

**PROPOSED REGULATION OF  
THE BOARD OF TRUSTEES OF THE  
COLLEGE SAVINGS PLANS OF NEVADA**

**LCB File No. R055-09**

September 3, 2009

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-18 and 20-28, NRS 353B.090; §§19 and 29, NRS 353B.090 and 353B.100.

A REGULATION relating to college savings plans; revising provisions governing the Nevada Higher Education Prepaid Tuition Program; and providing other matters properly relating thereto.

**Section 1.** Chapter 353B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this regulation.

**Sec. 2.** *“Master agreement” means the agreement developed by the Board pursuant to section 4 of this regulation.*

**Sec. 3.** *“State college” means the Nevada State College.*

**Sec. 4.** *1. The Board will develop a master agreement for the Program. The master agreement must include, without limitation:*

*(a) Information concerning the Program;*

*(b) The obligations of the Program to a purchaser and a qualified beneficiary;*

*(c) The qualifications of a purchaser and a qualified beneficiary;*

*(d) The requirements for enrollment in the Program;*

*(e) The methods of payment;*

*(f) The method for the distribution and payment of benefits;*

*(g) An explanation of the operation of the Trust Fund; and*

*(h) General provisions, including, without limitation, provisions concerning:*

*(1) The termination of a contract or the master agreement;*

*(2) Refunds;*

*(3) Conversions of a contract;*

*(4) Amendments to a contract or the master agreement;*

*(5) Arbitration;*

*(6) Limited liability;*

*(7) The prohibition on the sale of contracts; and*

*(8) Any other provisions as determined by the Board.*

*2. The Board will review and amend the master agreement, as necessary. Any amendment to the master agreement will apply to all contracts which are affected by the amendment. The Board will amend a contract, if necessary, based upon an amendment to the master agreement. If a purchaser does not agree to an amendment to the master agreement or the contract, the purchaser may cancel the contract and receive a refund amount pursuant to NAC 353B.450.*

**Sec. 5.** *1. The Board will annually determine the amount of benefits paid to an eligible educational institution for a qualified beneficiary pursuant to a contract based upon the tuition charged per semester credit hour at the state universities, state colleges and state community colleges.*

*2. If an eligible educational institution charges students using a method other than semester credit hours, the Board will convert that method into semester credit hours to*

*determine the number of semester credit hours that are eligible for the payment of benefits under the contract in the following manner:*

*(a) For an institution that enrolls students in a semester or tri-semester program based upon clock hours, by dividing the total clock hours in the program by 30.*

*(b) For an institution that enrolls students in a quarter hour program based upon clock hours, by dividing the total number of clock hours in the program by 20.*

*3. The payment of benefits pursuant to the contract must be remitted directly to the eligible educational institution in which the qualified beneficiary is enrolled.*

*Sec. 6. 1. If a qualified beneficiary enrolls in an eligible educational institution that charges tuition at a rate that is less than the amount of the benefit payment determined by the Board pursuant to section 5 of this regulation, the Board will remit to the eligible educational institution the actual amount of tuition charged to that qualified beneficiary and accrue any remaining benefit amount. The Board will, except as otherwise provided in subsection 3, provide a refund amount for any such accrued benefits to the purchaser pursuant to subsection 2.*

*2. Subject to the provisions of subsection 3, the Board will, as soon as practicable after the last disbursement of a benefit to an eligible educational institution pursuant to a contract and after deducting any fees, provide a refund amount of any accrued benefits to the purchaser with interest in accordance with the applicable rates established pursuant to NAC 353B.200. The refund amount must not exceed the total amount of the remaining accrued benefits.*

*3. To ensure the actuarial soundness of the Trust Fund, the Board may disburse a refund amount to a purchaser in an amount which is less than 100 percent of the remaining accrued benefits.*

**Sec. 7.** NAC 353B.010 is hereby amended to read as follows:

353B.010 As used in NAC 353B.010 to 353B.510, inclusive, *and sections 2 to 6, inclusive, of this regulation*, unless the context otherwise requires, the words and terms defined in NRS 353B.030 to 353B.070, inclusive, and NAC 353B.020 to 353B.090, inclusive, *and sections 2 and 3 of this regulation* have the meanings ascribed to them in those sections.

**Sec. 8.** NAC 353B.020 is hereby amended to read as follows:

353B.020 “Contract” means a prepaid tuition contract, consisting of the provisions of an application for enrollment in the Program and a ~~master agreement and~~ schedule for participation and payment provided by the Board.

**Sec. 9.** NAC 353B.040 is hereby amended to read as follows:

353B.040 “Date of matriculation” means the year that a qualified beneficiary commences his *or her* attendance at a postsecondary educational institution.

**Sec. 10.** NAC 353B.050 is hereby amended to read as follows:

353B.050 “Eligible ~~school~~ *educational institution*” means a school described in paragraph (g) of subsection 3 of NRS 353B.100. For the purposes of that paragraph, the Board will construe the term “accredited” to mean that a school has been accredited as a postsecondary educational institution by an accrediting body recognized by the United States Department of Education ~~and~~ *and is eligible to participate in a program for student financial assistance offered by the United States Department of Education.*

**Sec. 11.** NAC 353B.065 is hereby amended to read as follows:

353B.065 1. “Refund amount” means the total contract payments received, less any amounts paid out pursuant to ~~the~~ *a* contract and any enrollment fees, multiplied by the percentage of the market value of the assets in the Trust Fund less the present value of any outstanding loan obligations, divided by the total contract payments received less any amounts paid out pursuant to the contract and any enrollment fees.

2. In determining the percentage for purposes of calculating the refund amount:

(a) The present value of the outstanding loan obligations will be applied at an annual rate determined by the Board; and

(b) The maximum percentage is 100 percent, regardless of whether the actual percentage exceeds that amount.

**Sec. 12.** NAC 353B.070 is hereby amended to read as follows:

353B.070 “State community college” means:

1. The ~~Community~~ College of Southern Nevada;
2. Western Nevada ~~Community~~ College;
3. Truckee Meadows Community College; or
4. Great Basin College.

**Sec. 13.** NAC 353B.090 is hereby amended to read as follows:

353B.090 “Tuition” means ~~fees required~~ *the cost* for the enrollment of a full-time student into an eligible ~~school,~~ *educational institution*, except for any amounts charged:

1. To nonresident students only;
2. As fines, application fees, entrance fees, parking fees, technology fees, athletic fees or studio fees, laboratory fees, *surcharges* or other fees imposed for specific courses, whether or not charged to all students; and

3. For books, supplies, room or board, whether or not charged to all students.

**Sec. 14.** NAC 353B.150 is hereby amended to read as follows:

353B.150 1. A contract may provide for payment from the Trust Fund of the amount of tuition required for the enrollment of a qualified beneficiary into:

(a) A state community college in sufficient classes for a student to earn 60 semester hours of credit;

(b) A state:

(1) Community college in sufficient classes for a student to earn 60 semester hours of credit; and

(2) University in sufficient classes for a student to earn 60 semester hours of credit; or

(c) A state university in sufficient classes for a student:

(1) *To earn 30 semester hours of credit;*

(2) To earn 60 semester hours of credit; or

~~(2)~~ (3) To earn 120 semester hours of credit.

2. As used in this section, “classes” means classes pursuant to which a student may earn an associate’s degree in 2 years of study or a bachelor’s degree in 4 years of study.

**Sec. 15.** NAC 353B.160 is hereby amended to read as follows:

353B.160 1. Except as otherwise provided in subsection 2, a contract may not authorize the payment of:

(a) Tuition for:

(1) More than one qualified beneficiary; or

(2) A person who is designated as a qualified beneficiary for another contract; or

(b) Except for the amount of tuition authorized pursuant to NAC 353B.150, any other amounts charged for the enrollment of a qualified beneficiary into an eligible ~~[school.]~~ *educational institution*.

2. ~~[Two contracts]~~ *More than one contract* may authorize the payment of tuition for a person who is designated as a qualified beneficiary for ~~[both] the~~ contracts if ~~[both] the~~ contracts are in the amount of tuition described in ~~[subparagraph]~~ *subparagraphs* (1) *and* (2) of paragraph (c) of subsection 1 of NAC 353B.150.

**Sec. 16.** NAC 353B.170 is hereby amended to read as follows:

353B.170 1. ~~[The] A~~ purchaser ~~[of a contract]~~ may be any person or legal entity other than the qualified beneficiary designated for the contract.

2. At the time of enrollment in the Program, a qualified beneficiary must not yet have:

(a) Completed the ninth grade of school; or

(b) Attained the age of ~~[19]~~ *18* years.

3. The purchaser ~~[of a contract]~~ or the qualified beneficiary must be a resident of this State at the time of enrollment in the Program, or the purchaser must hold a degree or certificate from a state university, *state college* or state community college.

**Sec. 17.** NAC 353B.180 is hereby amended to read as follows:

353B.180 1. A person who desires to enter into a contract must submit to the Board an application for enrollment in the Program, on a form provided by the Board, and a fee of \$100 for processing the application. The application must include:

(a) The expected date of matriculation of the qualified beneficiary;

(b) The desired contractual plan; and

(c) Any other relevant information requested by the Board.

2. The Board may accept an application for enrollment in the Program which is received after the appropriate dates for enrollment established pursuant to NAC 353B.200, but not later than 60 days before the dates established pursuant to that section for enrollment during the next year, if the purchaser pays, in addition to the fee for processing the application:

(a) The amount the Board determines would have been due if the application had been submitted on an appropriate date; and

(b) Any additional sum the Board determines to be necessary to ensure the actuarial soundness of the Trust Fund.

3. After processing an application for enrollment in the Program, the Board will send a copy of the contract *and the master agreement* to the purchaser.

**Sec. 18.** NAC 353B.190 is hereby amended to read as follows:

353B.190 An applicant for enrollment in the Program or a purchaser may submit to the Board a written designation of a person to serve as ~~his~~ *the* legal successor *of the applicant or purchaser* for the purposes of the contract in the event that ~~he~~ *the applicant or purchaser* dies before the contract is discharged. A person so designated:

1. Must not be the qualified beneficiary for the contract; and
2. May request and receive from the Board any information regarding the contract, but may exercise no other rights regarding the contract during the lifetime of the purchaser.

**Sec. 19.** NAC 353B.200 is hereby amended to read as follows:

353B.200 The Board will annually:

1. Establish:
  - (a) Guaranteed rates for the prepayment of tuition pursuant to a contract;
  - (b) Specific dates for enrollment in the Program;



(c) A rate of interest for the provision of any refunds pursuant to NAC 353B.010 to 353B.510, inclusive, *and sections 2 to 6, inclusive, of this regulation* of payments received during the immediately preceding year, which must be based upon the net return on the investment of money in the Trust Fund during that year; ~~and~~

(d) *For the purpose of imposing a penalty pursuant to paragraph (c) of subsection 2 of NAC 353B.510, the estimated rate of return on investments in the Trust Fund; and*

(e) A rate of discount for the payment of the remaining balance of a contract in a lump sum pursuant to NAC 353B.360; and

2. Provide public notice of those rates and dates, either separately or together, by posting a copy of the notice at the principal office of the Board and at not less than three other separate, prominent places within this State.

**Sec. 20.** NAC 353B.210 is hereby amended to read as follows:

353B.210 1. The Board will not provide any benefits pursuant to a contract:

(a) Earlier than ~~2~~ 3 years after the date the first payment is due from the purchaser pursuant to the contract.

(b) Until:

(1) The purchaser has paid the entire amount due pursuant to the contract, including any outstanding fees and penalties; and

(2) The Board has received:

(I) The social security number of the qualified beneficiary;

(II) If the qualified beneficiary enrolls in an eligible ~~school~~ *educational institution* that is not a member of the System, at least 60 days' notice of that enrollment; and

(III) Any other information relating to the contract requested by the Board.

(c) Earlier than the expected date of matriculation of the qualified beneficiary, as specified pursuant to NAC 353B.180 or 353B.310, except that the Board may allow the commencement of those benefits not more than 2 years before that date if the qualified beneficiary is a senior in high school and enrolls into an eligible ~~[school]~~ *educational institution* before that date.

(d) Later than 10 years, excluding any period during which the qualified beneficiary is on active duty in the Armed Services of the United States, after the expected date of matriculation of the qualified beneficiary, as specified pursuant to NAC 353B.180 or 353B.310.

(e) If the provision of benefits does not commence before the qualified beneficiary attains the age of 30 years plus any period during which the qualified beneficiary was on active duty in the Armed Services of the United States.

2. If any benefits cannot be provided pursuant to a contract as a result of the provisions of paragraph (d) or (e) of subsection 1, the Board may terminate the contract and provide to the purchaser, after deducting the total amount of any fees and penalties imposed pursuant to the contract, a refund amount with interest on that amount in accordance with the applicable rates established pursuant to NAC 353B.200.

**Sec. 21.** NAC 353B.350 is hereby amended to read as follows:

353B.350 A contract may provide for payment by the purchaser:

1. By:

(a) Remittance in a lump sum; or

(b) Remittances on a monthly basis:

(1) For 60 months; or

(2) From the time of enrollment in the Program until the qualified beneficiary graduates from high school; and

2. Pursuant to:

- (a) An invoice;
- (b) Monthly coupons;
- (c) Payroll deductions;
- (d) Automatic deductions from a specified account at a financial institution; ~~or~~
- (e) *Gifts, under conditions approved by the Board; or*
- (f) Any other method approved by the Board.

**Sec. 22.** NAC 353B.410 is hereby amended to read as follows:

353B.410 If the Board determines that a purchaser has fraudulently misrepresented or omitted any information relating to a contract requested by the Board or otherwise required pursuant to NAC 353B.010 to 353B.510, inclusive, *and sections 2 to 6, inclusive, of this regulation*, the Board will terminate the contract and provide to the purchaser, after deducting the total amount of any fees and penalties imposed pursuant to the contract and any payments from the Trust Fund made on behalf of the qualified beneficiary, a refund of the balance of the amount paid by the purchaser pursuant to the contract, with interest on that balance in accordance with the applicable rates established pursuant to NAC 353B.200.

**Sec. 23.** NAC 353B.420 is hereby amended to read as follows:

353B.420 Upon the receipt of a written request signed by a person designated pursuant to NAC 353B.190 or, in the absence of such a designation, by the representative of the estate of the purchaser ~~or~~ *or the representative of a qualified beneficiary*, and such documentation as the Board deems adequate to prove that a purchaser has died, the Board will:

- 1. Terminate the contract and provide to the requester, after deducting the total amount of any fees and penalties imposed pursuant to the contract and any payments from the Trust Fund

made on behalf of the qualified beneficiary, a refund of the balance of the amount paid by the purchaser pursuant to the contract, with interest on that balance in accordance with the applicable rates established pursuant to NAC 353B.200; ~~or~~

2. If the requester submits the required fee, amend the contract to change the identity of the purchaser ~~to~~; *or*

*3. If the purchaser has paid the total amount due on the contract and no legal successor or representative of the estate is identified, the Board will automatically transfer the rights and responsibilities of the purchaser to the qualified beneficiary if the qualified beneficiary is not a minor. If the qualified beneficiary is a minor and the Board receives sufficient documentation that a legal guardian may act on behalf of the minor, the Board will transfer the rights and responsibilities of the purchaser to the legal guardian. Upon transfer of the rights and responsibilities to the qualified beneficiary or the legal guardian, as applicable, the Board will act at the direction of the qualified beneficiary or the legal guardian with regard to the contract.*

**Sec. 24.** NAC 353B.430 is hereby amended to read as follows:

353B.430 Upon the receipt of a written request signed by a purchaser and such documentation as the Board deems adequate to prove that the qualified beneficiary has died or become totally disabled, the Board will ~~terminate~~:

*1. Terminate* the contract and provide to the purchaser, after deducting the total amount of any fees imposed pursuant to the contract, a refund amount with interest on that amount in accordance with the applicable rates established pursuant to NAC 353B.200 ~~to~~; *or*

*2. Amend the contract to change the designation of the qualified beneficiary, subject to the provisions of NAC 353B.310.*

**Sec. 25.** NAC 353B.440 is hereby amended to read as follows:

353B.440 1. Upon the receipt of a written request signed by a purchaser and such documentation as the Board deems adequate to prove that the qualified beneficiary has been awarded a scholarship to attend an eligible ~~school~~ *educational institution* which duplicates all the benefits to be provided pursuant to the contract, the Board will:

(a) Amend the contract to change the identity of the qualified beneficiary and waive the required fee for the change; or

(b) Terminate the contract and provide to the purchaser, after deducting the total amount of any fees and penalties imposed pursuant to the contract and any payments from the Trust Fund made on behalf of the qualified beneficiary, a refund amount not to exceed the total amount paid by the purchaser pursuant to the contract, with interest on that adjusted amount in accordance with the applicable rates established pursuant to NAC 353B.200.

2. As used in this section, “scholarship” does not include a loan.

**Sec. 26.** NAC 353B.450 is hereby amended to read as follows:

353B.450 1. Upon the receipt of a written request signed by a purchaser to terminate the contract for any reason other than as provided in NAC 353B.430 and 353B.440, the Board will terminate the contract and *except as otherwise provided in subsection 2*, provide to the purchaser, after deducting the total amount of any fees and penalties imposed pursuant to the contract and any payments from the Trust Fund made on behalf of the qualified beneficiary, a refund amount not to exceed the total amount paid by the purchaser pursuant to the contract, with interest on that adjusted amount in accordance with the applicable rates established pursuant to NAC 353B.200. The Board will, as soon as practicable following the end of a calendar month, disburse a refund amount to a purchaser who has agreed to accept, in full satisfaction of a refund

claim, the refund amount not to exceed the total amount paid by the purchaser pursuant to the contract as of the last business day of the calendar month.

2. ~~[If the contract was purchased before February 1, 2003,]~~ *To ensure the actuarial soundness of the Trust Fund, the Board may disburse a refund amount to a purchaser ~~[who wishes to terminate a contract pursuant to subsection 1 may:]~~ in an amount which is less than 100 percent of the total contract payments made by the purchaser.*

3. *If a purchaser wishes to terminate a contract pursuant to subsection 1, the purchaser may:*

(a) Accept a refund amount, *as determined by the Board*, not to exceed the total amount paid by the purchaser pursuant to the contract, as described in subsection 1 ~~[;]~~ *and subject to the provisions of subsection 2;* or

(b) If the amount described in paragraph (a) is less than 100 percent of the contract payments made by the purchaser, choose to wait until the market value of the Trust Fund is sufficient to provide a refund equal to 100 percent of the contract payments made by the purchaser.

**Sec. 27.** NAC 353B.460 is hereby amended to read as follows:

353B.460 Upon the receipt of a written refund request *for an overpayment on a contract* on a form approved by the Board, signed by a purchaser, the Board will provide to the purchaser:

1. A refund amount not to exceed the total amount received for a contract which:
  - (a) Was paid before the date the amount was due pursuant to the contract; or
  - (b) Exceeds the amount due pursuant to the contract, including any overpayments resulting from an amendment of the terms of the contract pursuant to NAC 353B.010 to 353B.510, inclusive ~~[;]~~, *and sections 2 to 6, inclusive, of this regulation;* and

2. Interest on that amount in accordance with the applicable rates established pursuant to NAC 353B.200,

↳ unless the purchaser is in default pursuant to NAC 353B.370 or payment of the refund will cause the purchaser to become in default.

**Sec. 28.** NAC 353B.500 is hereby amended to read as follows:

353B.500 A contract may require the purchaser to pay:

1. For a change in:

- (a) The amount, time or method of payment;
- (b) The contractual plan;
- (c) The identity of the purchaser; or
- (d) The designation of the qualified beneficiary,

↳ a fee of \$20.

2. For the replacement of any lost or destroyed documents, a fee of \$7.

3. For the payment of tuition to an eligible ~~{school}~~ *educational institution* other than a state community college, *state college* or state university, a fee of \$25 for the first quarter or semester for which tuition is paid. The fee of \$25 must be paid each time a beneficiary transfers to a new eligible ~~{school}~~ *educational institution* other than a state community college, *state college* or state university.

**Sec. 29.** NAC 353B.510 is hereby amended to read as follows:

353B.510 1. A contract must require the purchaser to pay a penalty of \$25 if a payment is returned for insufficient funds in accordance with NRS 353C.115 and the regulations adopted pursuant thereto.

2. A contract may require the purchaser to pay:

(a) If a monthly remittance is not received within 15 days after the date due, a penalty of \$15.

(b) If a remittance by a lump sum is not received within:

(1) Fifteen days after the date due, a penalty of \$15; and

(2) Forty-five days after the date due, a penalty of 1 percent of the total amount due,

including the amount of all outstanding fees and penalties imposed pursuant to the contract, for each period of 30 days or portion thereof that passes after the period described in subparagraph

(1) until:

(I) The total amount due is paid; or

(II) The contract is terminated,

↳ whichever occurs earlier.

(c) *In addition to any other penalties imposed, if a monthly remittance or a remittance by lump sum is not received within 90 days after the due date, a penalty which is calculated by multiplying the total amount of payments due by:*

(1) *The estimated annual rate of return established by the Board pursuant to NAC 353B.200 for the year in which the total amount is due; or*

(2) *Eight percent,*

↳ *whichever is less.*

(d) If a contract is terminated pursuant to NAC 353B.370, 353B.400, 353B.410 or 353B.450, a penalty of \$100.

~~(d)~~ (e) If a contract is terminated pursuant to NAC 353B.440, a penalty, if required, to the Internal Revenue Service pursuant to 26 U.S.C. § 529(c)(6) or any other applicable section of the Internal Revenue Code.