opening or the maintenance of a fixed earnings account.

(2) That fees imposed by investment institutions for opening or maintenance of variable earnings accounts may be charged to the account owner.

c. That financial and investment institutions may be authorized by the LATTA to offer prospective owners information and assistance in opening a START Program account.

d. Only the account owner, his heirs, or his estate may be designated to receive refunds from the ABLE account. In the event of the death of the account owner when the account owner is designated to receive the refund, the refund shall be made to the account owner's estate.

G. Acceptance of the Owner's Agreement

1. A properly completed and submitted owner's agreement will be reviewed within 48 hours of receipt for completeness. If additional information is required to accept the owner's agreement, the Administrator will be contacted to provide that information.

2. Upon acceptance of the owner's agreement, the LATTA will establish the ABLE account. (Notify IRS/Revenue of account opening? How is this to be accomplished?).

H. Providing Personal Information

1. The Administrator is required to disclose personal information regarding the Eligible Individual, including:

- a. his Social Security Number;
- b. his date of birth; and
- c. his relationship to the Administrator.,

2. If not the Eligible Individual, the Administrator will be required to disclose the following information:

- a. his relationship to the Eligible Individual;
- b. if a parent of the Eligible Individual, his social security number;

3. The Eligible Individual's Social Security number and federal and state employer identification numbers will be used for purposes of federal and state income tax reporting to access individual account information for administrative purposes, and to provide necessary reports to the Social Security Administration.

4. The following Protected Health Information is collected only for IRS reporting purposes.

- a. Basis for the Eligible Individual's eligibility:
 - i. Code A – Social Security Disability Income – Title II SSA;
 - ii. Code B – Social Security Income – Title XVI SSA;
 - iii. Code C – Eligible Individual is the subject of a disability certification filed with the IRS for 2016.

c. Type of Disability

i. Code 1 – Developmental Disorders, including Autistic Spectrum Disorder, Asperger's Disorder, Development Delays, Learning Disabilities.

ii. Code 2 – Intellectual Disability. May be reported as mild, moderate or severe intellectual disability.

iii. Code 3 – Psychiatric Disorders, including Schizophrenia, Major depressive disorder, Post-traumatic stress disorder (PTSD), Anorexia nervosa; Attention deficit/hyperactivity disorder (AD/HD), Bipolar disorder.

iv. Code 4 – Nervous disorders, including Blindness, Deafness, Cerebral Palsy, Muscular Dystrophy, Spina Bifida, Juvenile-onset Huntington's disease, Multiple sclerosis, Severe sensorineural hearing loss, Congenital cataracts.

v. Code 5 – Congenital Anomalies: Chromosomal abnormalities, including Down Syndrome, Osteogenesis imperfecta, Xeroderma pigmentosum, Spinal muscular atrophy, Fragile X syndrome, Edwards syndrome.

vi. Code 6 – Respiratory Disorders: Cystic Fibrosis.

vii. Code 7 – Other: includes Tetralogy of Fallot, Hypoplastic left heart syndrome, End-stage liver disease, Juvenile-onset rheumatoid arthritis, Sickle cell disease, Hemophilia; and any other disability not listed under codes 1-6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance.

§511. Deposits to ABLE Accounts

A. Application Fee and Initial Deposit Amount

1. No application fee will be charged to those applying for an ABLE Account on behalf of an Eligible Individual.

2. Financial and investment institutions may be authorized by the LATTA to offer assistance in establishing a START Program account. (See *fees* in §509.F.4)

3. An initial deposit is not required to open an ABLE Account; however, a deposit of at least \$10 must be made within 180 days from the date on the letter of notification of approval of the account.

4. A lump sum deposit may not exceed the maximum allowable account balance (\$500,000).

B. Deposit Options

1. The Administrator shall select one of the following deposit options during the completion of the owner's agreement; however, the Administrator may change the monthly deposit amount at any time and the payment method by notifying the LATTA:

a. occasional lump sum payment(s) made directly to the LATTA or to a LATTA approved investment institution;

b. monthly payments made directly to the LATTA or to a LATTA-approved financial or investment institution;

c. automatic account debit, direct monthly transfer from the Administrator's checking or savings account to the LATTA or a LATTA approved investment institution;

d. payroll deduction, if available through the Administrator's employer.

C. Limitations on Deposits

1. All deposits must be rendered in amounts of at least \$10 and must be made in cash, check, money order, automatic account debit or payroll deduction, defined as any of the deposit options listed in §511.B.1.

2. Once the cumulative contributions and earnings on contributions have reached or exceeded the maximum allowable account balance, principal deposits will no longer be accepted to the account until a distribution is made which reduces the account balance below the maximum allowable account balance.

3. ABLE Account balances of up to \$100,000 will not affect Supplemental Security Income (SSI) benefits. However, once an account exceeds \$100,000, SSI benefits will be suspended until such time as the balance is reduced below \$100,000.

D. Investment Options

1. The state treasurer shall select fixed earnings and variable earnings investment options.

2. The authority shall furnish each account owner with information that discloses each of the investment options offered by the program.

3. The Administrator shall select the investment option for the ABLE Account at the time the account is opened. The Administrator may select the same or a different investment option at the time of each deposit.

4. Changing the Investment Option

a. The Administrator may change the investment options no more than two times in a calendar.

b. If an ABLE Account has funds in two or more investment options:

i. each option in the account may be changed to one different option or allowed to remain the same.

ii. all funds in each option changed must be transferred.

iii. funds in one option may not be moved to more than one option.

iv. all changes in investment options must take place in one transaction.

v. whether the funds are moved from one option or all options, the change is considered one of the two allowed investment option changes per calendar year.

c. Once a selection is made, all deposits shall be directed to the last investment option selected.

E. Effective Date of Deposits

1. Deposits for investment options that are limited to fixed earnings will be considered to have been deposited on the date of receipt.

2. Deposits for investment options that include variable earnings will be assigned a trade date based on the method of deposit and the date of receipt.

a. Deposits by check will be assigned a trade date three business days after the business day during which they were received.

b. Deposits made by electronic funds transfer through the Automated Clearing House (ACH) Network, or its successor, will be assigned a trade date of three business days after the business day during which they were received.

c. Deposits made by all other means of electronic funds transfer, including deposits made by transferring funds from a variable earnings option in which they are currently deposited to another option, will be assigned a trade date of one business day after the business day during which they were received.

3. Deposits for investment options that include variable earnings which are received via check or electronic funds transfer through the Automated Clearing House Network will be deposited into the fixed earnings option until the trade date. Earnings accrued on these deposits prior to the trade date shall be deposited in the Variable Earnings Transaction Fund.

4. Deposits received on weekends and holidays will be considered received on the next business day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance.

§513. Disbursement of Account Funds for Payment of QDEs

A. Request for Disbursement

1. An ABLE Account Administrator may request a disbursement at any time, but no more than twice per month.

2. The request for disbursement must include:

a. the ABLE account number;

b. the Eligible Individual's name, address, and Social Security number;

c. the Administrator's signature (may be electronic); and

d. the amount to be disbursed.

3. Requests for disbursements must be in whole dollar increments, must be no less than \$200 and may be no more than the account balance.

4. In the event funds are invested in more than one investment option, the disbursement shall be made proportionally from each investment option in the account.

5. Disbursements will be made only to the Administrator of the account.

6. Disbursements from investment options with variable earnings shall be assigned a trade date of one business day after the business day of receipt of the transfer request.

B. Rate of Expenditure

1. The amount to be disbursed from an account shall be drawn from deposits and interest in the same ratio as these funds bear to the total value of the account as of the date of the disbursement.

2. The Administrator may not withdraw an amount in excess of the QDEs of the Eligible Individual or the value of the account, whichever is less.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance.

§515. Effect on Federal and State Assistance Programs

A. For the purpose of determining eligibility to receive, or the amount of, any assistance or benefit which may be received by the ABLA Account Owner by a means-tested federal assistance program, the following amounts shall be disregarded with respect to any period during which the beneficiary maintains his status as an Eligible Individual:

1. Any amount, including earnings thereon, up to \$100,000;

2. Any contributions to the ABLA account of the Eligible Individual;

3. Any distributions from the account of the Eligible Individual, provided that such distributions are made for the purchase or payment of QDEs, subject to determination by the Social Security Administration that such distributions do not exceed allowable assets/income for a given period.

§517. Termination, Refund, and Rollovers of an Education Savings Account

A. Account Termination

1. The Administrator may terminate an ABLA Account at any time.

2. In the event the person for whose benefit the account was opened is no longer an Eligible Individual as defined in §507, the Administrator shall

a. terminate the account; or

b. transfer the account to another Eligible Individual who is also a Member of the Family of the original Eligible Individual within 60 days of the determination that the original Eligible Individual is no longer qualified.

3. The LATTA may terminate an account as follows:

a. If LATTA determines that funds have been disbursed for expenses other than QDEs, LATTA may require the return of the funds to the ABLA Account. If funds are not returned to the account within 60 days of a request to do so, LATTA, in its sole discretion, may refund any balance remaining and close the account.

b. The LATTA may terminate an account if no deposit of at least \$10 has been made within 180 days from the date of notification of approval of the account.

c. The LATTA may terminate an account if the Eligible Individual for whom the account was opened no longer meets the criteria to be an Eligible Individual and a new Eligible Individual is not named within 60 days.

d. The LATTA may terminate an owner's agreement if it finds that the account owner or beneficiary provided *false or misleading information* (see §507).

(1). If the LATTA terminates an owner's agreement under this Subsection, all interest earnings on principal deposits may be withheld and forfeited, with only principal being refunded.

(2). An individual who obtains program benefits by providing false or misleading information will be prosecuted to the full extent of the law.

B. Refunds

1. Requests for refund may result in the termination of the account and in the refund of:

a. the deposits invested in fixed earnings, if the account has been open for less than twelve months;

b. the redemption value, if the account has been open for 12 or more months;

c. the deposits to or the current value of an account invested in a variable earnings option, whichever is less, if the account has been open for less than 12 months.

d. the current value of an account invested in variable earnings, if the account has been open for 12 or more months.

2. Refunds from investment options with variable earnings shall be assigned a trade date of one business day after the business day of receipt of the request.

C. Designation of a Refund Recipient. The refund recipient can only be the account owner, his heirs, or his estate, and the Administrator shall designate the Refund Recipient when completing the Owner's Agreement.

D. Voluntary Termination of an Account

1. Refunds shall be equal to the redemption value of the ESA at the time of the refund, and shall be made to the person designated in the owner's agreement or by rule.

2. The person receiving the refund shall be responsible for any state or federal income tax that may be payable due to the refund.

E. Effective Date of Account Termination. Account termination shall be effective at midnight on the business day

on which the request for account termination and all supporting documents are received. Accounts will be credited with interest earned on principal deposits through the effective date of the closure of the account.

F. Refund Payments. Payment of refunds for voluntary termination under §515.D shall be made within 30 days of the date on which the account was terminated. The termination refund shall consist of the principal remaining in the account and interest remaining in the account accrued on the principal through the end of the calendar year preceding the year in which the request to terminate an account is made. Interest earned in excess of \$10 during the calendar year of termination will be refunded within 45 days of the date the state treasurer announces the interest rate for the preceding calendar year. Interest earned of \$10 or less during the calendar year of termination will be forfeited.

H. Rollovers

1. Rollovers to another ABLE Account administered by LOSFA.

a. An Administrator may rollover any part of an ABLE Account to ABLE Account if the beneficiary of the account receiving the funds is a member of the family of the beneficiary of the original account.

b. The current value of the account from which the rollover is made will be transferred to the new account.

2. Rollover to another ABLE Program.

a. An Administrator may request a rollover of the current value of the account to another qualified tuition program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance.

§519. Substitution, Assignment, and Transfer

A. Substitute Beneficiary. The beneficiary of an ESA may be changed to a substitute beneficiary provided the account owner completes a beneficiary substitution form and the following requirements are met:

1. the substitute *beneficiary* is a member of the family as defined under §107;

2. the substitute beneficiary meets the citizen/resident alien requirements of §301.F, and, if the account owner is a nonresident of the state of Louisiana, the substitute beneficiary meets the applicable residency requirements (see §301.G);

B. Substitution/Transfer of Account Ownership. The Administrator may transfer ownership of an ABLE Account only with the written approval of the LATTA and only to a member of the family of the Eligible Individual for whom the account was opened.

C. Assignment of Account Ownership. Ownership of an ESA cannot be assigned.

D. Changes to the Owner's Agreement

1. The Administrator may request changes to the owner's agreement.

2. Changes must be requested in writing and be signed by the Administrator.

3. Changes, if accepted, will take effect as of the date the notice is received by the LATTA.

4. The LATTA shall not be liable for acting upon inaccurate or invalid data which was submitted by the Administrator.

5. The Administrator will be notified by the LATTA of any changes affecting the owner's agreement which result from changes in applicable federal and state statutes and rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance.

§521. Miscellaneous Provisions

A. Account Statements and Reports

1. The LATTA will forward to each Administrator an annual statement of account which itemizes the:

a. date and amount of deposits and interest earned during the prior year; and

b. total principal and interest accrued to the statement date.

2. The Administrator must report errors on the annual statement of account to the LATTA within 60 days from the date on the account statement or the statement will be deemed correct.

B. Earned Interest

1. Interest earned on principal deposits during a calendar year will be credited to accounts and reported to Administrators after the conclusion of the calendar year in which the interest was earned.

2. The rate of interest earned shall be the rate of return earned on the fund as reported by the state treasurer and approved by the LATTA.

C. Refunded Amounts

1. Interest earned on an ABLE Account which is refunded to the account owner or beneficiary will be taxable for state and federal income tax purposes.

2. No later than January 31 of the year following the year of the refund, the LATTA will furnish the State Department of Revenue, the Social Security Administration, the Internal Revenue Service, and the recipient of the refund an Internal Revenue Service Form 1099, or whatever form and/or manner of reporting is appropriate according to the applicable entity.

D. Rule Changes. The LATTA reserves the right to amend the rules regulating the Louisiana ABLE Account Program policies and procedures; however, any amendments to rules

affecting participants will be published in accordance with the Administrative Procedure Act.

E. Determination of Facts. The LATTA shall have sole discretion in making a determination of fact regarding the application of these rules.

F. Individual Accounts. The LATTA will maintain an individual account for each beneficiary showing the redemption value of the account.

G. Confidentiality of Records. All records of the LATTA identifying Administrators and/or Account Owners of ABLE Accounts, amounts deposited, expended or refunded, are confidential and are not public records.

H. No Investment Direction. No Administrator may direct the investment of funds credited to an account, except to select investment options no more than twice per year. Deposits will be invested on behalf of the Louisiana ABLE Account Program by the state treasurer.

I. No Pledging of Interest as Security. No interest in an ABLE account may be pledged as security for a loan.

J. Excess Funds

1. Principal deposits will no longer be accepted once the account total reaches the maximum allowable account balance (see §507); however, the account will continue to earn interest.

2. Funds in excess of the maximum allowable account balance may remain in the account and continue to accrue interest and may be disbursed in accordance with §309, or will be refunded in accordance with §311 upon termination of the account.

K. Withdrawal of Funds. Funds may not be withdrawn from an ESA except as set forth in §513 and §515.

L. NSF Procedure

1. A check received for deposit to an ABLE Account which is returned due to insufficient funds in the owner's account on which the check is drawn, will be redeposited and processed a second time by the Louisiana ABLE Account Program's financial institution.

2. If the check is returned due to insufficient funds a second time, the check will be returned to the depositor.

3. Earnings reported by the state treasurer on deposits made by check or an ACH transfer which is not honored by the financial institution on which it was drawn subsequent to the trade date shall be forfeited by the account owner.

M. Effect of a Change in Residency. On the date an account is opened, either the account owner must be a resident of the state of Louisiana; however, if the account owner temporarily or permanently moves to another state after the account is opened, he may continue participation in the program in accordance with the terms of the owner's agreement.

N. Abandoned Accounts. Abandoned accounts will be defined and treated in accordance with R.S. 9:151 et seq., as amended, the Louisiana Uniform Unclaimed Property Act.

O. Investment in Variable Earnings. When an account owner selects a variable earnings account, up to 100 percent of the deposits may be invested in equity securities.

AUTHORITY NOTE: Promulgated in accordance with 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance.

Family Impact Statement: The proposed rule has no known impact on family formation, stability, or autonomy, as described in LSA-R.S. 49:972.

Poverty Impact Statement: The proposed rulemaking will have no impact on poverty as described in LSA-R.S. 49:973.

Business Impact Statement: The proposed rule will have no adverse impact on small businesses as described in LSA-R.S. 49:965.2 et seq.

Provider Impact Statement: The proposed rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

Interested persons may submit written comments on the proposed changes (ST17174NI) until 4:30 p.m., December 12, 2016, to Sujuan Williams Boutté, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively
Senior Attorney