

781—16.11 (12D) Nonqualified withdrawals and cancellation. Iowa Code section 12D.5 provides that any participant may cancel a participation agreement at will. This rule establishes the criteria for nonqualified withdrawals from or the cancellation of a participation agreement.

16.11(1) A nonqualified withdrawal is one in which the funds are used for a purpose other than the payment of or reimbursement for qualified educational expenses. A participant may at any time make a nonqualified withdrawal of a portion of the amount in an account or cancel a participation agreement, without cause, by submitting to the program administrator the appropriate form. A nonqualified withdrawal will be paid only to the participant.

16.11(2) If the participation agreement is canceled, the participant is entitled to the amount in the account, subject to any applicable fees and expenses. The balance shall be mailed or otherwise sent to the participant after receipt by the program administrator of the appropriate form.

16.11(3) Funds that are distributed to a participant in a nonqualified withdrawal pursuant to this rule shall be reported to the IRS on a 1099Q in the tax year in which such withdrawal is made. The participant will receive the 1099Q for any nonqualified withdrawals. Nonqualified withdrawals may be subject to state and federal taxes and penalties.

16.11(4) Pursuant to Iowa Code section 642.2, funds held by the program administrator under the trust are not subject to garnishment.

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