

(b) "Distribution" means a withdrawal which pays the designated beneficiary's qualified higher education expenses described in section 529 of the Federal Internal Revenue Code of 1986, 26 U.S.C. § 529, or which represents contributions net of earnings thereon.

#### 9A:10-7.12 Eligibility for NJBEST scholarship

(a) An additional amount of \$500.00, subject to appropriations available therefor, shall be credited toward the qualified higher education expenses of a designated beneficiary at the time of a qualified withdrawal provided:

1. The contributor demonstrates to the satisfaction of the Authority that the contributor participated in the program for at least four years by making and not withdrawing a qualifying minimum initial deposit of \$1,200 or by making qualifying minimum annual contributions of \$300.00 for a designated beneficiary;

2. The designated beneficiary in (a) above demonstrates his or her undergraduate attendance or enrollment in a higher education institution in this State by submitting a certification by the higher education institution at the time of initial attendance or enrollment;

i. With respect to proprietary institutions, undergraduate attendance or enrollment must be in a degree granting program licensed or approved by the Commission on Higher Education; and

3. Either the contributor, if a person, or the designated beneficiary demonstrates to the satisfaction of the Authority that the contributor or designated beneficiary is a New Jersey resident. Residence for purposes of the NJBEST scholarship is defined in N.J.A.C. 9A:10-7.4(a)4.

(b) For every two additional years in which the minimum annual contribution of \$300.00 is deposited in the account of a designated beneficiary, an additional amount of \$250.00, up to a maximum scholarship of \$1,500, subject to appropriations available therefor, shall be credited toward the qualified higher education expenses of a designated beneficiary at the time of a qualified withdrawal provided the requirements of (a)2 and 3 above are met.

(c) The additional amounts provided under (a) and (b) above shall meet the requirements of a qualified scholarship within the meaning of section 117 of the Federal Internal Revenue Code of 1986, 26 U.S.C. § 117, for a designated beneficiary satisfying the requirements of (a) or (a) and (b) above.

(d) A designated beneficiary satisfying the requirements of (a) or (a) and (b) above shall not be eligible to receive more than one such additional amount provided under (a) or (a) and (b) above.

Amended by R.1998 d.385, effective August 3, 1998.

See: 30 N.J.R. 1707(a), 30 N.J.R. 2908(a).

In (a)3, changed N.J.A.C. reference.

Amended by R.1998 d.534, effective November 16, 1998.

See: 30 N.J.R. 2805(a), 30 N.J.R. 4041(b).

In (a)2, added i.

Amended by R.2000 d.324, effective August 7, 2000.

See: 32 N.J.R. 1279(a), 32 N.J.R. 2898(a).

Inserted a new (b); recodified former (b) and (c) as (c) and (d), and made internal reference changes.

#### 9A:10-7.13 Amount excluded from State need-based financial aid eligibility

(a) A dollar amount of an account, which shall be \$25,000, shall be excluded from consideration in evaluating the financial need of a student, or not be deemed a financial resource or a form of financial aid or assistance to each student, for purposes of determining the eligibility of a student for any scholarship, grant, or monetary assistance awarded by the State; nor shall the amount of any account as determined by the Authority provided for a designated beneficiary under this subchapter reduce the amount of any scholarship, grant or monetary assistance which such student is otherwise entitled to be awarded by the State.

(b) To be eligible for the exclusion provided under (a) above, the student shall demonstrate to the satisfaction of the entity or the agency awarding the State funds that the dollar amount in that student's account is less than the Authority's annual exclusion threshold. Higher education institutions may report this account information on behalf of the student.

#### 9A:10-7.14 Statement on contracts and applications

Every contract and application that may be used in connection with a contribution to an account shall clearly indicate that the account is not insured by this State nor is an investment return guaranteed by this State.

#### 9A:10-7.15 Selection of investment manager

(a) Should the Authority determine to select an investment manager or managers other than the Division of Investment in the Department of the Treasury, it shall solicit proposals and shall select from among the bidders the investment manager or managers based on the following factors not necessarily listed in order of significance. These factors are general in nature. Cost shall not be the sole determining factor.

1. The investment manager's ability to adhere to the prudent person standard of care applicable to the Division of Investment in the Department of the Treasury pursuant to subsection b. of section 11 of P.L. 1950, c.270 (N.J.S.A. 52:18A-89);

2. The impact of fees and costs to be imposed by the manager or managers on investment returns to contributors;

3. The comparison of fees and costs to be imposed by the manager or managers with comparable fees and costs that would be imposed if the Division of Investment in the Department of the Treasury were the investment manager;

4. The investment manager's financial stability and integrity;

5. The ability of the investment manager to satisfy recordkeeping and reporting requirements;

6. The applicable experience of proposed contract staff in providing relevant investment management services;

7. The ability to assist participation in the program through features which may include willingness to accept minimum contributions, frequent contributions, debit and other automatic contributions, as well as customer service features that enable participant access to account information such as a toll-free telephone number and extended hours of business; and

8. The investment manager's capability and flexibility to provide accounting services and computer support programs to satisfy the stringent requirements and specifications of the Program.

#### 9A:10-7.16 Investment by private entity

If the investment manager is a private entity, the investment of the principal and interest of any amount contributed under P.L. 1997, c.237 shall be backed by the full faith and credit of the United States or be fully insured by the Federal Deposit Insurance Corporation or other similar insurer backed by the full faith and credit of the United States. No account balance shall exceed the maximum amount of insurance provided by the insurer. No investment is permitted in derivatives of eligible securities, as defined in this section. Any investment shall be designed to balance prospective payments according to the following: the average maturity of all principal and interest payments (or duration of the portfolio) of fixed income assets should approximately equal the expected schedule of payments to the participants.

#### 9A:10-7.17 Certain limitations

(a) Nothing in the NJBEST Program shall be construed to:

1. Guarantee that a designated beneficiary will be admitted to a higher education institution or be allowed to continue enrollment at or graduate from a higher education institution after admission;

2. Establish State residency for a person merely because the person is a designated beneficiary or contributor; or

3. Guarantee that amounts saved pursuant to the program will be sufficient to cover the qualified higher education expenses of a designated beneficiary.

(b) Nothing in the NJBEST Program establishes any obligation of this State or any agency or instrumentality of this State to guarantee for the benefit of any contributor or designated beneficiary the following:

1. The rate of interest or other return on any account; or

2. The payment of interest or other return on any account.

(c) Nothing in the NJBEST Program establishes any obligation or liability of this State or any agency or instrumentality of this State with respect to any Federal or State tax liability of any contributor or designated beneficiary.

(d) The fact that an institution falls within the definition of higher education institution for purposes of section 529 of the Federal Internal Revenue Code of 1986, 26 U.S.C. § 529, or these rules is no guarantee that an institution's programs are appropriate for the designated beneficiary. The NJBEST Program does not make any representations regarding the quality of any eligible institution. Participants in the NJBEST Program are advised to consult the United States Department of Education and other available sources of information before enrolling in a higher education institution.

Amended by R.1998 d.534, effective November 16, 1998.  
See: 30 N.J.R. 2805(a), 30 N.J.R. 4041(b).

Added (d).