

## 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.2006 d.265, effective July 17, 2006.  
See: 38 N.J.R. 1556(a), 38 N.J.R. 3066(b).

## Chapter Expiration Date

Chapter 26, Rules for Implementation of the Higher Education Incentive Funding Act, expires on July 17, 2011.

## 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Rules for the Processing of Damage Claims Pursuant to the Spill Compensation and Control Act (P.L. 1976 c.141), was repealed by R.1993 d.2, effective January 4, 1993.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: 32 N.J.R. 2586(a), 32 N.J.R. 3456(b).

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

Chapter 26, Rules for Implementation of the Higher Education Incentive Funding Act, was adopted as new rules by R.2006 d.265, effective July 17, 2006. 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 marketable securities, the value of the marketable securities contributed or donated as of the close of business on the day on which the recipient of that contribution or donation acquires ownership.

"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 the marketable securities.

"Donation" means the conveyance by gift of property consisting of cash or 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 or 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 be used for particular purposes stipulated by the contributor.

“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).

Amended by R.2004 d.362, effective September 20, 2004.

See: 36 N.J.R. 2303(a), 36 N.J.R. 4320(c).

Rewrote “Amount”; in “Date received”, substituted “the marketable securities” for “property other than cash”; in “Donation” and “Endowment contribution”, substituted “cash or marketable securities” for “cash, property or other marketable securities” preceding “the corpus”; deleted “Fair market value”.

## 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.