

CHAPTER 26**RULES FOR IMPLEMENTATION OF THE HIGHER EDUCATION INCENTIVE FUNDING ACT****Authority**

N.J.S.A. 18A:62-29 et seq. and P.L. 1999, c.368.

Source and Effective Date

R.2000 d.379, effective September 18, 2000.
See: 32 N.J.R. 2586(a), 32 N.J.R. 3456(b).

Executive Order No. 66(1978) Expiration Date

Chapter 26, Rules for Implementation of the Higher Education Incentive Funding Act, expires on September 18, 2005.

Chapter Historical Note

Chapter 26, Interim Rules for the Processing of Damage Claims Pursuant to the Spill Compensation and Control Act (P.L. 1976, c.141), was adopted as emergency new rules by R.1977 d.116, effective April 1, 1977. See: 9 N.J.R. 241(d).

Subchapter 2, Regulations Governing New Jersey Spill Compensation Fund Expenditures in Light of Federal Superfund Law, was adopted as R.1982 d.79, effective March 15, 1982. See: 14 N.J.R. 36(b), 14 N.J.R. 285(b).

Chapter 26, Interim Rules for the Processing of Damage Claims Pursuant to the Spill Compensation and Control Act (P.L. 1976 c.141), was repealed by R.1993 d.2, effective January 4, 1993. See: 24 N.J.R. 1255(a), 25 N.J.R. 68(a).

Chapter 26, Rules for Implementation of the Higher Education Incentive Funding Act, was adopted as new rules by R.2000 d.379, effective September 18, 2000. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS**17:26-1.1 Purpose and authority**

The rules in this chapter are established to implement the Higher Education Incentive Funding Act, N.J.S.A. 18A:62-29 et seq. (the "Act").

17:26-1.2 Scope

This chapter establishes procedures for institutions to apply for State matching funds and delineates how and when the matching funds will be distributed to institutions.

17:26-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Act" means the Higher Education Incentive Funding Act, N.J.S.A. 18A:62-29 et seq.

"Amount" of a contribution or a donation means cash amount or, in the case of property other than cash, the fair market value of the property contributed or donated as of the close of business on the day on which the recipient of that contribution or donation acquires ownership of the property.

"Contribution year" means the fiscal year in which the endowment contribution or contributions were made, with respect to which State matching funds under sections 5 through 7 of P.L. 1999, c.226 (N.J.S.A. 18A:62-33 through 35) are sought or have been paid.

"Contributor" means a person, corporation or other business entity, or foundation making an endowment contribution.

"Date received" means the date on which cash is deposited by the institution or the date on which the institution acquires ownership of property other than cash.

"Donation" means the conveyance by gift of property consisting of cash, property or other marketable securities, the corpus of which property may, under the terms of the gift, be expended by the donee, and the income from which property may, but need not, be restricted under those terms as to use for particular purposes stipulated by the donor.

"Donation year" means the fiscal year in which the donation or donations were made, with respect to which State matching funds under sections 9 through 11 of P.L. 1999, c.226 (N.J.S.A. 18A:62-37 through 39) are sought or have been paid.

"Donor" means a person, corporation or other business entity, or foundation making a donation.

“Endowment contribution” means the conveyance by gift of property consisting of cash, property or other marketable securities, the corpus of which property may not, under the terms of the gift, be expended by the institution to which the contribution is made, and the income from which property may, but need not, be restricted under those terms as to use for particular purposes stipulated by the contributor.

“Fair market value” means the amount that a willing buyer would pay a willing seller if neither were under any compulsion; the standard at which property is valued for estate tax purposes.

“Fiscal Year” means the State fiscal year.

“Fund” means both the Higher Education Incentive Endowment Fund and the Higher Education Incentive Grant Fund, unless one fund is specified.

“Gift” means a completed irrevocable transfer of property, including transfer by testamentary disposition, for which transfer the transferor receives no consideration, and in which property the transferee’s interest is not subject to any retained interest of the transferor or to any concurrent or future interest of any other person.

“Institution” means a New Jersey public college or university or private institution of higher education eligible to receive public funds under the Independent College and University Assistance Act, N.J.S.A. 18A:72B-15 et seq.

“Institutionally related foundation” means a foundation which is qualified with the Internal Revenue Service under IRC 501(c)(3) and which designates the related institution of higher education as the sole beneficiary of its proceeds. The foundation must be formally designated by resolution of the institution’s board of trustees as a foundation eligible for participation in the Higher Education Incentive Funding Program.

Administrative correction.

See: 32 N.J.R. 3863(b).

Amended by R.2001 d.65, effective February 20, 2001.

See: 32 N.J.R. 4395(a), 33 N.J.R. 690(a).

SUBCHAPTER 2. ELIGIBILITY

17:26-2.1 Institution eligibility for matching funds

(a) A four-year public institution may apply for matching funds for any endowment contribution or donation of \$1,000,000 or more made to the institution or its institutionally related foundation during the contribution year by single contributors.

(b) A two-year public institution may apply for matching funds for:

1. Any endowment contribution or donation of \$100,000 or more made to the institution or its institutionally related foundation during the contribution year by single contributors;

2. Any cumulative total of \$250,000 or more consisting of three or more endowment contributions, each of which was \$50,000 or more but less than \$100,000; or

3. Any cumulative total of \$250,000 or more consisting of three or more donations, each of which was \$50,000 or more but less than \$100,000.

(c) A four-year independent institution may apply for matching funds for any endowment contribution or donation of \$1,000,000 or more made to the institution or its institutionally related foundation during the contribution year by single contributors.

17:26-2.2 Endowment contribution and donation eligibility

(a) Multiple endowment contributions or donations from a single contributor or donor in one contribution or donation year shall each be eligible for matching funds if the amount of each contribution or donation is equal to or greater than the amounts delineated in N.J.A.C. 17:26-2.1.

(b) Multiple endowment contributions or donations from a single contributor or donor in one contribution or donation year which are each less than the amounts delineated in N.J.A.C. 17:26-2.1 shall be eligible cumulatively for matching funds if the cumulative total is equal to or greater than the amounts delineated in N.J.A.C. 17:26-2.1.

(c) If the employer or family foundation of a contributor or donor, or a corporation in which the contributor or donor holds a controlling interest, submits a matching amount in the name of the contributor or donor, the endowment contribution or donation and the matching amount together shall be considered one endowment contribution or donation.

Amended by R.2001 d.65, effective February 20, 2001.

See: 32 N.J.R. 4395(a), 33 N.J.R. 690(a).

Deleted (d).

17:26-2.3 Ineligibility for matching funds

(a) No institution having a total endowment of more than \$1,000,000,000 and no foundation institutionally related to such an institution is eligible for matching funds.

(b) No endowment contribution or donation to an institution from a foundation institutionally related to that institution is eligible for matching funds.

(c) A pledge of an endowment or donation is considered ineligible for matching funds. Endowment contributions and donations must involve the transfer of cash or property to the donee.

SUBCHAPTER 3. APPLICATION PROCESS

17:26-3.1 Application for State matching funds

(a) Upon approval by the governing board of an institution or an entity authorized to act on its behalf, interested institutions, or their institutionally related foundations, shall apply to the Department of Treasury for matching funds against endowment contributions and donations. No application shall be submitted for endowment contributions or donations which are less than the required minimum provided at N.J.A.C. 17:26-2.1. All applications shall include:

1. A copy of the governing board or authorized entity resolution approving the submission of application for matching funds;

2. An itemized statement of eligible endowment contributions received during the contribution year that includes:

- i. The contributor's name or the word "anonymous" if applicable;
- ii. The endowment contribution amount; and
- iii. The date received;

3. An itemized statement of eligible donations received during the donation year that includes:

- i. The donor name or the word "anonymous" if applicable;
- ii. The donation amount; and
- iii. The date received;

4. An affidavit, from a real estate appraiser licensed in the state where the property is located, affirming the fair market value of a real property endowment contribution or donation for which application for matching funds is made. The Department of Treasury may request additional proof of fair market value on a case-by-case basis with respect to a particular endowment contribution or donation;

5. A notarized affidavit as to the fair market value of a personal property endowment contribution or donation and as to the affiant's credentials and qualifications to assess such value. The Department of Treasury may request additional proof of fair market value on a case-by-case basis with respect to a particular endowment contribution or donation;

6. A statement certified by the financial officer of the institution or its institutionally related foundation that the amounts itemized are included in the institution's or foundation's annual financial report;

7. A copy of the annual independent financial audit of the institution or its institutionally related foundation for the contribution or donation year; and

8. If the applicant is an institution or foundation receiving State matching funds, in each fiscal year the annual average amount of endowment contributions and donations received in the contribution and donation year and in the five previous contribution and donation years.

(b) The Department of Treasury accepts the word "anonymous" in the itemized statements of endowment contributions and donations since these statements will become a matter of public record. The Department of Treasury reserves the right to inspect the financial records of an institution or its institutionally related foundation that support anonymous endowment contributions and donations.

17:26-3.2 Time limits

(a) Applications for State matching funds shall be submitted by November 30 following the close of the contribution or donation year. In 2000, the Department of the Treasury shall accept applications for two prior contribution or donation years. In 2001 and thereafter, applications shall be submitted annually.

(b) Applications must be received by 4:00 P.M. on November 30 by:

Department of Treasury
Division of Administration
50 West State Street
PO Box 211
Trenton, New Jersey 08625-0211

(c) Applications submitted to the Department of the Treasury in advance of the deadline may be amended or withdrawn at any time prior to the deadline. Applications submitted after the deadline are not eligible for consideration by the Department of the Treasury.

17:26-3.3 Decision not to file an application

The Department of Treasury shall not require an institution or its institutionally related foundation to submit an application for State matching funds for endowment contributions or donations in any given contribution or donation year.

17:26-3.4 Retention of records

(a) A public institution or its institutionally related foundation shall maintain the financial records that support an application for matching funds for endowment contributions for a period of at least 10 fiscal years following the contribution year.

(b) A public institution or its institutionally related foundation shall maintain the financial records which support an application for matching funds for donations for a period of at least seven fiscal years following the donation year.

(c) An independent institution or its institutionally related foundation shall maintain the financial records that support an application for matching funds for endowment contributions or an application for matching funds for donations for a period of at least seven fiscal years following the contribution or donation year.

SUBCHAPTER 4. PAYMENTS FROM THE FUND

17:26-4.1 Time limits

(a) In the first fiscal year following the contribution or donation year, the Department of the Treasury shall determine the amount to which each applicant institution or institutionally related foundation is entitled to receive from the fund after November 30 and shall pay that amount from the fund by February 28.

(b) An explanation of any claim denial shall be included with the payment. If no payment is being made, an explanation of any claim denial shall be made by February 28 of the first fiscal year following the contribution or donation year.

(c) In the second fiscal year following the contribution or donation year, and in each of the eight subsequent fiscal years following the second fiscal year, Treasury shall make payments from the endowment fund to public institutions or their institutionally related foundations by November 30. The second through tenth year payments shall be made without application by the eligible institution.

17:26-4.2 Amount of matching funds

(a) An applicant four-year public institution or its institutionally related foundation shall receive:

1. Ten percent of eligible endowment contributions for 10 consecutive fiscal years following the contribution year.
2. Ten percent of eligible donations in the first fiscal year only following the donation year.

(b) An applicant two-year public institution or its institutionally related foundation shall receive:

1. Ten percent of eligible endowment contributions for the 10 consecutive fiscal years following the contribution year.
2. Ten percent of the highest exact multiple of \$250,000 that is less than or equal to the cumulative total of \$250,000 or more consisting of three or more endowment contributions of \$50,000 but less than \$100,000 each, for 10 consecutive fiscal years following the contribution year.
3. Ten percent of eligible donations in the first fiscal year only following the donation year.
4. Ten percent of the highest exact multiple of \$250,000 that is less than or equal to the cumulative total of \$250,000 or more consisting of three or more donations of \$50,000 or more but less than \$100,000 each in the first fiscal year only following the donation year.

(c) An applicant four-year independent institution or its institutionally related foundation shall receive:

1. \$100,000 for each eligible endowment contribution in the first fiscal year only following the contribution year.
2. \$100,000 for each eligible donation in the first fiscal year only following the donation year.

(d) If, in any fiscal year, the fund balance in either the Higher Education Incentive Endowment Fund or the Higher Education Incentive Grant Fund is insufficient to fund payment in full, the amount of available funds shall be prorated among all eligible applicants.