

136G.13 ACCOUNT DISTRIBUTIONS.

Subdivision 1. **Qualified distribution methods.** (a) Qualified distributions may be made:

- (1) directly to participating eligible educational institutions on behalf of the beneficiary;
- (2) in the form of a check payable to both the beneficiary and the eligible educational institution; or
- (3) directly to the account owner or beneficiary if the account owner or beneficiary has already paid qualified higher education expenses.

(b) Qualified distributions must be withdrawn proportionally from contributions and earnings in an account owner's account on the date of distribution as provided in section 529 of the Internal Revenue Code.

Subd. 2. **Matching grant accounts.** Qualified distributions are based on the total account balances in an account owner's account and matching grant account, if any, on the date of distribution. Qualified distributions must be withdrawn proportionally from each account based on the relative total account balance of each account to the total account balance for both accounts. Amounts for matching grants and matching grant earnings must only be distributed for qualified higher education expenses.

Subd. 3. **Nonqualified distribution.** An account owner may request a nonqualified distribution from an account at any time. Nonqualified distributions are based on the total account balances in an account owner's account and must be withdrawn proportionally from contributions and earnings as provided in section 529 of the Internal Revenue Code. The earnings portion of a nonqualified distribution is subject to a federal additional tax pursuant to section 529 of the Internal Revenue Code. For purposes of this subdivision, "earnings portion" means the ratio of the earnings in the account to the total account balance, immediately prior to the distribution, multiplied by the distribution.

Subd. 4. **Nonqualified distributions from matching grant accounts.** (a) If an account owner requests a nonqualified distribution from an account that has a matching grant account, the total account balance of the matching grant account, if any, is reduced.

(b) After the nonqualified distribution is withdrawn from the account including any penalty as provided in subdivision 3, the account owner forfeits matching grant amounts in the same proportion as the nonqualified distribution is to the total account balance of the account.

Subd. 5. **Distributions due to death or disability of, or scholarship to, or attendance at a United States military academy by, a beneficiary.** An account owner may request a distribution due to the death or disability of, or scholarship to, or attendance at a United States military academy by, a beneficiary from an account by submitting a completed request to the plan. Prior to distribution, the account owner shall certify the reason for the distribution and provide written confirmation from a third party that the beneficiary has died, become disabled, or received a scholarship for attendance at an eligible educational institution, or is attending a United States military academy. The plan must not consider a request to make a distribution until a third-party written confirmation is received by the plan. For purposes of this subdivision, a third-party written confirmation consists of the following:

- (1) for death of the beneficiary, a certified copy of the beneficiary's death record;

(2) for disability of the beneficiary, a certification by a physician who is a doctor of medicine or osteopathy stating that the doctor is legally authorized to practice in a state of the United States and that the beneficiary is unable to attend any eligible educational institution because of an injury or illness that is expected to continue indefinitely or result in death. Certification must be on a form approved by the plan;

(3) for a scholarship award to the beneficiary, a letter from the grantor of the scholarship or from the eligible educational institution receiving or administering the scholarship, that identifies the beneficiary by name and Social Security number or taxpayer identification number as the recipient of the scholarship and states the amount of the scholarship, the period of time or number of credits or units to which it applies, the date of the scholarship, and, if applicable, the eligible educational institution to which the scholarship is to be applied; or

(4) for attendance by the beneficiary at a United States military academy, a letter from the military academy indicating the beneficiary's enrollment and attendance.

History: *1Sp2001 c 1 art 3 s 22,23; 1Sp2001 c 9 art 15 s 32; 2003 c 133 art 3 s 22,23; 2005 c 107 art 2 s 44,45*