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**JUNE 18, 2015**

**AGENDA ITEM 3  
ACTION ITEM**

**SCHOLARSHARE INVESTMENT BOARD**

*Resolution to Adopt Amendments to the Golden State ScholarShare Trust Program Regulations*

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***Recommendation***

ScholarShare Investment Board (SIB or Board) staff recommends that the Board adopt Resolution No. 2015-03 adopting amendments to the Golden State ScholarShare Trust Program Regulations.

***Background***

The Golden State ScholarShare Trust Program Regulations (Regulations) were adopted at the inception of ScholarShare College Savings Plan (ScholarShare or Plan) and has since been modified from time to time pursuant to the State rulemaking process. The Regulations outline various aspects about the Plan which include, but are not limited to, defined terms, communications, opening accounts, making changes to the accounts, distributions, and disputes.

Although the Regulations have not been amended for many years, it is important that they are reviewed and continue to reflect the needs of the Plan, as well as its existing and prospective participants. As a result of some recent feedback the Plan received, SIB staff reviewed the Regulations and is recommending an amendment to reduce a limitation with regard to naming a successor account owner in the event of the account owner's death. This amendment would allow account owners to name an entity as its successor account owner, which is currently not permissible under the current Regulations. Further research has demonstrated that this is common business practice within the financial services and 529 industries to allow this flexibility.

In addition to the amendment referenced above, SIB staff performed a thorough review of the Regulations and is recommending additional technical amendments to add clarifying or consistent language, all of which are outlined in redline in Exhibit A. In reviewing these recommended amendments, SIB staff consulted with legal staff at the State Treasurer's Office, as well as the program manager, TIAA-CREF Tuition Financing, Inc. (TFI), who concur with the recommended amendments.

If adopted by the Board, SIB staff will move forward with initiating the rulemaking action, which includes posting the proposed amendments to the Regulations (Exhibit A) for public comment and submittal to the Office of Administrative Law for approval.

***Presenters:***

Stanley Zeto, Deputy Executive Director, ScholarShare Investment Board  
Mario Sierras, Manager, ScholarShare Investment Board

**RESOLUTION NO. 2015-03**

**RESOLUTION OF THE SCHOLARSHARE INVESTMENT BOARD  
RELATING TO THE ADOPTION OF AMENDMENTS TO THE  
GOLDEN STATE SCHOLARSHARE TRUST PROGRAM REGULATIONS**

**WHEREAS**, the ScholarShare Investment Board (the “Board”) was created under the provisions of Education Code Section 69980 et seq. (the Golden State ScholarShare Trust Act);

**WHEREAS**, Section 69982(h) of the Act provides that the Board shall have the powers and authority to adopt reasonable regulations for the administration of the ScholarShare trust;

**WHEREAS**, the SIB staff has reviewed the Golden State ScholarShare Trust Program Regulations (the “Regulations”) and are recommending amendments as they relate to account ownership and the addition of clarifying and/or consistent language;

**NOW, THEREFORE, BE IT RESOLVED**, that the Board hereby approves the proposed amendments to the Regulations as recommended by SIB staff as shown (in redline) in the revised Regulations, and that the Chair, any Deputy to the Chair, and Executive Director are hereby authorized, for and on behalf of the Board:

1. To file such regulations, with the supporting documentation required by law, with the Office of Administrative Law (“OAL”) in substantially the form submitted to the Board, and
2. Proceed with procedures required by the Administrative Procedure Act to OAL, and
3. Take such actions, including making or causing to be made such changes to the Regulations as may be required for approval thereof by OAL, and to execute and deliver any and all documents that they may deem necessary or advisable in order to effectuate the purposes of this Resolution

**BE IT FURTHER RESOLVED** that this Resolution becomes effective upon its adoption by the Board.

Attest: \_\_\_\_\_  
Chairperson

Date of Adoption: \_\_\_\_\_

## California Code of Regulations

Title 5: Education  
Division 4.5: ScholarShare Investment Board  
Chapter 1: Golden State Scholarshare Trust Program

### Section 30950 Scholarshare Trust Definitions

- (a) **Existing Definitions.** The following terms, as used in these regulations, are defined in Section 69980 of the Education Code unless the context requires otherwise: ~~Act~~; ~~Administrative fund~~; benefits; Board; Golden State Scholarshare College Savings Trust; Scholarshare trust; participant; participation agreement; ~~program administrator~~; program fund; tuition and fees.

The following terms, as used in these regulations, are defined in the Internal Revenue Code Section 529 of 1986, as amended, (26 U.S.C. Sec. 529): designated beneficiary; eligible educational institution; member of the family; qualified higher education expenses; qualified tuition program; scholarship.

- (b) **Additional Definitions.** The following definitions shall also apply to the Golden State Scholarshare Trust Program:

Account – means an account established under the Act.

Account owner - means the “participant” as defined in Section 69980 of the Education Code. An account owner who is an individual (other than an individual who is a custodian under the California Uniform Transfers to Minors Act) is specifically referred to in these regulations as an “individual account owner.” An account owner who is a custodian under the California Uniform Transfers to Minors Act is specifically referred to in these regulations as a “custodial account owner.” An account owner that is a trust, estate, partnership, association, company or corporation, or a state or local government agency, is specifically referred to in these regulations as an “entity account owner.” Account owner includes the legal representative of an account owner.

Act – means the Golden State Scholarshare Trust Act

Annual Report - means a statement meeting the requirements of Section 69990 of the Education Code.

Business day - means any day that the New York Stock Exchange (NYSE) is open. The close of a business day is the time that the NYSE closes for that day.

California Uniform Transfers to Minors Act – means the act by that name that is contained in Part 9 (commencing with Section 3900) of Division 4 of the California Probate Code.

Cash - shall include but not be limited to checks (except for travelers checks, third-party checks exceeding \$10,000, money orders, or cashier's checks), rollover distributions, payroll deduction, automatic contribution plan, and electronic funds transfers. Cash does not include property.

Contribution - means cash deposited into an account.

Distributee - means the designated beneficiary or the account owner who receives or is treated as receiving a distribution from the Scholarshare trust.

Distribution - means any disbursement from an account.

Earnings - means the total account balance on a particular date minus the contributions in the account as of that date.

Internal Revenue Code – means the Internal Revenue Code of 1986, as amended.

Legal representative of an account owner – means an individual, trust, estate, partnership, association, company or corporation, a custodian under the California Uniform Transfers to Minors Act or a state or local government agency empowered by law to act for or on behalf of an account owner who has entered into a participation agreement pursuant to the Act. A legal representative of an account owner shall provide to the program administrator's or its designee a document establishing the authority of the legal representative to so act that is signed by the account owner, or a court order establishing the authority of the legal representative to so act. The document or court order must be dated within sixty (60) days of receipt by the Scholarshare trust. The program ~~administrator's~~ administrator or its designee shall rely conclusively upon the document or court order until the earlier of its stated expiration date or the date of receipt by the program ~~administrator's~~ administrator or its designee of a document or court order terminating the authority evidenced thereby. The legal representative of an account owner shall be deemed to be acting for or on behalf of the account owner in the account owner's legal capacity.

Program administrator – means the Scholarshare Investment Board.

Non-qualified distribution - means any distribution from an account other than 1) a qualified distribution; or 2) a withdrawal by reason of the death or disability of the designated beneficiary of the account or a scholarship received by the designated beneficiary to the extent that the amount distributed does not exceed the amount of the scholarship, all as provided in Section 30954(d); or 3) a rollover distribution.

Qualified distribution - means a distribution from an account to pay qualified higher education expenses of the designated beneficiary.

Qualified Scholarship Account – means an account opened by an entity account owner to which amounts contributed, and any earnings thereon, are intended to be excluded from the gross income of the scholarship recipient under Section 117 of the Internal Revenue Code.

Qualified Scholarship Account Distribution – means a distribution from a Qualified Scholarship Account to pay for qualified tuition and related expenses within the meaning of Section 117 of the Internal Revenue Code.

Rollover distribution - means a distribution or transfer from an account for a current designated beneficiary that is transferred or deposited within sixty (60) days of the distribution into an account for another designated beneficiary who is a member of the family of the current designated beneficiary. A distribution is not a rollover distribution unless there is a change of designated beneficiary except that a change of designated beneficiary is not required for a distribution or transfer that occurs between qualified tuition programs, provided that such a distribution or transfer cannot occur more than once within a twelve-month period from the date of a previous distribution or transfer by the account owner for the same designated beneficiary. For rollover distributions that involve a change of designated beneficiary, the newly designated beneficiary's account may be an account established under the Act or established within another qualified tuition program and the account owner must certify in the written request for the rollover distribution that the new beneficiary is a member of the family of the current beneficiary. If the rollover distribution is by a state or local government agency or an entity described in Section 501(c)(3) of the Internal Revenue Code and identified in Section 30959 (a)(2), the newly designated beneficiary can-not be a member of the family of the current designated beneficiary and the account owner must so certify in the written request.

State or local government agency – means a state or local government (or an agency or instrumentality thereof) as those terms are used in Section 529(e) of the Internal Revenue Code.

Substantiation – means a document submitted by an entity account owner to the Scholarshare trust in one of the following forms and dated no more than sixty (60) days prior to its receipt by the Scholarshare trust:

- 1) a corporate by-law extract or corporate resolution certified by an officer of the corporation (other than an individual authorized thereby to act as signer for the corporation's account), with raised seal if in use by the corporation;
- 2) a certificate signed by the owner of a sole proprietorship;
- 3) a certificate signed by a general partner of a partnership (other than an individual authorized by the certificate to act as signer for the partnership's account);
- 4) a certificate signed by an officer of a limited liability company, other company or association (other than an individual authorized by the certificate to act as signer for the account of the limited liability company, other company or association);
- 5) a certificate signed by the chief executive officer of a state or local government agency;

- 6) a certified copy of a court order establishing an estate and naming a legal representative of the estate that is authorized to act as a signer for the account of the estate;
- 7) a certificate signed by the trustee of a trust, a court order, or a certified copy of the portions of a trust instrument, that confirms the creation of the trust and the identity of the trustee, and provides authorization for the trustee to act as a signer for the account of the trust;
- 8) a letter or memorandum from the Internal Revenue Service indicating that the entity is an organization described in Section 501(c)(3) of the Internal Revenue code;
- 9) an original memorandum exhibiting the appropriate letterhead and containing the holographic signature of (a) the chief executive officer of a corporation or limited liability company; (b) the general partner of a partnership; (c) the owner of a sole proprietorship; or (d) the chief executive officer of a state or local government agency; or
- 10) if the entity account owner is unable to provide substantiation in any of the foregoing forms, the entity account owner may propose an alternate form of substantiation to the program ~~administrator's administrator or its~~ designee for consideration. The program ~~administrator's administrator or its~~ designee must review the alternate form of substantiation for authenticity and completeness and must accept or reject ~~the form~~. If ~~judged determined to be~~ authentic and complete, the program ~~administrator's administrator or its~~ designee must act on the alternate form of substantiation within thirty (30) business days of ~~so determiningdetermination~~. If ~~judged determined to be~~ inauthentic or incomplete, the program ~~administrator's administrator or its~~ designee must notify the account owner of the rejection of the alternate form of substantiation and set forth the reason for such determination in writing within thirty (30) business days of ~~so determiningdetermination~~.

**(c) Electronic Communications.**

- 1) A "written notification", a "written request", or "written" as used in this Chapter 1 may include an electronic communication containing an electronic signature that is acceptable under California or federal electronic signature laws.
- 2) A "dated original signature", or "signed" as used in this Chapter 1, shall include signatures acceptable under California or federal electronic signature laws.

NOTE: Authority Cited: Sections 69981 (d) and 69982 (h), Education Code. Reference: Sections 69980, 69983(a), (e) and (h), Education Code; Section 24306 (c) (A), Revenue and Taxation Code; Section 3900-3925, Probate Code; Sections 117(b), 152(a), 501(c)(3) and 529 (b) and (c), Internal Revenue Code.

## Section 30951 Opening Accounts

- (a) **Individual Account Owner.** Any individual who has either reached the age of majority or who is an emancipated minor and who has provided the program ~~administrator's~~ administrator or its designee with a certified court decree of emancipation and who meets other federal and state legal requirements governing the program, shall be eligible to establish an account.
- (b) **Other Account Owners.** A trust, estate, partnership, association, company or corporation, a custodian under the California Uniform Transfers to Minors Act, or a state or local government agency which meets the federal and state legal requirements governing the program shall be eligible to establish an account.
- (c) **Participation Agreement.** An eligible account owner must submit a completed and signed participation agreement with either an initial contribution or a selection of electronic funds transfer, automatic contribution plan, payroll deduction (if available), or rollover distribution (if available) as the method of initial contribution to the program ~~administrator's~~ administrator or its designee.
- (d) **Participation Agreement Submitted By Entity Account Owner.** In satisfying the requirements of paragraph (c) of this Section, an entity account owner must attach to the completed application portion of the participation agreement substantiation as to: (1) the legal status of the entity; (2) authorization by the entity to open the account; and (3) the authority of the signer to open the account and conduct transactions in the account.
- (e) **Number of Account Owners and Beneficiaries Per Account.** Only one account owner and one designated beneficiary is permitted per account, except that state and local government agencies and entities described in Section 501(c)(3) of the Internal Revenue Code that are opening the account as part of a scholarship program can open a qualified scholarship account for the benefit of designated beneficiaries to be named when the scholarships are awarded. An account owner may be an account owner for more than one account provided the designated beneficiary of each account is different. An individual may be the designated beneficiary on more than one account provided the account owner of each account is different.
- (f) **Canceling Participation Agreements.** Any account owner may cancel a participation agreement at will by submitting written notification to the program ~~administrator's~~ administrator or its designee. A participation agreement is deemed cancelled when the account owner requests a non-qualified distribution to remove all funds from the account so that the balance in the account is reduced to zero.

NOTE: Authority Cited: Sections 69981 (c)(7), 69981(d) and 69982 (h), Education Code. Reference: Sections 69985, 69986, and 69990(a), Education Code; Sections 501(c)(3) and 529(b)(4), Internal Revenue Code.

## Section 30951.1 Custodial Account Registration

- (a) **Notice of Change in Custodial Account Registration.** The program ~~administrator's~~ administrator or its designee shall change the registration of a custodial account upon receipt of written notification from the custodial account owner that the designated beneficiary has reached the age of majority or is otherwise legally authorized to assume ownership. The change in account registration shall not be effective until the designated beneficiary has submitted a completed participation agreement to the program ~~administrator's~~ administrator or its designee.
- (b) **Extension of Custodianship Past Designated Beneficiary's Reaching Age of Majority.** If the custodianship of the custodial account is extended pursuant to Section 3920.5 of the California Uniform Transfers to Minors Act to a time past the designated beneficiary's reaching the age of majority, the change in account registration will only be effective if: (1) the custodian provides written notification to the program ~~administrator's~~ administrator or its designee of the termination of the custodianship at such later time; and (2) the designated beneficiary submits a completed participation agreement to the program ~~administrator's~~ administrator or its designee.

NOTE: Authority Cited: Sections 69981 (c) (7), 69981 (d) and 69982 (h), Education Code. Reference: Sections 69986, and 69990 (a), Education Code; Sections 3920 and 3920.5, Probate Code; Section 529 (b)(4), Internal Revenue Code.

## Section 30952 Change of Designated Beneficiary

- (a) **Change of Designated Beneficiary.** An account owner (other than a custodial account owner) may change the designated beneficiary designated for the account at any time by submitting a written request to the program ~~administrator's~~ administrator or its designee. The written request shall contain a certification by the account owner that the newly designated beneficiary is a member of the family of the current designated beneficiary (unless the account owner is a state or local government agency or an entity described in Section 501(c)(3) of the Internal Revenue Code and identified in Section 30959(a)(2) in which case the account owner must certify that the newly designated beneficiary is not a member of the family of the current designated beneficiary). The written request shall also contain a dated original signature of an individual account owner or the dated original signature of the authorized signer for an entity account owner. An entity account owner shall also attach to the written request substantiation that the entity account owner authorizes the change of beneficiary and that the signer of the written request is authorized to conduct the transaction.
- (b) **Change of Designated Beneficiary Through Rollover Distribution.** A change of designated beneficiary may also be accomplished by means of a rollover distribution by an account owner (other than a custodial account owner).

NOTE: Authority Cited: Sections 69981 (d) and 69982 (h), Education Code. Reference: Sections 69980, 69983(e) and (f), Education Code; Sections 529 (b)(7), (c)(3)(C), and (e)(2), Internal Revenue Code.

## Section 30953 Application of Cancellation Penalty and Limitation on Contributions

- (a) **Excess Contribution.** The program administrator or ~~his or her~~its designee shall warn account owners against excess contributions.
- (b) **Return of Excess Contributions.** Contributions for any designated beneficiary shall be rejected and returned to the extent that the amount of the contribution would cause the aggregate amount held for that beneficiary to exceed the applicable maximum account balance limit, as determined in accordance with Section 529 of the Internal Revenue Code. Accounts that have reached the maximum account balance limit may continue to accrue earnings.

NOTE: Authority Cited: Sections 69981 (d) and 69982 (h), Education Code. Reference: Sections 69981(d), 69982(j) 69983(g), 69985, and 69986(b)(d) and (e), Education Code, Sections 3900-3925 Probate Code, Sections 529 (b)(3) and (7), Internal Revenue Code.

## Section 30954 Distributions

- (a) **Generally.** An account owner may request a distribution by submitting a written request to the program ~~administrator's~~administrator or its designee.
- (b) **Distributions Requested By Custodial Account Owners.** A custodial account owner must provide with the written request for any distribution under this Section a certification that the account owner is the custodian of the account and (except with respect to a qualified distribution or a distribution due to the death of the designated beneficiary) that the distribution is authorized under the California Uniform Transfers to Minors Act and is necessary for the welfare of the designated beneficiary.
- (c) **Distributions Requested By Entity Account Owners.** An entity account owner must provide with the written request for any distributions under this Section substantiation that the distribution is authorized by the entity account owner and that the signer of the request is authorized to conduct the transaction.
- (d) **Non-qualified Distribution.** An account owner may request a non-qualified distribution by submitting a written request to the program ~~administrator's~~administrator or its designee. The program administrator or ~~his or her~~its designee shall pay the amount of the requested non-qualified distribution to the account owner.
- (e) **Distributions Due to Death, Disability or Scholarship of Designated Beneficiary.** An account owner may request a distribution due to the death or disability of, or scholarship awarded to the designated beneficiary by submitting a written request to the program ~~administrator's~~administrator or its designee.

- (f) **Thirty (30) Day Waiting Period.** No distributions can be made within thirty (30) days of receipt by the program ~~administrator's~~ administrator or its designee of a written request to change the account owner or a request to change the mailing address of the account owner, unless the current account owner's signature is signature guaranteed on the request.

NOTE: Authority Cited: Sections 69981 (d) and 69982 (h), Education Code. Reference: Sections 69983(a), 69985(b) and (c), and 69986 (b), Education Code. Section 3914 Probate Code, Section 529 (e)(2)(B), Internal Revenue Code.

## Section 30955 Change of Account Ownership

- (a) **Change of Account Ownership by Individual Account Owner.** An individual account owner may transfer ownership of an account to another eligible account owner at any time. The change of ownership shall be effective if the transfer ~~is~~ (1) is irrevocable; (2) transfers all ownership, reversionary rights, and powers of appointments (i.e., power to change designated beneficiaries and to direct distributions from the account); and (3) is submitted to the program ~~administrator's~~ administrator or its designee in writing.
- (b) **Change of Account Ownership by Entity Account Owner.** An entity account owner may transfer ownership of an account to another eligible account owner at any time by submitting a written request to the program ~~administrator's~~ administrator or its designee with substantiation that the change of ownership is authorized by the entity and that the signer of the request is authorized to conduct the transaction. The change of ownership shall not be effective until the successor account owner has submitted a completed and signed participation agreement to the program ~~administrator's~~ administrator or its designee.
- (c) **Change of Account Ownership by Custodial Account Owner Prohibited.** A custodial account owner is not permitted to transfer ownership of a custodial account.
- (d) **Contingent Account Owner.** An individual account owner (~~but not an entity or custodial account owner~~) may designate another individual or an entity as a contingent account owner to become the owner of the account automatically upon the death of the individual account owner by submitting a written request to the program ~~administrator's~~ administrator or its designee. The contingent account owner designation may be revoked by the individual account owner at any time by submitting to the program administrator or its designee ~~another~~ written request that either designates a new contingent account owner or revokes all previous designation(s) of a contingent account owner. Upon the death of the individual account owner who has in effect a designation of a contingent account owner, the assets of the account shall not be deemed assets of the estate of such deceased account owner for any purpose. The change of ownership shall not be effective until the successor account owner has submitted to the program administrator's or its designee a certified copy of a death certificate sufficiently identifying the deceased by name and Social Security number, or such other proof of death as is recognized under applicable law and

is acceptable to the program administrator or its designee, and a completed participation agreement signed by the successor account owner.

- (e) **Court Order.** A change in owner of an account may be effected by submitting to the program ~~administrator's~~administrator or its designee a written request that is not signed by the account owner of record if the change of account ownership is accompanied by a court order directing the change of ownership or by an affidavit or declaration that is recognized under applicable law to require the transfer of ownership upon death without a court order. The program ~~administrator's~~administrator or its designee shall not implement a change in ownership (other than a change in ownership described in paragraph (d) of this Section) without first receiving a written request signed by the account owner of record, a court order, or an affidavit or declaration as herein described. The successor account owner must submit a completed and signed participation agreement to the program ~~administrator's~~administrator or its designee.

NOTE: Authority Cited: Sections 69981 (d) 69982 (h) and 69993.5, Education Code. Reference: Section 69986 (h), Education Code.

## Section 30956 Account Information

- (a) **Annual Report.** The account owner shall be mailed an annual report ~~on or before March 1<sup>st</sup> of~~ each year following the calendar year in which the account was initially opened.
- (b) **Account Information for Distributee.** A distributee shall be mailed a statement of earnings, on or before January 31<sup>st</sup> of the year following the calendar year in which the distribution was made.
- (c) **Demographic Information.** The program administrator or ~~his or her~~its designee may request, gather, and maintain demographic information regarding account owners and designated beneficiaries in the Scholarshare program, such as gender, ethnicity, geographic location, language, and general income level, in order to improve the administration of, and services provided by, the Scholarshare trust program. Such information may be voluntarily provided by the account owner in a manner approved by the program administrator or its designee.
- (d) **Information Security.** Any information compiled pursuant to this Section shall be maintained by the Board and protected consistent with the requirements of the Information Practices Act of 1977. (Civil Code Section 1798, et seq.)

NOTE: Authority Cited: Sections 69981 (d) and 69982 (h), Education Code. Reference: Sections 69982 (a) to (j), 69990 (c) (1) and 69994, Education Code.

## Section 30957 Dispute Resolution

- (a) **Optional Pre-Arbitration Procedure.** In the event a controversy or claim arises out of or relates to a participation agreement, the account owner or designated beneficiary may elect to discuss the matter informally with the program administrator or ~~his or her~~ her designee. If the dispute is not resolved to the satisfaction of the account owner or designated beneficiary, the account owner or designated beneficiary may send a letter explaining the dispute to the Executive Director of the ScholarShare Investment Board. The Executive Director or his or her designee shall meet in person or by telephone with the account owner or designated beneficiary within ten (10) working days of receipt of the letter from the account owner or designated beneficiary or such longer period as may be mutually acceptable, and the Executive Director or his or her designee shall mail a written decision, and the reasons therefor, to the account owner or designated beneficiary within twenty (20) working days of the meeting. The procedure set forth in this paragraph is not a substitute for mandatory arbitration, which is required by paragraph (b) below. The procedure set forth in this paragraph is an informal process that may resolve controversies and claims and make arbitration unnecessary.
- (b) **Arbitration Mandatory.** Any controversy or claim arising out of or relating to any participation agreement, or the breach, termination or validity thereof, shall be settled by arbitration administered by the American Arbitration Association, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.
- (c) **Arbitration Clause and Disclosure.** Every participation agreement shall include the following arbitration clause and disclosure language. The arbitration clause and the disclosure language shall be underlined or printed in bold face type.

Any controversy or claim arising out of or relating to this participation agreement, or the breach, termination or validity thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

The foregoing is a predispute arbitration clause. By signing an arbitration agreement, the parties agree as follows:

- 1) All parties to this agreement are giving up the right to sue each other in court, including the right to a trial by jury, except as provided by the rules of the American Arbitration Association.
- 2) Arbitration awards are generally final and binding; a party's ability to have a court reverse or modify an arbitration award is limited.
- 3) The ability of the parties to obtain documents, witness statements and other discovery is generally more limited in arbitration than in court proceedings.

- 4) The arbitrators do not have to explain the reason(s) for their award.
  - 5) The rules of the American Arbitration Association may impose time limits for bringing a claim in arbitration.
- (d) **Predispute Arbitration Clause Disclosure.** Immediately preceding the signature line on the application portion of the participation agreement there shall be a statement, which shall be highlighted, that the participation agreement contains a predispute arbitration clause. The statement shall also indicate at what page and paragraph the arbitration clause is located.
- (e) **Copy of Agreement to Account Owner.** Upon request by an account owner, the program administrator or ~~his or her~~its designee shall provide the account owner with a copy of the participation agreement executed by the account owner, within ten (10) business days of receipt of the account owner's request.
- (f) **Information Upon Request.** Upon request by an account owner, the program administrator or ~~his or her~~its designee shall provide the account owner with information on how to contact or obtain the rules of the American Arbitration Association.

NOTE: Authority Cited: Sections 69981 (d) and 69982 (h), Education Code. Reference: Sections 69981 (c) and 69990 (d), Education Code.

### Section 30958 Rollover Distributions

- (a) **Rollover Distribution From Another Qualified Tuition Program.** An account owner (other than a custodial account owner) may make a rollover distribution at any time from another qualified tuition program to an account, either owned by the same or a different account owner, by submitting a written request to the program ~~administrator's administrator or its~~ designee and by complying with applicable federal and state law governing this transaction. The rollover distribution shall be effective provided that the transfer of funds does not cause the aggregate amount of contributions held for the new designated beneficiary to exceed the maximum account balance limit applicable to that beneficiary.
- (b) **Rollover of Account Funds Methods.** A rollover of account funds from another qualified tuition program shall be effective through a direct transfer of funds from the other qualified tuition program to an account, or as a deposit of the funds by the account owner into an account within 60 days of withdrawal of the funds from the other qualified tuition program. Both the direct transfer of funds and the deposit of funds by the account owner must be accompanied by a written statement from the other qualified tuition program that identifies the portion of the amount directly transferred, or deposited, that represents contributions and the portion of the amount that represents earnings.
- (c) **Limitation of Rollover of Account Funds to Savings Programs.** A rollover distribution from another qualified tuition program shall not be accepted unless the funds are transferred from a qualified tuition ~~savings program account~~ as defined in Section 529 (b)(1)(A)(ii) of the Internal Revenue Code.

- (d) **Transfer of Account Funds as Rollover Distribution.** An account owner (other than a custodial account owner) may transfer funds from an account to another account either owned by the same or a different account owner at any time by submitting a written request to the program ~~administrator's~~ administrator or its designee. The transfer of account funds shall be effective provided that: (1) the funds are transferred to an account for a new designated beneficiary who is a member of the family of the designated beneficiary of the account from which the funds are being transferred and the account owner so certifies in the written request (unless the entity making the rollover distribution is a state or local government agency or an entity described in Section 501(c)(3) of the Internal Revenue Code and identified in Section 30959(a)(2) in which case the account owner must certify that the newly designated beneficiary is not a member of the family of the current beneficiary); and (2) the transfer of funds does not cause the aggregate amount of contributions held for the new designated beneficiary to exceed the maximum account balance limit applicable to that beneficiary.
- (e) **Execution of New Participation Agreement.** Any rollover distribution that is intended to transfer funds to a new account not yet established under the Act shall not be effective until the account owner who is to receive the transferred funds has submitted to the program ~~administrator's~~ administrator or its designee a completed and signed participation agreement for the new account and the account has been established.
- (f) **Rollover Distribution to Another Qualified Tuition Program.** An account owner (other than a custodial account owner) may make a rollover distribution at any time from an account to another qualified tuition program by submitting a written request to the program ~~administrator's~~ administrator or its designee and by complying with applicable federal and state law governing this transaction.
- 1) The program ~~administrator's~~ administrator or its designee shall treat the rollover distribution as a non-qualified distribution unless the program ~~administrator's~~ administrator or its designee receives confirmation that the amount of the distribution has been deposited in another qualified tuition program within sixty (60) days of distribution from the account.
- (g) **Rollover Distributions Requested By Entity Account Owners.** An entity account owner must provide with the written request for a rollover distribution substantiation that the rollover distribution is authorized by the entity and that the signer of the written request is authorized to conduct the transaction.

NOTE: Authority Cited: Sections 69981 (d) and 69982 (h), Education Code. Reference: Sections 69982 (j) (1), 69983 (f), and 69986 (h), Education Code; Section 24306 (c) (4) (A) and (B); Revenue and Taxation Code, Sections 152 (a); 529 (b)(1)(A)(ii) and (c) (3) (C) of the Internal Revenue Code.

## Section 30959 Qualified Scholarship Accounts

- (a) **Opening Qualified Scholarship Accounts.** A qualified scholarship account may be opened by any of the following entities:
- 1) a state or local government agency or an entity described in Section 501(c)(3) of the Internal Revenue Code that has opened the qualified scholarship account as part of a scholarship program for the benefit of beneficiaries to be named when the scholarships are awarded; or
  - 2) any entity identified in Section 30951 (b) that has opened the qualified scholarship account for the benefit of a named beneficiary.
- (b) **Participation Agreement.** To open a qualified scholarship account, an entity account owner must submit a completed and signed participation agreement with either an initial contribution or a selection of electronic funds transfer, automatic contribution plan, or rollover distribution as the method of initial contribution to the program ~~administrator's~~ administrator or its designee.
- (c) **Change of Beneficiary for Qualified Scholarship Account.** An entity identified in paragraph (a)(2) of this Section, except a state or local government agency or an entity described in Section 501(c)(3) of the Internal Revenue Code, is not permitted to change the beneficiary of the qualified scholarship account. A state or local government agency or an entity described in Section 501(c)(3) of the Internal Revenue Code and identified in Section 30959(a)(2) may change the beneficiary of a qualified scholarship account at any time by submitting a written request to the program ~~administrator's~~ administrator or its designee.
- (d) **Rollover Distributions for Qualified Scholarship Account.** An entity identified in paragraph (a)(2) of this Section, except for a state or local government agency or an entity described in Section 501(c)(3) of the Internal Revenue Code, is not permitted to make a rollover distribution. A state or local government agency or an entity described in Section 501(c)(3) of the Internal Revenue Code and identified in Section 30959(a)(2) may make any rollover distribution set forth in Section 30958 at any time by submitting a written request to the program ~~administrator's~~ administrator or its designee with substantiation that the rollover distribution is authorized by the entity account owner and that the signer of the request is authorized to conduct the transaction, and by complying with applicable federal and state law. The written request for a rollover distribution must contain a certification that the newly designated beneficiary is not a member of the family of the previous beneficiary.
- (e) **Qualified Scholarship Account Distribution.** A qualified scholarship account distribution may be taken at any time by an entity identified in paragraph (a) of this Section by submitting a written request to the program ~~administrator's~~ administrator or its designee with substantiation that the qualified scholarship account distribution is authorized by the entity account owner and that the signer of the request is authorized to conduct the transaction. A qualified scholarship account distribution must be paid directly to an eligible educational institution.

NOTE: Authority Cited: Sections 69981 (d) and 69982 (h), Education Code. Reference: Sections 69982 (j) (1), 69983 (f), and 69986 (h), Sections 529 and 117(b) of the Internal Revenue Code.