

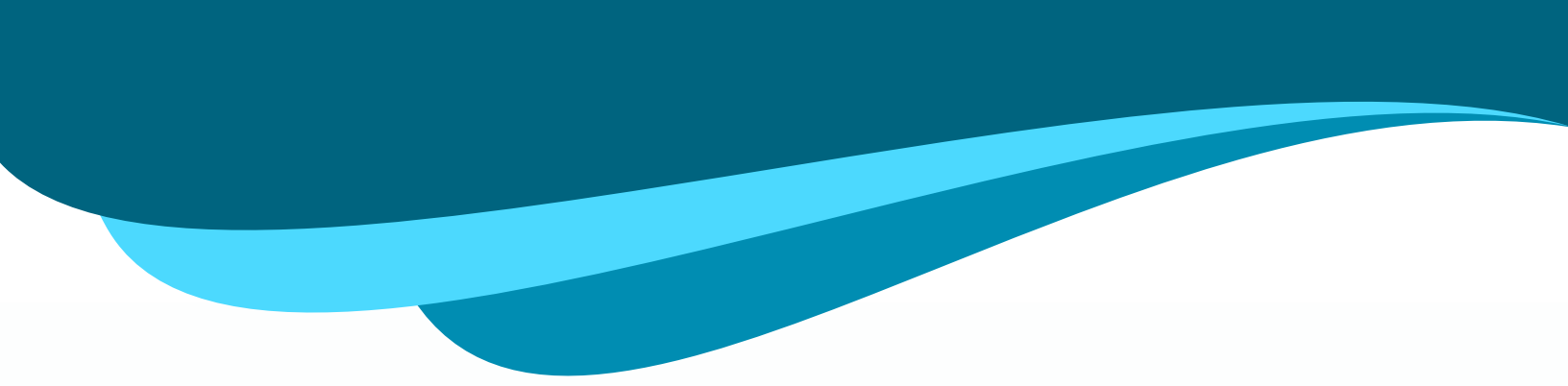
Fiduciary Resource Guide for UTMA Custodians in North Carolina

Information from State Employees' Credit Union

State Employees' Credit Union®




www.ncsecu.org



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The provisions of the North Carolina Uniform Transfers to Minors Act (UTMA), Chapter 33A of the North Carolina General Statutes, allow a person to gift funds to a minor without giving the minor control of the funds (and without requiring that a guardian be appointed by the Clerk of Superior Court to manage the funds). A UTMA account is created to hold the funds, and a custodian must be named to control the funds in the UTMA account. The funds in the account are owned by the minor. When the minor reaches age 21 (or age 18 in some cases), the UTMA custodian must release the funds to the minor.

If you have been named as the UTMA custodian for a minor, this resource guide will help explain what you should and should not do. If you have questions regarding UTMA accounts at SECU, consult your local branch representative.



Frequently Asked Questions

1. What is a UTMA account?

- An account where the funds are owned by a minor and controlled by an adult UTMA custodian. UTMA accounts are governed by the North Carolina Uniform Transfers to Minors Act.

2. Who appoints a UTMA custodian?

- The person giving the funds to the minor may name the UTMA custodian and may name themselves.

3. How should the UTMA custodian use funds in a UTMA account?

- The custodian must use the funds for the benefit of the minor.

4. If a UTMA custodian receives a check payable to the UTMA custodian for the minor, must the check be deposited into a UTMA account?

- UTMA funds are irrevocable gifts to the minor and **cannot** be used to benefit the UTMA custodian or anyone other than the minor. The UTMA custodian's options for negotiating the check depend on the minor's age:
 - > If the minor is younger than 18 years of age, the UTMA custodian must deposit the check into a UTMA account. The UTMA custodian may then use the funds in the UTMA account for the benefit of the minor.
 - > If the child is 18-20 years old, the UTMA custodian may deposit the check into a UTMA account or the UTMA custodian may endorse the check and deposit it into another account owned by the minor.
 - > If the minor is 21 years of age or older, the UTMA custodian must endorse the check and deposit it into an account to which the minor has access.



Frequently Asked Questions

5. **Must a UTMA custodian release the funds to the minor at age 21?**

- Yes. When the minor reaches age 21, the UTMA custodian must release the funds in the UTMA account to the minor.

6. **Must the UTMA custodian provide an accounting to anyone? What records should be kept?**

- The minor, the minor's guardian of the person or legal representative, an adult member of the minor's family, or the person who gifted the funds to the minor can petition the court to require the UTMA custodian to provide an accounting. Therefore, the UTMA custodian will need to keep itemized receipts to document the expenses paid using funds from the UTMA account.

7. **Can the current UTMA custodian appoint a successor UTMA custodian?**

- Yes. It is highly recommended that the UTMA custodian appoint a successor UTMA custodian. If the current UTMA custodian fails to appoint a successor UTMA custodian, then dies or becomes incapacitated, the Clerk of Superior Court may have to get involved to appoint a new UTMA custodian, resulting in added cost and potential delay. Whether the family member will have to petition the Clerk of Superior Court will depend on the minor's age and how quickly the family acts after the UTMA custodian's death or incapacity.
- The UTMA custodian may appoint a successor UTMA custodian on the credit union's account signature form when opening the UTMA account or at a later date.



