

**DECLARATION OF EMERGENCY**  
**Louisiana Tuition Trust Authority**  
**Office of Student Financial Assistance**  
START Saving Program  
(LAC 28:VI.107, 311, and Chapter 7)

The Louisiana Tuition Trust Authority is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091 *et seq.*).

This rulemaking implements Act 53 of the 2018 Regular Session of the Legislature. It also adds Chapter 7 to implement HB650 of the 2018 Regular Session of the Louisiana Legislature which creates the START K-12 Program.

The emergency rules are necessary to allow the Louisiana Office of Student Financial Assistance and educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. LATTA has determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This declaration of emergency is effective June 20, 2018, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (ST18183ER)

**Title 28**  
**EDUCATION**

**Part VI. Student Financial Assistance**  
**— Higher Education Savings**

**Chapter 1. General Provisions**

**Subchapter A. Tuition Trust Authority**

**Chapter 1. General Provisions**

**§107. 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.

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*Eligible Educational Institution*—either:

a. a state college or university or a technical college or institute or an independent college or university located in this state that is approved by the U.S. Secretary of Education to participate in a program under title IV of the Higher Education Act of 1965 (20 U.S.C. 1088), as amended; or

b. a public or independent college or a university located outside this state that is approved by the U.S. secretary of education to participate in a program under

title IV of the Higher Education Act of 1965 (20 U.S.C. 1088), as amended; or

c. a Louisiana licensed proprietary school, licensed pursuant to R.S. chapter 24-A of title 17, and any subsequent amendments thereto and is eligible to participate in a program under title IV of the Higher Education Act of 1965 (20 U.S.C. 1088), as amended.

[d. beginning in the 2018 academic year, a proprietary school located outside the state of Louisiana that is licensed by an out of state public postsecondary education board, is accredited by a recognized national or regional accrediting body, and is eligible to participate in a program under title IV of the Higher Education Act of 1965 \(20 U.S.C. 1088\), as amended.](#)

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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, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:2334 (November 2002), LR 29:556 (April 2003), LR 30:786 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 31:639 (March 2005), LR 32:1433 (August 2006), LR 32:2240 (December 2006), LR 33:443 (March 2007), LR 34:1885 (September 2008), LR 35:1491 (August 2009), LR 38:3162 (December 2012), LR 42:1071 (July 2016).

**Chapter 3. Education Savings Account**

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

A. – A.6. ...

B. Refunds

1. A partial refund of an account may only be made as described in §311.E.3 [and 4](#).

B.2 – D.3. ...

E. 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.

3. Except for accounts classified in accordance with §711.A.6, accounts may be terminated and fully refunded for the following reasons:

a. the death of the beneficiary in which case the refund shall be equal to the redemption value of the account and shall be made to:

i. the account owner, if the account owner is a natural person; or

ii. the beneficiary's estate, if the account owner is a legal entity;

b. the disability of the beneficiary, in which case the refund shall be equal to the redemption value of the account and shall be made to:

i. the account owner or the beneficiary, as designated in the owner's agreement, if the account owner is a natural person; or

ii. the beneficiary, if the account owner is a legal entity;

c. the beneficiary receives a scholarship, waiver of tuition, or similar subvention that the LATTA determines cannot be converted into money by the beneficiary, to the extent the amount of the refund does not exceed the amount of the scholarship, waiver of tuition, or similar subvention awarded to the beneficiary. In such case, the refund shall be equal to the scholarship, waiver of tuition, or similar subvention that the LATTA determines cannot be converted into money by the beneficiary of the account, or the redemption value, whichever is less, and shall be made to:

i. the account owner or the beneficiary, as designated in the owner's agreement, if the account owner is a natural person; or

ii. the beneficiary, if the account owner is a legal entity.

4. For the 2018 calendar year only, an account owner may request a refund in order to pay the tuition expenses related to the beneficiary's enrollment in kindergarten through twelfth grade in the following circumstances:

a. the account was opened prior to December 31, 2017;

b. the amount requested to be refunded is less than or equal to the balance of the account as of December 31, 2017;

c. the amount requested to be refunded does not exceed \$10,000.

45. Refunds made under ~~this~~ §311.E.3 [and 4](#) are currently exempt from additional federal taxes.

F. 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.

G. Refund Payments. Payment of refunds for voluntary termination under §311.E or partial refunds of accounts pursuant to §311.E.3 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 to the Louisiana Education and Tuition Savings Fund.

H. Rollovers

1. Rollovers among ESAs of the Same Account Owner

a. Beginning October 1, 2009, an account owner may rollover any part or all of the value of an ESA to another ESA if the beneficiary of the account receiving the funds is a member of the family of the beneficiary of the original account.

b. If the current value of an ESA is transferred, all EEs and earnings thereon shall be included in the transfer.

2. Rollover to another Qualified Tuition Program

a. An account owner may request a rollover of the current value of the account less EEs and earnings thereon to another qualified tuition program.

b. EEs and the earnings thereon allocated to an ESA that is rolled over to another qualified tuition program are forfeited.

### 3. Rollover to a Qualified ABLE Program Account

a. Beginning May 1, 2018, an account owner may rollover any part or all of the value of an ESA to a Qualified ABLE Program account if the beneficiary of the account receiving the funds is a member of the family of the beneficiary of the ESA.

b. EEs and the earnings thereon allocated to an ESA that is transferred to a Qualified ABLE Program are forfeited.

c. A rollover by a Louisiana resident to any Qualified Able Program Account will be subject to Louisiana Tax Table Income in accordance with state law.

### 4. An account owner may not rollover any part or all of the value of an ESA to a START K12 account.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:717 (June 1997), amended LR 24:1273 (July 1998), repromulgated LR 26:2265 (October 2000), amended LR 27:38 (January 2001), LR 27:1882 (November 2001), LR 28:779 (April 2002), LR 30:790 (April 2004), LR 31:639 (March 2005), LR 32:1434 (August 2006), LR 32:2240 (December 2006), LR 33:444 (March 2007), LR 35:236 (February 2009), LR 36:492 (March 2010), LR 36:2551 (November 2010), LR 39:2238 (August 2013), LR 42:1080 (July 2016).

## Chapter 7. START K12

### §701. General Provisions

A. The Student Tuition and Revenue Trust Kindergarten Through Twelfth Grade Program (START K12) was enacted in 2018 to implement provisions of the Tax Cuts and Jobs Act which allows Internal Revenue Code Section 529 college savings account funds to be used for tuition expenses related to enrollment in kindergarten through twelfth grade.

B. The purposes of the START K12 are the following:

1. To allow account owners to save for the tuition expenses related to enrollment in kindergarten through twelfth grade; and

2. To comply fully with Internal Revenue Code Section 529.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3100.1 et seq

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

### §703. Legislative Authority

A. Act Number 687 of the 2018 Regular Legislative Session, effective May 30, 2018, enacted the Louisiana Student Tuition Assistance and Revenue Trust START Saving Kindergarten Through Twelfth Grade Program

(START K12) as chapter 22-B, title 17 of the *Louisiana Revised Statutes* (R.S. 17:3100.1-3100.10).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3100.1 et seq.

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

### §705. 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 START K12 Program through the Louisiana Board of Regents, Office of Student Financial Assistance (LOSFA).

C. LOSFA, a program of 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 START K12 Program under the direction of the LATTA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3100.1 et seq.

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

### §707. 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 person(s), organization or group that completes the START K12 Program owner's agreement on behalf of a beneficiary and is the account owner of record of all funds credited to the account.

*Beneficiary*—the person named by the account owner in the START K12 owner's agreement or the person named by the LATTA when authorized to make such a designation by the owner of an account that is classified under §711.A.5 as the individual entitled to apply the account balance, or portions thereof, toward payment of their qualified education expenses.

*Beneficiary's Family*—for the purpose of §711.A.5 one of the following persons:

a. the beneficiary's parent(s) or court ordered custodian; or

b. a person who claims the beneficiary as a dependent on his or her federal income tax return for the previous year; or

c. a person who certified that the beneficiary lives with him, that he provides more than 50 percent of

the beneficiary's support for the previous year and that he was not required to file an income tax return for the previous year.

*Current Value*—the value of an education savings 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 from an account owner for investment in a START K12 account. Deposits do not include earnings on deposits.

*Disabled or Disability*—an individual who is considered to be disabled because he/she is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration. An individual shall not be considered disabled unless he furnishes proof of the existence thereof in such form and manner as the LATA may require.

*Educational Term*—a semester, quarter, term, summer session, inter-session, or an equivalent unit.

*Eligible Educational Institution*—a public or approved nonpublic elementary or secondary school in Louisiana that contains any of the grades kindergarten through twelve.

*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 a START K12 Account, including the interest earned thereon, in investments that normally provide a fixed rate of return for a specific period of time.

*Legal Entity*—juridical person including, but not limited to, groups, trusts, estates, associations, organizations, partnerships, and corporations that are incorporated, organized, established, or authorized to conduct business in accordance with the laws of one or more states or territories of the United States. A natural person is not a legal entity.

*Louisiana Education Tuition and Savings Fund (the Fund)*—is a special permanent fund maintained by the Louisiana state treasurer for the purpose of the START Saving Program and the START K12 Program and is the account into which all initial deposits made to START K12 Program accounts are deposited.

*Louisiana Office of Student Financial Assistance (LOSFA)*—the agency of state government responsible for administering the START K12 Program under the direction of the Louisiana Tuition Trust Authority.

*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;

e. a legal entity is considered to be a Louisiana resident if it is incorporated, organized, established or authorized to conduct business in accordance with the laws of Louisiana or registered with the Louisiana Secretary of State to conduct business in Louisiana and has a physical place of business in Louisiana.

*Louisiana Tuition Trust Authority (LATA)*—the statutory body responsible for the administration of the START Saving Program.

*Maximum Allowable Account Balance*—\$180,000.

*Member of the Family* (with respect to the designated beneficiary)—

a. an individual who bears one of the following relationships to such beneficiary:

i. a son or daughter of the beneficiary, or a descendant of either;

ii. a stepson or stepdaughter of the beneficiary;

- iii. a brother, sister, stepbrother, or stepsister of the beneficiary;
  - iv. the father or mother of the beneficiary, or an ancestor of either;
  - v. a stepfather or stepmother of the beneficiary;
  - vi. a son or daughter of a brother or sister of the beneficiary;
  - vii. a brother or sister of the father or mother of the beneficiary; or
  - viii. a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the beneficiary; or
  - ix. a first cousin of the beneficiary; or
- b. the spouse of an individual listed in Clauses a.i-viii.

*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 completes and signs. It incorporates, by reference, R.S. 17:3100.1 et seq., and the rules promulgated by the LATTA 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 Education Expenses*—expenses for tuition in connection with enrollment or attendance at an elementary or secondary school in grades kindergarten through twelve.

*Redemption Value*—the cash value of the money in a START K12 Program 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. The redemption value is not applicable to a START K12 Program account invested in variable earnings.

*Refund Recipient*—the person designated by the account owner in the START K12 Program owner's agreement or by operation of law to receive refunds from the account. The refund recipient can only be the account owner or the beneficiary.

*START K12 Account*—a savings account established by a natural person or a legal entity to pay qualified education expenses of the designated beneficiary.

*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.

*Tuition*—the mandatory educational charge required as a condition of enrollment.

*Variable Earnings*—refers to that portion of funds in a START K12 Program account invested in equities, bonds, short-term fixed income investments or a combination of any of the three.

*Variable Earnings Transaction Fund*—the subaccount established within the Louisiana Education Tuition and Savings Fund to receive funds as directed by rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3100.1 et seq.

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

#### **§709. START K12 Program Accounts**

A. A START K12 Program account is established on behalf of a designated beneficiary to provide the funding for tuition necessary for the beneficiary to attend public or private school for any of kindergarten through twelfth grade.

1. The account owner classified under §711.A.1, 2, 3, and 4 shall designate the beneficiary in the owner's agreement.

2. The account owner classified under §711.A.5 may designate the beneficiary in the owner's agreement, provided the beneficiary is not a member of the account owner's family, or authorize the LATTA to select a beneficiary for the account.

3. A beneficiary selected by the LATTA must meet the following criteria:

a. the beneficiary is a Louisiana resident;

b. the federal adjusted income of the beneficiary's family is less than \$30,000 or the beneficiary is eligible for a free lunch under the Richard B. Russell National School Act (42 USC 1751 et seq.);

c. the beneficiary is not a member of the account owner's family nor a member of the family of any member or employee of the authority or LOSFA;

4. Procedure for Selection (Reserved)

B. Program Enrollment Period. An account may be opened and an eligible beneficiary may be enrolled at any time during the calendar year.

C. Completing the Owner's Agreement

1. This agreement must be completed in full by the account owner.

2. The account owner shall designate a beneficiary, except as provided in Paragraph A.2 above.

3. The account owner may designate a limited power of attorney to another person who would be authorized to act on the account owner's behalf, in the event the account owner becomes incapacitated.

4. Transfer of account ownership is only permitted as set forth in §719.

D. Agreement to Terms. Upon executing an owner's agreement, the account owner agrees to the following statements.

1. Admission to a particular eligible educational institution—that participation in the START K12 Program does not guarantee that a beneficiary will be admitted to the beneficiary's eligible educational institution of choice.

2. Payment of Qualified Education Expenses—that no more than \$10,000 may be withdrawn from a START K12 account annually and that this amount is not guaranteed to pay all qualified education expenses.

3. Maintenance of Continuous Enrollment—that once admitted to an eligible educational institution, participation in the START K12 Program does not guarantee that the beneficiary will be permitted to remain at the school throughout the beneficiary's kindergarten through twelfth grade education.

4. Guarantee of Redemption Value—that the LATTA does not guarantee the value of a START K12 Account that is invested in variable earnings.

5. Conditions for Payment of Qualified Education Expenses—that payments for qualified education expenses under the START K12 Program are conditional upon the beneficiary's enrollment at an eligible educational institution.

#### 6. Fees

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

b. That financial and investment institutions may be authorized by the LATTA to offer prospective owners information and assistance in opening a START K12 account.

7. That an account whose owner is a legal entity or is classified under §711.A.5. cannot be terminated and the funds deposited in the account will not be refunded to the account owner.

8. That an account owner who is a legal entity or is classified under §711.A.5, can change the beneficiary of an account to one or more persons who are not members of the family of the beneficiary in accordance with §719.A.3.b, however, in such case:

a. these transfers may be treated as refunds under federal and state tax laws in which case the account owner will be subject to any associated tax consequences; and

b. the provisions of §709.A.2 shall apply to account owners classified in accordance with §711.A.5.

9. Only the account owner or the beneficiary may be designated to receive refunds from the account owned by an account owner who is a natural person other than a natural person classified as an account owner under §711.A.5. In the event of the death of the account owner when the account owner is designated to receive the refund and there is no substitute account owner named, the refund shall be made to the account owner's estate.

10. That in the event an account owner who is a legal entity classified as an account owner under §711.A.3 or 4 is dissolved, the beneficiary will become the owner of the account.

11. No refunds shall be paid to account owner classified under §711.A.5. If such an account is terminated by the LATTA in accordance with §717.E, the beneficiary shall become the owner of the account, provided that, all the rights and restrictions provided in law and these rules regarding account owners classified under §711.A.5, including, but not limited to, use of the funds, refunds, terminations, designation of beneficiary, etc., shall be applicable to the beneficiary that becomes the owner of such an account. If an account owner classified under §711.A.5 dies or is dissolved and the beneficiary has died or failed to graduate high school by age 21, and no substitute beneficiary has been designated by the account owner, the authority shall designate a new beneficiary who must meet the requirements of §709.A.3 and §711.A.5.

#### E. Acceptance of the Owner's Agreement

1. A properly completed and submitted owner's agreement will be accepted upon receipt.

2. Upon acceptance of the owner's agreement, the LATTA will establish the account of the named beneficiary.

F. Citizenship Requirements. Both an account owner who is not a legal entity and the beneficiary 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.

#### G. Residency Requirements

1. On the date an account is opened, either the account owner or his designated beneficiary must be a *Louisiana resident*, as defined in §707 of these rules.

2. The LATTA may request documentation to clarify circumstances and formulate a decision that considers all facts relevant to residency.

#### H. Providing Personal Information

1. The account owner is required to disclose personal information in the owner's agreement, including:

- a. his Social Security number;
- b. the designated beneficiary's Social Security number;
- c. the beneficiary's date of birth;
- d. the familial relationship between the account owner and the designated beneficiary, if any;
- e. the account owner's prior year's federal adjusted gross income as reported to the Internal Revenue Service; and

f. in the case of an account owner classified under §711.A.5:

- i. the Social Security number of the beneficiary's family and authorization from that person for the LATTA to access his annual tax records through the Louisiana Department of Revenue, for the purpose of verifying federal adjusted gross income; and
- ii. if applicable, proof that the beneficiary is a ward of the court; or
- iii. if applicable, proof the beneficiary is eligible for a free lunch under the Richard B. Russell National School Act (42 USC 1751 et seq.).

2. By signing the owner's agreement, the account owner who is classified under §711.A.1 or 2 (does not include legal entities or other persons classified as account owners under §711.A.5) provides written authorization for the LATTA to access his annual tax records through the Louisiana Department of Revenue, for the purposes of verifying federal adjusted gross income.

3. By signing the owner's agreement:

- a. the account owner who is a natural person, other than a natural person classified as an account owner under §711.A.5, certifies that:
  - i. both account owner and beneficiary are United States citizens or permanent residents of the United States as defined by the U.S. Citizenship and Immigration Services (USCIS) or its successor or be lawfully residing in the United States and have a valid Social Security number; and

(a). if permanent residents have provided copies of USCIS documentation with the submission of the application and owner's agreement; or

(b). if in the United States lawfully with a valid Social Security number have provided the visa or other document(s) from the USCIS evidencing lawful residency and a copy of the Social Security card from the Social Security Administration; and

ii. the information provided in the application is true and correct;

b. the person signing on behalf of an account owner who is a legal entity certifies that:

- i. the account owner is a *legal entity* as defined in rule and the application;
- ii. he or she is the designated agent of the legal entity;
- iii. he or she is authorized to take any action permitted the account owner;
- iv. the account owner acknowledges and agrees that once funds are deposited in a START account, neither the deposits nor the interest earned thereon can be refunded to the account owner;

v. the information provided in the application is true and correct; and

vi. if the beneficiary is not a Louisiana resident, the legal entity fulfills the definition of *Louisiana resident* as found in rule and the application;

c. the natural person classified as an account owner under §711.A.5 certifies that:

- i. the beneficiary is a Louisiana resident;
- ii. the federal adjusted income of the beneficiary's family is less than \$30,000 or the beneficiary is eligible for a free lunch under the Richard B. Russell National School Act (42 USC 1751 et seq.);
- iii. the beneficiary is not a member of the account owner's family nor a member of the family of any member or employee of the authority or LOSFA;

iv. the account owner acknowledges and agrees that once funds are deposited in a START account, neither the deposits nor the interest earned thereon can be refunded to the account owner; and

v. the information provided in the application is true and correct.

4. Social Security numbers and federal and state employer identification numbers will be used for purposes of federal and state income tax reporting and to access individual account information for administrative purposes (see §721).

I. Number of Accounts for a Beneficiary. There is no limit on the number of START K12 accounts that may be opened for one beneficiary by different account owners; however, the cumulative credits in all accounts for the same beneficiary may not exceed the maximum allowable account balance for that beneficiary and the cumulative



credits in all START K12 accounts for the same beneficiary will be used to determine when these accounts are fully funded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3100.1 et seq.

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

### **§711. Account Owner Classifications**

A. An account owner shall be classified by the authority under one of the following classifications:

1. a person or persons determined by the authority to be the parent, grandparent, or court ordered custodian of the person being designated as beneficiary of the account or who claim the person being designated as beneficiary as a dependent on their federal income tax return, and, at the time of the initiation of the agreement, the person or beneficiary is a resident of the state; or

2. a person determined by the authority to be a member of the family of the beneficiary and, at the time of the initiation of the agreement, the person or the beneficiary is a resident of the state; or

3. any other person and, at the time of the initiation of the agreement, the beneficiary is a resident of the state; or

4. any other person who, at the time of the initiation of the agreement, is a resident of the state and the beneficiary is not a resident of the state;

5. any other person or any government entity, and at the time of the initiation of the agreement:

a. the beneficiary is a resident of the state;

b. the federal adjusted income of the beneficiary's family is less than \$30,000 or the beneficiary must be eligible for a free lunch under the Richard B. Russell National School Act (42 USC 1751 et seq.);

c. the beneficiary is not a member of the account owner's family nor a member of the family of any member or employee of the authority or LOSFA;

d. the deposits to the account are an irrevocable donation by the owner.

B. In order to qualify as an account owner in any classification, a natural person, to include an independent student, must be of the age of majority under Louisiana law.

C. Account owner classification is made at the time of the initiation of the agreement. Changes in the residency of the account owner or beneficiary after the initiation of the agreement do not change the account owner's classification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3100.1 et seq.

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

### **§713. Deposits to Education Savings Accounts**

#### **A. Application Fee and Initial Deposit Amount**

1. No application fee will be charged to participants applying for a START K12 account directly to the LATTA.

2. Financial and investment institutions may be authorized by the LATTA to offer assistance in establishing a START K12 account. (See *fees* in §709.D.6.)

3. An initial deposit is not required to open an START K12 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 (see §707).

#### **B. Deposit Options**

1. The account owner shall select one of the following deposit options during the completion of the owner's agreement; however, the account owner 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 account owner's checking or savings account to the LATTA or a LATTA-approved investment institution;

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

2. Account owners are encouraged to maintain a schedule of regular monthly deposits.

#### **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 §713.B.1.

2. Once the cumulative contributions and earnings on contributions has reached or exceeded the maximum allowable account balance (see §707), principal deposits will no longer be accepted to the account until a qualified distribution is made which reduces the account balance below the maximum allowable account balance.

#### **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 account owner shall select the investment options in completing the owner's agreement, and

4. The investment option may be changed two times each calendar year.

5. 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. 17:3100.1 et seq.

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

### **§715. Disbursement of Account Funds for Payment of Qualified Education Expenses of a Beneficiary**

#### A. Request for Disbursement

1. For each term the account owner intends to fund the beneficiary's qualified education expenses, the account owner shall submit a request for disbursement.

2. The request for disbursement must include:

a. the START K12 account number;

b. the account owner's name, address, Social Security number and signature (may be electronic);

c. the beneficiary's name, address, and Social Security number;

d. the amount to be disbursed and to whom; and

e. the name and address of the eligible educational institution.

3. 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.

4. If there is more than one account with the same beneficiary, each account owner requesting a disbursement must complete a request for disbursement and the disbursements shall be made from each account, in turn, in the order the disbursement requests were received.

B. Disbursements from all accounts with the same beneficiary shall not exceed \$10,000 in one calendar year.

C. Disbursements shall be made to the account owner. If LOSFA determines that the beneficiary is not enrolled in an eligible educational institution during the semester or term for which the disbursement was intended, LOSFA shall notify the account owner that the disbursement will constitute a refund for state and federal income tax purposes unless returned to the START K12 account. If the disbursement is not returned to the account within 60 days of the original notice, LOSFA, in the authority's sole discretion, may refund any balance remaining thereafter and close the account.

7. 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3100.1 et seq.

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

### **§717. Termination, Refund, and Rollovers of a START K12 Account**

#### A. Account Termination

1. The account owner who is a natural person, other than a natural person classified as an account owner under §711.A.5, may terminate an account at any time.

2. The LATTA may terminate an account in accordance with this Subsection, §717.D or §717.E.

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

4. The LATTA may terminate an account if the beneficiary dies and a new beneficiary is not named within 60 days of the death.

5. The LATTA may terminate an account if the beneficiary becomes disabled and a new beneficiary is not named by the time the beneficiary who has become disabled reaches age 21.

6. The account owner who is a legal entity or is classified under §711.A.5, may not terminate an account; however, the account owner who is a legal entity or is classified under §711.A.5 may designate a substitute beneficiary in accordance with §719.A.3.b.

#### B. Refunds

1. A partial refund of an account may only be made as described in §717.E.3.

2. All other 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 12 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. Any increase in the value of an account invested in a variable earnings option over the amount deposited shall be forfeited by the account owner and deposited in the Variable Earnings Transaction Fund, if the account was invested in a variable earnings option and terminated within 12 months of the date the account was opened;

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

3. No refunds shall be made to an account owner who is a legal entity classified under §711.A.3 or 4. If an account owned by a legal entity classified as an account owner under §711.A.3 or 4 is terminated by the LATTA or by the account owner in accordance with §717.D or E, the refund will be made to the beneficiary or to the estate of the beneficiary if no substitute beneficiary has been designated by the account owner.

4. No refunds shall be paid to account owner classified under §711.A.5. If such an account is terminated by the LATTA in accordance with §717.E, the beneficiary shall become the owner of the account, provided that, all the rights and restrictions provided in law and these rules regarding account owners classified under §711.A.5, including, but not limited to, use of the funds, refunds, terminations, designation of beneficiary, etc., shall be applicable to the beneficiary that becomes the owner of such an account. If an account owner classified under §711.A.5 dies or is dissolved and the beneficiary has died or failed to graduate high school by age 21, and no substitute beneficiary has been designated by the account

owner, the authority shall designate a new beneficiary who must meet the requirements of §709.A.3 and §711.A.5.

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

#### C. Designation of a Refund Recipient

1. In the owner's agreement, the account owner who is a natural person, except one who is classified under §711.A.5, may designate himself or the beneficiary to receive refunds from the account.

2. Refunds of interest earnings will be reported as income to the individual receiving the refund for both federal and state tax purposes.

3. The beneficiary of an account owned by a legal entity classified as an account owner under §711.A.3 or 4 is automatically designated as the refund recipient.

5. Funds in an account classified under §711.A.5 shall not be refunded.

#### D. Involuntary Termination of an Account with Penalty

1. The LATTA may terminate an owner's agreement if it finds that the account owner provided false or misleading information (see §707).

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

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

#### E. Voluntary Termination of an Account

1. Refunds shall be equal to the redemption value of the START K12 account 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.

3. Except for accounts classified in accordance with §711.A.5, accounts may be terminated and fully refunded for the following reasons:

a. the death of the beneficiary in which case the refund shall be equal to the redemption value of the account and shall be made to:

i. the account owner, if the account owner is a natural person; or

ii. the beneficiary's estate, if the account owner is a legal entity;

b. the disability of the beneficiary, in which case the refund shall be equal to the redemption value of the account and shall be made to:

i. the account owner or the beneficiary, as designated in the owner's agreement, if the account owner is a natural person; or

ii. the beneficiary, if the account owner is a legal entity;

c. the beneficiary receives a scholarship, waiver of tuition, or similar subvention that the LATTA determines cannot be converted into money by the beneficiary, to the extent the amount of the refund does not exceed the amount of the scholarship, waiver of tuition, or similar subvention awarded to the beneficiary. In such case, the refund shall be equal to the scholarship, waiver of tuition, or similar subvention that the LATTA determines cannot be converted into money by the beneficiary, or the redemption value, whichever is less, and shall be made to:

i. the account owner or the beneficiary, as designated in the owner's agreement, if the account owner is a natural person; or

ii. the beneficiary, if the account owner is a legal entity.

4. Refunds made under this §717.E.3 are currently exempt from additional federal taxes.

F. 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.

G. Refund Payments. Payment of refunds for voluntary termination under §717.E or partial refunds of accounts pursuant to §717.E.3 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 to the Louisiana Education and Tuition Savings Fund.

#### H. Rollovers

1. Rollovers among START K12 Accounts of the Same Account Owner. An account owner may rollover any part or all of the value of an START K12 account to another START K12 account if the beneficiary of the account receiving the funds is a member of the family of the beneficiary of the original account.

2. Rollover to a START Saving Program Account. In the event funds remain in a START K12 account after all qualified education expenses for enrollment in kindergarten through twelfth grade have been paid, an account owner classified under §711.A.1, 2, 3, 4, or 5 may rollover any remaining funds to a START Saving Program Education Savings Account (ESA) for use by the beneficiary in an eligible postsecondary institution.

3. Rollover to another Qualified Tuition Program. An account owner may request a rollover of the current value of the account to another qualified tuition program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3100.1et seq.

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

#### §719. Substitution, Assignment, and Transfer

A. Substitute Beneficiary. The beneficiary of a START K12 account 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 §707;

2. the substitute beneficiary meets the citizen/resident alien requirements of §709.F, and, if the account owner is a nonresident of the state of Louisiana, the substitute beneficiary meets the applicable residency requirements (see §709.G);

3. if the substitute beneficiary is not a member of the family of the previous beneficiary:

a. and the account owner is a natural person classified under §711.A.1-4, the account must be refunded to the account owner and a new account must be opened;

b. and the account owner is a legal entity classified under §711.A.3 or 4, a new account shall be opened in the name of the new beneficiary. These transfers may be treated as refunds under federal and state tax laws in which case the account owner will be subject to any associated tax consequences; and

c. and the account owner is classified under §711.A.5, a new account shall be opened in the name of the new beneficiary only if the beneficiary meets all the requirements of §711.A.5; and

i. these transfers may be treated as refunds under federal and state tax laws in which case the account owner will be subject to any associated tax consequences; and

ii. the provisions of §709.A.2 shall apply to account owners classified in accordance with §711.A.5.

B. Substitution/Transfer of Account Ownership. The ownership of an START K12 account is transferable only with the written approval of the LATTA and only as follows.

1. The account owner who is a natural person, other than a natural person classified as an account owner under §711.A.5, may designate a person who will become the substitute account owner in the event of the original account owner's death.

2. In the event of the death of an account owner who is a natural person, other than a natural person classified as an account owner under §711.A.5, who has not named a substitute account owner, the account shall be terminated and the account shall be refunded to the beneficiary, if designated to receive the refund by the account owner, or the account owner's estate.

3. An account owner who is a legal entity classified under §711.A.3 or 4 may indicate in the owner's agreement that upon the beneficiary's graduation from high school, the account shall be rolled over into a START Saving ESA and ownership of the ESA shall be transferred to the beneficiary of the account upon his 18th birthday, or upon his enrollment in an eligible postsecondary institution full time, whichever is later. If the account owner transfers the account in accordance with this section, disbursements may only be made for payment of the qualified higher education expenses of the beneficiary.

4. In the event of the dissolution of an account owner who is a legal entity classified as an account owner under §711.A.3 or 4, the beneficiary shall become the substitute account owner. If the account owner who is a legal entity classified as an account owner under §711.A.3 or 4 is dissolved, the beneficiary designated to receive the refund has died, and there is no substitute beneficiary named, the refund shall be made to the beneficiary's estate.

5. No refunds shall be paid to account owner classified under §711.A.5. If such an account is terminated by the LATTA in accordance with §717.E, the beneficiary shall become the owner of the account, provided that, all the rights and restrictions provided in law and these rules regarding account owners classified under §711.A.5, including, but not limited to, use of the funds, refunds, terminations, designation of beneficiary, etc., shall be applicable to the beneficiary that becomes the owner of such an account. If an account owner classified under §711.A.5 dies or is dissolved and the beneficiary has died or failed to graduate high school by age 21, and no substitute beneficiary has been designated by the account owner, the authority shall designate a new beneficiary who must meet the requirements of §709.A.3 and §711.A.5..

C. Assignment of Account Ownership. Ownership of an START K12 account cannot be assigned.

D. Changes to the Owner's Agreement

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

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

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 account owner.

5. The account owner will be notified by the LATTA in writing 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. 17:3100.1 et seq.

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

**§721. Miscellaneous Provisions**

A. Account Statements and Reports

1. The LATTA will forward to each account owner 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; and

2. The account owner 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 account owners 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 a START K12 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 Internal Revenue Service and the recipient of the refund an Internal Revenue Service Form 1099, or whatever form is appropriate according to applicable tax codes.

D. Rule Changes. The LATTA reserves the right to amend the rules regulating the START K12 Program's 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 account owners and designated beneficiaries of START K12 accounts, amounts deposited, expended or refunded, are confidential and are not public records.

H. No Investment Direction. No account owner or beneficiary of a START K12 account may direct the investment of funds credited to an account, except to make an annual election among investment options that offer fixed earnings, variable earnings or both. Deposits will be invested on behalf of the START K12 Program by the state treasurer.

I. No Pledging of Interest as Security. No interest in an START K12 account may be pledged as security for a loan.

J. Excess Funds

1. Principal deposits to an START K12 account are no longer accepted once the account total reaches the maximum allowable account balance (see §713.C); however, the principal and interest earned thereon may 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 §715, or will be refunded in accordance with §717 upon termination of the account.

K. Withdrawal of Funds. Funds may not be withdrawn from an START K12 ACCOUNT except as set forth in §715 and §717.

L. NSF Procedure

1. A check received for deposit to an START K12 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 START K12 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 and deposited into the Variable Earnings Transaction Fund.

M. Effect of a Change in Residency. On the date an account is opened, either the account owner or beneficiary must be a resident of the state of Louisiana (see §709.G); however, if the account owner or beneficiary, or both, temporarily or permanently move to another state after the account is opened, they 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.

P. Variable Earnings Transaction Fund

1. Monies in the Variable Earnings Transaction Fund shall be used to pay any charges assessed to the START K12 Program by a financial institution and to pay any loss of value between the purchase and redemption of units in a variable earnings option that are incurred when a check or ACH transfer is dishonored after the trade date by the financial institution on which it was drawn.

2. After the payment of expenses as provided in Paragraph 1, above, the LATTA may declare monies remaining in the Variable Earnings Transaction Fund as surplus..

AUTHORITY NOTE: Promulgated in accordance with 17:3100.1 et seq.

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

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