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## Title 28

### EDUCATION

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

### Chapter 1. General Provisions

#### §101. General Provisions

A. The Louisiana Student Tuition Assistance and Revenue Trust (START Saving) Program was enacted in 1995 to provide a program of savings for future college costs to:

1. help make education affordable and accessible to all citizens of Louisiana;
2. assist in the maintenance of state institutions of postsecondary education by helping to provide a more stable financial base to these institutions;
3. provide the citizens of Louisiana with financing assistance for education and protection against rising postsecondary education costs, to encourage savings to enhance the ability of citizens to obtain access to institutions of postsecondary education;
4. encourage academic excellence, to promote a well-educated and financially secure population to the ultimate benefit of all citizens of the state; and
5. encourage recognition that financing an education is an investment in the future.

B. The START Saving Program establishes education savings accounts (ESAs) by individuals, groups, or organizations with provisions for routine deposits of funds to cover the future educational costs of a designated beneficiary.

1. In addition to earning regular interest at competitive rates, certain accounts are also eligible for earnings enhancements (EEs) provided by the state to help offset the beneficiary's cost of qualified higher education expenses.

2. The EE amount is determined by the account owner's classification, annual federal adjusted gross income, and total annual deposits of principal.

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 23:711 (June 1997), amended LR 24:1267 (July 1998), repromulgated LR 26:2260 (October 2000), amended LR 27:1876 (November 2001), LR 28:2334 (November 2002), LR 42:1071 (July 2016).

#### §103. Legislative Authority

A. Act Number 547 of the 1995 Regular Legislative Session, effective June 18, 1995, enacted the Louisiana Student Tuition Assistance and Revenue Trust (START) Saving Program as chapter 22-A, title 17 of the *Louisiana Revised Statutes* (R.S. 17:3091-3099.2).

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 23:711 (June 1997), repromulgated LR 24:1267 (July 1998), LR 26:2260 (October 2000), amended LR 27:1876 (November 2001), LR 42:1071 (July 2016).

#### §105. Program Administration

A. The Louisiana Tuition Trust Authority (LATTA) is a statutory authority whose membership consists of the Louisiana Student Financial Assistance Commission (LASFAC), 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 Saving Program through the Louisiana Office of Student Financial Assistance (LOSFA).

C. LOSFA is the organization created to perform 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 Saving Program under the direction of the LATTA.

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 23:711 (June 1997), repromulgated LR 24:1267 (July 1998), amended LR 26:2260 (October 2000), LR 27:1876 (November 2001), LR 42:1071 (July 2016).

#### §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.

*Account Owner*—the *person(s)*, independent student, organization or group that completes the START Saving 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 Education Savings Account (ESA) 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 §303.A.6 as the individual entitled to apply the account balance, or portions thereof, toward payment of their qualified higher education expenses.

*Beneficiary's Family*—for the purpose of §303.A.6 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, earnings on deposits, earnings enhancements (EEs) allocated to the account and the earnings on the EEs.

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 plus the earnings enhancements (EEs) allocated to the account and the earnings on the EEs. 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 an education savings account. Deposits do not include earnings on deposits nor earnings enhancements or interest earned thereon.

*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 LATTA may require.

*Earnings Enhancement (EE)*—a payment allocated to an ESA on behalf of the beneficiary of the account by the state. The amount of the annual EE is calculated based upon the classification of an account, the annual federal adjusted gross income of the account owner, and total annual deposits of principal into an ESA, including deposits in fixed earning and variable earnings options. EEs and the interest earned thereon may only be used to pay the beneficiary's qualified higher education expenses, or portion thereof, at an eligible educational institution and cannot be refunded.

*Earnings Enhancement Cap*—the maximum of deposits in an account for which earnings enhancements will be paid. The earnings enhancement cap is reached when an account has a current value that is equal to or exceeds five times the annual qualified higher education expenses at the highest cost Louisiana public college or university, projected to the scheduled date of first enrollment. The projected qualified higher education expenses at each eligible educational institution shall be updated by the administering agency. On the date of the beneficiary's first enrollment in an eligible educational institution, the earnings enhancement cap will be fixed at five times the annual qualified higher education

expenses at the highest cost Louisiana public college or university, for the academic year of enrollment or the projected amount, whichever is greater.

*Education Savings Account (ESA)*—a savings account established by a natural person or a legal entity to pay qualified higher education expenses of the designated beneficiary.

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

*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.

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

*Independent Student*—is a person who is defined as an independent student by the Higher Education Act of 1965 (20 U.S.C. 1088) (HEA), as amended, and if required, files an individual federal income tax return in his/her name and designates him/herself as the beneficiary of an ESA.

a. The HEA defines *independent student* as a student who:

i. reached 24 years of age prior to January of the year preceding the academic year for which the student is applying for aid;

ii. is a veteran of the U.S. Armed Forces, including a student who was activated to serve in Operation Desert

Storm or is currently serving on active duty in the Armed Forces for other than training purposes;

iii. is an orphan, in foster care, or a ward of the court or was in foster care or was a ward of the court until the individual reached the age of 18;

iv. has legal dependents other than a spouse;

v. is a graduate or professional student;

vi. is married; or

vii. has been determined independent by a financial aid officer exercising professional judgment in accordance with applicable provisions of the HEA.

b. An independent student may only open an account as an account owner if he/she is 18 years or older.

*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 is the account into which all initial deposits made to ESAs are deposited. The fund includes the Savings Enhancement Fund, which is a special sub-account designated to receive earnings enhancements appropriated by the state, and interest earned thereon.

*Louisiana Office of Student Financial Assistance (LOSFA)*—the agency of state government responsible for administering the START Saving 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 (LATTa)*—the statutory body responsible for the administration of the START Saving Program.

*Maximum Allowable Account Balance*—\$500,000.

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

a. the spouse of such beneficiary; or

b. 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

c. the spouse of an individual listed in Clauses b.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. 17:3091 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 Higher Education Expenses*—

a. tuition, fees, books, supplies, and equipment required for the enrollment or attendance of a designated beneficiary at an eligible educational institution; and

b. room and board; and

c. expenses for special needs services in the case of a special needs beneficiary, which are incurred in connection with such enrollment or attendance; and

d. for the calendar years 2009 and 2010 only, expenses paid or incurred for the purchase of any computer technology or equipment or Internet access and related services, if such technology, equipment, or services are to be used by the beneficiary and the beneficiary's family during any of the years the beneficiary is enrolled at an eligible educational institution, but shall not include expenses for computer software designed for sports, games, or hobbies unless the software is predominately educational in nature;

e. for calendar year 2015 and thereafter, expenses for the purchase of computer or peripheral equipment, computer software, or Internet access and related services, if such equipment, software, or services are to be used primarily by the beneficiary during any of the years the beneficiary is enrolled at an eligible educational institution, but shall not include expenses for computer software designed for sports, games, or hobbies unless the software is predominately educational in nature.

*Rate of Expenditure*—the rate (see §309.B) per educational term at which the EEs may be disbursed from an ESA to pay for the beneficiary's qualified higher education expenses at an eligible educational institution. For each disbursement requested by an account owner, EEs and the earnings thereon will be disbursed from the account in the same ratio that they bear to the current value of the account.

*Redemption Value*—the cash value of the money in an ESA 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 does not include any EEs allocated to the account or the earnings on EEs. Redemption value is not applicable to an ESA invested in variable earnings.

*Refund Recipient*—the person designated by the account owner in the START Saving 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.

*Room and Board*—the reasonable cost for the educational term incurred by the designated beneficiary for room and board while attending an eligible educational

institution on at least a half time basis, not to exceed the maximum amount included for *room and board* for such period in the cost of attendance (as currently defined in §472 of the Higher Education Act of 1965, 20 U.S.C. 1087ll) as determined by the eligible educational institution for such period, or if greater, the actual invoice amount the student residing in housing owned or operated by the eligible education institution is charged by such institution for room and board.

*Saving Enhancement Fund*—the sub-account established within the Tuition and Savings Fund by the State Treasurer to receive funds appropriated by the legislature or donated from any other source for the purpose of funding EEs.

*Scheduled Date of First-Enrollment* (for a dependent beneficiary)—the month and year in which the beneficiary turns 18 years of age. For an independent student over the age of 18, the scheduled date of first-enrollment is the date the account is opened. This date is used to determine eligibility for EEs. See the term *earnings enhancement cap*.

*Special Needs Services and Beneficiary*—services provided to a beneficiary because the student has one or more disabilities.

*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 and is limited to undergraduate enrollment. It does not include non-residence fees, laboratory fees, room and board or other similar fees and charges.

*Variable Earnings*—refers to that portion of funds in an ESA, 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. 17:3091-3099.2.

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), LR 44:1877 (October 2018).

## Chapter 3. Education Savings Account

### §301. Education Savings Accounts

A. An education savings account (ESA) is established on behalf of a designated beneficiary to provide the funding necessary for the beneficiary to acquire an undergraduate certificate, associate degree, undergraduate degree, graduate degree or professional degree. ESAs may offer investment options that provide either fixed earnings or variable earnings.

1. The account owner classified under §303.A.1, 2, 3, 4, and 5 shall designate the beneficiary in the owner's agreement.

2. The account owner classified under §303.A.6 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 the Office of Student Financial Assistance;
- d. demonstrate superior early academic preparation in the third grade by achieving a score on the Iowa Tests of Basic Skills, Stanford 9 Test or TerraNova Test that is in the top two quartiles; and
- e. the guidelines provided by the account owner, if any; provided such guidelines are lawful.

#### 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 §313.

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

1. Admission to a Postsecondary Educational Institution—that participation in the START Program does not guarantee that a beneficiary will be admitted to any institution of postsecondary education.

2. Payment of Qualified Higher Education Expenses—that participation in the START Program does not guarantee that the full cost of the beneficiary's qualified higher education expenses will be paid at an institution of postsecondary education nor does it guarantee enrollment as a resident student.

3. Maintenance of Continuous Enrollment—that once admitted to an institution of postsecondary education, participation in the START Program does not guarantee that the beneficiary will be permitted to continuously enroll or receive a degree, diploma, or any other affirmation of program completion.

4. Guarantee of Redemption Value—that the LATTA guarantees payment of the redemption value of an ESA that is invested in fixed earnings, subject to the limitations imposed by R.S. 17:3098; however, the LATTA does not guarantee the value of an ESA that is invested in variable earnings.

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

#### 6. Fees

a. 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 at standard fees established by the LATTA.

b. 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.

7. That an account whose owner is a legal entity or is classified under §303.A.6. 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 §303.A.6, 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 §313.A.4.c, 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 EEs and interest thereon will not be transferred to the new beneficiary (Note that the deposit(s) will be eligible for EEs for the year of the deposit.);

c. the provisions of §301.A.2 shall apply to account owners classified in accordance with §303.A.6.

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 §303.A.6. 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 §303.A.4 or 5 is dissolved, the beneficiary will become the owner of the account.

11. That in the event an other person classified as an account owner under §303.A.6 dies or is dissolved, the beneficiary will become the account owner, provided that, all the restriction provided in law and these rules regarding account owners classified under §303.A.6, 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 an account established under §303.A.6. If an account owner classified under §303.A.6 dies or is dissolved and the beneficiary has died or failed to enroll in an eligible college or university by age 25, and no substitute beneficiary has been designated by the account owner, the authority is authorized to designate a new beneficiary who must meet the requirements of §301.A.3 and §303.A.6.

#### 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 §107 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 §303.A.6:
  - 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 §303.A.1, 2, or 3 (does not include legal entities or other persons classified as account owners under §303.A.6) 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 §303.A.6, 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 §303.A.6 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 the Office of Student Financial Assistance;
  - 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 §315).

I. Number of Accounts for a Beneficiary. There is no limit on the number of ESAs 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 ESAs for the same beneficiary will be used to determine when these accounts are fully funded and are no longer eligible for EEs.

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 23:713 (June 1997), amended LR 24:436 (March 1998), LR 24:1269 (July 1998), LR 25:1794 (October 1999), LR 26:2262 (October 2000), LR 27:1878 (November 2001), LR 28:450 (March 2002), LR 28:778 (April 2002), LR 28:2334 (November 2002), LR 30:786 (April 2004), LR 33:443 (March 2007), LR 36:313 (February 2010), LR 41:669 (April 2015), LR 42:1074 (July 2016).

### §303. 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. an independent student who is a resident of the state;
- 4. any other person and, at the time of the initiation of the agreement, the beneficiary is a resident of the state; or
- 5. 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;
- 6. 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 the Office of Student Financial Assistance;
  - 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. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 27:1879 (November 2001), amended LR 28:779 (April 2002), LR 28:2334 (November 2002), LR 30:787 (April 2004), LR 42:1076 (July 2016).

### §305. 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 Program account directly to the LATTA.

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2. Financial and investment institutions may be authorized by the LATTA to offer assistance in establishing a START Program account. (See *fees* in §301.D.6.)

3. An initial deposit is not required to open an ESA; 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 §107).

### 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.

3. Through completion of schedule D of the Louisiana state income tax return, account owners may designate all or any portion of a state income tax refund due them as a deposit to their ESA. If the account owner has established more than one ESA, the amount of the refund identified on schedule D of the Louisiana state income tax return shall be divided by the number of accounts owned and an equal share shall be deposited into each such account.

### 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 §305.B.1.

2. Once the balance in an account reaches the earnings enhancement cap (see §107), it will no longer be considered for EEs, regardless of the total amount of annual deposits that may be subsequently made to the account.

3. Once the cumulative contributions, earnings on contributions, EEs and interest accrued thereon has reached or exceeded the maximum allowable account balance (see §107), 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:

a. shall select one investment option in completing the owner's agreement, and

b. beginning December 1, 2009, may select the same or a different investment option at the time of each deposit.

### 4. Changing the Investment Option

a. Through 2008, the investment option can be changed only once in any 12-month period.

b. For the 2009 calendar year, the investment option may be changed at any time, but no more than two times.

c. Beginning December 1, 2009, if an ESA 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 the one per calendar year investment option change.

d. Beginning the 2010 calendar year and thereafter, the investment option may be changed one time each calendar year.

e. Beginning the 2015 calendar year and thereafter, 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. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1270 (July 1998), LR 26:2263 (October 2000), LR 27:1880 (November 2001), LR 30:788 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 32:1433 (August 2006), LR 32:2240 (December 2006), LR 35:236 (February 2009), LR 35:1234 (July 2009), LR 36:492 (March 2010), LR 36:2550 (November 2010), LR 42:1076 (July 2016), LR 42:1658 (October 2016).

### **§307. Allocation of Earnings Enhancements (EEs)**

A. EEs are state-appropriated funds allocated to an ESA on behalf of the beneficiary named in the account.

1.a. The EEs for account owners who are classified under §303.A.1, 2 and 3 are calculated based upon the account owner's annual federal adjusted gross income for the year immediately preceding the year for which the beneficiary of the account is being considered for EEs and the account owner's total annual deposits of principal.

b. The EEs for account owners who are classified under §303.A.6 are calculated based:

i. upon the beneficiary's family's annual federal adjusted gross income for the year immediately preceding the year for which the beneficiary of the account is being considered for EEs and the account owner's total annual deposits of principal; or

ii. if the beneficiary is a ward of the court, using the highest EE available and the account owner's total annual deposits of principal.

2. Although allocated to individual accounts, EEs are state funds and shall be held in an escrow account maintained by the state treasurer until disbursed to pay qualified higher education expenses at an eligible education institution as set forth in §307.G.

B. Providing Proof of Annual Federal Adjusted Gross Income.

1.a. For account owners who are classified under §303.A.1, 2, or 3 (does not include legal entities nor other persons classified as account owners under §303.A.6), the account owner's annual federal adjusted gross income for the year immediately preceding the year for which the beneficiary of the account is being considered for EEs is used in computing the annual EE allocation.

b. For account owners who are classified under §303.A.6, the beneficiary's family's annual federal adjusted gross income for the year immediately preceding the year for which the beneficiary of the account is being considered for EEs is used in computing the annual EEs or proof that the beneficiary is a ward of the court.

2.a. To be eligible in any given year for EEs in accordance with §307.D, the account owner of an ESA classified under §303.A.1, 2, 3, or 4 must:

i. authorize the LATTA to access the account owner's state tax return filed with the Louisiana Department of Revenue for the purpose of obtaining the account owner's federal adjusted gross income; or

ii. provide the LATTA a copy of the account owner's federal or state income tax return filed for the year immediately preceding the year in which the beneficiary of the account is being considered for EEs.

b. To be eligible in any given year for EEs in accordance with §307.D, the account owner of an ESA classified under §303.A.6 must:

i. provide authorization from the beneficiary's family for the LATTA to access the beneficiary's family's state tax return filed with the Louisiana Department of Revenue for the purpose of obtaining the federal adjusted gross income of the beneficiary's family; or

ii. provide the LATTA a copy of the beneficiary's family's federal or state income tax return filed for the year immediately preceding the year in which the beneficiary of the account is being considered for EEs; or

iii. provide documentation establishing that the beneficiary is a ward of the court.

3.a. In completing the owner's agreement, account owners who are classified under §303.A.1, 2, or 3 (does not include legal entities or other persons classified as account owners under §303.A.6) authorize the LATTA to access their records with the Louisiana Department of Revenue for the purpose of verifying the account owners' federal adjusted gross income. In the event the account owner does not file tax information with the Louisiana Department of Revenue, they must provide the LATTA with:

i. a copy of the form filed with the Internal Revenue Service; or

ii. a statement as to why no income tax filing was required of the account owner.

b. In completing the owner's agreement, account owners who are classified under §303.A.6 provide authorization from the beneficiary's family for the LATTA to

access their records with the Louisiana Department of Revenue for the purpose of verifying the beneficiary's family's federal adjusted gross income. In the event the beneficiary's family does not file tax information with the Louisiana Department of Revenue, the beneficiary's family must provide:

i. a copy of the form filed with the Internal Revenue Service; or

ii. a statement that the beneficiary lives with them, that they provide more than 50 percent of the beneficiary's support and an explanation as to why the beneficiary's family was not required to file an income tax return; or

iii. provide documentation establishing that the beneficiary is a ward of the court.

4. EEs at the rate prescribed in §307.D cannot be allocated to an ESA unless the LATTA has received verification of an account owner's federal adjusted gross income by the deadline contained in §307.B.5. Interest on EEs will not accrue to the benefit of an ESA until the LATTA has allocated the EEs to the account.

5. If an account owner is classified in §305.A.1 or 2 and the tax documents required by §307.B.2 are not received by February 15 immediately following the year for which the beneficiary of the account is being considered for EEs, as an exception to §307.D, the account shall be allocated EEs for the year being considered at the EE rate shown in §307.D for account owners who are members of the family of the beneficiary who report an adjusted gross income of \$100,000 and above.

6. Example. An account owner has made deposits in a START account for a beneficiary during calendar year 2010 and desires to receive the highest EE rate authorized for those deposits. If the account owner did not file a Louisiana income tax return for the tax year 2009 or is notified by the LATTA that the Louisiana Department of Revenue could not validate his federal adjusted gross income, he must submit the tax documents for tax year 2009 required by §307.B.2.b so that they are received by the LATTA no later than February 15, 2011, or his EE rate will be defaulted to the rate for account owners who are members of the family of the beneficiary who report an adjusted gross income of \$100,000 and above.

#### C. Earnings Enhancement Rates

1. The EE rates applicable to an ESA under §303.A.1, 2, 3 and 6 are determined by the federal adjusted gross income of the account owner or the beneficiary's family, as applicable, according to the following schedule.

Reported Federal Adjusted Gross Income	Earnings Enhancement Rate
0 to \$29,999	14 percent
\$30,000 to \$44,999	12 percent
\$45,000 to \$59,999	9 percent
\$60,000 to \$74,999	6 percent
\$75,000 to \$99,999	4 percent
\$100,000 and above	2 percent

2. The availability of EEs to be allocated to ESAs is subject to an appropriation by the Louisiana Legislature.

3. In the event that sufficient EEs are not appropriated during any given year, the LATTA shall reduce EE rates, pro rata, as required to limit EEs to the amount appropriated.

D. The EE rates applicable to an ESA established by a person or persons identified in §303.A.4 shall be fixed at the EE rate for account owners who are members of the family of the beneficiary who report an adjusted gross income of \$100,000 and above.

E. An ESA established by an authorized account owner identified in §303.A.5 shall not be eligible for EEs.

F. Restrictions on allocation of EEs to ESAs. The allocation of EEs is limited to ESAs which:

1. have not reached the earnings enhancement cap (see §107); and

2. have an account owner who falls under one of the classifications described in §303.A.1, 2, 3, 4, or 6.

G. Frequency of Allocation of EEs to ESAs. EEs will be allocated annually, posted to the accounts as of December 31 of the year earned and reported to account owners before March 31 following the allocation.

H. Rate of Interest Earned on EEs. The rate of interest earned on EEs shall be the rate of return earned on the Savings Enhancement Fund as reported by the state treasurer.

#### I. Restriction on Use of Earnings Enhancements

1. EEs, and any interest which may accrue thereon, may only be expended in payment of the beneficiary's qualified higher education expenses, or a portion thereof, at an eligible educational institution.

2. EEs, although allocated to a beneficiary's account and reported on the account owner's annual statement, are assets of the state of Louisiana and are not the property of the account owner until disbursed to pay a beneficiary's qualified higher education expenses at an eligible education institution.

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 23:715 (June 1997), amended LR 24:1271 (July 1998), LR 25:1794 (October 1999), LR 26:1263 (June 2000), LR 26:2263 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1880 (November 2001), LR 28:779 (April 2002), LR 30:788 (April 2004), LR 30:2302 (October 2004), LR 34:1886 (September 2008), LR 36:2550 (November 2010), LR 42:1077 (July 2016).

### §309. Disbursement of Account Funds for Payment of Qualified Higher Education Expenses of a Beneficiary

#### A. Request for Disbursement

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

2. The request for disbursement must include:

- a. the START account number;
- b. the account owner's name, address, and signature (may be electronic);
- c. the beneficiary's name and address;
- d. the amount to be disbursed and to whom;
- 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.

5. Disbursements from all accounts with the same beneficiary shall not exceed the qualified higher education expenses of the beneficiary for the school attended.

6. Disbursements may be made to the eligible educational institution, account owner, and/or beneficiary. If all of the disbursement is made to the account owner and/or the beneficiary and 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 account. If the disbursement is not returned to the account within 60 days of the original notice, LOSFA shall recover the amount of the EEs and interest thereon included in the disbursement from any principal and interest remaining in the account, and, 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.

#### B. Rate of Expenditure

1. As authorized by the account owner, the amount to be disbursed from an account shall be drawn from deposits (including earnings on deposits) and EEs (including earnings on EEs) in the same ratio as these funds bear to the total value of the account as of the date of the disbursement.

2. The account owner may not withdraw an amount in excess of the beneficiary's qualified higher education expenses for a specific term of enrollment or the value of the account, whichever is less.

#### C. Payments to Eligible Educational Institutions

1. Upon the beneficiary's enrollment and the institution's receipt of a START disbursement, the institution may credit the student's account. Should the amount received exceed the amount owed to the institution, the institution shall

disburse the balance to the beneficiary, unless the beneficiary directs otherwise.

2. If the designated beneficiary of an ESA account enrolls, but fails to attend or withdraws from the institution prior to the end of the educational term and disbursements from the ESA were made to the eligible educational institution to pay all or part of his qualified higher education expenses for that educational term, an institutional refund to the ESA may be required.

3. If any refund is due the beneficiary from the eligible educational institution, a pro rata share of any refund of qualified higher education expenses equal to that portion of the qualified higher education expenses paid by disbursements from the ESA shall be made by the eligible educational institution to the LATTA.

4. The LATTA will credit any refunded amount to the appropriate ESA.

D. Advance Enrollment. A beneficiary may enroll in an eligible educational institution prior to his scheduled date of first-enrollment (see §107) and utilize ESA funds; however, a beneficiary may not utilize funds from an ESA prior to one year from the date the beneficiary made the first deposit opening the account.

E. Part-Time Attendance and Nonconsecutive Enrollment. A beneficiary may utilize funds in an ESA for enrollments which are nonconsecutive and for part-time attendance at an eligible educational institution, including enrollment in college classes while still in high school. Room and board is only a qualified higher education expense for students who are enrolled at least half time; however, room and board is not a qualified higher education expense for students who are enrolled in college classes while still in high school.

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 23:716 (June 1997), amended LR 24:1272 (July 1998), LR 24:2238 (December 1998), LR 26:2265 (October 2000), LR 27:1881 (November 2001), LR 30:789 (April 2004), LR 30:1169 (June 2004), LR 32:1433 (August 2006), LR 33:444 (March 2007), LR 35:236 (February 2009), LR 42:1079 (July 2016), LR 45:1177 (September 2019).

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

#### A. Account Termination

1. The account owner who is a natural person, other than a natural person classified as an account owner under §303.A.6, may terminate an account at any time.

2. The LATTA may terminate an account in accordance with this Subsection, §309.A.6 and §311.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 25.

6. The account owner who is a legal entity or is classified under §303.A.6, may not terminate an account; however, the account owner who is a legal entity or is classified under §303.A.6 may designate a substitute beneficiary in accordance with §313.A.5.b.

#### B. Refunds

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

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, less earning enhancements allocated to the account and earnings thereon if the account has been open for less than 12 months. 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 (less earning enhancements allocated to the account and earnings thereon) 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 §303.A.4 or 5. If an account owned by a legal entity classified as an account owner under §303.A.4 or 5 is terminated by the LATTA or by the account owner in accordance with §311.E or F, the refund will be made to the beneficiary or to the beneficiary's estate if no substitute beneficiary has been designated by the account owner.

4. No refunds shall be paid to account owner classified under §303.A.6. If such an account is terminated by the LATTA in accordance with §311.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 §303.A.6, 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 §303.A.6 dies or is dissolved and the beneficiary has died or failed to enroll in an eligible college

or university by age 25, and no substitute beneficiary has been designated by the account owner, the authority shall designate a new beneficiary who must meet the requirements of §301.A.4 and §303.A.6.

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 §303.A.6, 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. In the event the beneficiary receives any refund of principal and earnings from the account, the tax consequences must be determined by the recipient.

4. The beneficiary of an account owned by a legal entity classified as an account owner under §303.A.4 or 5 is automatically designated as the refund recipient.

5. Funds in an account classified under §303.A.6 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 or beneficiary provided false or misleading information (see §107).

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 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.

5. Refunds made under §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), LR 44:1877, 1887 (October 2018).

## §313. 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);

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 §303.A.1-5, 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 §303.A.4 or 5, a new account shall be opened in the name of the new beneficiary; 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 EEs and interest thereon for an account whose owner is classified under §303.A.4 will not be transferred to the new beneficiary; however, the new account will be eligible for EEs for the year the new account is opened;

c. and the account owner is classified under §303.A.6, a new account shall be opened in the name of the new beneficiary only if the beneficiary meets all the requirements of §303.A.6; 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 EEs and interest thereon will not be transferred to the new beneficiary; however, the new account will be eligible for EEs for the year the new account is opened;

iii. the provisions of §301.A.2 shall apply to account owners classified in accordance with §305.A.5.

B. Substitution/Transfer of Account Ownership. The ownership of an ESA 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 §303.A.6, may designate a person who will become the substitute account owner in the event of the original account owner's death. Eligibility for EEs will be based on the substitute account owner's classification at the time 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 §303.A.6, 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 §303.A.4 or 5 may indicate in the owner's agreement that the account 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 §303.A.4 or 5, the beneficiary shall become the substitute account owner. If the account owner who is a legal entity classified as an account owner under §303.A.4 or 5 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. In the event of the death or dissolution of another person classified as an account owner under §303.A.6, the beneficiary shall become the substitute account owner, provided that all the rights and restrictions provided in law and these rules regarding account owners classified under §303.A.6, 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 an account established under §303.A.6. If an account owner classified under §303.A.6 dies or is dissolved and the beneficiary has died or failed to enroll in an eligible educational institution by age 25, and no substitute beneficiary has been designated by the account owner, the LATTA shall designate a new beneficiary who must meet the requirements of §301.A.4 and §303.A.6.

C. Assignment of Account Ownership. Ownership of an ESA 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. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), repromulgated LR 26:2266 (October 2000), amended LR 27:1883 (November 2001), LR 28:780 (April 2002), LR 30:791 (April 2004), LR 42:1081 (July 2016).

### §315. 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;
- b. total principal and interest accrued to the statement date; and
- c. total EEs and interest thereon allocated to the account as of the statement date.

2. EEs shall be allocated annually and reported after March 1, following the account owners' required disclosure of their reported federal adjusted gross income for the year immediately preceding the year in which the beneficiary of the account is being considered for an EEs.

3. 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.

3. For the year ending December 31, 2000, the Louisiana Education Tuition and Savings Fund earned an interest rate of 6.51 percent.

4. For the year ending December 31, 2000, the Tuition Assistance Grant (TAGs) Fund earned an interest rate of 6.83 percent.

5. For the year ending December 31, 2001, the Louisiana Education Tuition and Savings Fund earned an interest rate of 6.33 percent.

6. For the year ending December 31, 2001, the Savings Enhancement Fund earned an interest rate of 6.38 percent.

7. For the year ending December 31, 2002, the Louisiana Education Tuition and Savings Fund earned an interest rate of 5.82 percent.

8. For the year ending December 31, 2002, the Savings Enhancement Fund earned an interest rate of 5.91 percent.

9. For the year ending December 31, 2003, the Louisiana Education Tuition and Savings Fund earned an interest rate of 5.33 percent.

10. For the year ending December 31, 2003, the Savings Enhancement Fund earned an interest rate of 5.17 percent.

11. For the year ending December 31, 2004, the Louisiana Education Tuition and Savings Fund earned an interest rate of 4.72 percent.

12. For the year ending December 31, 2004, the Savings Enhancement Fund earned an interest rate of 5.12 percent.

13. For the year ending December 31, 2005, the Louisiana Education Tuition and Savings Fund earned an interest rate of 3.64 percent.

14. For the year ending December 31, 2005, the Savings Enhancement Fund earned an interest rate of 4.92 percent.

15. For the year ending December 31, 2006, the Louisiana Education Tuition and Savings Fund earned an interest rate of 5.11 percent.

16. For the year ending December 31, 2006, the Savings Enhancement Fund earned an interest rate of 4.67 percent.

17. For the year ending December 31, 2007, the Louisiana Education Tuition and Savings Fund earned an interest rate of 5.28 percent.

18. For the year ending December 31, 2007, the Savings Enhancement Fund earned an interest rate of 5.25 percent.

19. For the year ending December 31, 2008, the Louisiana Education Tuition and Savings Fund earned an interest rate of 4.65 percent.

20. For the year ending December 31, 2008, the Savings Enhancement Fund earned an interest rate of 4.39 percent.

21. For the year ending December 31, 2009, the Louisiana Education Tuition and Savings Fund earned an interest rate of 3.22 percent.

22. For the year ending December 31, 2009, the Savings Enhancement Fund earned an interest rate of 3.08 percent.

23. For the year ending December 31, 2010, the Louisiana Education Tuition and Savings Fund earned an interest rate of 2.69 percent.

24. For the year ending December 31, 2010, the Savings Enhancement Fund earned an interest rate of 2.56 percent.

25. For the year ending December 31, 2011, the Louisiana Education Tuition and Savings Fund earned an interest rate of 2.53 percent.

26. For the year ending December 31, 2011, the Savings Enhancement Fund earned an interest rate of 2.47 percent.

27. For the year ending December 31, 2012, the Louisiana Education Tuition and Savings Fund earned an interest rate of 2.52 percent.

28. For the year ending December 31, 2012, the Savings Enhancement Fund earned an interest rate of 2.57 percent.

29. For the year ending December 31, 2013, the Louisiana Education Tuition and Savings Fund earned an interest rate of 2.168 percent.

30. For the year ending December 31, 2013, the Savings Enhancement Fund earned an interest rate of 1.715 percent.

31. For the year ending December 31, 2014, the Louisiana Education Tuition and Savings Fund earned an interest rate of 2.08 percent.

32. For the year ending December 31, 2014, the Savings Enhancement Fund earned an interest rate of 1.31 percent.

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33. For the year ending December 31, 2015, the Louisiana Education Tuition and Savings Fund earned an interest rate of 1.67 percent.

34. For the year ending December 31, 2015, the Savings Enhancement Fund earned an interest rate of 1.15 percent.

35. For the year ending December 31, 2016, the Louisiana Education Tuition and Savings Fund earned an interest rate of 1.6 percent.

36. For the year ending December 31, 2016, the Savings Enhancement Fund earned an interest rate of 1.2 percent.

37. For the year ending December 31, 2017, the Louisiana education tuition and savings fund earned an interest rate of 1.68 percent.

38. For the year ending December 31, 2017, the savings enhancement fund earned an interest rate of 1.52 percent.

39. For the year ending December 31, 2018, the Louisiana Education Tuition and Savings Fund earned an interest rate of 1.75 percent.

40. For the year ending December 31, 2018, the Savings Enhancement Fund earned an interest rate of 1.75 percent.

### C. Refunded Amounts

1. Interest earned on an ESA 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. Annual Report

1. The account owner of an ESA will be notified annually, in writing, of the following:

- a. the maximum allowable account balance; and
- b. the minimum recommended account balance which is an amount equal to five times the qualified higher education expenses for the eligible educational institution designated on the owner's agreement, projected to the date of the beneficiary's eighteenth birthday; or

2. If the account owner changes the institution designated on the owner's agreement, a revised minimum recommended account balance will be calculated and the account owner will be notified of any change.

E. Rule Changes. The LATTA reserves the right to amend the rules regulating the START Program's policies and procedures; however, any amendments to rules affecting participants will be published in accordance with the Administrative Procedure Act and distributed to account owners for public comment prior to the adoption of final rules.

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

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

H. Confidentiality of Records. All records of the LATTA identifying account owners and designated beneficiaries of ESAs, amounts deposited, expended or refunded, are confidential and are not public records.

I. No Investment Direction. No account owner or beneficiary of an ESA 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 Savings Program by the state treasurer.

J. No Pledging of Interest as Security. No interest in an ESA may be pledged as security for a loan.

### K. Excess Funds

1. Principal deposits to an ESA are no longer accepted once the account total reaches the maximum allowable account balance (see §305.C); however, the principal and interest earned thereon may continue to earn interest and any EEs allocated to the account may continue to accrue 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.

L. Withdrawal of Funds. Funds may not be withdrawn from an ESA except as set forth in §309 and §311.

### M. NSF Procedure

1. A check received for deposit to an ESA 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 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.

N. 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 §301.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.

O. Effect on Other Financial Aid. Participation in the START Program does not disqualify a student from

participating in other federal, state or private student financial aid programs; however, depending upon the regulations which govern these other programs at the time of enrollment, the beneficiary may experience reduced eligibility for aid from these programs.

**P. Change in Projected School of Enrollment**

1. The account owner may redesignate the beneficiary's projected school of enrollment, but not more than once annually.

2. If the change in school results in a change in the account's EE cap, the account owner will be notified.

**Q. 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.

**R. 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.

**S. Variable Earnings Transaction Fund**

1. Monies in the Variable Earnings Transaction Fund shall be used to pay any charges assessed to the START Saving 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. Such surplus shall be appropriated to the Saving Enhancement Fund to be used as EEs.

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

**HISTORICAL NOTE:** Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:1761 (August 2002), LR 28:2335 (November 2002), LR 29:2038 (October 2003), repromulgated LR 29:2374 (November 2003), amended LR 30:791 (April 2004), LR 30:1472 (July 2004), LR 31:2216 (September 2005), LR 32:1434 (August 2006), LR 32:2240 (December 2006), LR 33:2359 (November 2007), LR 34:1886 (September 2008), LR 35:1492 (August 2009), LR 36:492 (March 2010), LR 36:2030 (September 2010), LR 38:1954 (August 2012), LR 39:2238 (August 2013), LR 40:1926 (October 2014), LR 41:1487 (August 2015), LR 42:1082 (July 2016), LR 42:1658 (October 2016), LR 43:1731 (September 2017), LR 44:1888 (October 2018), LR 45:1177 (September 2019).

## 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, LR 43:638 (April 2017).

### §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:** Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 43:638 (April 2017).

### §505. Program Administration

A. The Louisiana Tuition Trust Authority (LATTA) is a statutory authority whose membership consists of the 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 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, LR 43:638 (April 2017).

**§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, or the eligible individual on whose behalf the account was opened, and who is also the beneficiary.

*Administrator*—the person 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 the ABLE account, or for whom an ABLE account was established, and who is the owner of such account.

*Current Value*—the value of an ABLE 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 ABLE 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 ABLE 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 ABLE account program under the direction of the 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.

*Louisiana Tuition Trust Authority (LATTA)*—the statutory body responsible for the administration of the ABLE 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.

*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 ABLE account program as directed by LATTA and the Board of Regents.

*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 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 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, LR 43:639 (April 2017), amended LR 44:1888 (October 2018).

### **§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. if a juridical entity, documentation evidencing that the eligible individual, or a person authorized to act on his behalf, as indicated in §509.D.2.a-d above, has designated the juridical entity to act on his behalf for purposes of an LA ABLE account program account.

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 ABE account on behalf of the eligible individual;
- e. that he will provide the documentation necessary to establish the certifications made for Subsections D.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 ABE account will be reported to the Social Security Administration on a monthly basis.

b. Fees

i. 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.

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

c. 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 ABE 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 ABE account.

#### 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;
- b. 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, LR 43:640 (April 2017), amended LR 44:1888 (October 2018)

## **§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 Social 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, LR 43:641 (April 2017).

#### **§513. Disbursement of Account Funds for Payment of QDEs**

##### **A. Request for Disbursement**

1. An ABLÉ 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 ABLÉ 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, LR 43:642 (April 2017).

#### **§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 ABLÉ 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 ABLÉ 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.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 43:642 (April 2017).

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

##### **A. Account Termination**

1. The administrator may terminate an ABLÉ 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 ABLÉ 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).

i. 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.

ii. 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 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, 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.

#### G. 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 ABLE 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, LR 43:642 (April 2017), amended LR 44:1888 (October 2018).

### §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. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 43:643 (April 2017).

### §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 R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 43:643 (April 2017).

## 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, LR 44:1878 (October 2018).

### **§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, LR 44:1879 (October 2018).

### **§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, LR 44:1879 (October 2018).

### **§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 LATTA 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

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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 (LATTA)*—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, LR 44:1879 (October 2018).

#### **§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, LR 44:1880 (October 2018).

## §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, LR 44:1882 (October 2018).

## §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, LR 44:1883 (October 2018).

### **§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, and signature (may be electronic);
- c. the beneficiary's name and address;
- 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.

D. 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, LR 44:1883 (October 2018), amended LR 45:1177 (September 2019).

### **§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.

4. 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**

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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, LR 44:1884 (October 2018).

### §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, LR 44:1885 (October 2018).

## **§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.

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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. LR 44:1886 (October 2018).