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**IDAPA 54
TITLE 02
CHAPTER 01**

54.02.01 - RULES GOVERNING THE COLLEGE SAVINGS PROGRAM

000. LEGAL AUTHORITY.

In accordance with Section 33-5402(1), Idaho Code, the State College Savings Program Board shall make, adopt, and publish rules pursuant to Title 33, Chapter 54, Idaho Code, as may be necessary or appropriate to carry out the provisions and purposes of the College Savings Program. (3-15-02)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited in full as IDAPA 54.02.01, "Rules Governing the College Savings Program". (3-15-02)

02. Scope. These rules specify the conditions and standards under which the Program shall be implemented. (3-15-02)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 33-5402(5), Idaho Code, the Board may issue written statements that pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. (3-15-02)

003. ADMINISTRATIVE APPEALS.

The provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," shall govern all contested cases filed pursuant to the provisions of Title 67, Chapter 52, Idaho Code. (3-15-02)

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into these rules. (3-15-02)

005. OFFICE - OFFICE HOURS - MAILING ADDRESS AND STREET ADDRESS.

The office of the Program is located in the State Capitol Building, 700 West Jefferson, Room 102, Boise, Idaho. The mailing address of the Program is, C/O Office of the State Treasurer, P. O. Box 83720, Boise, Idaho 83720-0091. The telephone number of the Program is (208) 334-3200. The Program's facsimile number is (208) 332-2960. (3-15-02)

006. PUBLIC RECORDS ACT COMPLIANCE.

The records associated with the Program are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 1, Idaho Code. (3-15-02)

007. FILING OF DOCUMENTS.

All filings for rulemaking or contested cases must be filed with the Board. Whenever documents are filed by facsimile transmission, originals shall be deposited in the mail the same day or hand delivered the following business day to the Board. (3-15-02)

008. -- 009. (RESERVED).

010. DEFINITIONS.

01. Act. The College Savings Program, Title 33, Chapter 54, Idaho Code. (3-15-02)

02. Account. An individual trust account or savings account established as prescribed in Title 33, Chapter 54, Idaho Code. (3-15-02)

03. Account Owner. The Person identified as the Account Owner in the Program's participation agreement. (5-3-03)

04. Beneficiary Or Designated Beneficiary. Except as provided in Section 33-5404, Idaho Code, with

respect to an Account, the Person designated at the time the Account is opened as the Person whose higher education expenses are expected to be paid from the Account or, if this Beneficiary is replaced in accordance with Section 33-5404, Idaho Code, the replacement Beneficiary. (5-3-03)

- 05. Board.** The State College Savings Program Board created by Section 33-5402, Idaho Code. (3-15-02)
- 06. Cash.** Cash shall include checks (other than traveler's checks, cashier's checks or third-party checks exceeding ten thousand dollars (\$10,000)), payroll deductions, automatic contribution plans, electronic funds transfers, and transfers from another Qualified Tuition Program. Cash does not include property. (5-3-03)
- 07. Contingent Account Owner.** The Person designated by the Account Owner, pursuant to Subsection 021.02, to become the owner of the Account upon the death of the Account Owner. (3-15-02)
- 08. Contribution.** Cash deposited into an Account established under the Act for the benefit of a Designated Beneficiary. (3-15-02)
- 09. Earnings.** The total Account balance on a particular date minus the Contributions in the Account as of that date. (3-15-02)
- 10. Member Of The Family.** Shall have the meaning as provided in 26 U.S.C. Section 529. (3-15-02)
- 11. Person Or Persons.** An individual, a trust, an estate, a partnership, an association or a corporation. (3-15-02)
- 12. Program.** The College Savings Program established under Title 33, Chapter 54, Idaho Code. (3-15-02)
- 13. Program Manager.** The financial institution selected by the Board pursuant to the provisions of Section 33-5403, Idaho Code, to act as manager of the Program. (3-15-02)
- 14. Qualified Higher Education Expense.** Shall have the meaning as provided in Section 33-5401(10), Idaho Code. (5-3-03)
- 15. Qualified Tuition Programs.** Shall have the meaning as provided in 26 U.S.C. Section 529. (5-3-03)
- 16. Qualified Withdrawal.** Shall have the meaning as provided in Section 33-5401(11), Idaho Code. (5-3-03)
- 17. Rollover Distribution.** Shall have the meaning set forth in 26 U.S.C. Section 529(c)(3)(C)(i). (5-3-03)

011. UNIFORM GIFT TO MINORS ACT.

Any action taken by an Account Owner with respect to an Account shall comply with any applicable laws governing gifts or transfers to minors. (5-3-03)

012. -- 019. (RESERVED).

020. CHANGE OF BENEFICIARY.

01. Change Of Beneficiary Form. An Account Owner may change the Beneficiary designated for the Account at any time by submitting a completed change of Beneficiary form to the Program Manager. (3-15-02)

02. Change Of Beneficiary Through Rollover Distribution. A change of Beneficiary may also be accomplished by means of a Rollover Distribution. (3-15-02)

021. CHANGE OF ACCOUNT OWNERSHIP.

01. Transfer Of Ownership. An 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: (3-15-02)

- a. Is irrevocable; (3-15-02)
- b. Transfers all ownership, reversionary rights, powers of appointment, and powers to direct the withdrawal of funds; and (3-15-02)
- c. Is submitted to the Program Manager in writing. (3-15-02)

02. Contingent Account Owner. An Account Owner may designate a contingent Account Owner to become the owner of the Account automatically upon the death of the Account Owner by submitting a written request to the Program Manager. The contingent Account Owner designation may be revoked by the Account Owner at any time by submitting to the Program Manager 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 Account Owner, the successor Account Owner shall provide: (5-3-03)

- a. 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 Manager, and (3-15-02)
- b. A participation agreement signed by the successor Account Owner. (3-15-02)

03. Court Order. A change in an Account Owner may be effected by submitting to the Program Manager a written request that is not signed by the Account Owner of record if the request for 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 Manager shall not implement a change in ownership (other than a change in ownership described in Subsection 021.02 of these rules) without first receiving a written request signed by the Account Owner of record, a court order, or an affidavit or declaration as herein described. Upon acceptance by the Program Manager of a request for change of Account ownership, the successor Account Owner must submit a completed participation agreement to the Program Manager. (5-3-03)

022. -- 029. (RESERVED).

030. WITHDRAWALS.

Request For Withdrawal. Contributions must be on deposit in an Account a minimum of ten (10) days before being withdrawn. Following the request of an Account Owner for a withdrawal of all or part of the balance from an Account, payment shall be made not later than seven (7) days after the date on which a determination is made by the Program Manager, that a withdrawal request should be effected. (5-3-03)

031. -- 039. (RESERVED).

040. ACCOUNT BALANCE LIMIT ON CONTRIBUTIONS.

That portion of a Contribution for any Designated Beneficiary that causes the total balance of the Account, together with other Accounts established under the Program for the benefit of the same Beneficiary, to exceed the maximum amount established by the Board from time to time (the "Account Balance Limit on Contributions"), but in no event more than the amount permitted under 26 U.S.C. Section 529, shall be rejected. Accounts that have reached the Account Balance Limit on Contributions may continue to accrue earnings, and no withdrawal or Rollover Distribution will be required as the result of such accrual. In determining an Account's balance for purposes of the Account Balance Limit on Contributions, only balances in Accounts established under the Program shall be included. (5-3-03)

041. ROLLOVER DISTRIBUTIONS.

01. Rollover Distribution From Another Qualified State Tuition Program. An Account Owner may transfer funds at any time from another Qualified Tuition Program to an Account established under the Act, either owned by the same or a different Account Owner, by submitting a written request to the Program Manager. The rollover of funds from the other Qualified Tuition Program shall be effective provided that: (5-3-03)

a. The funds are transferred to an Account for a new Beneficiary who is a Member of the Family of the Beneficiary of the Account in the other Qualified Tuition Program or the funds are transferred to an Account for the current Beneficiary (and such a transfer has not been made for the current Beneficiary within the preceding twelve (12) months); and (5-3-03)

b. The transfer of funds does not cause the aggregate amount of contributions held for the new Beneficiary to exceed the Account Balance Limit on Contributions applicable to that Beneficiary. (3-15-02)

02. Transfer Of Account Funds As Rollover Distribution. An Account Owner may transfer funds from an Account established under the Act to another Account established under the Act, or an account established under a Qualified Tuition Program in another state, either owned by the same or a different Account Owner, at any time by submitting a written request to the Program Manager. The transfer of Account funds shall be effective provided that: (5-3-03)

a. The funds are transferred to an Account for a new Beneficiary who is a Member of the Family of the Beneficiary of the Account from which the funds are being transferred or the funds are transferred to an account for the current Beneficiary (and such a transfer has not been made for the current Beneficiary within the preceding twelve (12) months); and (5-3-03)

b. The transfer of funds does not cause the aggregate amount of contributions held for the new Beneficiary to exceed the Account Balance Limit on Contributions applicable to that Beneficiary. (3-15-02)

03. Rollover Of Account Funds Methods. A rollover of Account funds from or to another Qualified Tuition Program or within this Program shall be effected through a direct transfer of funds to an Account or as a deposit of the funds into an Account established under a Qualified Tuition Program within sixty (60) days of withdrawal of the funds from the other Qualified Tuition Program. (5-3-03)

04. 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 a completed participation agreement for the new Account and the Account has been established. (3-15-02)

042. -- 999. (RESERVED).

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