

164A.330 Participation agreements for savings plan trust -- Confidentiality of information.

The savings plan trust shall have the authority to enter into participation agreements with participants on behalf of beneficiaries pursuant to the following terms and agreements:

- (1) Each participation agreement shall require a participant to agree to invest a specific amount of money in the trust for a specific period of time for the benefit of a specific beneficiary. Participation agreements may be amended to provide for adjusted levels of contributions based upon changed circumstances or changes in educational plans and may contain penalties for failure to make contributions when scheduled;
- (2) Notwithstanding the provisions of subsection (1) of this section, participants may elect to enter into a lump-sum contribution participation agreement in connection with which a single, lump-sum contribution is made by the participant for the benefit of a beneficiary;
- (3) Execution of a participation agreement by the trust shall not guarantee in any way that higher education costs will be equal to projections and estimates provided by the trust or that the beneficiary named in any participation agreement will:
 - (a) Be admitted to an institution of higher education;
 - (b) If admitted, be determined a resident for tuition purposes by the institution of higher education, unless the participation agreement is vested;
 - (c) Be allowed to continue attendance at the institution of higher education following admission; or
 - (d) Graduate from the institution of higher education;
- (4) Beneficiaries may be changed as permitted by the rules and regulations of the board upon written request of the participant provided, however, that the substitute beneficiary shall be eligible;
- (5) Participation agreements shall be freely amended throughout their terms in order to enable participants to increase or decrease the level of participation, change the designation of beneficiaries, and carry out similar matters;
- (6) Each participation agreement shall provide that for vested participation agreements, the beneficiary shall be considered a resident of the Commonwealth for tuition purposes if the beneficiary enrolls in an institution of higher education in Kentucky;
- (7) Each participation agreement shall provide that it may be canceled under the terms and conditions, including payment of the fees and costs, set forth in the rules and regulations promulgated by the board;
- (8) The participation agreement shall ensure that contributions made pursuant to subsections (1) and (2) of this section shall not be made in real or personal property other than cash and shall not exceed the anticipated higher education costs of the beneficiary;
- (9) The participation agreement shall provide that the participant and the beneficiary shall not directly or indirectly or otherwise control the investment of contributions or earnings on contributions;

- (10) Information obtained from a participant or a beneficiary and other personally identifiable records made by the trust in the administration of this chapter shall not be published or be open for public inspection pursuant to KRS 61.870 to 61.884, except as provided below:
- (a) Upon written request, a participant or beneficiary or his legal representative shall be entitled to be advised of the aggregate balance of contributions and earnings for all participation agreements that designate that same beneficiary;
 - (b) Information may be made available to public employees in the performance of their duties, but the agency receiving the information shall assure the confidentiality, as provided for in this section, of all information so released;
 - (c) Statistical information derived from information and records obtained or made by the trust may be published, if it in no way reveals the identity of any participant or beneficiary; and
 - (d) Nothing in this section shall preclude the program administrator or any employee of the board from testifying or introducing as evidence information or records obtained or made by the trust in any proceeding under this chapter, in an action to which the trust is a party, or upon order of a court.

Effective: July 14, 2000

History: Amended 2000 Ky. Acts ch. 382, sec. 5, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 132, sec. 4, effective March 26, 1998. -- Amended 1996 Ky. Acts ch. 11, sec. 2, effective July 15, 1996. -- Amended 1992 Ky. Acts ch. 190, sec. 7, effective July 14, 1992. -- Created 1988 Ky. Acts ch. 88, sec. 7, effective July 15, 1988.