

*Regulations of Connecticut State Agencies*

TITLE 3. State Elective Officers

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*Agency*

**Office of the Treasurer**

*Subject*

**Connecticut Higher Education Trust**

*Inclusive Sections*

**§§ 3-22h-1—3-22h-9**

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**Connecticut Higher Education Trust**

**Sec. 3-22h-1. Procedures**

These rules govern the practices and procedures for the operation of the Connecticut Higher Education Trust under the applicable laws of the State of Connecticut and in accordance with Section 529 of the federal Internal Revenue Code (*i.e.*, 26 U.S.C. 529) and the federal Treasury regulations (or proposed regulations) promulgated under Section 529 of the Internal Revenue Code. The provisions of Section 529 of the Internal Revenue Code and the Treasury regulations (or proposed regulations) promulgated thereunder are incorporated in sections 3-22h-1 to 3-22h-9, inclusive, of the Regulations of Connecticut State Agencies by reference and with the same effects as if fully set forth therein.

(Adopted effective June 5, 2003)

**Sec. 3-22h-2. Definitions**

As used in sections 3-22h-1 to 3-22h-9, inclusive of the Regulations of Connecticut State Agencies:

- (1) “501(c)(3) Organization” means an organization described in Section 501(c)(3) of the Internal Revenue Code and exempt from taxation under Section 501(a) of the Internal Revenue Code;
- (2) “Account” means the account in the Trust established by a Participant and maintained for a Beneficiary;
- (3) “Account Balance” means the fair market value of an Account as of any specified date;
- (4) “Account Owner” means the owner of the Account;
- (5) “Beneficiary” means a Designated Beneficiary;
- (6) “Cash” shall include, but not be limited to, checks drawn on a banking institution located in the United States in U.S. dollars (other than cashiers’ checks, travelers’ checks or third-party checks exceeding \$10,000), money orders, payroll deduction, and electronic funds transfers. Cash does not include real or personal property;
- (7) “Contribution” shall have the same meaning as under Section 529 of the Internal Revenue Code;
- (8) “Depositor” shall have the same meaning as under the Statute;
- (9) “Designated Beneficiary” shall have the same meaning as under the Statute;
- (10) “Disability” shall have the same meaning as “being disabled” under Sections 529 and 530 of the Internal Revenue Code;
- (11) “Distribution” shall have the same meaning as under Section 529 of the Internal Revenue Code;
- (12) “Earnings” shall have the same meaning as under Section 529 of the Internal Revenue Code;
- (13) “Eligible Education Institution” shall have the same meaning as under the Statute;
- (14) “Internal Revenue Code” shall have the same meaning as under the Statute;
- (15) “Member of the Family” means an individual who is related to the Beneficiary as

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listed in subparagraphs (a) through (i) of this definition, together with any changes to such list as may be included, from time to time, in the definition of “Member of the Family” pursuant to Section 529 of the Internal Revenue Code or the Treasury regulations (or proposed regulations) thereunder:

- (a) A son or daughter, or a descendant of either;
- (b) A stepson or stepdaughter;
- (c) A brother, sister, stepbrother or stepsister;
- (d) The father or mother, or an ancestor of either;
- (e) A stepfather or stepmother;
- (f) A son or daughter of a brother or sister;
- (g) A brother or sister of the father or mother;
- (h) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law or sister-in-law; or
- (i) The spouse of the Designated Beneficiary or the spouse of any individual described in subparagraphs (a) through (i) of this definition.

For purposes of determining whether a person is a Member of the Family hereunder, a legally adopted child of an individual shall be treated as the child of such individual by blood, and the terms brother and sister include a brother or sister by the half-blood.

(16) “Non-Qualified Withdrawal” means a Distribution from an Account other than (A) a Qualified Withdrawal or (B) a Rollover Distribution;

(17) “Participant” means a Person who has entered into a Participation Agreement pursuant to the Statute and sections 3-22h-1 to 3-22h-9, inclusive, of the Regulations of Connecticut State Agencies for the payment of Qualified Higher Education Expenses on behalf of a Beneficiary and includes any Depositor as defined in the Statute;

(18) “Participation Agreements” shall have the same meaning as set forth in the Statute;

(19) “Person” means any individual, estate, association, unincorporated organization, trust, partnership, limited liability company, corporation, the State of Connecticut or any department thereof, or any political subdivision of the State of Connecticut;

(20) “Qualified Higher Education Expenses” shall have the same meaning as set forth in the Statute;

(21) “Qualified State Tuition Program” shall have the same meaning as set forth in the Internal Revenue Code;

(22) “Qualified Withdrawal” means a Distribution from an Account used exclusively to pay Qualified Higher Education Expenses of the Beneficiary;

(23) “Rollover Distribution” means (A) a transfer of funds withdrawn from one Account and deposited to another Account not more than 60 days after the withdrawal of the funds, (B) a transfer of funds from another Qualified State Tuition Program to an Account not more than 60 days after withdrawal of the funds, or (C) a transfer of funds to another Qualified State Tuition Program from an Account not more than 60 days after withdrawal of the funds, in each case to the extent permitted as a rollover distribution as defined in Section 529(c)(3)(C)(i) of the Internal Revenue Code. In each case the transfer shall be

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made for the benefit of a new Beneficiary who is a Member of the Family of the prior Beneficiary, or, with respect to (B) and (C), for the benefit of the same Beneficiary provided that no other such transfer for the benefit of such Beneficiary has been made within the previous 12 months;

(24) “Scholarship” shall have the same meaning as under Sections 529 and 530 of the Internal Revenue Code;

(25) “Scholarship Account” means an Account in the Trust established by a Participant that is a Scholarship Sponsor and maintained for the benefit of one or more current or future Beneficiaries;

(26) “Scholarship Sponsor” means the State of Connecticut or a local government in this State, or an agency or instrumentality of this State or local government, or a Section 501(c)(3) Organization, in each case who establishes one or more Accounts as part of a scholarship program;

(27) “Statute” means sections 3-22f to 3-22o of the Connecticut General Statutes;

(28) “Trust” shall have the same meaning as set forth in the Statute;

(29) “Trustee” means the Treasurer of the State of Connecticut in her capacity as Trustee of the Program.

(Adopted effective June 5, 2003; Amended February 2, 2005)

**Sec. 3-22h-3. Purposes**

The purposes of the Trust are (a) to promote and enhance the affordability and accessibility of higher education for residents of the State of Connecticut, and (b) to enable Participants and Beneficiaries to avail themselves of tax benefits provided for Qualified State Tuition Programs under the Internal Revenue Code.

(Adopted effective June 5, 2003)

**Sec. 3-22h-4. Program administration and management**

The Trust shall be administered and managed in compliance with the provisions of the Internal Revenue Code (including Section 529, other applicable sections and implementing regulations and administrative guidelines), the Statute and sections 3-22h-1 to 3-22h-9, inclusive, of the Regulations of Connecticut State Agencies. Procedures and forms for use in the administration and management of the Trust shall be subject to the approval of the Trustee. If the Trustee designates a third party to assist or act for the Trustee with respect to the administration and management of the Trust, the references in sections 3-22h-1 to 3-22h-9, inclusive, of the Regulations of Connecticut State Agencies to the Trust shall govern such designee of the Trustee.

(Adopted effective June 5, 2003)

**Sec. 3-22h-5. Trust participation and participation agreements**

(a) **Beneficiary Eligibility.** A Beneficiary may be any individual designated as such in a Participation Agreement.

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(b) **Participant Eligibility.** A Participant may be any Person (1) who submits to the Trust a completed Participation Agreement, a Social Security or taxpayer identification number, and an address in the United States, for each of the Participant and the Beneficiary, and (2) who otherwise meets the qualifications set forth in federal law, Connecticut law, and the regulations governing the Trust. A Participant who establishes a Scholarship Account shall provide the valid Social Security numbers or taxpayer identification numbers and addresses in the United States of each Beneficiary of the applicable Scholarship Account prior to or in connection with a request for a distribution.

(c) **Participation Agreements.** To participate in the Trust, a prospective Participant shall submit a completed Participation Agreement with an initial Contribution, a selection of electronic funds transfer or payroll deduction as the method of initial Contribution. The Participation Agreement shall provide that the Participant (and any successor Account Owner) shall retain ownership of payments made under the Program through the opening of an account in the name of the Participant and for the benefit of the Beneficiary designated by such Participant (or the successor Account Owner). Only one Account Owner is permitted per Account, except for Accounts established prior to March 13, 2000 for which certain married Participants elected to hold ownership as joint Participants. Only one Beneficiary is permitted per Account, except that Scholarship Accounts may be established for the benefit of one or more present or future Beneficiaries. One or more Participants may establish Accounts for a single Beneficiary. Any amendment to the Statute or regulations adopted by the Trustee shall automatically amend the Participation Agreement, and any amendments to the operating procedures and policies of the Program shall amend the Participation Agreement no later than thirty (30) days after adoption by the Trustee. Each Participation Agreement shall provide that the Participation Agreement may be canceled upon the terms and conditions set forth in the Participation Agreement, subject to subsection (i) of this section 3-22h-5.

(d) **Contributions.** All Contributions to Accounts shall be in Cash. The maximum amount that may be contributed by a Participant with respect to a Beneficiary may be established by the Trust, from time to time, but in no event shall be more than the maximum amount permitted for the Trust to qualify as a Qualified State Tuition Program.

(e) **Account Balance Limit on Contributions.**

Contributions for any Beneficiary shall be rejected and returned to the extent the amount of the contribution would cause 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 trust from time to time (the “Account Balance Limit on Contributions”). In no event shall the account balance limit on contributions be more than the amount permitted under Section 529 of the Internal Revenue Code.

(f) **Changes to Beneficiary.** To the extent such change would not cause the balance in an Account for the new Beneficiary to exceed the Account Balance Limit on Contributions, an Account Owner may change the Beneficiary designated for an Account to any Member of the Family of the current Beneficiary at any time, without penalty, by submitting a

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completed change of Beneficiary form to the Trust in such form as the Trust may specify from time to time. Any change of Beneficiary by an Account Owner other than as permitted in this subsection shall be a Non-Qualified Withdrawal.

(g) **Rollover Distributions.** To the extent such change would not cause the balance in an Account for the new Beneficiary to exceed the Account Balance Limit on Contributions, an Account Owner may transfer, in a Rollover Distribution, all or part of the Account Balance (1) to an Account, or an account in another Qualified State Tuition Program for another Beneficiary who is a Member of the Family of the current Beneficiary or (2) no more than once in any twelve (12) month period, to an account in another Qualified Higher Education Expenses for the same beneficiary by submitting a completed request for transfer of Account funds in such form as the Trust may specify from time to time.

(h) **Changes of Account Ownership.** An Account Owner may transfer ownership of an Account to another Person eligible to be a Participant under the provisions of the Statute and sections 3-22h-1 to 3-22h-9, inclusive, of the Regulations of Connecticut State Agencies, and upon receipt of a request for change of Account Owner that satisfies the criteria set forth in this subsection, the transferee shall be considered the Account Owner for all purposes related to the Trust, regardless of the source of subsequent Contributions.

(1) General Rule. Any such change of Account ownership shall be effective provided that the transfer (A) is irrevocable, (B) transfers all ownership, reversionary rights, and powers of appointments (*i.e.*, power to change Beneficiaries and to direct Distributions from the Account), and (C) is submitted to the Trust on a change of account owner form in such form as the Trust may specify from time to time and completed by the Account Owner (or, in the event of the death of the Account Owner, by the personal representative of his or her estate). If the account is held by joint Participants, each spouse shall execute the transfer of ownership.

(2) Designation of Contingent Account Owners. Any Account Owner who is an individual person may designate a contingent Account Owner for the Account, to become the owner of the Account automatically upon the death of such Account Owner. Joint Participants may designate a contingent Account Owner who shall become the Account Owner upon the death of the last surviving joint Participant. Prior to the initial action taken by the contingent Account Owner following the death of the deceased Account Owner(s), the contingent Account Owner shall provide a certified copy of a death certificate sufficiently identifying said deceased Account Owner(s) by name and Social Security number or taxpayer identification number, or such other proof of death as is recognized under applicable law.

(i) **Cancellation.** A Participant may cancel a Participation Agreement at any time by submitting to the Trust a notice to terminate the Participation Agreement in such form as the Trust may specify from time to time.

(j) **Separate Accounting.** The Trust shall provide separate accounting (as provided in Section 529 of the Internal Revenue Code) for each Beneficiary for each Account.

(Adopted effective June 5, 2003; Amended February 2, 2005)



**Sec. 3-22h-6. Payment of benefits; withdrawals**

(a) **Withdrawals.** An Account Owner may request a Withdrawal from his or her Account by submitting a completed request for Withdrawal to the Trust in such form as the Trust may specify from time to time with such certifications and supported by such documentation as is requested by the Trustee.

(b) **Distribution Limitations.** No distributions may be made during the thirty-day period prior to the Trust's receipt of a completed change of Account Owner form or request to change the mailing address of the Account Owner, unless the current Account Owner's signature is signature guaranteed on the request. No Contribution may be withdrawn during the ten (10) days after the program manager's receipt of a Contribution.

(c) **Security.** An Account Owner or Beneficiary shall not use any Account or other interest in the Trust or any portion thereof as security for a loan.

(Adopted effective June 5, 2003; Amended February 2, 2005)

**Sec. 3-22h-7. Investments**

(a) **General Investment Standards and Objectives.** The Trustee shall invest the funds on deposit in the Trust, together with any income thereon, in a manner that is reasonable and appropriate to achieve the objectives of the Trust, exercising the discretion and care of a prudent person in similar circumstances with similar objectives. The Trustee shall give due consideration to rate of return, risk, term or maturity, diversification of the total portfolio within the Trust, liquidity, the projected disbursements and expenditures, and the expected payments, deposits, contributions and gifts to be received. In accordance with the standards established in sections 3-22h-1 to 3-22h-9, inclusive, of the Regulations of Connecticut State Agencies and in the Statute, the Trustee may invest, through the Trust or any investment manager, funds received pursuant to the Trust. Any such investment shall be made solely in the interest of the Account Owners and Beneficiaries and for the exclusive purposes of providing benefits to Beneficiaries for qualified higher educational expenses and defraying reasonable expenses of administering the Program. An Account Owner or Beneficiary shall not directly or indirectly direct the investment of any Contributions or Earnings of the Trust.

(b) **Delegation of Investment Discretion.** The Trust may delegate to its duly appointed investment counselor authority to act in place of the Trust in the investment or reinvestment of all or part of the funds, and may also delegate to such counselor the authority to act in place of the Trust in the holding, purchasing, selling, assigning, transferring or disposing of any or all of the securities and investments in which such funds shall have been invested, as well as the proceeds of such investments and such monies. Such investment counselor shall be registered as an investment advisor with the United States Securities and Exchange Commission unless exempt from registration.

(Adopted effective June 5, 2003)

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**Sec. 3-22h-8. Additional funds**

(a) **Administrative Fund.** Pursuant to the authority in the Statute for the Trustee to establish one or more funds within the Trust, there is hereby created an Administrative Fund. All monies received by the Trust other than Contributions from Participants (and Earnings thereon), and deposits to the Marketing Fund, shall be deposited in the Administrative Fund. All penalties required by Section 529 of the Internal Revenue Code to be charged to Participants for Non-Qualified Withdrawals shall be deposited in the Administrative Fund. The Trustee also may withdraw an annual fee of up to .02% of the average daily net assets of the Trust to pay for the oversight of the Trust and shall deposit such amount into the Administrative Fund.

(1) The assets of the Administrative Fund shall be deposited in a money market fund, or other such mutual funds as the Trustee shall deem appropriate. All earnings on deposits in the Administrative Fund shall be credited to the Administrative Fund.

(2) Pursuant to the Statute, the Administrative Fund shall be used to support the responsibilities of the Trustee, including meeting expenses for legal, actuarial, accounting, advisory, consulting and other administrative and financial management services.

(3) Pursuant to the Statute, the Trust may apply for, accept and expend gifts, grants, or donations from public or private sources to enable the Trust to carry out its objectives. These funds shall be deposited in the Administrative Fund, and shall be expended only for the purposes for which they were received.

(4) No funds shall be withdrawn, and no expenses shall be paid from the Administrative Fund except to meet the purposes of the Fund. All withdrawals and expenditures shall require the approval of at least two (2) of the following: the Treasurer, her designee for purposes of the Administrative Fund, or the Deputy Treasurer.

(b) **Marketing Fund.** A Marketing Fund has been established for the Trust, separate from all other funds and accounts of the Program. An initial contribution shall be made by the Treasurer's designee for purposes of the Marketing Fund in March 2000 and for each of the following four years. Amounts in this Marketing Fund shall be expended by the Trust for unanticipated costs of the Program with the consent of the Treasurer. All funds allocated to the Marketing Fund shall be invested in a mutual fund.

(Adopted effective June 5, 2003)

**Sec. 3-22h-9. Severability**

If any provision of sections 3-22h-1 to 3-22h-9, inclusive, of the Regulations of Connecticut State Agencies, or the application of it to any person or circumstance, is determined to be invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions of sections 3-22h-1 to 3-22h-9, inclusive, of the Regulations of Connecticut State Agencies which can be given effect without the invalid provision or application, and to that end, the provisions of sections 3-22h-1 to 3-22h-9, inclusive, of the Regulations of Connecticut State Agencies are severable.

(Adopted effective June 5, 2003)