

LCB File No. R054-09

PROPOSED REGULATION OF
THE STATE TREASURER

COLLEGE SAVINGS PLANS OF NEVADA

2009 –PROPOSED AMENDMENTS TO
NEVADA ADMINISTRATIVE CODE

CHAPTER 353B – COLLEGE SAVINGS PLANS OF NEVADA

NEVADA COLLEGE SAVINGS PROGRAM

Chapter 353B.555 to 353B.595 are hereby amended by adding thereto the provisions set forth as sections 1 and 2.

Section 1. *“Plan” defined (NRS 353B.310) “Plan” means an investment Plan approved by the Board for inclusion in the Program and marketed under a private label and offered under the management of the Program Manager or a contract with the Program Manager as an affiliate and consented to by the Board.*

Section 2. *“Plan Investment Manager” defined (NRS 353B.310) “Plan Investment Manager” means the private entity that has been contracted with by the Program Manager, and consented to by the Board to offer college savings Plan accounts, to invest accounts and to manage private direct or advisor sold Plans within the Program.*

Chapter 353B.585 is hereby amended to read as follows:

NAC 353B.585 “Program” defined. (NRS 353B.310) “Program” means the Nevada College Savings Program, which is a qualified tuition program pursuant to 26 U.S.C. § 529 that may be marketed as *“Nevada’s College Savings Plans,” a private label, [~~“America’s College Savings Plan”~~]* or under any other name.

Chapter 353B.605 is hereby amended to read as follows:

NAC 353B.605 Designation of successor account owner; change of ownership of account. (NRS 353B.310)

1. An account owner may designate a successor account owner who becomes the new account owner automatically upon the death of the designating account owner. An account owner, in the account application or at any other time, may make such a designation by submitting to the [~~Program Manager~~] *Plan Investment Manger* a written designation of a successor account owner containing the information required by the Program Manager. A designation of a successor account owner is not effective until received by the Program or *Plan*

Investment Manger and recorded in the records of the ~~[Program Manager.]~~ *Plan Investment Manager*.

2. If a change in the ownership of an account is required by a court order directing the change of ownership, or by an affidavit or declaration that is recognized under applicable law as requiring the transfer of ownership upon death without a court order, the change of ownership of the account, except as otherwise required by law, is not effective until the ~~[Program Manager.]~~ *Plan Investment Manager* receives the court order, affidavit or declaration requiring the change and the change of ownership is recorded in the records of the ~~[Program Manager.]~~ *Plan Investment Manager*.

Chapter 353B.610 is hereby amended to read as follows:

NAC 353B.610 Change of designated beneficiary. (NRS 353B.310) An account owner may change the designated beneficiary of the account if the new designated beneficiary is a member of the family of the current designated beneficiary. A change of designated beneficiary is not effective until the ~~[Program Manager.]~~ *Plan Investment Manager* receives a written request containing the information required by the ~~[Program Manager.]~~ *Plan Investment Manager* and the change is recorded in the records of the ~~[Program Manager.]~~ *Plan Investment Manager*.

Chapter 353B.615 is hereby amended to read as follows:

NAC 353B.615 Opening of account; selection of investment option; reassignment of accounts under age-based investment option. (NRS 353B.310)

1. To open an account, an applicant must submit to the ~~[Program Manager.]~~ *Plan Investment Manager* a completed application and:

(a) An initial contribution; or

(b) A designation of an alternative method of funding approved by the ~~[Program Manager.]~~ *Plan Investment Manager*.

2. The acceptance by the ~~[Program Manager.]~~ *Plan Investment Manager* for processing of an application and an initial contribution or the designation of an alternate method of funding does not constitute the agreement of the ~~[Program Manager.]~~ *Plan Investment Manager* to open an account.

Chapter 353B.620 is hereby amended to read as follows:

NAC 353B.620 Conditions under which Program Manager may refuse to open account. (NRS 353B.310) The Program Manager may, without limitation, refuse to *allow a Plan Investment Manager to accept an* ~~[open]~~ an account if:

1. The applicant is not eligible to be an account owner.

2. The applicant has not provided all the information required by the participation agreement.

3. The total account balance of all accounts for the same designated beneficiary in the Program and the Nevada Higher Education Prepaid Tuition Program is greater than or equal to the maximum aggregate balance for the accounts of a designated beneficiary established by the Board pursuant to NAC 353B.655. If more than one applicant has submitted an application and an initial contribution or selection of contribution method to open an account for the same designated beneficiary, and all contributions, together with the total account balance of all existing accounts for that designated beneficiary, would exceed the maximum aggregate balance for the accounts of a designated beneficiary established by the Board pursuant to NAC

353B.655, the Program Manager will *allow a Plan Investment Manager to* accept applications to open accounts for the designated beneficiary in the order of their receipt until the maximum limit has been reached.

4. The execution of a participation agreement between the ~~[Program Manager]~~ *Plan Investment Manager* and the applicant violates any federal or state law.

5. The Board determines that, for any other reason, it would be advisable to limit the number of accounts in the *Plan managed by a particular Plan Investment Manager within the* Program.

Chapter 353B.645 is hereby amended to read as follows:

NAC 353B.645 Authority to make contributions; minimum amounts; refusal of certain contributions. (NRS 353B.310)

1. Any person may make a contribution to an existing account.

2. The Board will establish the minimum amounts for initial contributions and additional contributions to an account *for each Plan* and will, from time to time, revise those amounts as it determines necessary.

3. The Board will refuse contributions that it determines constitute an abuse of the Program.

Chapter 353B.660 is hereby amended to read as follows:

NAC 353B.660 Rollover distributions from qualified tuition program of another state. (NRS 353B.310)

1. Except as otherwise provided in subsection 2, if a qualified tuition program of another state allows rollover distributions, an account owner may deposit all or part of the money from an account in such a program to an account in the Nevada College Savings Program for the same designated beneficiary or for a different designated beneficiary who is a member of the family of the designated beneficiary of the account from which the money is transferred.

2. A rollover distribution pursuant to subsection 1 for the same designated beneficiary will be permitted only once in any 12-month period or as otherwise permitted by 26 U.S.C. § 529 and any regulations, rulings, announcements or other guidance issued pursuant thereto.

3. An account owner who wishes to deposit a rollover distribution pursuant to this section must:

(a) Submit to the *Plan Investment Manager* ~~[Program Manager]~~ either:

(1) A rollover distribution form executed by the account owner that authorizes the distribution of money from an account in the qualified tuition program of another state; or

(2) If the rollover distribution will not be deposited directly into the account in ~~[the Program]~~ *a Plan* from an account in the qualified tuition program of another state, documentation satisfactory to the ~~[Program Manager]~~ *Plan Investment Manager* that the rollover distribution will be deposited in the account in the ~~[Program]~~ *Plan* within 60 days after distribution from an account in the qualified tuition program of another state.

(b) State the amount of the rollover distribution that constitutes contributions and the amount of the rollover distribution that constitutes earnings.

4. The entire amount of a rollover distribution from an account in the qualified tuition program of another state will be counted for purposes of calculating the total account balance of all accounts in the Program for a designated beneficiary. If the rollover distribution that is deposited in an account in the Program causes the total account balance of all accounts for a designated beneficiary to exceed the maximum aggregate balance for the accounts of a

designated beneficiary established by the Board pursuant to [NAC 353B.655](#), the excess money will be rejected and returned.

Chapter 353B.665 is hereby amended to read as follows:

NAC 353B.665 Distributions: Procedure; classification; restriction. (NRS 353B.310)

1. An account owner may request a distribution of money from the account by submitting to the ~~Program Manager~~ *Plan Investment Manager* not less than 3 business days before the date of the requested distribution a completed distribution request form and such other information as required by the Board or the Program Manager. The ~~Program Manager~~ *Plan Investment Manager* will begin processing properly completed distribution request forms upon receipt. A designated beneficiary may not withdraw money from an account.

2. A distribution from an account will be classified as a:

- (a) Nonqualified withdrawal;
- (b) Qualified withdrawal;
- (c) Qualified withdrawal because of the death or disability of, or a scholarship awarded to, a beneficiary; or
- (d) Rollover distribution.

3. A distribution may only be arranged by the account owner and only in accordance with NAC 353B.665 to 353B.695, inclusive.

Chapter 353B.670 is hereby amended to read as follows:

NAC 353B.670 Distributions: Required notification. (NRS 353B.310) ~~When the Program Manager~~ *a Plan Investment Manager* makes a distribution of money from an account pursuant to NAC 353B.665 to 353B.695, inclusive, the ~~Program Manager~~ *Plan Investment Manager* shall notify the account owner:

- 1. Of the portion of the distribution that is attributable to investment gains in the account;
- 2. That a distribution from an account for any reason other than a qualified withdrawal, a qualified withdrawal because of the death or disability of, or a scholarship awarded to, a beneficiary, or a rollover distribution may be subject to federal tax on the portion of the distribution attributable to investment gains in the account; and
- 3. That it is the responsibility of the account owner to determine his liability for federal tax, if any, on the distribution.

Chapter 353B.675 is hereby amended to read as follows:

NAC 353B.675 Qualified withdrawals. (NRS 353B.310)

1. A qualified withdrawal is a withdrawal of money from an account to pay for the qualified higher education expenses of the designated beneficiary, or because of death, disability or scholarship, as permitted by 26 U.S.C. § 529 or any regulations, rulings, announcements or other guidance issued pursuant thereto. An account owner may request a qualified withdrawal by submitting to a ~~Program Manager~~ *Plan Investment Manager* a completed distribution request form.

2. When requesting a qualified withdrawal, the account owner, and the designated beneficiary if required by the Program Manager, must sign the distribution request form and provide such additional information as may be ~~requested~~ *determined* by the Program Manager.

Chapter 353B.680 is hereby amended to read as follows:

NAC 353B.680 Refund of all or part of qualified distribution. (NRS 353B.310) A refund of all or part of a qualified distribution that is used to pay for qualified higher education expenses of a designated beneficiary must be paid by the higher education institution to the ~~Program Manager~~ *Plan Investment Manager* for credit to the appropriate accounts for that designated beneficiary.

Chapter 353B.695 is hereby amended to read as follows:

NAC 353B.695 Termination: Conditions; notice; nonqualified distribution; qualified distribution. (NRS 353B.310)

1. An account may be terminated if the account has a balance of less than \$1,000 and no contributions or withdrawals have been made within the preceding 2 calendar years. Before the termination of an account, the account owner will be given such notice as the Board determines adequate and will be given an opportunity to prevent the termination of the account by making an additional contribution or a qualified withdrawal within the period specified by the Program Manager. Upon the involuntary termination of an account, the account balance will be paid to the account owner as a nonqualified distribution.

2. An account owner may request a qualified distribution of the remaining balance of an account upon termination. Such a request will be honored following receipt by the Program Manager of all information ~~requested~~ *determined* by the Program Manager.

Chapter 353B.705 is hereby amended to read as follows:

NAC 353B.705 Other fees. (NRS 353B.310) The Program Manager *and the Plan Investment Managers* may charge such fees as are agreed to by the Program Manager and the Board.