**§ 695-e. Program requirements; family tuition account.** 1. Family tuition accounts established pursuant to the provisions of this article shall be governed by the provisions of this section.

2. A family tuition account may be opened by any person who desires to save money for the payment of the qualified higher education expenses of the designated beneficiary. An account owner may designate another person as successor owner of the account in the event of the death of the original account owner. Such person who opens an account or any successor owner shall be considered the account owner as defined in section six hundred ninety-five-b of this article.

a. An application for such account shall be in the form prescribed by the program and contain the following:

(i) the name, address and social security number, employer identification number, or individual taxpayer identification number of the account owner unless a family tuition account that was in effect prior to the effective date of the chapter of the laws of two thousand nineteen that amended this subparagraph does not allow for a taxpayer identification number, in which case a taxpayer identification number shall be allowed upon the expiration of the contract;

(ii) the designation of a designated beneficiary;

(iii) the name, address, and social security number, employer identification number, or individual taxpayer identification number of the designated beneficiary, unless a family tuition account that was in effect prior to the effective date of the chapter of the laws of two thousand nineteen that amended this subparagraph does not allow for a taxpayer identification number, in which case a taxpayer identification number shall be allowed upon the expiration of the contract; and

(iv) such other information as the program may require.

b. The comptroller and the corporation may establish a nominal fee for such application.

3. Any person, including the account owner, may make contributions to the account after the account is opened.

4. Contributions to accounts may be made in cash or may be deposited by a taxpayer who has elected to contribute all or a portion of a refund of personal income tax to an account that has been established under this article.

a. Taxpayer contributions shall be made by direct deposit to the designated account. The amount elected to be contributed by the taxpayer must be at least twenty-five dollars and may be applied as a contribution only for the tax year in which the refund is issued.

b. The election shall be made on a form prescribed by the department of taxation and finance and filed with the taxpayer's tax return for the tax year or at such other time and in such other manner as the department may prescribe. The department shall prescribe the maximum number of accounts to which a taxpayer may elect to contribute a portion of the refund.

c. The election to contribute all or a portion of a refund shall not be revocable.

d. All or a portion of a refund may not be contributed to an account that has been established under this article if the amount of the taxpayer's elected refund for such tax year is reduced by any other sections of the tax law to the amount less than the minimum amount of contribution authorized under this section.

5. An account owner may withdraw all or part of the balance from an account on sixty days notice or such shorter period as may be authorized under rules governing the program. Such rules shall include provisions that will generally enable the determination as to whether a withdrawal is a nonqualified withdrawal or a qualified withdrawal.

6. a. An account owner may change the designated beneficiary of an account to an individual who is a member of the family of the prior designated beneficiary in accordance with procedures established by the memorandum of understanding pursuant to the provisions of section six hundred ninety-five-c of this article.

b. An account owner may transfer all or a portion of an account to another family tuition account, the subsequent designated beneficiary of which is a member of the family as defined in section 529 of the Internal Revenue Code of 1986, as amended.

c. Changes in designated beneficiaries and transfers under this subdivision shall not be permitted to the extent that they would cause all accounts for the same beneficiary to exceed the permitted aggregate maximum account balance.

7. The program shall provide separate accounting for each designated beneficiary.

8. No account owner or designated beneficiary of any account shall be permitted to direct the investment of any contributions to an account or the earnings thereon more than two times in any calendar year.

9. Neither an account owner nor a designated beneficiary may use an interest in an account as security for a loan. Any pledge of an interest in an account shall be of no force and effect.

10. The comptroller shall promulgate rules or regulations to prevent contributions on behalf of a designated beneficiary in excess of an amount that would cause the aggregate account balance for all accounts for a designated beneficiary to exceed a maximum account balance, as established from time to time by the comptroller and the corporation on the basis of higher education costs in the state, with adequate safeguards to prevent more contributions than necessary to provide for the qualified higher education costs of the beneficiary, as required to maintain the program as a "qualified tuition program" under section 529 of the Internal Revenue Code of 1986, as amended.

11. a. If there is any distribution from an account to any individual or for the benefit of any individual during a calendar year, such distribution shall be reported to the Internal Revenue Service and the account owner, the designated beneficiary, or the distributee to the

extent required by federal law or regulation.

b. Statements shall be provided to each account owner at least once each year within sixty days after the end of the twelve month period to which they relate. The statement shall identify the contributions made during a preceding twelve month period, the total contributions made to the account through the end of the period, the value of the account at the end of such period, distributions made during such period and any other information that the comptroller shall require to be reported to the account owner.

c. Statements and information relating to accounts shall be prepared and filed to the extent required by federal and state tax law.

12. a. A local government or organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended, may open and become the account owner of an account to fund scholarships for persons whose identity will be determined upon disbursement.

b. In the case of any account opened pursuant to paragraph a of this subdivision the requirement set forth in subdivision two of this section that a designated beneficiary be designated when an account is opened shall not apply and each individual who receives an interest in such account as a scholarship shall be treated as a designated beneficiary with respect to such interest.

13. An annual fee may be imposed upon the account owner for the maintenance of the account.

14. The program shall disclose the following information in writing to each account owner and prospective account owner of a family tuition account:

a. the terms and conditions for purchasing a family tuition account;

b. any restrictions on the substitution of beneficiaries;

c. the person or entity entitled to terminate the tuition savings agreement;

d. the period of time during which a beneficiary may receive benefits under the tuition savings agreement;

e. the terms and conditions under which money may be wholly or partially withdrawn from the program, including, but not limited to, any reasonable charges and fees that may be imposed for withdrawal;

f. the probable tax consequences associated with contributions to and distributions from accounts; and

g. all other rights and obligations pursuant to tuition savings agreements, and any other terms, conditions, and provisions deemed necessary and appropriate by the terms of the memorandum of understanding entered into pursuant to section six hundred ninety-five-c of this article.

15. Tuition savings agreements shall be subject to section fourteen-c of the banking law and the "truth-in-savings" regulations promulgated thereunder.

16. Nothing in this article or in any tuition savings agreement entered into pursuant to this article shall be construed as a guarantee by the state or any college that a beneficiary will be admitted to a college, or, upon admission to a college will be permitted to continue to attend or will receive a degree from a college.