

**§11475. Participation agreement**

The authority may enter into a participation agreement with a participant on behalf of a beneficiary pursuant to the following terms and conditions. [PL 1997, c. 732, §4 (NEW).]

**1. Periodic payments.** A participation agreement may require or permit a participant to invest a specific amount of money in the program fund for a specific period of time for the benefit of a specific beneficiary. Periodic deposits may be made through a payroll deduction plan or an automatic deposit plan or through assignment of state tax refunds. A participation agreement establishing such a periodic deposit plan may include provisions to adjust scheduled deposits on the basis of change in a participant's economic circumstances or a beneficiary's educational plans and may provide for penalties on a participant's failure to make deposits as scheduled. A participation agreement establishing such a plan must provide for the limitation of scheduled deposits by the authority as necessary to ensure that a participant's account does not exceed the amount necessary to pay the beneficiary's projected higher education expenses.

[PL 1997, c. 732, §4 (NEW).]

**2. Lump-sum payments.** A participation agreement may permit a participant to make one or more lump-sum deposits to an account for the benefit of a specific beneficiary.

[PL 2015, c. 267, Pt. DD, §1 (AMD); PL 2015, c. 267, Pt. DD, §34 (AFF).]

**3. Designation of beneficiaries.** Except for accounts opened by a state or local governmental entity or charitable organization, an application or participation agreement must designate the name and date of birth of the beneficiary.

[PL 2001, c. 380, §2 (AMD).]

**4. Change of beneficiary.** A beneficiary may be changed as permitted by rule of the authority upon written request of the participant, provided that the substitute beneficiary is eligible.

[PL 1997, c. 732, §4 (NEW).]

**5. Amendment.** A participation agreement may be freely amended throughout its term to enable a participant to increase or decrease the level of participation, change the designation of a beneficiary and carry out similar matters.

[PL 1997, c. 732, §4 (NEW).]

**6. Enrollment fee.** The authority may not charge an enrollment fee for participation in the program.

[PL 1997, c. 732, §4 (NEW).]

**7. Cancellation.** A participation agreement must provide that the participation agreement may be canceled upon the terms and conditions of the agreement and upon payment of the fees, expenses and penalties set forth in rules adopted by the authority.

[PL 1997, c. 732, §4 (NEW).]

**8. Separate accounts.** A participation agreement must require that the authority maintain each participant's account separately, subject to commingling for investment purposes, and report the status of each participant's account to the participant on a periodic basis, as established by rule of the authority.

[PL 1997, c. 732, §4 (NEW).]

**9. Rights and obligations.** A participation agreement must include any other rights and obligations of the participant, the beneficiary and the authority.

[PL 1997, c. 732, §4 (NEW).]

**10. Terms and conditions.** A participation agreement may include other terms and conditions the authority determines necessary, including a limitation on liability of the authority to the extent funds are disbursed in good faith.

[PL 1997, c. 732, §4 (NEW).]

**11. No guaranty of admission.** The execution of a participation agreement by the authority does not guarantee in any way that higher education expenses will be equal to projections and estimates provided by the authority or that the beneficiary named in any participation agreement will:

- A. Be admitted to any elementary or secondary school, apprenticeship program or institution of higher education; [PL 2021, c. 17, §4 (AMD).]
- B. Be allowed to continue attendance at any elementary or secondary school, apprenticeship program or institution of higher education following admission; or [PL 2021, c. 17, §4 (AMD).]
- C. Graduate from any elementary or secondary school, apprenticeship program or institution of higher education. [PL 2021, c. 17, §4 (AMD).]  
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#### SECTION HISTORY

PL 1997, c. 732, §4 (NEW). PL 2001, c. 380, §2 (AMD). PL 2015, c. 267, Pt. DD, §1 (AMD). PL 2015, c. 267, Pt. DD, §34 (AFF). PL 2021, c. 17, §4 (AMD).

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